

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

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(alternate) Teresa LaSalle

**Planning Board Minutes**  
**August 13<sup>th</sup>, 2019**

Those present at the August 13<sup>th</sup>, 2019 Planning Board meeting were:

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

Those absent were: J. Jones, D. Bagramian, G. Szczesny

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

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

**Minutes Approval:**

Minutes were not approved due to voting members in attendance at the July 9<sup>th</sup>, 2019 were not in attendance to make a quorum vote to adopt the draft minutes from that meeting. Chairman Ferraro noted that the Planning Board at it's first meeting in September will consider adoption for both the July and August 2019 draft minutes.

**Public Hearings:**

None

**Old Business:**

**2019-035 Texture Hair Studio Site Plan**

Applicant proposes installing 14 new parking spaces and use the existing 1,200 sf one story building for a hair salon on a 3 acre parcel with road frontage along both Route 9 and Myer Road, 1812 Rt 9, Zoned: B-3,

Status: PB Preliminary Review with Possible Determination

SBL: 265.-1-22.111

To be reviewed by: MJE Consultant: EDP Applicant: Peter Hoffman Last Seen on: 7/9/19

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

Joe Dannible – EDP – Mr. Dannible explained he is here to represent Hair Texture Studio for a proposed parking lot expansion. From the last meeting Mr. Dannible stated the applicant has added a sidewalk to the front of the building, 1 new handicapped parking spot was added to the proposed parking expansion area, and an existing handicapped spot was left in the current parking area to remain . Mr. Dannible also noted that the landscaping has been modified and a stormwater collection area is shown on the map. Mr. Dannible also stated there is only one light pole added at a downward angle to the parking lot and other changes made were to address comments offered by MJE and the Town Planning Department.

### **Staff Comments:**

**Steve Myers, Director of Building and Development issued a memo dated 7/31/19 stating:**

- Handicapped parking has been relocated to an appropriate location.
- It appears the two entrances (Rt. 9 and Meyer Rd.) are to remain.
- The remaining comments from 7/19/19 review are still applicable.

**Sheryl Reed, Chief of the Bureau of Fire Prevention:**

No comments.

**Scott Reese, Stormwater Management Technician issued a memo dated 8/9/19 with the following comments:**

1. If the proposed basin is intended for infiltration it should be a minimum of 25 feet from the buildings foundation.

**The Environmental Conservation Commission held a meeting on 8/6/19 and issued a memo recommending:**

1. The ECC has no comments

**Roy Casper of the Trails Subcommittee submitted the following comments for the Planning Board to consider in its decision making:**

- A 5 ft. wide sidewalk from the studio's front entrance sidewalk to the roadway shoulder along Route 9 (or to the NYSDOT Right of Way) would provide good pedestrian access to the hair studio.

Note: The front entrance sidewalk was not addressed in the updated site plan dated 7/18/19. In order to have pedestrian accessibility to the hair studio from the neighboring apartments and other locations on Route 9, the applicant should consider constructing a 30 ft. long walkway from the NYSDOT ROW along Route 9 to the concrete sidewalk shown at the building's main entrance. A low-cost asphalt path could be installed at this location.

- A 15 ft. ROW/Trail Easement should be considered on the property boundary line along Route 9 for a future multi-use path and utility realignment and should be noted on the site plan.

**John Scavo, Director of Planning issued a letter dated 7/30/19 with recommendations he made:**

1. The Saratoga County Planning Board issued a written recommendation on the project in which it noted, “No Significant County-Wide or Inter-Community Impact.” The Board did also comment that the existing parking on the southern portion of the site should be incorporated into the new parking at the northern end of the project site.

It appears two of prior comments from my July 5<sup>th</sup> review letter have not been addressed to date. The previously requested, outstanding comments are:

2. The applicant shall add a detail for the striping and signage for the accessible parking space and access aisle.
3. Add a note to the plan that states:  
 “Any utility work or construction within the State Highway Right-Of-Way requires the property owner to obtain a highway work permit from the NYS Department of Transportation, whether it is for construction or installation of facilities, or for repairs and maintenance.”

**Professional Comments:**

**Walter Lippmann, P.E. of MJ Engineering in a letter dated 8/9/19 had the following comments:  
 State Environmental Quality Review**

No additional comments.

**Site Plans**

1. Providing a site-specific illumination plan that shows foot-candle values at pavement level for review.
2. Accessible parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions pursuant to Section 4.6.6 of the ADA 2010 Standards. Provide the proposed spot elevation at the rear of the accessible parking spaces to ensure the pavement slopes meet the stated minimums.
3. Provide handicap parking space layout and signage details on plans.
4. Provide handicap access aisles with an 8’ width per IBC Section 1106.1.1 of the NYS Supplemental Code.
5. The plans need to indicate how roof drainage is collected and conveyed to the on-site stormwater facilities.
6. Show existing water including well location and sewer connections to ensure proper cover with the proposed grading plan.

**Public Comments:**

No public comments

**Planning Board Review:**

Mr. Neubauer asked how stormwater is conveyed from the building. Mr. Dannible stated that rainwater from the roof infiltrates within good sandy soils around the building and positive grading has been added to allow for stormwater to travel to a collection area during frozen ground or saturated soil conditions.

Mr. Ferraro asked about the Trails Committee's request for an easement to construct a future path. Mr. Dannible stated there is about 50 feet from roadside to building frontage. There should be plenty of room for a walkway without an easement needed. Mr. Scavo agreed.

Mr. Ophardt asked for clarification on what would become of the old parking lot. Mr. Dannible explained a majority of it would be torn up and reseeded for grassy area.

Mr. Ferraro asked for clarification on Mr. Myers's previous comment for a variance from the front of the property. Mr. Scavo stated the variance was for the drive by not the actual parking lot, also that the paperwork was submitted to DOT and no concerns came back from them. Mr. Scavo noted that pursuant to the B-3 Zoning Requirements, there shall be no parking allowed within 30 feet of the front lot line. The proposed additional parking spaces appear to meet the 30' distance and only the drive isle apron appears to connect within the 30' at the Myer Road curb-cut.

Mr. Ferraro asked if the red maple in the front of the property will remain. Mr. Dannible stated it is in the stormwater management area and it will have to be removed. Mr. Ferraro stated he would like to see additional trees along Route 9. Mr. Dannible stated 2 trees will be removed but two trees will be replacing them in a different location. Mr. Neubauer stated that maybe the front trees adjacent to Route 9 should be moved further south. Mr. Dannible stated he can put in 5 trees adjacent to Route 9 and relocate the maple.

Mr. Ophardt moved, second by Mr. Neubauer, to establish the Planning Board as Lead Agency for this application, site plan action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried.

Mr. Andarawis moved, second by Mr. Ophardt, to waive the final hearing for this application for the site plan review of Texture Hair Studio, and to grant preliminary and final site plan approval conditioned upon satisfaction of all comments provided by the Planning Department, Town Designated Engineer, and all items listened in the final comment letter issued by the Planning Department.

**Conditions:**

All comments are reconciled; signage and parking are approved by NYS DOT for work within their public ROW. Proper grading and seeding are to replace the old parking lot. An additional 4 trees—shown on the South side are to be relocated closer to the front. Push the red maple shown to be planted east and add one additional maple on the south side of the property boundary adjacent to the parking lot.

Ayes: 5      Noes: 0      The motion is carried

**Old Business:****2019-030 Rexford Square Office Building Site Plan**

Applicant proposes construction of a 3,760 SF commercial office building with associated parking and septic system, 3 Daggett Dr, Zoned: HM,

Status: PB Prelim Review - Poss. Determination

SBL: 269.-3-2.22

To be reviewed by: MJE Consultant: Empire Eng. Applicant: Guidarelli Const Last Seen on: 6/25/19

**Consultant/Applicant Presentation:**

Christopher Longo – Empire Engineering – Mr. Longo stated the front and rear of the building façade will be the same on both sides. The rear of the building will be the main entrance; there will be no sidewalk to the front of the building. Handicapped parking has been moved to accommodate this. The fire access will accommodate a little less 150 foot turn around, with signage restricting parking for a fire lane designated as such. Mr. Longo also stated there will be 11 parking spaces set along the front of the building, 6 along the side, and 11 will be banked; 28 would be the most created parking spaces if needed. The septic is going to be equipped with expected use of 9 employees; there is additional space for the septic to be expanded if needed without interfering with the 10 foot required separation.

Mr. Ferraro asked if the building would need to be moved if a larger septic system was needed. Mr. Longo stated that the building would be moved 3 feet to the west, but the determination would be made at time of the building permit submissions. Mr. Longo assured that parking, landscaping, or sidewalk would not be affected. Mr. Longo also stated there will not be a full SWPPP as it does not apply to this application since the disturbance is below the 1 acre threshold, however a swale to collect stormwater runoff is part of the design plan.

**Staff Comments:**

**Steve Myers, Director of Building and Development issued a memo dated 7/31/19 stating:**

- The setbacks to the building are not shown on the plans (I do not see a 0' setback other than parking).
- The Engineer claims the septic only needs to be designed for 9 people. The building area would suggest 38 people. The engineer says he may need parking for up to 24 but only proposes 17 spaces. The septic requirements will be based on the occupant load applicable to the use. I expect it will be more than 9.

**Sheryl Reed, Chief of the Bureau of Fire Prevention:**

1. Specify posting of “No Parking Fire Lanes” at North West Parking lot area

**Scott Reese, Stormwater Management Technician issued a memo dated 8/9/19 with the following comments:**

1. Provide documentation that the construction of this plan will not result in the exceedance of the 10-year storm design capacity of the downstream culvert in the right-of-way or impact any structure downstream from this project.

**The Environmental Conservation Commission held a meeting on 8/6/19 and issued a memo recommending:**

1. The ECC directs attention to Steve Myers comments and reiterates them as seen on the memo July 31st, 2019.
2. The project shall protect the existing vegetation buffer along the southern boundary of the property.

**Roy Casper of the Trails Subcommittee submitted the following comments for the Planning Board to consider in its decision making:**

- The Trails Subcommittee previously recommended that the applicant construct a sidewalk from the proposed office building sidewalk shown on the site plan to the roadway frontage along NYS Route 146. In the July 22<sup>nd</sup> notes from the applicant regarding this sidewalk, the most appropriate location for a walkway to Route 146 would be along Daggett Drive as discussed at the Planning Board meeting on June 25<sup>th</sup>, 2019. Would the applicant be willing to show this sidewalk along Daggett Drive on the site plan and construct the walkway at a later date?

Note: Entrance driveways are primarily designed for motor vehicle traffic only and do not provide or encourage safe pedestrian access.

- The Trails Subcommittee also previously recommended a 15 ft. ROW/Trail Easement on the property boundary line along NYS Route 146 for a future multi-use path and utility realignment. The July 22<sup>nd</sup> comments from the applicant noted that the current zoning and water utilities have already established a wide unobstructed corridor along Route 146. Considering the existing unobstructed utility corridor, it seems to make sense for the applicant to provide a 15 ft. wide ROW/Trail Easement along Route 146 at this location.
- A bicycle rack is shown on the updated site plan in close proximity to the front entrance of the proposed office building.

**John Scavo, Director of Planning issued a letter dated 7/30/19 with recommendations he made:**

1. The Saratoga Co. Planning Board issued a written recommendation noting the project will have “No Significant County-Wide or Inter-Community Impact.”
2. With this submittal, has adequately addressed all my prior outstanding comments offered in a previous review letter dated June 13, 2019.

