

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

PLANNING BOARD

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Michael Hale  
Joel Koval  
Eric Ophardt  
Kim Paulsen  
Tom Werner  
*(alternate)* Eric Prescott

**Planning Board Meeting**

February 12, 2013

Those present at the February 12, 2013 Planning Board meeting were:

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

Those absent were: K. Paulsen, T. Werner

Those also present were: J. Scavo, Director of Planning  
J. Bianchi, M J Engineering and Land Surveying, P. C.  
P. Pelagalli, Counsel  
M. Springli, Secretary  
M. Montague, Environmental Conservation Commission

Mr. Ferraro, Chairman, called the meeting to order at 7:03p.m. All in attendance stood for recitation of the Pledge of Allegiance.

Mr. Ferraro welcomed everyone and asked those in attendance to turn off all cell phones because of interference with audio recording equipment. The Chairman next remarked that a steering committee has been appointed for the Clifton Park Town Center form based code plan. The chairman stated that member Tom Werner is designated liaison to the committee. Mr. Ferraro is designated from CDRPC although he is also chairman of the planning board. Next, he added that March 6<sup>th</sup> -8<sup>th</sup> the first set of public meetings consisting of public input periods and charettes will be held at the Clifton Park-Halfmoon Public Library. Planning Board members were encouraged to participate as well.

Mr. Ferraro noted for the record that Eric Prescott will be a voting member tonight in place of Tom Werner.

**I. Minutes Approval – 1/23/2013**

Motion to approve minutes of the January 23, 2013 Planning Board meeting

Moved by: Koval

Seconded by: Ophardt

Motion is approved – Unanimous

**II. Public Hearings**

- A. *[2012-032] Rotondi Subdivision – Proposed (2) lot subdivision, 347 Ushers Road, Zoned: R-1, Preliminary public hearing and possible determination, SBL: 259.-3-8*

Mr. Dwayne Rabideau with VanGuilder and Associates presented the plan on 347 Ushers Road to subdivide the parcel into (2) lots. The consultant stated that the second lot will be a keyhole lot behind the existing house with a shared driveway and that visual impacts will be limited due to imposed grading limit lines. Mr. Rabideau also added that both homes will be connected to public water and sewer and landscaping has been added to the plan to provide some visual buffers for both residences. Mr. Rabideau stated that disturbance will be less than an acre so no SWPPP is needed.

Mr. Ophardt moved, seconded by Mr. Hale, to establish the Planning Board as Lead Agency for this application, a Type I action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried. The complete negative declaration is attached to these minutes.

Mr. Ferraro, Chairman, called the public hearing to order at 7:09 p.m. The Secretary read the public notice as published in the Daily Gazette on February 6, 2013.

**Public Hearing Comments:**

Pam Marshall, 5 Fairlawn Ave. stated that she received a 500 ft notice and she is pleased that driveways were combined and trees were maintained and liked that the home is being tied into the sewer and she has no objection to this proposal.

Mr. Koval moved, seconded by Mr. Ophardt, to close the public hearing at 7:17p.m. The motion was unanimously carried.

## **Professional Review**

Steve Myers, Director of Building and Zoning offered no comments that were read by Mr. Scavo

Sheryl Reed, Bureau of Fire Prevention, had no additional comments regarding this submittal.

John Scavo, Planning Director stated that he had reviewed the current submittal and would note for the record that all my prior comments have been satisfied and I have no additional comments based on my review.

Mike Montague, stated that the ECC had no further comments.

Joel Bianchi, town designated engineer with M.J. Engineering and Land Surveying, issued a review letter addressed to the applicant on February 8, 2013 which will be included in the file for this application and noted that all outstanding issues had been addressed.

## **Board Comments:**

Mr. Ophardt thanked applicant for working with the board and coming up with a good result. Mr. Hale also voiced his appreciation. Mr. Ferraro noted his concern that he is not in general favor of keyhole lots and does not feel this fits the Town Code definition of "unusual circumstances" or hardship for creating a keyhole lot, but he does appreciate the work gone into the project. Mr. Andarawis stated that he felt the project looked good but he struggled with the definition of "unusual circumstances" as well.

