

Town of Clifton Park Planning Board
One Town Hall Plaza
Clifton Park, New York 12065
(518) 371-6054 FAX (518)371-1136

PLANNING BOARD

ROCCO FERRARO
Chairman

PAUL PELAGALLI
Attorney

JANIS DEAN
Secretary



MEMBERS

Emad Andarawis
Denise Bagramian
Joel Koval
Andrew Neubauer
Eric Ophardt
Eric Prescott

(alternate) Jeffery Jones

Planning Board Meeting
October 25, 2016

Those present at the October 25, 2016 Planning Board meeting were:

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

Those absent were: E. Prescott

Those also present were: J. Scavo, Director of Planning
J. Bianchi, M J Engineering and Land Surveying, P.C.
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.

Mr. Ferraro announced that Mr. Jones would be sitting as a full voting member of the Planning Board at this evening's meeting in the absence of Mr. Prescott. He also explained that agenda item regarding the Galluzzo Medical Building had been removed from the agenda at the request of the applicant.

Mr. Ferraro explained that the first two items listed on this evening's agenda have been carried over from the September 27, 2016 meeting which, in accordance with Board policy, was adjourned at 12:30a.m.

Minutes Approval:

Mr. Andarawis moved, seconded by Mr. Ophardt, approval of the meeting minutes of September 27, 2016 as written. Ayes: Ophardt, Andarawis, Jones, Neubauer, Ferraro. Noes: None. Abstained: Bagramian, Koval.

Public Hearings:

[2016-041] **Northway 9 Plaza** – (2) lot subdivision and proposed 11,040 SF retail/office building, 805 Route 146 – Preliminary public hearing and possible determination. SBL: 272.-1-28

The subdivision plan and associated site plan were reviewed concurrently at this evening's meeting.

Mr. Ferraro explained the review process to those present, stating that the Board was required to render a determination pursuant to SEQRA (State Environmental Quality Review Act) prior to conducting a public hearing on this application. He explained that although the Planning Board would pronounce the application complete, assume Lead Agency status, and issue a negative declaration, these actions would neither grant nor imply approval of the application. Should it be determined that additional environmental review is required based on input received at the public hearing, SEQRA discussions will be reopened and a decision rendered when deemed appropriate.

Mr. Ophardt moved, seconded by Ms. Bagramian, 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. Ferraro, Chairman, called the public hearing to order at 7:10p.m. The Secretary read the public notice as published in the Daily Gazette on October 14, 2016.

Mr. Tom Andress, consultant for the applicant, presented this application for the Board's consideration, explaining that the project plan was reviewed by the TAC committee on June 22, 2016. Describing existing conditions, Mr. Andress reported that the existing site, which is situated within the TC5 zoning district, is specifically located between Route 146 and Old Route 146 one parcel west of the Plank Road – Route 146 intersection. The 1.4 acre site is to be subdivided into lots of 1.02 acres and .46 acres, respectively. Existing site statistics indicate that the site contains an existing 9,500 SF office/retail building, 44,099 SF of pavement, and 16.7% greenspace. The existing building will remain on the larger parcel: pavement area on that lot will be reduced to 27,380 SF and greenspace to 16.6%. The proposed new parcel will contain a 6,400 SF office/retail building, 11,942 SF of pavement, and 13% greenspace. Both lots combined will be served by 101 parking spaces, a number which includes six spaces along Old Route 146 and two garage spaces. Both lots will utilize a common driveway which will require relocation of the existing site drive more to the center of the site along Old Route 146. Easements for access, parking, utilities, and stormwater will be established as necessary. Water will be supplied by the Clifton Park Water Authority and sanitary service will be provided by the Saratoga County Sewer District and the

Clifton Park Sewer Department. Mr. Andress reported that the applicant understands that, as M J Engineering and Land Surveying, P.C. noted in its comment letter of September 23, 2016, a comparison of the bulk lot requirements for the TC5 District with the prepared site plan indicated the following deficiencies:

- a. The building façade shall be a minimum of 80% at build to zone. The plan proposes 75% along Plank Road and 66% along Old Route 146.
- b. The parcel requires 10% greenspace and is proposing 6.5%.
- c. Parking shall be no closer than 30 feet from the front property line. The plan proposes parking at the front property line in some instances.

It is noted that, should the Board approve the project, waivers for these specific deficiencies should be included in the notice of decision.

In response to Mr. Ferraro's question regarding the plan's reference to five (5) parallel parking spaces along the site's Plank Road frontage, Mr. Andress explained that those spaces have been removed from the plan.

Mr. Scavo reported that all comments prepared by Mr. Myers, Director of Building and Development, the ECC, Mr. Reese, Stormwater Management Technician, M J Engineering and Land Surveying, P.C., and the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee for all items on this evening's agenda have been forwarded to Board members for their consideration. He noted that Ms. Reed, Chief of the Bureau of Fire Prevention, offered no comments on the agenda items.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, issued a number of comments regarding this application in a memo dated September 9, 2016. He noted that although this application was previously reviewed by TAC, it should be reviewed again to ensure compliance with code requirements and comments issued at that time. The parking space calculations appear to be incorrect. Pursuant to Section 208-99 of the Town Zoning Code, parking requirements are 1/200 SF - not 1/286 SF - for retail, 1/300 SF - not 1/250 SF - for office other than medical and 1/150 SF for medical offices. The new building will require between 46 and 65 spaces depending on use, though only 33 are provided. The existing building requires between 72 and 119 depending on use. The two buildings would require between 118 and 184 spaces with only 101 available. The actual use of the buildings will determine how deficient the parking is. The parcel is zoned TC5. Paving is shown with the town's right-of-way. The plan indicates that greenspace is 10% above minimum but it is not clear that all designated greenspace is located on parcel. All surfaces within the property boundaries appear to be hard (concrete asphalt) except for one area 5' wide on the east side of the building. The proposed building should meet all site requirements. It is unclear whether or not renderings match the plan view. The building apparently has two fronts. Parking setbacks not met. The type of occupancy anticipated is unclear. Due to known issues with stormwater in this area, it is recommended that the existing storm system be evaluated for its ability to handle the additional flow.