Mr. Scavo would like to commend the applicant’s design professional in the attention to detail provided with the preliminary design plan and response letter to address remarks raised by professional staff, the ECC, Open Space Trails Subcommittee, and Town Designated Engineer.

**Professional Comments:**

**Walter Lippmann, P.E. of MJ Engineering in a letter dated 8/9/19 had the following comments:  
State Environmental Quality Review**

1. Based upon our review of Part 617 of NYS Environmental Conservation Law, the project appears to be a “Type II” action and requires no further SEQR review. The action is consistent with section 617.5-c(9) which states that the “construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not

involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities”.

### **Site Plans**

2. The number of accessible parking spaces shown meets the minimum requirements of Section 1106.1 of the Building Code of New York State (BCNYS). However, with a building possibly being proposed for medical uses, there may be a need to provide additional accessible spaces to meet the requirements of Section 1106.3 and/or 1106.4 of the BCNYS.
3. The proposed building is being considered for medical/dental and the proposed septic system should be designed as such to accommodate these flows. The NYSDEC Design Standards for Intermediate Sized Wastewater Treatment Systems outlines 250 gallons per day per doctor.
4. Provide response from the CPWA as to the willingness and capability of service for this project.
5. Applicant is still in the process of determining if the proposed building will be equipped with automatic sprinklers. Once a plan is submitted it should be reviewed by the Town’s Building Department.
6. Applicant is still in the process of determining if the proposed building will require a Knox Box. Once a plan is submitted it should be reviewed by Fire Chief.
7. Provide an erosion and sediment control plan.
8. Footings for the proposed dumpster enclosure should be installed to a depth of 4’.
9. Consider utilizing reinforcing welded wire fabric in the sidewalk detail.
10. Provide dumpster concrete pad detail.
11. Proposed leach field piping should be installed at a maximum of 0.5% not minimum.
12. Show cleanout on sanitary sewer line exiting the building.
13. Sheet C101 - Provide notation on the plan indicating that all work within the State right-of-way is subject to a highway work permit obtained from the NYSDOT.
14. Sheet C501 – Inspection – Revise the following “It is the Owners responsibility to contact the engineer a minimum of 24 hours in advance of each required inspection”.
15. Sheet C501 – A lighting schedule has been provided, indicate on plans the proposed locations.
16. The accessible parking space shall include the “racing handyman” which is required in New York State.
17. Indicate on plans the handicap parking signage locations.
18. Show how the foundation drains will be connected to the storm system.

### **Public Comments:**

Anthony LaFleche – 21 Wheeler Drive – asked how close the septic; including underground apparatuses will it be from Route 146. Mr. Longo stated it would be 25/30 feet from the end of the septic fill and 15 feet from the right of way. Mr. LaFleche asked if the remaining could be given as an easement for

possible future improvements to the roadway. Mr. Longo stated that the extra 15 feet could be used for any connection to Route 146 if needed in the future.

**Planning Board Review:**

Mr. Ophardt asked for clarification on the septic and the capacity of it. Mr. Longo stated it is for 9 employees and patrons, the parking will be for 17 vehicles.

Mr. Ferraro asked what would happen when tenants change and the need for the septic capacity changes. Mr. Longo stated that NYS requires the design to include an expansion area of 100% to accommodate any increased need. Mr. Scavo commented that the uses and occupancy report needs to be completed after the building design has been done to cap off the traffic that would be allotted to the building for business.

Mr. Ferraro stated he would like to see that within one year of the town putting in a trail on Route 146, the applicant will put in a walkway along Daggert Drive and to connect the other buildings on Daggert Drive to the sidewalk. Mr. Longo proposed hatching a side of the roadway for pedestrians starting from the back of the building to the end of Daggett Drive terminating at Route 146.

Mr. Ferraro stated that he would like to see all existing trees remain, and for them to be marked in the site plan. Mr. Longo agreed that all shall stay with the exception of one.

Mr. Ferraro recommended EV charging systems be considered in the design. Mr. Scavo stated grant funding is available for property owners to put them in.

Mr. Ferraro stated there is no SEQRA determination needed for this proposal since the building is below the 4,000 sq. ft. threshold for Type II Actions.

Mr. Ophardt moved, second by Ms. LaSalle, to waive the final hearing for this application for the site plan review of Rexford Square Office Building Site Plan, and to grant preliminary and final site plan approval conditioned upon satisfaction of all comments provided by the Planning Department, Town Designated Engineer, and all items listed in the final comment letter issued by the Planning Department.

Conditions:

Within one year of the sidewalk or trail being put in place on Route 146, the applicant must put in a sidewalk from the two rear buildings, along Daggett Drive to Rt. 146. Existing trees must remain and if any are to be removed they must be marked on site plan and submitted to the Planning Department for review and determination of additional mitigative landscaping. If the building is to shift 3' to the west for septic expansion, it can be approved administratively by the Planning Director.

Ayes: 5          Noes: 0          The motion is carried

**Old Business:**

**2019-015 752 Pierce Rd Flex Space Bldg. Site Plan**

Applicant is proposing construction of a 7,700 sf Flex Space building with associated parking (23 parking spaces) and driveways. Sanitary sewer will include a connection to the existing gravity sewer main located on Pierce Road and will require approval from the Clifton Park Sewer Department. Water connection to the water main located along the western side of Pierce Road will need approval from the Clifton Park Water Authority, 752 Pierce Rd, Zoned: L 1,

Status: PB Prelim Review - Poss. Determination

SBL: 265.-1-9.4

To be reviewed by: MJE Consultant: Lansing Applicant: PDRN LLC Last Seen on: 3/26/19

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

Scott Lansing – Lansing Engineering – The proposed flex space building will include storage space. All comments made by staff to date are reasonable and can be addressed by the applicant from a technical standpoint. Current hydrant meets the required regulations for certain storage chemicals. Applicant is willing to install another hydrant as recommended by Sheryl Reed to allow for additional storage of combustible fiber materials “records storage”. The handicapped parking has been relocated to avoid blockage of those spots from the loading and unloading area. Due to this, there is one less space in the lot. There will be no plantings between the building and adjacent parcel building as the applicant owns both parcels.

Mr. Ferraro asked if the shrubs that are existing would remain. Mr. Lansing stated they would.

### **Staff Comments:**

**Steve Myers, Director of Building and Development issued a memo dated 7/31/19 stating:**

- No further comments at this time

**Sheryl Reed, Chief of the Bureau of Fire Prevention:**

1. Specify existing and proposed fire hydrant locations.

**Scott Reese, Stormwater Management Technician issued a memo dated 8/9/19 with the following comments:**

1. The applicant is proposing filter strips to assist with water quality. The discharge of the roof drain should also be directed towards the filter strip at a non-erosive velocity.
2. The jurisdiction of the wetlands needs to be determined and labeled on the plans.

**The Environmental Conservation Commission held a meeting on 8/6/19 and issued a memo recommending:**

1. ECC continues to have concerns regarding the direct runoff from the roof discharge directly into the existing wetlands without any vegetated buffer.
2. The ECC has concerns that representations have been made that there will be a vegetated buffer however plans reflect discharge over riprap slope immediately that draining into wetlands. This is not representative of a vegetated buffer.
3. The limits of (the LC Zone and 100 foot buffer zone, DEC Wetlands, Federal Jurisdictional Wetlands) shall be identified on the plot plan.

4. The ECC notes that the project may result in intrusion into the LC Zone. The applicant must file for an Application for Approval of Work To Be Done in the LC Zone with the Town of Clifton Park.

**Roy Casper of the Trails Subcommittee submitted the following comments for the Planning Board to consider in its decision making:**

As recommended by the Trails Subcommittee on 3/26/2019, the updated site plan shows a 12 ft. Easement to be granted to the Town of Clifton Park for future multi-use trail access.

**John Scavo, Director of Planning issued a letter dated 7/30/19 with recommendations he made:**

1. Based on the revised concept plan it appears the proposed disturbance area is now .77 acres. This has been reduced from the anticipated .90 acres noted on Part I of the SEQR SEAF submitted with the previous project materials in March 2019.
2. As a condition of any final approval, the applicant should meet with Sheryl Reed, Chief of the Fire Bureau to determine if an additional hydrant should be installed adjacent to the proposed driveway on the existing watermain that runs parallel to the parcel's frontage. The submittal notes the building will be sprinklered however, if the occupancy of a future tenant is classified as a "Group H Occupancy" under the NYS Building Code an additional hydrant will be required. It is more cost efficient and effective to plan for such an occupancy now at the time of initial building construction. Please note the storage of 100 pounds or 1,000 cubic feet of combustible fiber will trigger a Group H Occupancy.
3. Add striping and signage detail for the accessible parking space and access isle to the site plan.

Final signoffs from the Clifton Park Sewer District and Clifton Park Water Authority will be required prior to stamping the final plan.

**Professional Comments:**

**Joel Bianchi, P.E. of MJ Engineering in a letter dated 8/9/19 had the following comments:  
State Environmental Quality Review**

1. As noted in comment 2.g of our March 22, 2019 review, a site-specific stormwater analysis is required for the project. This analysis is not to demonstrate compliance with the NYSDEC regulations since the site disturbance is below 1-acre. It is needed to demonstrate under SEQRA that the project, specifically stormwater runoff generated from the development of the parcel will not have an adverse impact on the environment, including adjacent properties or infrastructure.

**Site Plans**

2. As noted in Comment 6 of our March 22, 2019 review, Pursuant to Section 208-66 of the Town's Zoning, consideration shall be given to planting along property lines, buffer areas and along the walls of the structure, where possible, without impeding the operations of the facility. This may apply at the common boundary with the parcel to the south. The response is that there is existing landscaping between the project site and building to the south and that the adjacent existing building is under the same ownership as the parcel planned for development. The submitted plans do not show landscaping that illustrates conformance with Section 208-66 of the Town's Zoning. The need for such landscaping shall be reviewed by the Planning Board with the fact that the two parcels being owned by the same person having little to no bearing on that decision.

3. On Sheet COV-1, Note 28 needs to be corrected to reference either standard or modified Proctor testing for compaction.
4. On Sheet LMG-1, identify the location of all building entries so that the required accessible path to the building entry is clear and can be reviewed for appropriate cross and running slope.
5. On Sheet LMG-1, identify the location of the accessible aisle. As shown, it appears none is being provided.
6. On Sheet LMG-1 (or other sheet) provide a note indicating that the Knox Box and Fire Dept. connection locations shall be reviewed and approved by the Town of Clifton Park.
7. On Sheet LMG-1, there is a note indicating existing trees to remain to the greatest extent possible. It is suggested this note be expanded to say, "Any trees that are removed or die at a later date as a result of construction shall be replaced in-kind with the same or similar species".
8. On Sheet LMG-1, the width of the proposed easement to be conveyed to the Town for a future multi-use trail shall be reviewed and deemed acceptable by the Town's trail committee.
9. On Sheet LMG-1, it is not clear where the closest fire hydrant is to the building. Pursuant to Section 507.5.1 of the International Fire Code (IFC) where a portion of the facility or building is constructed and is more than 400-feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the building, on-site fire hydrant(s) and main(s) shall be provided where required by the fire code official. The current plan does not show conformance with Section 507.5.1 of the IFC and needs to be reviewed, approved and/or changed to address concerns of the Town's responding fire department.
10. Sheet ESC-1 shall delineate the area of planned disturbance to correlate with the 0.75 acres stated on the cover sheet, COV-1. Provided as the space immediately next to the accessible space has an overhead door.