Mr. Prescott offered Resolution # \_ of 2013, seconded by Mr. Koval to waive the final hearing for this application and to grant preliminary and final approval subdivision approval to this application conditioned upon satisfaction of the comments offered by the Planning Board, Planning Department, and Town Designated Engineer.

Roll call: Ayes: Mr. Andarawis, Mr. Ophardt, Mr. Prescott, Mr. Hale and Mr. Koval.  
Noes: Mr. Ferraro. The resolution is passed with five votes for approval and one vote against.

***B. [2011-011] Synergy Technology Park Subdivision*** – Proposed (7) lot subdivision, NYS Route 9, Zoned: B-5, Preliminary public hearing and possible determination, SBL: 265.-1-15.3.

Mr. Ferraro reminded those in attendance that SEQR approval does not guarantee final approval however allowed the Planning Board to continue with its subdivision review adding

that any outstanding issues could then be addressed in the course of normal review. The chairman also stated that this project would need to proceed to review by the Town of Halfmoon before it received final approval.

Mr. Hale moved, seconded by Mr. Ophardt, to establish the Planning Board as Lead Agency for this application, a Type I action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried. The complete negative declaration is attached to these minutes.

Mr. Ferraro, Chairman, opened the public hearing at 7:31pm. The Secretary read the public notice as published in the Daily Gazette on February 6, 2013.

Ivan Zdrahal with Ivan Zdrahal Associates, represented Country Club Acres, the owner of the property. Mr. Zdrahal noted that 6 of the lots would be intended to be developed in Phase I of the project. Phase II would consist of the lot in the northwest corner of the property. Once subdivided it is intended that each lot will be sold off individually and each owner would then have to appear before the Planning Board for site plan approval. Initially, a road called Synergy Drive will be constructed within the site connecting Kinns Road to NYS Route 9. A multi use path is planned along the northern edge of Kinns Road. Appropriate agencies have been contacted regarding sewer and water connections.

### **Public Hearing Comments**

Jim Ruhl, 168 Wooddale Drive, representing the Trails subcommittee of the Open Space, Trails and Riverfront Committee asked if Planning Board members received Mr. Dan Hartnett's comments. The reply was affirmative so he chose to only summarize the requests outlined in his comment letter. Mr. Ruhl commended the applicant for planning trails on the property. Mr. Ruhl however showed on the subdivision plan that there are some minor places where he felt that connections are not completed to key access areas at the edges of the property. The consultant replied that it was all reviewed in the field with some of the board members, planning and professional staff and this was the best plan agreed upon for subdivision until further site plan review was initiated.

There being no other public comments, Mr. Andarawis moved, seconded by Mr. Ophardt to close the public hearing at 7:39 pm. The motion was unanimously carried.

### **Professional Review**

Steve Myers, Director of Building and Zoning offered comments that were read by Mr. Scavo.

- Met with designer and discussed Stormwater issues. Designer to provide revisions to Stormwater plan to address these issues not received to date. Acceptance of SWPP is critical to project advancing. It is expected NOI will state project does not meet NYSDEC standards and require further review by NYSDEC as a result.
- No key on sheet DP-1 explaining graphics. Entrance onto Rt. 9 will require NYSDOT and Town of Halfmoon approval.
- Plans show slopes of 20% in areas which are to be avoided.
- Project will require significant site inspection.
- Road is to be privately owned.
- Entire project is zoned B-5, Corporate Commerce. Proposal shows a combination of office, manufacturing and warehouse space in each building. Each building will need to be evaluated individually once the tenants are known to ensure the uses comply
- Lot coverage areas are not provided to ensure no more than 50% of each lot is covered per 208-54B.
- No building heights are provided to ensure compliance with 208-54D.
- There appear to be building and parking setback issues on several lots. Section 208-54E(1)

Sheryl Reed, Bureau of Fire Prevention, had no additional comments regarding this submittal.