Mr. Scavo reported that after review of this application at its September 20, 2016 meeting, the ECC provided the following comments. The ECC requests the greenspace areas be highlighted to determine compliance with Town Zoning Code requirements. The ECC notes inconsistencies on the plans with the greenspace specifications and setback distances. The ECC is concerned that

the greenspace is below the 10% where it is listed as 6.5% under the TC5 Table.

Mr. Scavo reported that Mr. Reese, Stormwater Management Technician, provided the following comments regarding this application. On sheet 2 of 5 of the Grading and Utilities insert, Stormwater Connection on Route 146, the applicant is asked to identify the existing stormwater pipe size that the proposed 18" storm line drains into. The concrete washout area detail shall show a liner at the bottom of the basin. Test hole and percolation testing should be done in the area of the infiltration system. Mr. Reese offered two other miscellaneous comments. It is recommended that the applicant select a different species of street trees to avoid growth into the power lines along Plank Road. The applicant is asked to clarify whether or not steps are acceptable at the handicap unloading area. If a person cannot use the steps, it appears that it would be necessary for them to go into traffic to access the ramp.

Mr. Scavo reported that Mr. Roy Casper, Chairman of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, recommended that the proposed crosswalk across Plank Road to the Marriott Hotel should include "Yield to Pedestrian" signs. A crosswalk should also be provided at this intersection across Old Route 146. A bicycle rack should be installed in front of the proposed retail office building.

Mr. Scavo explained that he had no additional comments beyond those issued by M J Engineering and Land Surveying, P.C. for this application at this time. He did report that the Saratoga County Planning Board found that the project had no countywide impacts.

Mr. Bianchi reported that, after review of the documents presented for consideration, M J Engineering and Land Surveying, P.C. offered the following comments. Based upon review of Part 617 of NYS Environmental Conservation Law, the project appears to be an "Unlisted" action. Assuming the Planning Board is to request Lead Agency status under SEQRA, the need to undergo a coordinated review is optional. Under a coordinated review, involved interested agencies to be engaged may include, but is not necessarily limited to the following: Clifton Park Sewer District: additional reserve sewer capacity; Saratoga County Sewer District: additional reserve sewer capacity; Clifton Park Water Authority: taking of additional potable water; Saratoga County Planning: 239m referral due to the parcel being within 500 feet of NYS Route 146. Additional involved/interested agencies may be defined as the project proceeds through the town's regulatory review process. The application did not include an Environmental Assessment Form which shall be provided to initiate a formal SEQRA review. Several comments related to the site plan. The project resides within the town's TC-5 Neighborhood Zone of the Form Based Code (FBC). Based upon a review of Table 3-1 of the FBC, office and retail are permitted principal uses within the district. In the review of the bulk lot requirements of the TC5 District, the following deficiencies have been noted:

- a. The building façade shall be a minimum of 80% at build to zone. The plan proposes 75% along Plank Road and 66% along Old Route 146.
- b. The parcel requires 10% greenspace and is proposing 6.5%.
- c. Parking shall be no closer than 30 feet from the front property line. The plan proposes parking at the front property line in some instances.

The site plan labels an area along Plank Road to have 5 parallel parking spaces, but subsequent plans do not show how they will be placed. Plank Road is defined as a "Park Street". The street

improvements shown along Plank Road do not appear to conform to the requirements of a “Park Street” as follows: lighting within the adjacent private frontages. Old Route 146 is defined as a “Neighborhood Street 2”. The street improvements shown along Old Route 146 do not appear to conform to the requirements of a Neighborhood Street 2 as follows:

- a. Sidewalks do not extend to the street edge and are shown with a grassed buffer.
- b. Lighting is located within the adjacent private frontages.
- c. 4’x4’ tree wells are proposed for the tree species.

The project appears to have insufficient parking based upon the proposed uses. As such, one of the three options outlined in Section 7.1(D) of the FBC must be followed to address the deficiency. The applicant is asked to provide cross lot connections (or access easements) to all adjacent parking lots pursuant to Section 7.1(F)(1) of the FBC. The parking lot that is adjacent to Old Route 146 shall provide additional improvements that conform to Section 7.3.(A) of the FBC which includes shrubbery, walls, or fencing to create a 3-foot screen. The proposed parking lot lighting fixtures are shown as 20 feet in height: Section 7.6(B) of the FBC requires light fixtures located along the perimeter edge of a parking area within 50 feet of a property line shall not exceed 15 feet. The applicant is asked to provide a list and description of proposed pedestrian amenities pursuant to Section 7.7 of the FBC. Lot A shows an encroachment of the existing parking lot onto the lot to the west. This encroachment shall be corrected as part of the subdivision by way of removal or securing an easement from the adjacent land owner. The plans must show the location of and details for any exterior refuse areas. Plans must show how snow storage will be accommodated within the project site. The STOP sign along Old Route 146 should be relocated to be closer to the lane of travel such that it is not obstructed by vehicles parked in the parallel parking spaces. A tactile warning should be provided at the curb ramp at Plank Road. The cross walk at Plank Road shall be in accordance with NYSDOT Standards for a Combined Type “LS”. The detail provided within the plan set does not conform to the noted standard dimensionally. The accessible aisle with the step leading to the adjacent sidewalk needs to be corrected to delete the step and provide a curb ramp or flush entry to the sidewalk. The spot elevations suggest that there is limited accessibility from the proposed sidewalks within the right-of-way to the building’s entranceway. The defined accessible route between the proposed sidewalks within the right-of-way to a building entrance must be shown on the plan. If the building is planned to have multiple tenants on the first floor, there should be an accessible route shown to the door of each individual use. The applicant is asked to confirm that all stairs will be provided with the acceptable tread height pursuant to the Building Code of New York State for an access route to the building. This would apply to all site stairs shown on the plans. The plans propose a retaining wall facing the street that will be constructed of Ready Rock. It is suggested that alternate wall materials be selected to match the site and building aesthetic. Portions of the proposed retaining walls are shown within the town right-of-way. These shall be located outside of the right-of-way or an easement must be obtained from the town. A hold harmless agreement is suggested in case the town needs to make repairs within the right-of-way that are proximate to the wall requiring its removal. The proposed building is in excess of 30 feet in height. The applicant is asked to show on the plans where the aerial fire apparatus access is in accordance with Appendix D105 of the Fire Code of New York State. The location of the required Knox Box and fire department connection must be indicated on the plan. Alternatively, the applicant must provide notation indicating that the location of these features will be shown on the building permit plans and shall remain subject to the review and approval by the town. There are extensive storm sewer improvements shown within the right-of way of Plank Road and Old Route 146. There needs to