### **Public Comments:**

Anthony LaFleche – 21 Wheeler Drive – Mr. LaFleche asked if the 12 foot easement was correct and asked why not the usual 15 feet. Mr. Lansing stated that it is 12 feet, and has been shown that way along the entire property frontage.

### **Planning Board Review:**

Mr. Ferraro clarified that all the landscaping would remain. Mr. Lansing assured all existing trees will remain or if removed they will be replaced. Mr. Ferraro said Mr. Scavo could handle the proposed tree plantings and removals if any are done that require mitigation. Mr. Ferraro also stated that he likes the fact that the parking will be in the rear of the building.

Mr. Ophardt asked for clarification on wetlands and the impact on them. Mr. Lansing stated that the proposal is not in an LC zone, any adjacent wetlands are Army Corps Jurisdiction; not impacting state DEC wetlands. Mr. Scavo stated he will look into the limitations on the wetlands and if any conflicts exist, he will notify the Board and the applicant.

Mr. Ophardt asked about impact on the wetlands due to grading. Mr. Lansing stated that there would not be impact, grading has been delineated on the plan. The topography will remain the same at the edge of

the property. Mr. Ferraro asked the same about the sloping and Mr. Lansing stated there is a slope but it again will not impact the wetland runoff.

Mr. Ophardt asked about the roof runoff and the wetland impacts. Mr. Lansing stated that the roof runoff is considered clean runoff and will be going under the parking area, to rip rap, and should not be impacting the wetlands by a direct discharge, as a grass area is to be used as a filter strip before any runoff enters the wetlands.

Ms. LaSalle asked what the façade renderings and materials would be. Mr. Lansing stated that the submittal of the front and east side of the building have been distributed to the Board for consideration. Mr. Lansing stated the building would be pre-engineered with wainscoting along the bottom of stone, it has vertical siding and some small windows

Mr. Ferraro stated he would like standard notation for EV charging stations added to the plan.

Mr. Ophardt moved, second by Mr. Neubauer, to establish the Planning Board as Lead Agency for this application, site plan as an unlisted action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried.

Mr. Andarawis moved, second by Ms. LaSalle, to waive the final hearing for this application for the site plan review of 752 Pierce Rd Flex Space Bldg. Site Plan, and to grant preliminary and final site plan approval conditioned upon satisfaction of all comments provided by the Planning Department, Town Designated Engineer, and all items listened in the final comment letter issued by the Planning Department.

Conditions:

All trees need to remain on site. If trees need to be removed then another needs to be planted to replace it. Mr. Scavo will be reviewing the tree removal proposal and will agree or deny the plan. If more than two trees are proposed to be removed the applicant needs to reconfigure the plan and return to the Planning Board. The EV charging station note shall be added to the plan.

### **Old Business:**

#### **2018-070 1902 Route 9 Commercial Site Plan**

Applicant proposes to construct a 100,000 square foot office/warehouse building which is a permitted use in the L1 & L2 zone pursuant to Section 208-64B of the Town Zoning code. The building may be developed in phases, 1902 Rt 9, Zoned: L 2,

Status: PB Revised Concept

SBL: 259.-2-47

To be reviewed by: MJE Consultant: Lansing Applicant: MJ Properties Last Seen on: 1/8/19

#### **2018-071 1902 Route 9 Commercial Subdivision**

Applicant proposes to subdivide the property into 3 lots to allow for construction of office/warehouse buildings to be built in phases starting with a 100,000 square foot building on one of the lots, 1902 Rt 9, Zoned: L 2,

Status: PB Revised Concept Review

SBL: 259.-2-47

To be reviewed by: MJE Consultant: Lansing Applicant: MJ Properties Last Seen on: 1/8/19

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

Scott Lansing – Lansing Engineering – Mr. Lansing noted additional information for the parcel of land will be forthcoming with a Preliminary Plan submittal (i.e. traffic study). Mr. Lansing stated that the park will be a light industrial mix and not planned for retail at this time. He stated that the Board has the wetland areas, the flood plains, and the lot line adjustments, with proposed subdivision lines shown on the plans. The main parcel is the Rucinski Parcel 52.7 parcel all in Clifton Park. The Martin parcel is approximately 20.5 acres partially in Halfmoon, the Country Club Acres parcel approximately 20 acres in Clifton Park, and the Synergy parcel approximately 27.7 acres in Clifton Park. Mr. Lansing stated the main focus of this application will be on the Rucinski parcel for this subdivision. Flood plains are noted on the maps, Army Corps wetlands are noted on the map as well. The Martin parcel has a roadway from Halfmoon, that will be increased for larger vehicles. The Subdivision map shows the roadway proposed for the access to the proposed lots. Mr. Lansing discussed the configuration for lots 1-3. Lot 1 is shown as 13.29 acres, lot 2 as 15.72 acres, and lot 3 as 24.25 acres. Mr. Lansing stated that a total of just under 1,000,000 square feet can be on the Rucinski Parcel. Lot 1 is what Mr. Lansing is proposing to develop with one building approximately 100,000 square feet with loading docks and a warehouse space at 90% allocation with the remaining 10% designated for office space. Another building on the same lot is proposed to be 60,000 square feet with the same structure layout on a reduced scale. Mr. Lansing is proposing the required parking of 197 spaces, and will be leaving 41% green space on the lot. Roberts Road is currently owned by Halfmoon and will be taken over by the owner of the tech park. Mr. Lansing acknowledged that traffic studies need to be completed for all lots involved, not just the one lot proposed for development currently.

### **Staff Comments:**

#### **Steve Myers, Director of Building and Development issued a memo dated 7/31/19 stating:**

- This project should not be progresses until all required penalties are assessed due to the Notice of Violations noted in my January comments. Considering the project narrative states proposed project includes “cleaning and grading of the wooden areas” and this work is already completed, the Notice of Violations needs to be addressed first.
- A full SWPPP is required and not submitted to date.
- All site issues are not shown on this submission such as improvements to the Roberts Lane Bridge and the floodplain crossing from Synergy Park Drive.
- Has the issue of “lack of frontage on a public road” been resolved.
- Fire department access will be determined once more detail is provided for the buildings. This will involve hydrant locations and whether the buildings are sprinklered or not.
- The number of parking spaces for the 100,000 sf quotes retail as well as warehouse.
- Further comments will follow with more detailed submissions.

Mr. Scavo stated that the town has an escrow account in place for the violations, and that weekly SWPPP inspections are being completed. There is also a master conceptual plan that is presented here to help satisfy the violations.

#### **Sheryl Reed, Chief of the Bureau of Fire Prevention:**

1. Postal verification

2. Specify proposed location of new fire hydrant locations
3. Specify if buildings are to have sprinkler system
4. Provide road profile for width Roberts Lane and provide a minimum of 26 feet wide and a loading of 75,000 lbs.

**Scott Reese, Stormwater Management Technician issued a memo dated 8/9/19 with the following comments:**

1. It appears from the Warehouse Elevations that the roof will be pitched towards the Dwaas Kill. All roof runoff shall be collected and treated prior to reaching the steep slopes bordering the Dwaas Kill.
2. The stormwater report predevelopment conditions will reflect the mature woodland growth that existed prior to the logging of the site.
3. The applicant may need to show stormwater management controls for the proposed drive in the Town of Halfmoon.
4. The plans should show the 100' LC Zone along the Dwaas Kill.
5. This site is part of Notice of Violation (NOV) that was issued on November 5, 2018 to the applicant. An estimated area of ten acres was disturbed on the property without any permits and the Town is working with the applicant to resolve the outstanding issues outlined in the NOV. This plan is part of addressing one of the listed required corrections in the NOV

**The Environmental Conservation Commission held a meeting on 8/6/19 and issued a memo recommending:**

1. 208-69.1 of article 10 Land Conservation Districts L-C – A(2)(c) States “that the buffer area will be 100 feet from each side of the outer bank of the high water mark of the Dwaas Kill”. The Plan appears to show the limits of the LC Zone at 80 feet rather than the required 100 feet. The plans shall be updated to relocate the buildings and roadways out of the LC Zone.
2. The proposed 100,000 square foot building intrudes into the LC Zone as depicted on the plan. There is no available space for exterior building maintenance or fire / emergency access.
3. The ECC proposes that the applicant donate a conservation easement for the LC Zone deeded to the Town of Clifton Park / Halfmoon (and/or Saratoga PLAN) as a means as protecting this Class A stream. In addition, this conservation easement could accommodate a nature trail.

**Roy Casper of the Trails Subcommittee submitted the following comments for the Planning Board to consider in its decision making:**

- The preliminary site plan shows sidewalks at both proposed office/warehouse buildings – crosswalks should also be provided to connect the sidewalks at the eastern and western ends of the proposed buildings.
- Since the proposed entrance roadway will have tractor trailer traffic, a sidewalk connecting the office/warehouse to Route 9 should be considered for pedestrian access and safety
- A Pedestrian Access/Floating Easement should be considered with the adjacent Synergy Park parcel.

**John Scavo, Director of Planning issued a letter dated 8/1/19 with recommendations he made:**

1. Lansing Engineering, in their response letter to my comment letter issued December 28, 2018, has adequately addressed my comments raised at the conceptual review level. It is recognized that the additional details sought will be forthcoming with a future preliminary plan submittal (i.e. Jurisdictional Determination Ltr., Traffic Study).
2. The future preliminary site and subdivision plan submittals will be forwarded to the Saratoga County Planning Board for a recommendation in accordance with §239(m) of GML.

3. Based on the LEAF Part I - E.1.b. on Page 9 of 13, it appears no wetlands will be lost or changed in acreage as a result of the proposed action.
4. Since a portion of the project occurs within the Town of Halfmoon, approvals from the Town of Halfmoon will be required for both the subdivision plan and site plan. The Town of Halfmoon Planning Board should be listed as an involved agency on the LEAF Part I.
5. As more detailed plans advance to a preliminary site plan submission, attention should be paid to Lot 1 where the rear of the proposed 100,000 sq. ft. building is adjacent to existing steep slopes. Specifically, the following design principles should be considered:
  - a. Preservation of natural vegetation along the bank and top of slope during construction provides natural buffer zones, protects soils from water and wind erosion, removes sediments and other pollutants from stormwater runoff, and provides aesthetic buffers from industrial uses.
  - b. Direct stormwater and roof runoff from the proposed building site away from the steep slope for water quality and quantity treatment. Stormwater runoff toward the steep slope has a potential to increase the likelihood of erosion, soil, loss and excessive stormwater runoff to the wetland area.
  - c. A portion of the slope is within the 100-year flood plain. The flood plain provides a natural right-of-way and temporary storage for large flood events. Clearing and building should be avoided in the 100-year flood plain and should be left in its natural state.
  - d. The applicant should consider a green roof design for the industrial building.
6. Additional comments will be forthcoming based on the preliminary plan submittal for both subdivision and site plan considerations.

### **Professional Comments:**

**Joel Bianchi, P.E. of MJ Engineering in a letter dated 8/9/19 had the following comments:  
Habitat Suitability Assessment Report**

1. The report assesses the presents of the Karner Blue Butterfly and Northern Long-eared Bat including whether there are identified species or habitat within the project boundaries. The report indicates that there are no supporting habitat for wild lupine found on or near the site and therefore no impacts are anticipated to the Karner Blue Butterfly. In regards to the Northern Long-eared bat, the report indicates the site does contain foraging habitat, and a very limited amount of roosting habitat but the report preparer believes the project will have minimal effect on roosting or foraging habitat. The report should also clearly state whether any tree clearing restrictions should be applied to the construction phase of the project.