John Scavo, Planning Director stated the following:

1. It should be noted for the record that any action proposed by the Planning Board this evening is based on careful review and due consideration of the documents and information presented by the applicant as well as any oral and written public comments. The Board's determination is supported, but is not limited to the following documentation:
  - a. Revised Plans dated 1/27/2013.
  - b. SCPW Resolution 219 of 1989 –Criteria for Constructing Sidewalks within County ROW.
  - c. NYS DEC letter dated 10/19/2012 which outlines the applicant's need for the following permits.
    - i. Freshwater Wetlands
    - ii. Stream Disturbance
    - iii. Water Quality Certification
    - iv. DEC General Permit – SPDES General Permit for Stormwater Discharge from Construction Activity (GP-01-001).
  - d. Comments offered by the Open Space Trails Subcommittee and Environmental Conservation Commission.
  - e. Stormwater Management Report, prepared by Ivan Zdrahal Associated, dated August 2012.
  - f. Development Proposal Report, dated April 2011.

- g. SHPO letter dated 11/21// noting the project will have no effect upon cultural resources in/or eligible for inclusion in the Register of Historic Places.
  - h. Environmental Assessment Long Form Part I.
  - i. Endangered, Threatened and Rare Species Report prepared by North Country Ecological Services, Inc. dated June 13, 2011.
  - j. Wetlands Boundary Validation Letter, dated December 13, 2011 as issued by Mr. Jed Hayden, Wildlife Biologist, NYS DEC.
  - k. Traffic Impact Study prepared by Creighton Manning, dated January 24, 2012 with follow-up reports and analysis to questions raised by the Town of Clifton Park and NYS DOT.
  - l. Groundwater Table Evaluation Letter prepared by Hanson VanVleet, Inc., dated August 17, 2012.
  - m. Draft Declaration of Restrictive Covenants, submitted September 2012.
2. All outstanding Planning Department Comments have been addressed by the applicant at this time. If any approval is granted, final stamping of the subdivision plan should be conditioned upon review of a final check print for any errors or omissions.

Mike Montague stated that the ECC felt the applicant had addressed all comments

Joel Bianchi, town-designated engineer with M.J. Engineering and Land Surveying, issued a review letter addressed to the applicant on February 8, 2013 which will be included in the file for this application and he added that the applicant has addressed all prior comments

### **Board comments**

Mr. Hale asked if the internal trails were planned to connect to the roads. Mr. Zdrahal stated that the trail is supposed to connect and that as each lot comes in for site plan review, it will be adjusted as needed.

Mr. Ferraro commended the applicant for being sensitive to the environmental issues at the site. The chairman also noted that some members of the Planning Board and staff met with the consultant on the site to work out the best possible plans for the trails given the difficulties of topography. Mr. Hale added that he too felt it was a good effort. Mr. Zdrahal stated that Saratoga County Public works had agreed with this proposal.

Mr. Ophardt stated that he was opposed to the driveway entrance onto NYS Route 9 suggesting the traffic be brought to Kinns Road of Synergy Drive and he also recommended moving the buildings closer to New York State Route 9 with parking toward Synergy Drive. Mr. Zdrahal responded that DOT approved the driveway. Next, Mr. Zdrahal stated that it may change when it comes in for site plan review, but there is a 25' elevation difference from Synergy Drive and NYS Route 9 and that the commercial buildings might have a need for two levels of entry.

The consultant said that the plan was conceptual in nature and that when the project comes in for site plan review, those issues would be worked out with each lot. Mr. Scavo stated that in the future, the footprints of the buildings will likely change and road entrances will as well, and that subdivision approval does not preclude adjustments at the SPR process.

Mr. Scavo said that the stamped mylar will be the lot-lines themselves and the road will be established as a separate parcel with a commercial property owners' association agreement, the entire subdivision plan will have multiple pages with all the concepts discussed. Mr. Pelagalli suggested the notice of decision and plans should be so clearly marked. Mr. Ophardt asked who would pay for the road improvements and at what time. M. Scavo and Mr. Zdrahal explained that is spelled out in the traffic study and exact details will be worked out with the first site plan approval.

Mr. Koval offered Resolution # \_\_ of 2013, seconded by Mr. Prescott, to grant preliminary subdivision approval to this application with a recommendation that the applicant seek Planning Board approval from the Town of Halfmoon prior to submitting plans for final approval by the Planning Board of the Town of Clifton Park.

Roll call: Ayes: Mr. Andarawis, Mr. Ophardt, Mr. Prescott, Mr. Hale and Mr. Koval, Mr. Ferraro. Noes: none. The resolution was unanimously carried.

C. ***[2012-004] Bonneau Road (2) lot Subdivision*** – Proposed (2) lot subdivision, Bonneau Road, Zoned: R-1, Preliminary public hearing and possible determination, SBL:283-1-29.1.