be clarity regarding which sections of storm sewer are planned for conveyance to the town, if any. If none is intended for conveyance, easements would be required from the town. There are storm sewer improvements that cross the property west of the site. This pipe installation would appear to need an easement from the adjacent land owner. The applicant is asked to provide documentation that the easement has been secured and it should be shown on the site plans. The applicant is asked to provide notation on the plans that all work within the town right-of-way will require permitting from the Town Highway Department. The detail for the retaining wall shows a guide rail at the top. The plans show locations for the retaining walls, but not where the guide rail may be installed. The building elevations provided do not show any potential roof top units. If any are required, the plan must indicate how they may be shielded from the public view.

Additional comments related to the Stormwater Management Assessment. The applicant must provide design information regarding the sizing of the storm sewer system proposed along Old Route 146 and Plank Road. The existing drainage system is an open swale towards the intersection of these two roads and provides some level of storage. Enclosing the entire drainage system and eliminating the storage may have an adverse impact at down gradient locations. The applicant must provide infiltration tests to confirm the design assumptions made in the sizing of the subsurface infiltration facility. Test pit data to confirm that groundwater will not be encountered in the location of the subsurface infiltration facility that would compromise its function must be provided.

Ms. Pam Marshall, 5 Fairlawn Court, asked about access to the proposed garage. Mr. Address reported that the garage area would be accessed internally from the parking area.

Ms. Nancy Murphy, 52 Blue Spruce Lane, asked how snow removal and/or storage would be accomplished on the site. Mr. Address explained that because of the small size of the parcel, snow would be removed from the site.

There being no additional public comment, Mr. Ferraro moved, seconded by Mr. Ophardt, to close the public hearing at 7:30p.m. The motion was unanimously carried.

Mr. Koval questioned the amount of greenspace set aside on each parcel. Mr. Address explained that greenspace for Lot A which contains the existing building will total 16.6% of the site; greenspace on the newly-created parcel is calculated to be 6.5% of the site. In response to Mr. Koval's question regarding the handling of refuse, Mr. Address explained that the existing dumpster on site will remain to serve both buildings. Mr. Ophardt asked how the slope between the existing Dunkin' Donuts and the proposed building would be accommodated. Mr. Address explained that the easterly wall of the proposed office building would provide stability for the building and the slope and that the entrance provided along Plank Road would be level with the roadway. Mr. Ophardt noted that vehicles parked in the proposed handicapped spaces along the westerly side of the new building would have to exit the spaces by backing into the site's main drive aisle. Mr. Address explained that the location of the spaces offered the most reasonable location for installation of a handicapped ramp and access to the building. In response to Mr. Ophardt's question regarding site drainage, Mr. Address explained that the drainage would be piped to an existing stormwater management system located behind the Shoppers' World complex which currently serves the shopping center and adjoining outparcels. Mr. Ophardt observed the

apparent encroachment of the parking lot on parcel A onto the adjoining property on the southwesterly side of the site. Mr. Address explained that the encroachment has existed for many years that that the existing slope between the two properties would likely prohibit any development of the area. Mr. Neubauer commented that he believed the applicant and consultant did a “good job adhering to the form-based code prescribed requirements for site and architectural design,” stating his appreciation for the pedestrian connections that exhibit design elements reflective of the “vision of walkability” for the town center area. In his opinion the project proposal complements the newly opened Courtyard Hotel located on the opposite side of Plank Road. In response to his question concerning the proposed light fixtures, Mr. Address explained that the plan now calls for the installation of 15’ high lantern-style fixtures that are more in keeping with form-based code requirements. Mr. Neubauer remarked that these fixtures as well as the tree wells and landscaping proposed above the retaining wall will create a pleasing streetscape. In response to his question regarding rooftop units, Mr. Address explained that parapets will be provided to shield such units from view. Mr. Ferraro noted that the design, given the challenges created by the elevation changes on the site, appears to “work,” efficiently connecting public and private spaces. Mr. Ferraro was particularly pleased that the parking areas were located to the rear, rather than the front, of the building. He thanked the applicant for working cooperatively with the TAC committee. In response to his comments regarding cross-easements for parking, utilities, and other shared site amenities, Mr. Address reported that such easements will be established as required. Noting that the Trails Subcommittee called for the installation of a crosswalk across Old Route 146 at its intersection with Plank Road that would not link to a northerly walkway, Mr. Ferraro stated that he did not support such a recommendation. Although in the future such a connection may be warranted, such a pedestrian crossing should be discouraged at this time. Mr. Ferraro asked that the area to the west of the proposed entrance drive be enhanced with wrought iron fencing to minimize the visual impact of the parking area.