### **Phase 1 Archeological Survey**

2. The report recommends that no additional archeological investigations are recommended beyond to eh Phase 1B study. The Town shall be provided with correspondence from the NYS Office of Parks, Recreation and Historic Preservation concurring with the Curtin Report recommendations.

### **Public Comments:**

Anthony LaFleche – 21 Wheeler Drive – Mr. LaFleche asked for a possible easement on Route 9. Mr. Lansing stated it may be too close to an existing stream on the property, but if one can be done it will also have to be brought to Halfmoon as well since the frontage is in that Town. Mr. Ophardt asked if the

Synergy Park will have a pedestrian connection to the rest of the site. Mr. Lansing stated he can talk to the developer about considering such a connection. Mr. LaFleche asked about the location of the power lines, Mr. Lansing pointed out on the map where the power lines are indicated and stated the owner can build near the power lines, with safety measures met.

Raymond Seymour – 7 Nadler Road – Mr. Seymour asked about the color coding on the maps indicated. Mr. Lansing stated that the colors indicate separate parcel areas of development on the map. Mr. Ferraro stated he would like to see areas of restricted land as well.

### **Planning Board Review:**

Mr. Ophardt asked if the project would be extending a road to the north. Mr. Lansing stated railroad tracks prevent traffic from going North.

Mr. Ferraro expressed concerns about some technical issues that need to be worked out and suggested a technical meeting with staff, the applicant and some of the Board members be held. The purpose of the meeting is to discuss and provide direction to the applicant on the technical aspects of concern to be addressed as the plan moves forward towards preliminary consideration. Mr. Lansing stated that he is comfortable with such a meeting. Mr. Scavo stated he would have Mr. Meyers and Mr. Reese participate as well as a representative from the ECC. Mr. Ferraro and Mr. Ophardt stated they would both be on the committee. Mr. Ferraro stated that committee would come together and meet with the applicant in the near future.

Mr. Andarawis asked about this becoming a campus like area and maybe employee areas and walking trails could be taken into consideration.

Mr. Neubauer asked about a traffic study being done and if the committee would be evaluating this as well. Mr. Lansing stated that the traffic study will be done when school is in session so it can be more accurate.

### **Old Business:**

#### **2019-027 Environmental Design Partnership Office Park Site Plan**

Applicant is proposing to construct three (4,800 SF) mixed use office buildings totaling 14,400 SF. The buildings and parking will be placed to the rear of the property. The proposed buildings will be connected to municipal sewer and water supplies. Stormwater will be managed on site, 900 Rt 146, Zoned: B-1,

Status: PB Prelim Review - Poss. Determination

SBL: 271.-2-22.2

To be reviewed by: MJE Consultant: EDP Applicant: EDP Last Seen on: 7/9/19

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

Joe Dannible – EDP – Mr. Dannible stated that since the last Board meeting the basements have been removed. The basements were removed to satisfy Steve Meyers comments, and doing so dropped the square footage of each building to meet Town Code requirements. There are no walk-out basements proposed at this time. There will be a sidewalk connection to Route 146 with the removal of underbrush

for construction of the sidewalk. Mr. Dannible stated the three buildings will be mixed-use. Trip generation will be 21-51 trips per pm peak hour. The SWPPP has been completed and submitted for review.

Mr. Ferraro asked if pavement could be removed from the side of Building 3 since there are no basements. Mr. Dannible stated the pavement to the rear of the buildings can be reduced but not eliminated due to the need to maintain utility access on the external of the building now instead of the basements.

### **Staff Comments:**

#### **Steve Myers, Director of Building and Development issued a memo dated 7/31/19 stating:**

- A full size plan for emergency access shell be submitted for review including a copy of the template being used
- As noted previously this proposal does not comply with current zoning which restricts individual buildings to 4800 sf. These buildings are two story or 9600 sf and will require variances if the proposal is to progress.
- Drywell's have very limited use and how they will operate during frozen conditions needs to be addressed.
- Further stormwater comments will be coming from Scott Reese.
- A hydrant between the existing building and Route 146 as well as one near the southern most building appears necessary.

#### **Sheryl Reed, Chief of the Bureau of Fire Prevention:**

1. Add the fire hydrants at the entrance to the driveway extension and at the building at the south of the parcel.
2. Postal verification
3. Provide a full size scale drawing of the proposed emergency access for emergency services.

#### **Scott Reese, Stormwater Management Technician issued a memo dated 8/9/19 with the following comments:**

1. Please provide the sizing calculations for the pre-treatment for SMA #2.
2. The peak elevations provided in the stormwater modeling calculations do not coincide with the infiltration basin elevations table on sheet 13 of 14.
3. The peak elevation for the 100-year storm event in SMA#1 provides only 0.60' of freeboard where 1.0' is required.
4. Even though the grading signature to the east of proposed Building 1 show a shallow swale, indicate with a label or symbol, so the contractor knows it is the intention to drain to the forebay.

#### **The Environmental Conservation Commission held a meeting on 8/6/19 and issued a memo recommending:**

1. The ECC recommends that this project be carried out in keeping with the goals of tree preservation as stated in the Town Comprehensive Plan, to the greatest extent practicable.
2. ECC recommends the applicant to provide a lighting plan that displays the lighting plan showing foot candle in the parking area.
3. In keeping with the recommendations of the Town Comprehensive Plan, the Applicant should retain existing vegetation to the maximum extent practical, and use landscaping and grading to

provide visual and auditory buffering between the project and (roadway, subdivision, school, etc.), especially along the southern property line adjacent to the Shenendehowa Schools.

**Roy Casper of the Trails Subcommittee submitted the following comments for the Planning Board to consider in its decision making:**

The updated site plan shows a good internal pedestrian circulation plan including a 5 ft. wide entranceway sidewalk connection to the existing sidewalk along NYS Route 146. (The entranceway sidewalk was previously recommended by the Trails Subcommittee on 7/9/19.)

**John Scavo, Director of Planning issued a letter dated 7/31/19 with recommendations he made:**

1. A .dwg (CADD) file is attached with the approval stamp language for site plan to be added to the final plan for stamping. Please place the “site plan” stamp from the .dwg file onto your final plan set.
2. The following takes precedence over the 70’ setback within the B-1 Zoning District:

§ 208-98

Special setback lines.

On the streets and roads listed below, no building or part of a building, other than steps, eaves and similar fixtures, shall extend nearer to the center line of the street or road than 100 feet in the case of a building in a residential district or 130 feet in the case of a building in any other district.

New York - U.S. Route 9

State Road Nos. 146 and 146A

Blue Barn Road

Crescent Road

Elnora-Jonesville Road (Main Street)

Grooms Road

Kinns Road (from Plank Road to Route 146A)

Long Kill Road

Vischer Ferry Road

Lapp Road

Plank Road

Riverview Road (Vischer Ferry Road to Route 146)

Ushers Road

Please update the site plan and site statistics table to reflect the special front setback line.

3. Since the project is adjacent to State Route 146, please add the following note to the site plan:

Any utility work or construction within the State Highway Right-Of-Way requires the property owner to obtain a highway work permit from the NYS Department of Transportation, whether it is for construction or installation of facilities, or for repairs and maintenance.

4. Final site plan approval should be conditioned on a sign-off from both the Clifton Park Water Authority and Saratoga County Sewer District.
5. Based on the proposed grading plan it appears stormwater from the roof of Building #1 has the potential to drain onto the adjacent property to the east.
6. The use of 4" high wing curbing along the western boundary of the parking area should eliminate the potential of stormwater runoff from the parking area to the adjacent property.
7. The applicant should consider angling the dumpsters within the dumpster enclosure area to increase the outside turning radius from the travel lane to the truck collection side of the enclosure or container placement area.
8. Provide the photometric plan and most current building elevations plans as soon as possible for review by the Planning Board and Town Staff.

**Professional Comments:**

**Walter Lippmann, P.E. of MJ Engineering in a letter dated 8/9/19 had the following comments:  
State Environmental Quality Review**

1. The applicant has submitted Part 1 of the Short Environmental Assessment Form (SEAF). Based upon our review of the submitted Part 1 SEAF, the following comments are offered:
  - a. Part I.8a – It appears the applicant utilized the 9th Edition of the ITE Trip Generation Manual to determine the trip volumes in lieu of the 10th Edition dated September 2017. Land Use Code (LUC) 750 Office Park is not included in the 10th Edition, therefore the trip analysis should have included LUC 710 – General Office Building and LUC 720 – Medical-Dental Office Building. However the trips for LUC 710 & 720 only differ by 1 to 3 vehicles and does not impact the scale of the analysis.
  - b. Part I.10 – The applicant indicated the plans have been submitted to the CPWA and once a response is received it should be submitted to the Town.
  - c. Part I.11 – The applicant indicated the plans have been submitted to the SCSD and once a response is received it should be submitted to the Town.

**Site Plans**

2. Applicant advised a site-specific illumination plan will be submitted for review.
3. The project requires on-site hydrants to provide appropriate fire protection coverage. Confirm if the Clifton Park Water Authority will own any of the on-site water system. If so, the plans shall show the required easements that would be conveyed to CPWA.
4. Show on plans the bottom of the bioretention basin should be 313.50 to reflect HydroCAD model.

**Stormwater Pollution Prevention Plan**

5. Submit revised Stormwater Pollution Prevention Plan to verify the previous comments have been addressed as indicated in your response letter.

### **Stormwater Management Narrative**

6. No additional comments.

### **Public Comments:**

No public comments.

### **Planning Board Review:**

Mr. Ferraro asked about the elevations of the buildings and if they have been changed. Mr. Dannible stated that the elevations have stayed the same with all three building using similar materials and design styles.

Mr. Ferraro asked if the applicant has been working with the church to mitigate concerns. Mr. Dannible stated they have been working with the church on landscaping. Also, when landscaping is done, the applicant will be donating the wood chips to the church for their prayer path.

Mr. Ferraro suggested that clearance for the sidewalk from Route 146 can be kept to a minimum and applicant can put the path between existing trees and in a shrub area instead of clearing any trees. Mr. Dannible stated that it would be good to put the path in the shrub area, and only 2 trees that are dead will be removed in addition to underbrush only. Mr. Ferraro also stated that the possibility of having a stone and gravel walk to Route 146 is acceptable as to not upset existing trees. Mr. Neubauer stated to have concrete until the tree covered area and then move to gravel if necessary. Mr. Dannible agreed.

Mr. Ophardt asked if fill would need to be brought in to complete this project. Mr. Dannible stated that it may be needed but the applicant would like to keep it to a minimum.

Mr. Ferraro asked what the plan for landscaping and signage would be. Mr. Dannible stated that the property line with the church would be completed immediately, and the other landscaping would be completed in phases as each building is developed. He also stated that the signage would remain consistent with the look and features of the existing freestanding sign at Route 146.

Mr. Neubauer moved, second by Mr. Ophardt, to establish the Planning Board as Lead Agency for this application, a site plan, unlisted action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried.

Mr. Ophardt moved, second by Mr. Neubauer, to waive the final hearing for this application for the site plan review of Environmental Design Partnership Office Park Site Plan, and to grant preliminary and final site plan approval conditioned upon satisfaction of all comments provided by the Planning Department, Town Designated Engineer, and all items listened in the final comment letter issued by the Planning Department.