Joe Dannible with Environmental Design Partnership presented the application for Belmonte Properties. The consultant showed an aerial view of the property and its orientation on Bonneau Road which had been originally approved as Lot 1 of a prior subdivision. Mr. Dannible noted that Lots 2,3, and 4 are currently under the early stages of construction and Lot 1 is intended to be subdivided into one 5 acre lot for construction of one residence. It was noted that Lot 1B will not currently be built upon as the flag portion of the lot would not currently be disturbed for a driveway, although there is a home site depicted on the plan with a potential access point from the current Latham Water District. Mr. Dannible remarked that Lot 1B would require an access agreement with Latham Water in order to proceed and that is neither guaranteed nor assumed likely in the near future. Planning Board members asked that a note be added to the plan that the applicant would commit to no further subdivision.

Mr. Ophardt moved, seconded by Mr. Hale, to establish the Planning Board as Lead Agency for this application, a Type I action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried. The complete negative declaration will be attached to the minutes.

## **Public Hearing Comments**

There being no public comment, Mr. Hale moved, seconded by Mr. Ophardt to close the public hearing at 8:08pm. The motion was unanimous.

## **Planning Board Comments**

Mr. Hale asked if no further subdivision note would apply to lot 1A as well as Lot 1B and asked that it be clarified on the approved plan for future homeowners. Mr. Ferraro recommended some indicator be added to indicate the land is conservation area. Mr. Scavo stated there are no trees to post on. Mr. Hale then suggested that some trees be planted to create a division instead of fence segments. Mr. Dannible said that it would be something to be addressed at the time of site plan review adding that Lot 1B will be noted on the stamped plan as unbuildable without certain conditions being met, such as gaining an access way through the adjacent land, so no building permit could be issued without coming before the planning board in the future. Mr. Ferraro stated that it would be noted for the record that any difficulties toward future development of that Lot 1B would be self-created therefore it would not be subject to future variances. The consultant noted that a strip of land was dedicated to the Town for a right-of-way for future trail connections with the previous subdivision.

## **Professional Review**

Steve Myers, Director of Building and Zoning offered comments that were read by Mr. Scavo

- This proposal is actually part of a larger subdivision. It has been separated out but the Town considers it as a whole. Even when combined, the total disturbance is less than 5 acres so it qualifies as only needing the measures specified in Section III.B.1 of the General Permit. Be advised that if the total disturbance for all 5 lots combined exceeds the 5 acre limit due to subsequent disturbances or further subdivision, the Town will consider the action as part of a larger common plan and the Town will require a fully conforming SWPPP in conformance with Section III.B2 of the general Permit.
- See previous driveway comments

Sheryl Reed, Bureau of Fire Prevention, had no additional comments regarding this submittal.

John Scavo, Planning Director

1. At the February 28, 2012 Planning Board Meeting the applicant agreed to put a note on the subdivision plan which stated, "Access through the wetlands would not be pursued on Lot 1B. Future access to Lot 1B would only be allowed from the

current Latham Water District Roadway if allowed by the Latham Water District or any future subsequent owner.”

2. It was also noted that at that meeting a note stating, “No further subdivision is allowed.” Would be added to the plans.
3. A note should be added to the plan that states, “The proposed driveway shall conform to sections 503 & 511 of the Fire Code of New York State.”
4. The following Standard notes must to be added to the Subdivision Plan:

STANDARD NOTES FOR KEYHOLE LOT SUBDIVISIONS:

Final location and orientation of each house is subject to the approval of the Director of Building and Development at the time the building permit is issued. Foundation location surveys (plot plans) are to be provided and approved prior to proceeding with framing in order to ensure compliance with the original approval.

STANDARD NOTE FOR ADDRESS IDENTIFICATION FOR KEYHOLE LOTS:

The street number of a dwelling situated on a keyhole lot shall be permanently and conspicuously displayed on a sign, with lettering no less than 3 inches nor greater than 8 inches in height, and placed no more than 25 feet from the road pavement. The sign shall be displayed for both direction of travel and be reflective. Identification markers must also be placed at any location where a common drive splits.