Mr. Ophardt offered Resolution #18 of 2016, seconded by Mr. Neubauer, to waive the final hearing for this subdivision application and to grant preliminary and final approval conditioned upon the applicant’s meeting with the TAC committee to finalize all site details, the sign-off by all town officials on the stormwater management plans, the establishment of all necessary cross-easements, and satisfaction of all items listed in the final comment letter issued by the Planning Department. Ayes: Ophardt, Andarawis, Bagramian, Jones, Neubauer, Koval, Ferraro. Noes: None.

Mr. Andarawis moved, seconded by Ms. Bagramian, to grant preliminary and final site plan approval, acknowledging certain site plan deficiencies and waiving the following prescribed form-based code requirements:

- a. The building façade shall be a minimum of 80% at build to zone: the plan proposes 75% along Plank Road and 66% along Old Route 146.
- b. The parcel requires 10% greenspace: proposed greenspace totals 6.5% of the site.
- c. Parking shall be no closer than 30-feet from the front property line: the plan proposes parking at the front property line in some instances.

Approval is conditioned upon the applicant’s meeting with the TAC committee to finalize all site details, the sign-off by all town officials on the stormwater management plans, the establishment

of all necessary cross-easements, and satisfaction of all items listed in the final comment letter issued by the Planning Department. The motion was unanimously carried.

New Business:

[2016-049] **Galluzzo Medical Building** – Proposed 9,600 SF office building, 954-956 Route 146 – Conceptual site plan review. SBL: 271.-4-5

This application was withdrawn from this evening’s agenda at the request of the applicant.

Old Business:

[2016-032] **Northway Church** - Proposed 40,000 SF church facility, southwesterly quadrant of the intersection of Ushers and Pierce Roads – Preliminary site plan review and possible determination. SBL: 259.-2-85.3

Mr. Ferraro introduced this application, explaining that this is the applicant’s fourth appearance before the Planning Board and noting that an approval at this evening’s meeting hinged on resolution of the issues of concern identified at those previous meetings: land use, traffic impacts, potential growth of the church and an increase in the number and size of events it sponsors, and site aesthetics and landscaping. Expanding upon the traffic safety concerns, Mr. Ferraro explained that because of the “specificity of the application,” the Planning Board authorized a “third party review” of the traffic analysis presented by the applicant’s traffic consultant. He explained that Mr. Peter Faith, Greenman-Pedersen, Inc., Engineering and Construction Services, acting as an independent consultant, is in attendance at the meeting and will offer comment on the analysis he was asked to undertake. Mr. Ferraro, noting that the Clifton Park Planning Board is one of only a few Boards in the region that allows public comment beyond the confines of a public hearing, explained that significant public comment from public meetings, social media sites, written correspondence, and petitions has been duly considered by the members of the Board and that public comment at this meeting would be limited. He emphasized that the purpose of review of this application at this evening’s meeting was to clarify the issues of concern, allow for Planning Board comment, and render a decision – with conditions if necessary – on the application.

Mr. Ferraro called upon Mr. Pelagalli, Planning Board Counsel, to address the issues surrounding land use in relation to the proposed church. Mr. Pelagalli magnified comments rendered at previous meeting regarding the federal statute known as the Religious Land Use and Institutionalized Persons Act (RLUIPA) enacted by Congress in 2000, noting that case law indicates that the law not only seeks to “create a level playing field” for those seeking to establish religious uses within communities but also supports the concept that those uses may not “be burdened more than any other use.” He stated that is “clear that under federal and state law” the proposed use “cannot be prohibited in this zone.” Mr. Pelagalli addressed the issue of the legality of the Planning Board’s imposition of conditions and/or restrictions on site development, explaining that identified impacts created by the proposed development must be “significant, serious, direct, and immediate” in order to be considered a basis for denial of an application: traffic congestion could not be used as a reason for disapproval. Mr. Pelagalli pointed out that in cases

where the courts have overturned Planning Board denials, applicants have been granted unequivocal approvals, allowing the Planning Board no opportunity in any way to restrict the development project. He also noted that in instances where the courts upheld Planning Board decisions against complainants, the plaintiffs were required to pay the defendant's attorney's fees. Referencing the Board's concerns about the imposition of conditions and/or restrictions on the site development, the speaker stated that the law limits the magnitude of mitigations and restrictions in terms of "volume and cost" to the applicant, reiterating the fact that the law prohibits the imposition of conditions on a religious institution that it would not impose on any other proposed use. Simply put, the Board may not deny the project based upon traffic congestion which might create an "inconvenience" – evidence must clearly indicate that there is a serious threat to public safety. He concluded his remarks by noting that the Planning Board may not deny a project based upon public dissent or speculation about intensification of the use in the future.

Mr. Ferraro commented that articles and professional writings related to zoning and planning issues authored by Ms. Patricia Salkin, Provost of the Graduate and Profession Divisions of Touro College, supported Mr. Pelagalli's comments.

Ms. Nancy Murphy, 52 Blue Spruce Lane, asked if any case law indicated that a denial of use could be based upon damage to other churches and/or businesses situated in close proximity to a project. Mr. Pelagalli explained that there was no evidence presented to the Board that would indicate its negative effect on exiting uses along the Ushers Road corridor.