### **Conditions:**

Landscaping to be indicated on final site plan proposal. Sidewalk from 146 to buildings can be partial gravel. The Planning Department must be notified if any trees are to be removed along the

driveway in the front of the building to accommodate the sidewalk. Mr. Scavo would make a determination if it will result in a visual change and if additional Planning Board review is necessary. Sign off on Clifton Park Water Authority and Clifton Park Sewer is required.

**New Business:**

**2019-039 Capital District Advanced Dental Arts Parking Lot Expansion Site Plan**

Applicant proposes expanding the existing parking lot from 21 spaces to 35 spaces., 601 Bruno Rd,  
Zoned: R-1,

Status: PB Concept Review

SBL: 271.-2-23

To be reviewed by: MJE Consultant: Lamont Engineers Applicant: STB Builders

**Consultant/Applicant Presentation:**

Milan Jackson – Lamont Engineers – Mr. Jackson stated the applicant wants to keep the business open as the parking lot is expanded; he also wants to improve the drainage behind the building. Two more light poles with 12 foot lights are proposed to be installed, and a few trees are proposed to be removed in the rear of the parcel, but new trees will be replacing them at new locations.

**Staff Comments:**

**Steve Myers, Director of Building and Development issued a memo dated 7/31/19 stating:**

- Applicant proposes expansion of the parking area in an R-1 zone. Residence was converted to dental office in 1989 at which time it was considered to be a home occupation which is an allowed use. There was also an SUP granted on this property. Since there are no parking regulations for R-1 properties it is recommended to use the B-1 regulations.
- Erosion and sediment control plans should be submitted.

**Sheryl Reed, Chief of the Bureau of Fire Prevention:**

1. No comments.

**Scott Reese, Stormwater Management Technician issued a memo dated 8/9/19 with the following comments:**

1. What is the purpose of the existing well? The infiltration basin shall be 100' from a working well.
2. It does not appear to be a large watershed to warrant a diversion ditch and the amount of trees and land disturbance it would cause to justify this amount of existing vegetative buffer.

**The Environmental Conservation Commission held a meeting on 8/6/19 and issued a memo recommending:**

1. In keeping with the recommendations and goals of the Town Comprehensive Plan, the Applicant should retain existing vegetation to the maximum extent practical and/or the use landscaping and grading to provide visual and auditory buffering between the project and adjacent roadways or other properties.
2. The ECC recommends that the applicant incorporate lighting that is directional and limited.
3. The ECC recommends that the Planning Board determine that the proposed use will not prevent the orderly and reasonable use of the adjacent residential properties. In addition, the effect that

the location of the proposed use may have on the increase of vehicular traffic congestion on Bruno Road and NYS Route 146 should be evaluated

4. The ECC requests the applicant to provide the water and sewer service sources. Does this proposed project have any additional use of the existing services?

**Roy Casper of the Trails Subcommittee submitted the following comments for the Planning Board to consider in its decision making:**

A sidewalk from the building front entrance walkway to the NYSDOT ROW along Route 146 should be considered for pedestrian access to and from Route 146

**John Scavo, Director of Planning issued a letter dated 8/1/19 with recommendations he made:**

1. Since the project is adjacent to NYS Route 146 a referral to the Saratoga Co. Planning Board (SCPB) has been made in accordance with GML §239-m. The project is scheduled to be considered by the SCPB at their 8/15 Meeting.
2. Add a note to the plan that states, “A Use Variance was granted by the Zoning Board of Appeals on June 16, 2015, to allow for the building to be used by uses consistent with the permitted uses per the B-1 Zoning District.”
3. Following the 302’ and 306’ proposed contours it doesn’t appear that vehicle headlights will shine directly onto the adjacent residential property from the expanded parking area.
4. Please explain the purpose and function of the diversion ditch and the need to have the feature. It appears vegetation on site would be disturbed to construct the feature.

Provide clarification if the well identified on the site plan is in use or abandoned.

**Professional Comments:**

**Walter Lippmann, P.E. of MJ Engineering in a letter dated 8/9/19 had the following comments:  
State Environmental Quality Review**

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

- a) Saratoga County Planning: GML 239m referral due to parcels location near NYS Route 146.

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

**Site Plan**

1. The project is located within the Town’s Residential District (R-1). The proposal for exterior parking lot improvements may be considered ancillary to the existing principal use.

2. Since there are no planned building renovations and/or changes in use proposed, a review of the building placement, building form, building type and allowed frontage types as outlined in the R-1 Zone have not been completed.
3. While the application material indicates that the project will have less than 1 acre of disturbance and would not be subject to GP-0-15-002, there is a proposal to increase impervious cover and potentially change or alter drainage patterns. As such, an analysis shall be completed that examines the pre and post drainage conditions to determine whether or not there will be adverse impacts to the receiving drainage system.
4. Since a use variance was granted for a permitted use per the B-1 Zoning, Section 208-35(D)(1) requires a 25-foot side setback. The setback should be indicated on the plans.
5. Section 208-35(D)(4) requires a 10-foot buffer area along the side and rear yards for the purpose of screening from adjoining properties. There may be a need to supplement with landscaping to maintain a minimum buffer.
6. For the new infiltration basin, infiltration tests should be performed to validate any design assumptions made.
7. The expansion proposed appears to alter the existing fire access route and may no longer comply with Section 503.2.1 of the Fire Code of New York State which requires a fire apparatus access road to have an unobstructed width of not less than 20 feet.
8. Provide a complete erosion and sediment control plan.
9. Provide clarification on the need for the diversion swale.
10. The concept provides little in the form of pedestrian linkages to and from the public right-of-way. The applicant needs to coordinate potential linkages from the site to exterior routes with the Town.
11. It is unclear from the submitted plans what the expected area of disturbance will be. Subsequent plans need to delineate the extent of land disturbances.
12. The current plan provides for two freestanding light fixtures to be installed in the parking lot. Indicate any existing or proposed building mounted lights near the entrance so that there are appropriate lumens in this area.
13. Subsequent submissions shall include information as outlined in Section 208-115 of the Town zoning specific to lighting, site grading, landscaping and erosion and sediment control to fully assess the design and its compliance to the applicable standards. Considering the plan submitted is conceptual in nature, we will reserve further comments until more detailed plans are submitted.

**Public Comments:**

Anthony LaFleche – 21 Wheeler Drive – Mr. LaFleche asked if there is currently an easement on Route 146 and if not would the applicant consider an easement. Mr. Jackson stated that at this time the applicant would not give an easement. Mr. Ferraro stated that the right of way is currently very wide so he does not feel an easement is necessary either.

### **Planning Board Review:**

Mr. Ophardt asked why there is a need to increase the parking at this site. Mr. Jackson stated that at peak hours there is a higher demand for parking at the dental practice.

Mr. Andarawis stated that one of the parking spots appears to be too close to the neighboring residential property as it needs a 25 foot setback. Mr. Jackson stated the parking spot in question can be removed or pulled back to meet the regulations.

Mr. Ferraro asked the applicant to put stakes in the ground to better identify the areas of ground disturbance before next meeting they will be attending so that board members can visually see at the site the areas of impact.

### **New Business:**

#### **2019-040 1267 Route 146 2 Lot Subdivision (Fleischman)**

Applicant proposes subdividing a .94 acre parcel with an existing dwelling into 2 parcels. 1 parcel will have the existing dwelling with a new proposed access to the soon to be dedicated Vista Court. The second parcel will remain vacant with a long range plan to build a 2 family home, 1267 Rt 146, Zoned: HM,

Status: PB Preliminary Review

SBL: 270.8-5-4

To be reviewed by: MJE Consultant: Jason Peterson Applicant: Fleischman

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

Mr. Ferraro asked the room if the applicant or representative were present for this application. No person/persons came forward. Mr. Ferraro stated that the application would be omitted from tonight's meeting due to no representation at the meeting tonight.

### **New Business:**

#### **2019-037 Boni, Ryan 2 Lot Subdivision**

Applicant proposes to subdivide a 13.07 acre parcel into 2 lots (10.04 acres and 2.82 acres) to accommodate 2 residential duplex units. A Special Use Permit will be required as well, Rt 146A, Zoned: CR,

Status: PB Concept Review

SBL: 264.-3-66.11

To be reviewed by: MJE Consultant: GVG Applicant: Boni

#### **2019-038 Boni, Ryan 2 Lot Duplex SUP**

Applicant is seeking a Special Use Permit to build duplex units on 2 lots. Subdivision approval is necessary as well, Vacant Parcel located adjacent to State Rt. 146A, Zoned: CR,

Status: PB Concept Review

SBL: 264.-3-66.11

To be reviewed by: MJE Consultant: GVG Applicant: Boni

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

Ryan Boni – Applicant – Mr. Boni stated that his property is bordered on one side by a power substation facility, the other a commercial industrial landscaping site, and to the rear of the property an active railroad track. Mr. Boni stated that the two duplexes proposed would have low impact on the property and that 7.12 acres would be donated to the town that backs up to the Woodcock Preserve. With the residential units to be developed on a 12.86 parcel. Mr. Boni stated that he would like to keep the lawns on the duplex property as small as possible and will keep the density down as well to protect environmental constraints on the parcel. Mr. Boni stated he feels this would be a good location for rental properties as they are not long-term investors in the property which is managed and maintained by a single property owner. The design of the duplexes will give the look of a single-family dwelling from the road

### **Staff Comments:**

**Steve Myers, Director of Building and Development issued a memo dated 7/31/19 stating:**

- Variances granted for all area and width issues with proposal.

**Sheryl Reed, Chief of the Bureau of Fire Prevention:**

1. Postal verification

**Scott Reese, Stormwater Management Technician issued a memo dated 8/9/19 with the following comments:**

1. The NYSDEC wetland & buffers should show the overlay LC Zone.
2. Grading plans should be provided to show the LC Zone will not be impacted.
3. Erosion and Sediment Plans shall be provided to prevent any impacts to the NYSDEC Wetlands and or buffer.
4. The 100 foot buffer of the NYSDEC located at the eastern portion of the site as shown on plans titled “N.Y.S.D.E.C. Wetland Validation Map – TMP #264.-3-66.11”, dated June 30, 2019 – by Gilbert VanGuilder Land Surveyor, PLLC is not shown on the plans titled “Proposed Subdivision of Lands of Country Club Acres, Inc. Tax Parcels 264-3-66.11 & 264-3-67”, dated July 11, 2019 – by Gilbert VanGuilder Land Surveyor, PLLC.

**The Environmental Conservation Commission held a meeting on 8/6/19 and issued a memo recommending:**

1. In the June 18th minutes of the ZBA, the record states: “Mr. Boni added that he felt it was not a desirable location for a single family home and that he felt it would be better suited for duplexes as rental units.” This assumption, however, has various environmental and public safety dimensions:
  - First, this statement assumes the possibility of annoying environmental noise levels at the site presumable due to rail and road traffic.
  - Second, The statement assumes that renters will tolerate the annoying noise levels better than owners of single family dwellings; why would they?
  - Third, the “remedy” is to increase the number of people annoyed by the surrounding noise levels by building duplexes.
  - Fourth, any real remedy such as a noise barrier is not mentioned because if the renters are vocal enough, it will be the Town that is saddled with the resolution of the problem.

The “solution” to the Boni statement is a noise study that identifies the noise level, source and frequency of rail and road traffic noise at the site. The odd shape of this parcel, its unique location and the possibility of small children in the rental units demands that statement #1 be resolved so that statements #2, 3, 4 can be empirically addressed.