STANDARD NOTE FOR LOTS IN PROXIMITY TO AVIATION ACTIVITY:

This parcel (Subdivision) is located in an area where aviation activity occurs. Such activity may include, but is not limited to periodic noise, vibration, hours of operation, and other associated activities. A study describing this impact in detail is available for inspection in the offices of the Albany International Airport.

5. Valid Jurisdictional Determination Letters should be submitted by the applicant for the project file. A note should be added to the plan noting the date of both the ACOE and NYS DEC jurisdictional determinations.

After review of the data presented, the ECC made the following recommendations:

1. The Applicant should install a split-rail fence on Lot #1B indicating the boundary of the NYSDEC buffer zone on the east side of the house.
2. The ECC has concerns regarding the proximity of the dwelling on Lot #1A to the ACOE wetland. The foundation appears to be 25 feet from the wetland border.

Joel Bianchi, town designated engineer with M.J. Engineering and Land Surveying, had no comment.

Mr. Ophardt offered Resolution # \_\_ of 2013, seconded by Mr. Andarawis, to waive the final hearing for this application and to grant preliminary and final approval subdivision approval to this application conditioned upon satisfaction of the comments offered by the Planning Board, Planning Department, and Town Designated Engineer.

Roll call: Ayes: Mr. Andarawis, Mr. Ophardt, Mr. Prescott, Mr. Hale, Mr. Koval and Mr. Ferraro. Noes: none. The resolution is unanimously carried.

### **III. Old Business**

- A. ***[2012-008] Bordeau Builders Subdivision*** – *Proposed cluster subdivision for (34) new single family residences with sewer and water, 1234 NYS Rt 146, Zoned: R-1, Preliminary review and possible SEQR determination, SBL: 270.-2-28, To be reviewed by: MJE, Consultant: Ingalls, Last seen on 6/12/2012*

John Endres from Ingalls and Associates, represented Bordeau Builders for a cluster subdivision on NYS Route 146 with 2 entrances on 146 and a connection to the Brookhaven subdivision with public sewer and water hook-ups. It was noted that individual grinder pumps will be used at each residence. The consultant stated that there are not many changes in the subdivision plan from the prior submittal, but the most significant is that one lot was eliminated in the northwest corner of the subdivision. The consultant also commented that he is working on addressing the lengthy review letter issued by MJ Engineering and Landscaping.

#### **Professional Review**

Steve Myers, Director of Building and Zoning comments regarding this review are on file with the project.

Sheryl Reed, Bureau of Fire Prevention, had no additional comments regarding this submittal.

John Scavo, Planning Director offered the following comments:

1. At the June 6, 2012 meeting of the Planning Board it was recommended by the Planning Board Chairman that Lot #2, located adjacent to the Brookhaven Subdivision in the northwesterly portion of the parcel, be eliminated to permit extension of the existing berm. The applicant's representative stated that the applicant has been considering such a revision. On the revised drawings a lot has been eliminated.

2. I would recommend extending the property boundaries of the proposed lots on the east and west sides of the subdivision to the property line and permanently deed restrict the area shown to provide a buffer to the neighboring property. Enforcement of the deed restricting will be overseen by the HOA and adjacent property owners who will have standing.
3. A draft MOU has been prepared and sent to the applicant for their consideration to memorialize the preservation and restoration of the existing farmhouse building.

Mr. Scavo also stated that because this is proposed as a cluster subdivision the lot size could be reduced to 10,000 SF if designed properly per Town Code. The director also asked if a treed buffer was added along 146 as shown on tonight's plan. Mr. Endres added that they are working on it and that the developer is resisting the concept of extending the berm from Brookhaven and would prefer to plant a variety of trees along the road or a continuous fence.

After review of the data presented, the ECC made the following recommendations:

1. A berm and planting plan should be created along Route 146 to reduce visual and auditory noise.
2. ECC is concerned about the density of the development regarding traffic safety and volume.
3. The high density of houses in this proposed development, coupled with the absence of green space, contradicts the intent of preserving the open space character of western Clifton Park.

Joel Bianchi, town designated engineer with M.J. Engineering and Land Surveying, issued a lengthy review letter addressed to the applicant on February 8, 2013 which will be included in the file for this application. The consultant also summarized its followings:

- Creighton Manning Traffic Study mentioned eastern entrance as an emergency access but plan is shown as a limited access point, right in - right out only. Please clarify usage. Mr. Endres replied that he will send the updated version to Creighton Manning, they have not seen this version with right in-right out only signage.
- Mr. Bianchi added that there were multiple stormwater compliance issues that need to be addressed as well as green infrastructures.