Mr. Ferraro introduced Mr. Peter Faith, Vice President of Greenman-Pedersen, Inc., explaining that his firm had been retained by the town to review the traffic analysis that was prepared for this project. After listing his professional credentials, Mr. Faith explained that the requested review included consideration of the following items: Traffic Evaluation Letter from Creighton Manning dated 7/27/2016; e-mail from Wendy Holsberger at Creighton Manning dated August 19, 2016; trip Generation Counts letter from Creighton Manning dated 9/20/2016; "Response to GPI comments" memo from Creighton Manning dated 10/21/2016; MJ Engineering review letters of June 10, 2016 and September 12, 2016; Planning Board meeting minutes for June 14, 2016, August 9, 2016, September 14, 2016 and September 27, 2016; letter from Lansing Engineering dated October 3, 2016. The review focused on preparing a professional opinion based on the following questions:

1. Did the Traffic Impact Study follow accepted procedures and guidelines for the preparation of these types of studies?
2. Is the study area covered by the Traffic Impact Study reasonable?
3. Is the traffic forecasting methodology used reasonable and supported by local and national experience at other similar facilities.
4. Does the Traffic Impact Study address all times where there traffic could be significantly impacted?
5. Was the highway capacity analyses presented correctly performed with the latest accepted methods?
6. Was the TDE review of this Traffic Impact Study complete and accurate?

Mr. Faith reported that the study prepared by Creighton Manning did follow accepted procedures and guidelines for the preparation of the traffic study and that the study area that included the Ushers Road intersections with Pierce Road and VanPatten Drive was reasonable for the project.

Mr. Faith stated that additional information provided by Creighton Manning in memos dated October 14th and 21st present information that represents “likely traffic impacts.” He stated that, due to the lack of information regarding the “level of weekday activity at the proposed church facility,” a more “detailed analysis of weekday peak hour traffic impacts could be warranted.” The capacity and level of service analysis conducted used accepted methodology and procedures consistent with the Highway Capacity Manual. Mr. Faith commented that the review by M J Engineering and Land Surveying, P.C. appeared to be thorough and raised several “good points.”

In response to Mr. Jones’ question regarding whether or not there was an identifiable, significant traffic concern, Mr. Faith commented that “there is always some traffic” at the times church services are typically held, but that those times do not generally correspond to normal peak hour travel times. Mr. Koval questioned whether or not traffic generated by the church would be greater or less than traffic normally occurring. Mr. Faith explained that, typically, traffic generated by a church facility would be less than typical traffic flows. Mr. Ferraro commented that it appeared from the traffic evaluations presented that the peak hour traffic associated with church activities would be approximately 23-30% less than normal peak flows along Ushers Road. In response to Mr. Ophardt’s question regarding concerns with increased weekday traffic, Mr. Faith explained that although there may be questions regarding the possible increase in church activity during the week, calculations using typical thresholds for many types of land uses provided a reasonable guideline for forecasting trip generation estimates. Mr. Ferraro asked that Mr. Faith speak to the methodology employed in the studies. Mr. Faith explained that usual trip generation calculations are based upon the building’s square footage or the number of seats provided in the facility. In this case, documentation from the existing church facility provided the actual number of trips generated. Mr. Ferraro, citing Mr. Pelagalli’s discussion of inconvenient traffic congestion as opposed to “hazardous situations,” asked how Mr. Faith would describe the traffic impacts. Mr. Faith stated that “traffic delays” do not mean that hazardous traffic conditions exist.

Ms. Rose Kate, 2 Lake Avenue, Malta, stated that she has observed significant traffic issues at churches operating in Malta and expressed concerns with increased traffic along Ushers Road, questioning “who would pay for a police presence” to direct traffic should the need arise.

Mr. Ferraro called upon Mr. Jeff Buell, project manager, to speak to the issue of church programs and activities. Mr. Buell explained that the church had provided the town with a list of activities and programs that had occurred during the past year. The list included a very small number of power breakfasts held on Wednesday mornings that were limited to fifty people, two weddings and two funerals in the 10-year operation of the church, and the third service held on Sundays at the current location in an effort to accommodate all worshippers. In response to Mr. Ferraro’s question regarding the use of the outdoor space for special events, Mr. Buell stated that it was not the intent of the church to utilize the space for such purposes. When questioned by Mr. Ferraro about the number of special events, such as weddings, funerals, fundraisers, and classes held by the church, Mr. Buell reported that Northway Church held such activities less frequently than most churches. Mr. Koval noted that there had been some “talk in the blogs” about use of the cafeteria and child daycare facilities. Mr. Buell explained that the café was included in the design to provide minimal refreshments after services and that children were only cared for in Sunday School classes conducted during Sunday services.

Mr. Scott Lansing, design consultant for the applicant, was asked to provide information regarding site aesthetics and improvements. He explained that the site plan now illustrated the preservation of a 30' wide vegetated buffer along the property's Ushers Road frontage and additional landscaping along the northerly side of the building and along Pierce Road. He did note that a 50' wide clearing would be needed along the property's northern border along Ushers Road to accommodate grading necessary for installation of utility lines. Mr. Jones stated his appreciation to the applicant for his willingness to work with Board members to preserve the 30' buffer along Ushers Road. Mr. Ferraro pointed out that the applicant has provided "significant landscaping" on the site, noting that the applicant has willingly provided public amenities such as the gazebo with nearby trail head parking and installation multi-use pathway connection that would "provide a critical link" in the town's trail network. Mr. Lansing responded positively to Mr. Ophardt's recommendation that the preserved tree line be selectively trimmed to create a visually pleasing site, noting that the preservation of the tree canopy was significant. Mr. Ferraro emphasized the importance of maintaining the **integrity** of the buffer, recommending that the developer tag trees to be preserved and install orange fencing to delineate the clearing and grading boundaries. Town staff members will be tasked with inspection of clearing and grading boundary delineations and tree preservation identification before site work begins. In response to Mr. Ferraro's question regarding the placement of outdoor speakers, Mr. Buell explained that plans now call for the installation of two such speakers though they will be used only for the broadcasting of "welcoming music." Ms. Bagramian suggested the planting of additional trees within the buffer area when and if warranted by the selective clearing. Although Mr. Ferraro recommended the narrowing of the 50' wide clearing along Ushers Road for installation of the utility line, Mr. Lansing explained that such a reduction was not possible due to grading issues. Mr. Koval pointed out that the proposed building design was aesthetically pleasing. Mr. Ferraro concurred, stating that, in his opinion, the Board had thoroughly scrutinized the project plan and worked with the applicant to design a desirable site. He again explained that a much more intrusive industrial use generating much more traffic during weekdays could have been proposed for this parcel. Both Mr. Jones and Mr. Koval commented that they believed that, during the four to five month review process for this project, the Board has respectfully listened to citizen concerns and worked to mitigate to the greatest extent practicable the issues raised. They thanked the applicant for his willingness to work with the Board to achieve not only a visually appealing site but one which offers benefits to the community.