2. The ECC notes that this project is adjacent to a significant wetland area and the occupants of these duplexes will be subject to mosquitos and other insects during warm weather months.
3. The June 30, 2019 survey certifies a 100 foot buffer zone indicating the limits of the NYS Wetlands. The ECC recommends that LC boundaries be delineated by a split rail fence.
4. The parcel (subdivision) is located in an area which may be impacted by railroad activity. Impacts may include noise or vibration. The ECC recommends that this condition be recorded on the deeds.

**Roy Casper of the Trails Subcommittee submitted the following comments for the Planning Board to consider in its decision making:**

A 15 Ft. wide ROW/Trail Easement should be considered on the property boundary line along Route 146A for a future multi-use path and utility realignment.

**John Scavo, Director of Planning issued a letter dated 8/2/19 with recommendations he made:**

2. Since the project is adjacent to NYS Route 146A a referral to the Saratoga Co. Planning Board (SCPB) has been made in accordance with GML §239-m. The project is scheduled to be considered by the SCPB at their 8/15 Meeting.
3. Sheryl Reed, Chief of the Town’s Fire Bureau will assign 911 addresses for Lots 1 & 2. Once that information is received, please place the assigned address under each lot number.
4. Since the SUP requested is located in the Town’s Western Clifton Park GEIS Study Area, the applicant shall demonstrate consistency with the Study’s finding statements by providing elevation drawings of the proposed structures. This will allow the Planning Board to determine if the architectural standards as noted within the “Western Clifton Design Guidelines” document have been met.
5. As noted in §208-16 of the Town Code, an objective of the Conservation Residential Zoning District states, “Development should be sited and laid out using conservation-based design and low-impact design in support of creative solutions to minimize impacts to open space lands and agricultural lands.” Based on this premise I would recommend the applicant look to rotate the homes 90 degrees and share a single curb-cut onto Route 146A, using the “motor court” design similar to that deployed by a previous applicant at 532 Grooms Road (4 dwellings, 2 structures sharing a driveway with side garages facing the driveway from either side).

Benefits by such a design modification include:

- Minimizing curb-cuts along the State Highway; and
- Providing usable yard space from the back of each dwelling rather than against the LC Zone.

Add a note to the plan that states, “Any utility work or construction within the State Highway Right-Of-Way requires the property owner to obtain a highway work permit from

6. the NYS Department of Transportation, whether it is for construction or installation of facilities, or for repairs and maintenance.”

7. The applicant shall contact Chad Corbett of NYS DOT's Saratoga County Resident Engineer Department at 518-584-3790 for review and application for a curb cut permit and to discuss the location and requirements for a residential driveway(s) onto a state highway. Documentation should be provided to the Planning Board by the applicant noting the outcomes of the discussion. In addition to the driveway, the water and sewer lateral connections will be extended and constructed within the State ROW. Please show the approximate location for the water and sewer laterals and where the anticipated connections for the service mains will be made for each.
8. The applicant's project narrative states, "All necessary area variances for Lot 1 and for Lot 2 have been granted, relative to the amount of unconstrained acreage required and for the required setbacks, granted on June 18, 2019 by the Clifton Park Zoning Board of Appeals."

The subdivision plan should include a site statistics table showing the bulk, density, setbacks, and constrained/unconstrained lands calculations, Acreage of Permanently Protected Open Space, and note the specific relief granted for the project under the area variance(s), consistent with following three column headings:

<u>CR Zone Requirements</u>	<u>Provided</u>	<u>*Variance(s) Granted</u>
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Further comments may follow based on the additional information to be provided with a future submittal.

9. Add a note to the plan that states:

This project is located in an area adjacent to an active landscaping business, railroad line and power utility substation. Such activity commonly associated with these uses may include, but is not limited to periodic noise, odors, vibration, hours of operation. The property owner and potential tenants in each structure should be aware of the adjacent uses and operations.

10. In accordance with §86-10 of the Town Code, "The applicant shall be required to plant two new trees per living unit on the street side of new construction sites." As such please add the required trees to the Subdivision Plan prior to final stamping. The applicable code section is noted below, which includes the required planting specifications:
  - (1) Trees shall be balled and bur lapped and shall not be less than three inches in caliper, measured six inches above the ball. They must be well branched. Transplanted trees meeting these specifications may be substituted. Trees must be guaranteed for a period of not less than one year from the time of planting.
  - (2) Trees should not be planted between June 1 and September 1 unless regular watering and maintenance can be guaranteed.

- (3) Trees shall be planted in accordance with accepted planting procedures, staked and watered.
- (4) Preference shall be given to planting deciduous trees which will develop into street shade trees and which do not obstruct the view of traffic. Trees should be selected from the list of recommended trees for roadside planting that are disease and pollution resistant. A list of these trees is in the publication entitled: "Town of Clifton Park Community Tree Program."
- (5) Trees shall not be planted in the public right-of-way.
- (6) If trees which are designated to be saved are removed by the applicant, they shall be replaced by three new trees that meet the tree specifications of this section.

11. Add the following three notes specific to wetlands to the plan:

-A regulated 100' buffer area to a freshwater wetland is present on the lot. Prior to undertaking any project that may be within the wetland buffer, the property owner shall contact **both** the DEC Region 5 Office at (518) 623-1200, and the Town of Clifton Park at (518) 518-371-6651, to obtain required permits.

-The Land Conservation (LC) Zoning District Boundaries associated with wetlands consist of those freshwater wetlands inventoried and mapped by the New York State Department of Environmental Conservation pursuant to Article 24 of the Environmental Conservation Law and the one-hundred-foot adjacent area measured horizontally from the border of the wetland. Only the permitted uses identified within §208-69.2 of the Clifton Park Town Code shall be allowed within the LC Zone."

-A portion of the identified Freshwater Wetland, is protected and regulated under federal law (Section 404 of the Clean Waters Act) by the U.S. Army Corps of Engineers. Prior to undertaking any project that may be within or adjacent to the wetland, contact **both** the DEC Region 5 Office at (518) 623-1200, and the US Army Corps of Engineers at (518) 266-6350, to obtain required permits.

Add a note to the plan that states, "Allowable uses within the permanent Open Space shall be pursuant to those prescribed within §208-16(2) of the Clifton Park Town Code."

**Professional Comments:**

**Walter Lippmann, P.E. of MJ Engineering in a letter dated 8/9/19 had the following comments:**  
State Environmental Quality Review

1. Based upon our review of Part 617 of NYS Environmental Conservation Law, the project appears to be an "Unlisted" action. If the Planning Board is to request Lead Agency status under SEQRA, the need to undergo a coordinated review is optional. Under a coordinated review, involved / interested agencies to be engaged may include, but is not necessarily limited to the following:
  - b) Saratoga County Planning: 239m and n referral due to parcels location along Ballston Lake Road (Route 146A).

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

2. The applicant has submitted Part 1 of the Short Environmental Assessment Form (SEAF). Based upon our review of the submitted Part 1 SEAF, the following comments are offered:
  - a. Part 1. 13a & b – The EAF indicates that the site is located on or adjacent to wetlands or other waterbodies regulated by a federal, state or local agency and that the proposed action will not physically alter or encroach into any existing wetlands. Provide documentation to confirm that the proposed action will not physically alter or encroach into existing wetland areas.
  - b. No further comments at this time. Additional comments may be forthcoming as the project advances.

### **Subdivision Plan**

7. The project is located within the Town's Conservation Residential District (CR). The proposal for two duplex style residential homes are not a permitted principal use within the CR District as noted in Section 208-16 of the Town's Zoning. Applicant has also submitted for a SUP for the proposed duplex homes.
8. Pursuant to the Chief Zoning Officer's memo, all required area variances were granted by the Zoning Board of Appeals on June 18, 2019. The plan shall identify the variance granted, date they were granted, resolution number and extent of relief granted.
9. In reviewing the proposed lot configuration, the created lots appear to be deficient in regards to meeting the minimum standard requirements outlined in Section 208-16 of the Town's Zoning. The noted deficiencies are as follows:
  - a. Contour lines at a minimum of two-foot intervals to United State Geological Survey datum within the parcel.
  - b. Lakes, ponds, regulated streams, streams, and natural drainage swales.
  - c. Indicate watercourses, streams and other drainage corridors as classified pursuant to the New York State Department of Environmental Conservation Stream Classification System and as mapped on the Town of Clifton Park's Official Stream Protection Map.
  - d. Indicate vegetative cover conditions on the property according to general cover type, including cultivated land, permanent grassland, old field, hedgerow, significant forest areas, woodlands, wetlands, isolated trees or small groups of trees with a caliper in excess of 12 inches, and the actual canopy line of existing trees and woodlands. Vegetative types shall be described by plant community, age and condition.
  - e. Include a site statistics table indicating the following per Section 208.16(E) Standards:
    - i. Bulk
    - ii. Density
    - iii. Setbacks
    - iv. Constrained and Unconstrained Land
    - v. Permanent Open Space
    - vi. Conservation Design Layout
    - vii. Variances

10. The submitted plans provide no existing or proposed contours or expected area of disturbance. Subsequent submissions shall include sufficient data to support the area of disturbances noted.
11. Provide notation on the plan as follows:
  - a. No Utilities shall be installed beneath the proposed driveways.
  - b. Work within the Route 146A Road right-of-way shall require a permit from the NYSDOT.
12. The submitted information indicates the project is proposing to connect to an existing water main(s) within proximity to the parcel. These mains are owned and operated by the Clifton Park Water Authority (CPWA). It is recommended that the Town be furnished with documentation that the CPWA is willing and capable of providing potable water to the project.
13. The submitted information indicates the project is proposing to connect to an existing sewer main(s) within proximity to the parcel. These mains are owned and operated by the Saratoga County Sewer District No. 1 (SCSD). It is recommended that the Town be furnished with documentation that the SCSD is willing and capable of providing sanitary sewer service to the project.
14. Any new access proposed onto NYS Route 146A is subject to the review and approval of NYSDOT.
15. Provide the building setback lines for each lot shown.
16. Provide a note on the plan indicates the individual/firm performing the wetland delineations shown and the date in which the delineations were performed.
17. The concept subdivision plan shall show speculative homes, driveways, utilities and grading.
18. Prior to approval or filing of the subdivision plat with the Saratoga County Clerk, the appropriate 911 emergency response numbers must be obtained for and assigned to each lot created and placed on the filed plat.
19. Considering this plan is conceptual in nature, subsequent comments will be provided with a preliminary plan submission.

**Public Comments:**

Susan Burton – Friends of Clifton Park Open Space – Ms. Burton read a letter to the Town of Clifton Park Planning Board. See attached letter to the minutes.

Matthew and Kristen Webber – 2 Legends Way – read from a letter submitted to the Town of Clifton Park Planning Board. See attached letter to the minutes.

Raymond Seymour - 7 Nadler Road, from Friends of Clifton Park Open Space - read from a letter submitted to the Town of Clifton Park Planning Board. See attached letter to the minutes.

James Rule – 168 Woodsdale Drive – read from a letter submitted to the Town of Clifton Park Planning Board. See attached letter to the minutes.

Mr. Rich Steitzer - 4 Fairly Way - stated that train noises already wake up his family, and his concern is that if the area becomes more developed more cars will be using the adjacent subdivision as a cut through.