#### **Public comment**

Al Morson, 3 Chillmark Turn in Brookhaven, stated that the board had addressed some of the concerns that he has had and would like some clarification on responses to the questions in a letter that was sent in June 2012. Mr. Morson asked that any future letters also be put in the file and Mr. Scavo stated that they will also be considered through the review process. Mr. Morson asked where the sewer was being discharged to and was told that the homes will be hooked up to the public sewer system. Next, he asked if the plan still showed an interconnecting road between two subdivisions and that he is concerned with larger lots next to smaller lots and property values being impacted. In his statement he also expressed concern that the multi-purpose path cut through woods and wetlands from property line to property line and end right behind his backyard. The speaker noted that he is concerned with motorcycles having to go through his property because the proposed trail terminates in what he considers to be his backyard since there is no access to some of the land on the other side of the creek. Mr. Ferraro stated that there does not have to be public access to the land. Mr. Morson felt backyards facing NYS Route 146 would detract from visual appearance and he would prefer to see a path along the roadway to allow connection to paths on Vischer Ferry Road.

Joe Sciarrino, 3 Tisdale Lane, stated that he lives in the corner lot where the connecting road is to be placed and questioned the necessity of the connection as he was worried about cut-throughs especially if a subdivision was built west of Brookhaven.

Mr. Ferraro stated that the connections were intentionally created by the Planning Board to allow for circulation within subdivisions as an alternative to Route 146 adding that it was always on the Brookhaven subdivision plan to be created in event of development of this parcel now being proposed by Bordeau Builders.

Residents in the audience produced a document that does not show the connection on the Amedore sketch called the Neighborhood Plan. Mr. Pelagalli replied that somewhere within the offering plan there would have been a map showing the approved plan and it was verified that the map was indeed in the offering plan that was given to each homebuyer within Brookhaven Subdivision. Mr. Koval added that the planning board demands connectivity between neighborhoods in the normal course of business.

Mr. Morson expressed that he is concerned with people using the connections when NYS Route 146 is backed up. Mr. Hale stated that side street connections offer relief to take pressure off main roads and isolated subdivisions create more problems in land use. The planning board member also stated that he believes a mix of uses and sizes is most desirable. Mr. Koval stated that properties all over town are mixed with smaller lots next to larger lots and that property values have not been devalued because of it. Mr. Sciarrino asked if the developer would consider a berm or screening to be added to the connection so that drivers would not be looking into the residents' master bedroom and bathroom.

Palma Sciarrino asked if a buffer of trees would be maintained. Mr. Ferraro stated that a buffer would be maintained through deed restriction. Mr. Scavo stated that a 25 foot buffer includes the existing tree line to be protected. Mr. Ferraro noted that details need to be worked out as to who is going to be responsible for enforcing those restrictions. Mr. Scavo suggested that if they are privately owned or HOA owned, it would be neighbors or the HOA who would have standing for private property violations in case of a dispute.

Mr. Morson then asked when Amedore would clean the back property where some “junk had been dumped”. Mr. Scavo said the builder would be required to clean up debris and resurvey for encroachment prior to dedication of roads which is anticipated to be November, 2013.

Dan Hartnett, member of the Town of Clifton Park Open Space, Trails and Riverfront Committee, reiterated a lack of support for the trail along the Dwaaskill and stated that the committee would prefer a Trail from Tisdale to Gold's Gym along NYS Route 146 as it has been identified by the committee as a key area providing connectivity to no less than 17 neighborhoods.

Mr. Ferraro noted that a berm might create an obstacle to a trail and might prefer a landscaped trail along NYS 146. The chairman suggested that a couple of planning board members meet with staff and the applicant’s consultant to work out a revision to the subdivision plan before proceeding with approvals. Board members were in general agreement with Mr. Ferraro's suggestion. Mr. Hale stated that he felt it could be configured without berms. Discussion ensued among planning board members regarding alternatives for trails and the visual impact along NYS Route 146. Mr. Endres noted that the developer would be willing to build a path within the right of way and a note on the plan that a right of way for a future trail in the southern portion of the lands to be dedicated could be added. Mr. Ferraro asked for two members to serve on the subcommittee and Mr. Ophardt and Mr. Hale volunteered.