Board members agreed that the Negative Declaration included below reflected identified current and potential environmental impacts and the mitigation measures provided to address them.

PLANNING BOARD
TOWN OF CLIFTON PARK

SEQR RESOLUTION
NEGATIVE DECLARATION
PLANNING BOARD PROJECT #2016-032
SITE PLAN –Northway Church
Tax Map Parcel #'s: 259.-2-85.3

Whereas, Donald Cremeans (applicant) has submitted to the Town of Clifton Park Planning Board an application for Site Plan Approval, for a proposal to construct a church and associated parking on a 6.83-acre parcel located at the southwest corner of Ushers Road and Pierce Road in Clifton Park, New York.

Whereas, the Planning Board has received a Full Environmental Assessment Form (“EAF”) for the project with Part I completed by the applicant; and

Whereas, the State Environmental Quality Review Act (SEQRA) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund, or approve an action until it has complied with the requirements of SEQRA; and

Whereas, 6 NYCRR 617.6(b) establishes procedures for review of Unlisted Actions where an agency has determined it will not coordinate SEQRA review of the action; and

Whereas, the procedures for uncoordinated review of an Unlisted Action indicate that an agency may proceed with said review as if it were the only involved agency unless it determines that the action may have a significant impact on the environment; and

Whereas, the Planning Board has independently considered information provided in the EAF, supplemental engineering reports, project file documents, and comments on the application provided by Planning Board Members, Planning Staff, Creighton Manning Engineering, Lansing Engineering, MJ Engineering (Town Designated Engineer), adjacent property owners and their representatives, and the general public;

Now, Therefore Be It Resolved, the Planning Board hereby determines that:

1. Approval of the proposed site plan constitutes an Unlisted Action which is subject to SEQRA,
2. In accordance with §239-m of General Municipal Law the project has been referred to the Saratoga County Planning Board.
3. A short EAF is adequate for determining significance; however, A Full EAF was utilized for determining significance.
4. An uncoordinated review was conducted by the Planning Board in its determination of significance; and

Be It Further Resolved, that based upon its review of the project and the full EAF, review of the proposal by the Town Designated Engineer and Town Staff, and comparison with the Criteria for Determining Significance found at 6 NYCRR §617.7(c), the Planning Board hereby finds the proposed action will not have a significant impact on the environment and therefore, does not require preparation of a Draft Environmental Impact Statement; and

Be It Further Resolved, that this determination is based upon the following facts and conclusions:

1. The Religious Land Use and Institutionalized Person Act (RLUIPA) protects religious institutions from unduly burdensome or discriminatory land use regulations.
2. The site of the proposed action is located in a Light Industrial Zoning District which allows the proposed use subject to Site Plan approval by the Planning Board.
3. The project has received necessary area variances granted by the Zoning Board of Appeals to allow for the development of the proposed religious institution to occur in a sustainable manner.
4. A traffic analysis dated July 27, 2016, prepared by Creighton Manning Engineering (CME) had been prepared and reviewed by the Planning Board, Town Staff and MJ Engineering (Town Designated Planning Board Engineer), and additional traffic analysis information has been provided by CME in response to comments generated by the Town Planning Board in review of the traffic study.
5. An additional review of the traffic analysis prepared by CME was conducted by Greenman-Pedersen, Inc. (GPI) at the request of the Planning Board. A response letter dated October 21, 2016 was prepared by CME and provided for the record in regards to questions raised by GPI. Based on consultation with two traffic engineering firms who reviewed and verified the validity of the CME traffic analysis and conclusions.
6. A letter of “No Jurisdiction - Endangered Species Act” dated, August 9, 2016, prepared by the NYS Department of Environmental Conservation acknowledges that the project site does not contain suitable habitat for any known threatened or endangered species that were known to exist in areas near the project site.
7. The project supports the Town’s Comprehensive Plan Goal to develop additional pedestrian and bicycle facilities as alternative forms of transportation.
8. The project will utilize green infrastructure stormwater runoff pretreatment methods that include porous pavement and infiltration, and an underground stormwater storage infiltration system to provide stormwater quality and quantity treatment improvements for lands adjacent to the Dwaas Kill and Colonie Channel Aquifer.
9. The proposed church will provide stormwater management infrastructure and practices that meet the Town’s Comprehensive Plan Goal to ensure protection of wetlands and stream corridors for their benefits to wildlife habitat, flood and stormwater control, groundwater protection, erosion control and recreation.
10. The project is served by existing public water and sewer service. The site is currently served by public utilities. Adequate capacities are available for the proposed project which will be built in accordance with Town standards and specifications.
11. The proposed use is less intense than other permitted uses within the industrial zoning district.
12. The applicant has provided revisions to the site plan to preserve mature vegetative buffers on the project site adjacent to Van Patten Drive and Ushers Road.
13. The project will not have a significant impact on the environment related to land resources and water resources and provides stormwater management practices that ensure the integrity of the water quality associated with the Colonie Channel Aquifer.