The property owners of 861 Riverview Road - read from a letter submitted to the Town of Clifton Park Planning Board. See attached letter to the minutes.

An unidentified resident stated she measured 100 decibels on her front porch using her phone.

Frank Berlin – 98 Main Street – stated that 2 train accidents have occurred with derailments in the area of the train tracks surrounding the proposed parcel, and let the Board know that there are tanker cars that travel on the railroad.

Margret Catellier – 16 Parkland Court – shared her concerns on how Western Clifton Park is a rural community setting and should not be focused one individual's need for developing, but the town as a whole.

### **Planning Board Review:**

Mr. Ophardt asked if there were any problems at the Prospect Point Subdivision in the matter of the rail road tracks as he has not heard of any. He noted that it should be looked into. Mr. Ferraro stated it should also be looked into as to how many trains come by in a day, and that he recommends a noise study for the consideration of two duplex structures (4 residential dwelling units).

Mr. Ferraro clarified that the homes would be built next to the power station. Mr. Boni confirmed the statement. Mr. Ferraro asked about the limitations on development due to buffers and wetlands. Mr. Scavo stated that the homes proposed to be built where they are to not impact wetlands. Only other option would be to build only one towards the west by Blue Spruce Nursery.

Mr. Ferraro stated the ZBA made notations to the Board for both lots. He explained that certain codes including the provisions under the Special Use requirements, need to be taken into consideration before a decision can be made by the Planning Board.

Mr. Scavo suggested that the building could be moved to face each other and have a shared driveway for less impact. Mr. Neubauer agrees with this comment but stated he still is not comfortable with the power station or train tracks being so close to a residential home.

Mr. Ferraro stated he was not supportive of the proposed two lot subdivision and special use permit to construct duplexes and suggested to the applicant to consider other options. Other Planning Board members concurred Mr. Ophardt also questioned if the project could have moved forward without area variances.

### **Discussion Items:**

Mr. Ophardt moved, seconded by Mr. Neubauer, adjournment of the meeting at 12:27 a.m. The motion was unanimously carried.

The next meeting of the Planning Board will be held as scheduled on Wednesday, September 11<sup>th</sup>, 2019.

Respectfully submitted,

*Paula Cooper*

Paula Cooper, Secretary



***Friends of Clifton Park Open Space, P.O. Box 821, Clifton Park, New York 12065***

Board of Directors

Frank Berlin, President  
James Ruhl, EVP  
Susan Burton, VP  
Ray Seymour, Secretary  
Margaret Catellier, Treasurer  
William Koebbeman, Director  
Pam Marshall, Director

August 13, 2019

Re: Special-Use-Permits for Two Parcels, Route 146A, Conservation Residential Zoning Area

To: Clifton Park Planning Board

Friends of Clifton Park Open Space comes here tonight to oppose the requested Special Use Permit for two duplexes with 4-dwelling units on Route 146A. Although the town has a proud history of protecting open space in Clifton Park, there is a growing concern that these protections are being eroded as time goes on. We believe this request is an usually egregious example of that public concern, especially in the Western Clifton Park..

**The continued requests for exceptions in the Western GEIS area serve to erode all the past work done establishing the Conservation Residential (CR) Zoning in this area. It is our belief that all special requests for development in Western Clifton Park should be considered in light of the underlying principles outlined in that existing zoning---be they requests for area variances, special use permits, solar facilities, or Planned Development Districts, etc.**

I spoke about our town's proud history of protecting open space. The town has followed a long and public process which from the first steps of the Open Space Plan in 2001 to the latest Clifton Park Town Board Resolution No. 290 amending Chapter 208 of the Town Code regarding two-family dwellings just adopted in December of last year.

Historically, public interest in protecting open space in Western Clifton Park was identified in a town-wide survey in 2001. The study had an extremely high response rate with 90%+ public support for drinking water quality, open space and rural character, and natural areas and wildlife habitats. As a result, an Open Space Committee was formed and after much public involvement and comment, the Town Board adopted a formal Open Space Plan in May, 2003.

Subsequently, the Town Board voted for a building moratorium for Western Clifton Park and commissioned a Generic Environmental Impact Study or GEIS of Western Clifton Park. That study was completed and presented to the Town Board in 2005. After formally accepting the study, the

*Friends of Clifton Park Open Space, P.O. Box 821, Clifton Park, New York 12065*

Town took a second step of creating the Western Clifton Park Land Conservation Plan in 2005. That Plan included the Western Clifton Park Design Guidelines. Those Guidelines included:

- Guiding Principles in Designing for the Rural, Scenic Landscape, and Character of Western Clifton Park
- Open Space Conservation Designs with examples
- Hamlet Residential and Hamlet Mixed-Use Designs for the area's traditional hamlets.

The principles outlined in these guidelines were codified in the Clifton Park Zoning Code-Chapter 208 cited above. Overall, the Land Conservation Plan along with the Conservation Residential (CR) Zoning changed the character of development in Western Clifton Park by:

- Reducing development potential from 7500 residential units to 2500
- Requiring 1 home / 3 acres of base density as a general concept
- Providing for a new green space calculus requiring minimum of 25% of the developable land in a parcel be retained as open space
- Including new Amenity Zoning for the Purchase of Development Rights

These changes occurred as a result of a long and public process that has continued into 2019 including the creation of the Town Open Space, Riverfront and Trails Committee, the hiring of an Open Space Coordinator, a second public survey in 2007 with nearly identical priorities, the growth of a Greenbelt—that is a corridor of contiguous green space through the GEIS area, to the clarification for greater open space requirement for duplex housing just passed by the Town Board last year.

Specifically regarding duplexes, the Town Board clarified the intentions of the CR zoning with regard to two-family dwellings last year. That Resolution defined two-family dwelling units as two separate units for purposes of space and bulk standards. So those requirements for acreage and open space apply to this application.

Now, just a few months after the passage of those duplex requirements, the Planning Board faces this request for duplexes on two parcels in the CR zone—duplexes that should require 6 acres/parcel of buildable space under the new zoning code. But the first parcel has only 1 acre and the second only 3.57 acres. The CR zoning requires at least 25% open space, but the acreage the petitioner offers is not even adjacent to the building parcels but landlocked several parcels away—adjacent to a Saratoga PLAN parcel even further away, but not near any land owned by the town. To approve this SUP as is, works in such direct opposition to this recent enactment on the part of the Town Board and immediately thwarts that Board's intent.

As you consider this special-use-permit request, we ask you to respect the publically nurtured intent of the citizens of Clifton Park outlined over the years in policies, procedures, and advisory groups. Open space protections have been recognized, codified and clarified for Western Clifton Park based on this public sentiment. Furthermore, this current request flagrantly ignores the new standards which the Clifton Park Town Board clearly delineated just last December.

*Friends of Clifton Park Open Space, P.O. Box 821, Clifton Park, New York 12065*

This request is emblematic of the concerns many have about potential erosions of the underlying principles established for the protection of open space in Western Clifton Park. We respectfully request that the Board does not act against all that history and law by approving this special-use-permit.

Respectfully,  
Friends of Clifton Park Open Space  
[friends@cpopenspace.org](mailto:friends@cpopenspace.org)

**RECEIVED**

AUG 13 2019

**Town of Clifton Park  
Planning Department**

August 12, 2019

Matthew and Kristen Weber  
2 Legends Way  
Ballston Lake, NY 12019

Mr. Michael Dudick  
Chairman, Zoning Board  
Town of Clifton Park  
1 Town Hall Plaza  
Clifton Park, NY 12065

Mr. Rocco Ferraro  
Chairman, Planning Board  
Town of Clifton Park  
1 Town Hall Plaza  
Clifton Park, NY 12065

**RE: PLANNING BOARD AGENDA – AUGUST 13, 2019  
NEW BUSINESS: 2019-038, 2019-039  
SBL: 264.-3-66.11 – 2 LOT SUBDIVISION AND 2 LOT DUPLEX SUP**

Dear Mr. Dudick and Mr. Ferraro:

As a matter of introductions, my wife and I have lived in this Town for over 25 years. We spent the bulk of our youth here and chose to start our adult lives and family here in this Town with no prior intentions to leave. We currently reside at 2 Legends Way, directly adjacent to the site of a recent proposal for a multitude of zoning variances which would result in the construction of two duplex housing units explicitly and expressly intended as rental units. We purchased this home with the understanding that certain rules and regulations were in place to protect our community, environment, and investment.

Upon reading the Zoning Board of Appeals (ZBA) minutes from the 6/18/2019 meeting, we are deeply concerned with the proposal and conditional approval of 3 substantial variances for Mr. Ryan Boni along State Route 146A, due south of Legends Way, immediately adjacent to where we reside. Our property is less than 200' from the subject property, and we were not notified of this request or the resulting meeting. Our other deep concern centers around the comments made by Town Officials cited in the minutes that the proposed duplexes on the subject parcel would not create an undesirable change, a detriment to nearby properties, or any adverse effects on the environment. As the Town Residents that would be most impacted by the implementation of this proposal, we could not disagree more.

There are numerous facts surrounding this issue that create cause for concern and suggest some questionable actions may have already been undertaken to approve the variances with

conditional stipulations without due consideration of the Town's General Legislation, Chapter 208 Section 109.C.3 by the Zoning Board. The utmost consideration and use of quality judgement must be now provided by the Planning Board in its review of the Special Use Permit application(s) and Subdivision request(s) to ensure the planned use of these properties by the applicant is not granted. This would thereby nullify the conditional variances previously granted by the ZBA. These facts are summarized as follows with Chapter references cited from The Town of Clifton Park, Part II General Legislation, where applicable:

- 1) There was no notification provided to us or to any of our neighbors of these variance requests, which are less than 200' from our property. While this fact standing on its own merit could potentially be substantiated by the loose and partial interpretation of Chapter 208 Section 109.C.3.d.1 by focusing only on the descriptive use of the word "contiguous", the continuation of the very same clause it is found within includes "or adjacent to the property" which, when considered appropriately through a full interpretation and application of this code, requires our notification. Further, what remains to be seen is how Chapter 208 Section 109.C.3.b, sub-parts 1 and 4, were followed by the Town in the granting of these conditional variances without notification or discussion with us and other residents within close proximity.
- 2) There was nothing noted in the minutes from the ZBA meeting held 6/18/19 regarding the sound and vibration impacts this proposal would result in as caused by its proposed removal of the mature trees and foliage between our property and the Railroad facility. At minimum, Chapter 208 Section 109.C.3.b.4 was overlooked in the conditional granting of the variances with regard to environmental impacts through noise characteristics. This lends itself to requiring an Application for Special Variance for Noise under Chapter 149 Section 14 parts B, C, and D and Chapter 149 Section 19.B. These have been neglected thus far and should be considered moving forward. A proposal such as this should include testing and measurements for review prior to acceptance along with noise abatement and control measures for mitigation to impacted parties such as ourselves. Additionally, it is expected that this issue will be brought to the attention of the Planning Board for review under Chapter 208 Section 79.E.1.j through the Special Use Permit application process.
- 3) The combination of the three (3) variances requested is abundant on its own merit and each request could certainly be considered substantial by any reasonable interpretation of Chapter 208 Section 109.C.3.b.3. The first two variances offer an 83% reduction and a 40% reduction on the unconstrained land availability requirement for Lots 1 and 2, respectively. The third provides a 40% reduction on the width requirement at the building line. When nearly half or more of a requirement is waived, three times over for one individual at a single location, "abundant" and "substantial" are certainly appropriate adjectives to utilize to describe the situation by even the most modest definitions. The arguments provided by the Town regarding theoretical calculations that exclude wetland areas or include the parcel being donated as part of the transaction are not applicable or appropriate for consideration.
- 4) A multi-variance request of this magnitude coupled with the request for Special Use Permits from a developer with no ownership of the parcels and promises to donate

property upon a very specific and particular achieved outcome gives the appearance of potential impropriety.