#### **IV. New Business**

- A. [2013-001] Gibbs In-Law Apartment SUP – Proposed 500SF addition with kitchen and bath, 4 Acorn Grove, Zoned: R-1, Conceptual special use permit and site plan review, SBL: 249.20-1-10.*

Phil Gibbs, applicant stated that he was asking for a small addition off the side of the house attached with a breezeway for his mother-in-law.

**Public Comment:** none

#### **Professional Comment**

Steve Myers, Director of Building and Zoning offered comments that were read by Mr. Scavo; Structures must be connected to qualify as 2 family. They cannot be separated.

Sheryl Reed, Bureau of Fire Prevention, had no additional comments regarding this submittal.

John Scavo, Planning Director offered the following comments:

1. The proposed application is for a special use permit which by our Town Code and In-Law Apartment is the same as a Two Family Dwelling Unit. As a condition of the special use permit it should be agreed upon that the in-law apartment is not transferable to subsequent owners of the one-family dwelling in which the in-law apartment is located. Upon the sale or transfer of the one-family dwelling in which the in-law apartment is located, the special use permit granted for such in-law apartment shall become null and void. The subsequent owner may submit an application for a special use permit to the Planning Board.
2. An additional condition for the in-law apartment should be that the resident occupant of such apartment is a relative of the property owner.

Mr. Gibbs then asked what would happen in the future. Mr. Scavo said the addition could be incorporated to the original dwelling by enclosing the breezeway and removing the second kitchen.

Mr. Ferraro stated that with these conditions, the property could not be advertised as 2-family for resale adding that the stipulation would be that the in-law apartment does not automatically transfer without future owners coming before Planning Board as a tracking mechanism. Mr. Scavo suggested that requests for in-law apartments are happening more often and may require some future adjustments to town code to accommodate these requests. Mr. Hale stated that anyone can apply for a two-family special use permit for consideration by the board by right within the existing Town Code.

Mr. Ferraro stated that he would be in favor with conditions as noted by Mr. Scavo.

Mr. Scavo asked if there was time to get it onto the agenda for the next meeting. Meg Springli replied that if the applicant were to contact her on the following day with some information, and they were able to process 500 ft notifications and legal notices in a timely fashion, that it could be possible.

Joel Bianchi, town designated engineer with M.J. Engineering and Land Surveying, offered no comment on this project. Planning board members found the concept generally acceptable and asked that a public hearing be scheduled for the preliminary site plan and special use permit review.

*B. [2013-002] 6 Fairchild Square SPR Amendment – Proposed 16x30 SF concrete pad for bulk storage tanks, 6 Fairchild Square, Zoned: L-1, Conceptual site plan review, SBL: 259.-2-111.*

Tom Andress, ABD Engineers presented the plan for the applicant stating that 6 Fairchild had been built for about a year as a multi-tenant building. The consultant noted that a brewery was planning to occupy half the building at this point in time with potential for expansion to full occupancy if the business continued to grow. Mr. Andress stated that initially the occupant would like to install one hops tank on a concrete pad and a carbon dioxide tank with room to add a second hops tank in the future. Mr. Andress also said that some modification to the traffic plan is needed for unloading and that a variance for reduction in the green space has been applied for with the Zoning Board for the March 5th meeting, so the applicant intends to be back in for the 3/12 meeting as they would like to start brewing by the end of April.

Mr. Koval asked if there was any retail associated with the project. Mr. Bob Craven, local manager of the operation, and former builder and manager of Excelsior Brewery stated that there would be a sampling/tasting room with an incidental sales component. The manager added that the beer is currently being brewed in Saratoga but the applicant has been looking to expand to their own site.

### **Professional Review**

Steve Myers, Director of Building and Zoning offered comments that were read by Mr. Scavo stating that tank heights and setbacks do not appear to conflict with Zoning regulations.

Sheryl Reed, Bureau of Fire Prevention, had no additional comments regarding this submittal.