14. The project site has no wetlands, is primarily wooded with white pine and oak, and is primarily composed of Oakville loamy fine sand that is well drained.
15. Town construction standards and Best Management Practices are proposed by the applicant to minimize any potential impacts on air quality due to dust.
16. The project is proposed in an area surrounded by existing industrial uses with no property eligible for inclusion on the National or State Register of Historic Places and as a result will not have a significant impact on archaeological, and historical resources. The NYS Historic Preservation Office will also sign off on the applicant proposed Stormwater Pollution Prevention Plan.
17. The documentation submitted by the applicant to date and included within the project file reviewed in its entirety by Planning Board Members leads to the conclusion the project site does not have a potential to create moderate to significant environmental impacts.

Be It Further Resolved, that this Determination of Non-Significance shall be considered a Negative Declaration pursuant to Article 8 of the Environmental Conservation Law.

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

Mr. Jones moved, seconded by Mr. Ophardt, to grant preliminary and final site plan approval to this application conditioned upon assurance that the location selected for the identification sign will not frustrate the approved landscaping plan and the established buffer along Ushers Road, that activities conducted on the site are not increased beyond those outlined in these minutes, and the satisfaction of all items listed in the final comment letter prepared by the Planning Department. The motion was unanimously carried.

[2016-005] **US Route 9 and Fire Road Office Building** – Proposed construction of a 57,000 SF office building and 3,600 SF bank/retail building, 32 Old Route 146 – Preliminary site plan review and possible determination. SBL: 272.9-1-10; 272.9-1-21.1; 272.10-2-18; 272.10-2-20

Mr. Abele, applicant introduced Mr. Gavin Vuillaume, design consultant, Ms. Wendy Holsberger, traffic engineer, and Mr. Charlie Meyer, architect, who were in attendance at the meeting. Mr. Abele expressed his thanks to the Board members for working with his firm to create a viable project. Mr. Vuillaume explained that site plan revisions had been made in accordance with previously-issued comments. The site plan notes that a sidewalk will be constructed along the southerly side of Fire Road when warranted, land area has been reserved along the southerly exit drive onto Route 9 to allow for a possible dedicated right turn lane from the site, the bank building has been moved to the north to offer more safety for pedestrians by providing additional sight distance for those bank patrons utilizing the drive-up windows, bicycle racks will be installed at the entranceways to businesses, recommended stormwater management plan revisions have been made as required, and cross lot easements will be provided as needed.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, provided the following comments in a memo dated October 7, 2016. A Memo of Understanding (MOU) with Halfmoon should be agreed to for issues related to Phase II since the entire building appears to be situated in Halfmoon. Demolition of the existing structures along Fire Road has not occurred to date. A stormwater maintenance agreement will be required due to private ownership.

Mr. Scavo reported that Mr. Reese, Stormwater Management Technician, reported in a memo dated October 18, 2016 that all previously issued comments regarding this application have been satisfactorily addressed.

Mr. Scavo explained that the ECC issued no additional comments at this time.

Mr. Scavo explained that Mr. Roy Casper, Chairman of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, reported that the plan appeared acceptable at this time.

Mr. Bianchi reported that, after review of the revised plans submitted for this project by the applicant, M J Engineering and Land Surveying, P.C. offered the following comments. As noted in Comment 18 of the February 5, 2016 review letter, there should be an examination of potential linkages or cross lot easements to adjacent properties. It is understood that the applicant is prepared to work with the Planning Board in defining appropriate locations for such linkages and easements. The applicant still needs to obtain site plan approval for all Phase 1 work planned within the Town of Halfmoon. The applicant shall provide the Town of Clifton Park with updated plans resulting from comments received from the Halfmoon Planning Board and their consultant(s). Should the plan change, substantially altering elements approved in the Town of Clifton Park, there may be a need to reappear before the Clifton Park Planning Board for subsequent reviews. The concluding comment concerned the Stormwater Pollution Prevention Plan. The final Stormwater Pollution Prevention Plan shall include documentation that the project will not adversely impact cultural or historic properties pursuant to Part I.F.8 of the General Permit. It is the town engineer's understanding that this item is being pursued and will be furnished to the town upon receipt. The applicant is advised that the Town cannot execute the MS4 Stormwater Pollution Prevention Plan Acceptance Form until a "no effect" letter or "letter of resolution" has been issued.

Mr. Anthony LaFleche, 21 Arnold Drive, asked whether or not the proposed restaurant would be located within the Town of Halfmoon. Mr. Vuillaume stated that was indeed the case. Mr. LaFleche commented that he appreciated the pedestrian amenities that were illustrated on the current plan and encouraged the applicant to "provide future linkages as appropriate."

In response to Mr. Ferraro's question regarding whether or not the 35.3% greenspace included parcel #5, Mr. Abele explained that the current calculations did include that lot as greenspace. He stated that there are no plans to develop that site at this time. Mr. Ferraro commented that he was more concerned with the "quality of open space provided than the quantity provided." In response to Ms. Bagramian's question regarding the threshold necessary for installation of the right-turn lane from the site onto Route 9, Ms. Holsberger, the applicant's traffic consultant, explained that "from a capacity and queuing standpoint," the traffic studies prepared indicated that the turn lane was not necessary. She explained that the reserved land area shown on