John Scavo, Planning Director had the following comments/questions:

1. For the Board's information how do the barley tanks take in the barley from deliveries? Will the delivery trucks pull up to the loading dock entrance and connect with a hose to the tanks and a pneumatic system is used? Mr. Andress stated pneumatic hoses were used
2. Please add a notation on the plan that "trucks shall not idle or park along the private ingress/egress roadway within Fairchild Square." I have a concern that vehicles may obstruct the travel lane or shoulder of the road to refill the barley tanks rather than utilizing the load dock area.
3. I would recommend a row of plantings such as arborvitae be added to the eastern side of the proposed concrete pad that will accommodate the carbon dioxide tank.
4. I would also recommend some additional plantings in the vicinity of the barley tanks though not for screening at 30' in height but rather to break up visual impacts of the tanks at eye level.

5. Two years ago, light industrial zoning was modified to include accessory retail rather than a primary function of the industry.
6. Application appears to be a good match between applicant and zoning
7. Please complete final landscaping of building prior to issuance of c.o.

After review of the data presented, the ECC made the following recommendations:

1. The ECC would like clarification on the Applicant's plans to mitigate odors from the brewing process, and to understand the demand that will be placed on the water and sewer system.
2. The Applicant shall comply with the Town's Hazardous Materials Policy, which can be obtained from the Town Environmental Specialist.
3. The Applicant should indicate all other environmental permits that may be required for the activities that are proposed under the planned use of the site.
4. The Applicant should justify why there are no containment berms surrounding these storage tanks.

Mr. Craven stated that there might be an odor of some steam with a yeast-type odor emitted usually a short time during a brewing cycle. Mr. Scavo noted that closest residents are quite far away and most likely odors would be dissipated before then, but if there are complaints, some carbon filters could be used to mitigate and that the applicant is aware of this potential requirement. Mr. Ophardt asked about shifts. The applicant stated that it could be 8-12 hours per day and that 10-12 people per shift and that there is more than ample parking for the operation. Mr. Andress stated that there is more than needed for the building along with some shared parking on the entire Fairchild Square site.

Joel Bianchi, town designated engineer with M.J. Engineering and Land Surveying, issued a review letter addressed to the applicant on February 8, 2013 which will be included in the file for this application.

#### **Public comment**

Pam Marshall, 5 Fairlawn, asked if a liquor license was necessary and would there be designated parking for customers. Mr. Andress showed all the parking as laid out on the plan. Mr. Craven said that the Brewery would comply with all regulations regarding liquor licensing, etc. for the tasting room.

Mr. Ferraro asked if eliminating parking spaces would get the green space, Mr. Address stated that it would be possible to do so, but they are already built and he would prefer not to. Mr. Ferraro stated that the additional landscaping recommended by John would help mitigate the loss of green space and would make that recommendation to ZBA.

Jim Ruhl, 168 Wooddale Drive, as a resident of Country Knolls expressed some concerns regarding : 1. The definition of "alcohol" and whether manufacturing of that was allowed per 208-64 Section C (6), objectionable odors per section C (29) and parking related to the retail operations.

Mr. Ferraro remarked that there is sufficient parking within the entire industrial subdivision with shared arrangements. Then the chairman suggested that Mr. Myers would be best resource to address zoning issues. Mr. Address noted that prevailing winds are west to east and problems were not anticipated but the applicant would be willing to address them. Mr. Address stated that Mr. Myers has already made a ruling as to the use of the building when a permit for tenant fit up was issued. The chief zoning officer ruled that the manufacture of alcohol, dye or rubber as mentioned in 208-64 Section C(6) was actually referring to the chemicals used for manufacturing rather than alcohol meant for human consumption and therefore that Section was not applicable in this case.

Mr. Ophardt asked if silos could be moved and Mr. Craven replied that the silo is part of the architectural facade of the operation. There was discussion about processes of loading of tanks and removal of debris and the applicant explained that there was a regular schedule. Mr. Address also mentioned that water and sewer districts have been contacted.

The planning board members appeared to find the site plan generally acceptable. After a review by the Zoning Board of Appeals, the next step would be to return to the Planning Board for preliminary site plan review.

## **V. Discussion Items – None**

Mr. Hale moved, seconded by Mr. Prescott to close the planning board meeting at 10:14pm. The motion was unanimously carried.

Respectfully submitted,

Meg Springli  
Secretary