the plan was provided in response to Board recommendations. Mr. Koval followed up on Ms. Bagramian's question by asking if it would be reasonable for the Board at this time to "identify a trigger point" for development of the turn lane. Ms. Holsberger pointed out that it would be necessary for the Board to consider the "balance" of the expanded exiting area with pedestrian safety since the widened exit area would create a less safe crossing for pedestrians. In response to Mr. Jones' expressed incredulity that there would not be "queues" at the exit location at 5:00p.m., Ms. Holsberger explained that drivers would utilize other means of egress. Mr. Ferraro adamantly disapproved of the provided left turn from the site onto Route 9 at the location mid-block from the Old Route 146 – Route 9 intersection and the Route 146 – Route 9 intersection, stating, as he has during past meetings, that, not only existing conditions but also future development along the Route 9 corridor and to the east of the site will make that turning movement increasingly hazardous. Mr. Koval pointed out that both the applicant's traffic engineer and NYSDOT found the proposed unrestricted ingress and egress acceptable. He found those recommendations acceptable, particularly since there were other points of egress from the site. Ms. Holsberger explained that, in an effort to address expressed concerns, the applicant has agreed to fund an "afterstudy" approximately 12 -15 months after the larger office building has been constructed and occupied to determine whether or not observed queuing and accident history would warrant the construction of the right turn lane. Though Ms. Bagramian questioned why the lane would not be constructed as the site is originally developed, Mr. Abele said that he was unwilling to do so due to pedestrian concerns. Mr. Koval was comfortable with the fact that Mr. Vuillaume could make the appropriate site modifications should the right turn lane be warranted. Mr. Ferraro commented that there are "apparent problems with the regulatory versus planning process," pointing out that NYSDOT usually recommends limited access onto major highways: he reiterated his position, stating that he does not support the left turn lane from the site. Mr. Abele stated that, should a future traffic study indicate problems with the proposed exit, he would reappear before the Board for its recommendations. In response to Mr. Jones' question regarding the installation of electric panels and conduit for future accommodation of electric vehicles, Mr. Abele stated that it would be reasonable for the developer to include such equipment in the design plan. Mr. Neubauer questioned the validity of the calculation percentages used in the traffic study when considering background growth rates since it appeared that the numbers used did not take into account properties that had no current development plans. Mr. Ferraro explained that the access point requires approval from the Town of Halfmoon since it lies within its municipal boundaries. He expressed his fears regarding traffic safety noting that there is a definite "need for access management programs." Mr. Abele explained that his company has been "pro-active" in terms of traffic concerns and had waited a "long time" for NYSDOT's response to the access request. Mr. Jones pointed to the traffic engineer's determination that the ingress/egress movements were reasonable, remarked that he believes that the "situation will fix itself" as drivers finding it difficult to make lefts from the site will choose other routes to exit the site, and supported the project design as presented. Ms. Bagramian finds that the current plan is acceptable with the condition that the egress issue be reevaluated when the office building has been operational for a year. Mr. Scavo recommended the installation of "way finding" signs throughout the site to provide directional guidance for those traveling through the site. Mr. Neubauer agreed that such signage would be helpful. Mr. Abele agreed.

Mr. Ophardt moved, seconded by Mr. Neubauer, 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. Ferraro moved to grant preliminary and final approval to this site plan application conditioned upon the requirement that no left turn be permitted from the site onto Route 9 at the proposed ingress/egress location situated mid-way between the signalized Fire Road – Route 9 and the Route 146 – Route 9 intersections. There was no second to this motion: the motion failed to carry.

Mr. Koval moved, seconded by Mr. Ophardt, to grant preliminary and final site plan to this application conditioned upon the installation of “way-finding” signage throughout the site, the requirement that a traffic analysis of queuing and capacity issues as well as accident reports at the ingress/egress point at the site situated mid-way between the Fire Road – Route 9 and Route 146 – Route 9 intersections be completed within a year to fifteen months after the office building is constructed and occupied and all items listed in the final comment letter prepared by the Planning Department. Ayes: Ophardt, Andarawis, Bagramian, Jones, Neubauer, Koval. Noes: Ferraro. The motion was carried.

Mr. Ferraro asked that the record show that he remained ardently opposed to approval of a left turn from the site since his experience and lengthy tenure as a professional planner indicated to him that such traffic movements were assuredly unsafe and placed the driving public in a hazardous position. He expressed his disappointment with NYSDOT representatives for approving the unrestricted access request onto a major highway.

Mr. Neubauer moved, seconded by Mr. Jones, adjournment of the meeting at 10:15p.m. The motion was unanimously carried. The meeting of the Planning Board originally scheduled for November 9, 2016 has been canceled since no application submittals were received. The next meeting of the Board will be held on November 22, 2016.

Respectfully submitted,

Janis Dean,
Secretary

NOTICE OF DECISION

Resolution #18 of 2016

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 October 25, 2016, there were:

Present: R. Ferraro, Chairman, E. Andarawis, D. Bagramian, J. Koval, A. Neubauer,
E. Ophardt
J. Jones – Alternate Member
Absent: E. Prescott

Mr. Ophardt offered Resolution #18 of 2016, and Mr. Neubauer seconded, and

Whereas, an application has been made to this Board by Northway 9 Plaza Associates for approval of a subdivision entitled Subdivision Plan – Northway 9 Plaza, consisting of (2) lots;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on October 25, 2016;

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 October 25, 2016;

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 the subdivision plat entitled Subdivision Plan – Northway 9 Plaza consisting of (2) lots is granted preliminary and final approval conditioned upon the applicant's meeting with the TAC committee to finalize all site details, the sign-off by all town officials on the stormwater management plans, the establishment of all necessary cross-easements, and satisfaction of all items listed in the final comment letter prepared by the Planning Department.

Resolution #18 of 2016 passed 10/25/2016

Ayes: Ophardt, Andarawis, Bagramian, Jones, Neubauer, Koval, Ferraro

Noes: None

Rocco Ferraro, Chairman