- 5) Additionally, the contingent granting of this volume of generous variances by the Town's waiving of multiple zoning requirements, coupled with its circumvention of the amendment to Chapter 208 a mere eight months ago regarding two-family dwellings, warrants questions as to whether or not all appropriate measures were taken and procedures followed in the best interest of the existing residents.
- 6) The circumstances surrounding the extensive conditional variance approvals also include the fact that the applicant's mother works for the Town in the Zoning Department.
- 7) The benefits to the Town's Residents in the granting of these variances and potential endorsement of the construction are not clear or evident. No sound justifications were provided by the Town for its required consideration of the "five factors" as rules of area variance granting in Chapter 208 Section 109.C.3.b, or for its contemplation in weighing the "benefit to the applicant" against the "potential detriment to the health, safety and general welfare of the neighborhood or community". The "invaluable service to the Residents" required by Chapter 65 Section 1 is not apparent from our perspective in this matter. Additionally, and as mentioned previously, consideration should be given moving forward to the requirements in Chapter 149 which will also require this point to be addressed in the consideration of Section 19.
- 8) There are no apparent issues with tax collection for either of the subject parcels. This calls to question the motivation of the Town to allow these substantial variances at the impact to its current Residents, especially when the potential outcome includes a significant donation of land to the Town and presumed tax revenue increases with the installation of duplexes.
- 9) The proposal and conditionally granted variances lack regard for the findings and goals accepted by the Town in the Western Clifton Park Land Conservation Plan and Generic Environmental Impact Statement (GEIS). The Planning Board should apply the standards and guidelines contained in the GEIS during its review of the Special Use Permit application(s) and requested Subdivision(s) pertaining to this proposal in an effort to maintain the Town's overall consistency with, and commitment to, the GEIS.
- 10) The Town's long term intended use of the proposed donation of land in connection with this project is also unclear and could result in further adverse impacts to the environment and surrounding properties. Without additional information, this could be deemed an act of segmentation according to SEQRA, as defined in 6 CRR-NY 617.2(ah), and questions the Town's ability to make the determination at this time that the proposal is in fact a Type II action.
- 11) The variance requests were self-created given the fact that the applicant does not yet own the property. This eliminates the need for the Town's consideration of any perceived hardship. This further calls to question whether or not Chapter 208 Section 109.C.3.b.5 was properly followed in the granting of the variances.
- 12) The environment will be adversely impacted through the removal of mature trees and foliage which will lead way to greatly increased noise pollution from the nearby railroad. Additionally, it is not clear if any wetland delineation has been performed yet but there is likelihood for disturbance in that area both during and after construction. Should

wetlands be disturbed, it is unclear how any required mitigation will be achieved. Chapter 208 Section 109.C.3.b.4 appears to have been overlooked in the conditional approvals of the variances. Further consideration of Special Variance(s) for noise through Chapter 149 should be considered, along with inclusion of this issue in the required Special Use Permits pursuant to Chapter 208 Section 79.E.1.j.

- 13) The decrease of visual and physical barriers to the neighboring railroad with mile-long freight trains traveling upwards of 60 miles per hour, as well as increased exposure to the adjacent National Grid Power substation, provides increased opportunity for unsafe encounters by individuals with either or both facilities. This provides much opposition for any potential approvals of Special Use Permits under Chapter 208 Section 79.E.1.c.
- 14) Single family dwelling encroachment upon wetlands is a cited concern by the Town and implied justification for duplex construction instead. However, there are policies and plans in place by the Town to address encroachment issues of this nature. It is therefore not apparent what the actual concern is, why it is a concern, or why duplex units are an implied remedy for the stated concern.
- 15) As these properties are proposed directly across from the entrance to the Fairway Woods Development where no other housing currently exists, they would effectively become a part of the development both functionally and aesthetically. All homeowners in the subdivision have covenants and restrictions imposed upon their deeds to protect the neighboring homeowners and uphold a particular standard. Within its duties and rights under Chapter 208 Section 109.C.3.C, if the Town allows for the proposed construction on the subject sites then the Town should impose the same restrictions on these land parcels that we and our neighbors are bound by in an effort to "preserve and protect the character of the neighborhood". Similarly, equal or further actions are warranted by the Planning Board resulting from their review of the Special Use Permit Applications through their duties under Chapter 208 Section 79.D.6. While these covenants and restrictions should be attached to any deeds for non-vacant land on the subject parcel, it remains unlikely that these restrictions and protections would be upheld by renting patrons who are not likely to have a vested interest in the continuity of certain standards or the community in general. This again gives us pause for the intent and interpretation by the Town of the impacts this construction would have on its surrounding properties. We would expect the Planning Board to consider these facts against Chapter 208 Section 79.E.1 sub-parts e and f in their review(s) of the required Special Use Permits.
- 16) The landscape in this area is exclusively comprised of single-family homes with a mix of suburban and rural backdrops. There are no other rental units in this vicinity which calls to question the intent and lends itself to the opening of the proverbial door for the expansion of rental properties in this area. This would signal the beginning of the erosion of the general aesthetic and setting we neighboring residents chose and enjoy. It is difficult to comprehend how Chapter 208 Section 109.C.3.b sub-parts 1 and 4 were taken in to consideration by the Board as only a very surface level statement was given as justification in the ZBA minutes with no evidence of actual research being performed. Given these circumstances, it is not clear how Chapter 208 Section 79.E.1 sub-parts e and f could be upheld upon a review of the required Special Use Permit applications.

- 17) Traffic movements in the area could become more dangerous with the introduction of 1, 2 or more additional direct highway access driveways all immediately adjacent to the already relatively busy intersection of Legends Way and NYS Route 146A. The potential impacts of these access points along with the likelihood for increased through-traffic from construction projects currently underway further south on 146A have not been identified or discussed. This should be considered and analyzed thoroughly through the Town's review of the required Special Use Permit applications consistent with Chapter 208 Section 79.E.1 sub-parts c and g.
- 18) The proposer has stated that the land is not preferable for homeowners and that homes would not fit well in the given area. This calls to question why this would be suitable living quarters for duplex renters or for the construction of residential dwellings at all.
- 19) The applicant made note of numerous letters from Town Officials, the Sewer Department and Town Water Authority along with cited support from the Town Planning Director. Again, without consultation of the Residents, especially those immediately impacted by the proposal in such areas as visual, acoustical, financial and functional means including additional utility demands, these letters and statements of support seem unfounded and premature.
- 20) Construction activity immediately adjacent to our property provides great concern for the perceived "convenience" by those nonresidents seeking to utilize Legends Way, along with our and our neighbors' driveways, as construction staging areas, break areas and "turn-arounds". Our family along with our many neighbors and their families make great use of our shared and common thoroughfares for walks, bike riding and other recreational means within the confines of all applicable laws and ordinances. The commencement of this construction activity could easily introduce safety issues and eliminate our collective ability to utilize this resource. Additional consideration is expected of the Planning Board, specific to Chapter 208 Section 79.E.1 sub-parts c, g and k and Section 79.D.6, in the review of all required special use permit applications submitted.

The outline above clearly illustrates our strong disagreement with the prior statements by Town Officials that this proposal would not create an undesirable change or be a detriment to nearby properties which are cornerstone requirements for approval of area variances by the Town under Chapter 208 Section 109.C.3. This questions not only the appropriateness and completeness of the applicant's requests, but also the Town's application and interpretation of the area variance code requirements cited. This, coupled with the many safety and environmental related risks and concerns, along with numerous generous interpretations of the laws and codes, and some potentially questionable circumstances surrounding the proposal, provide the foundation for our opposition. Additionally, we have read and appreciate the letter submitted by the Friends of Clifton Park Open Space in opposition to these proposed actions. We echo the sentiments and concerns they have expressed surrounding this specific issue. In support of our statements, we are assembling a list of neighbors who share in our opposition to this proposal. This will be forwarded to Town Leadership separately once complete.

In fairness and to add clarity, we are not opposed to well-intentioned, meaningful and reasonable expansions of the Town's residential and commercial base. In continuity with that statement,

we could feasibly support or take no exception to a similar proposal if it were focused on maintaining the backdrop of the region within which we reside by consisting of single-family home(s) more appropriately placed so as not to require an abundant of substantial variances and so as not to impose such detriment to our property or to that of our neighbors. A plan that upholds the existing zoning regulations, contains the same covenants and restrictions that nearby residents have and uphold, and includes the appropriate noise abatement measures to offset the current buffer between existing residences and the Railroad facility, would be something far more palatable to consider. However, this project in its current form is clearly not something we can support or even provide a neutral disposition towards.

As long-term, multi-decade residents of this Town, with no prior plans to ever vacate this great community, we trust our Town Leadership will act in the best interest of us, our children, and our fellow residents and neighbors by denying the construction of these two duplexes on the subject parcel for the multitude of reasons outlined above as well as those in the letter on file from the Friends of Clifton Park Open Space. To have to move from this Town would not only be unfortunate and unsettling for our family, but would indicate the erosion of the foundation and cornerstone of this great community's well-thought out and measured expansion that benefits the masses while maintaining its purposeful integrity and tranquility which is what inspired us to plan our lives here at home in Clifton Park.

Respectfully and sincerely your neighbors,



Kristen Weber

Matthew and Kristen Weber

CC: Mr. Steven Myers, P.E., Director, Building and Zoning  
Mr. John Scavo, Jr., Director, Planning

To: Members of the Clifton Park Planning Board

From: Raymond Seymour – Friends of Clifton Park Open Space

Subject: Development Project 2019-037 and 038 – Subdivision and 2-lot duplex Special Use Permit

I want to thank the Planning Board for this opportunity to comment on this development proposal.

Many of us here tonight were also present at the June 18, 2019 meeting of the Zoning Board of Appeals (ZBA), which heard and approved a series of variance requests regarding this proposal. Full disclosure; we objected to the variances based on 4 reasons and the 5 criteria stipulated in statute. While the ZBA approved the variances, they are unusually conditional and confined to the current applicant, i.e. the variances do not run with the land. During that ZBA meeting some of us wondered about the typical development protocols employed by Clifton Park for more than 40 years. It is our (FRIENDS) understanding that the new development/construction process normally works as follows:

1. The applicant submits the project to the town's Planning Department for an initial review.
  - a. The Planning Department can/may share the proposal with the Buildings and Development Department.
  - b. The applicant and the relevant town departments may confer to better understand the project and provide guidance to the applicant.
  - c. The applicant can refine the project proposal in preparation for the required presentation to the Planning Board.
2. The Planning Department and the Planning Board then schedules the project for preliminary review, which starts the formal review process.
3. Based on the nature of the project, i.e. whether the proposal is a **project by right** or one that requires the issuance of a **Special Use Permit**. The Planning Board has consistently followed the steps below:
  - a. Consider the appropriateness of the project within the specific zone,
  - b. Approve the Special Use Permit, if the project requires it.
  - c. Initiate the specific project review based on the plans presented.
4. If there is a need for the applicant to secure relief from the normal requirements of the particular zone, the Planning Board informs the applicant to seek a variance from the ZBA.
5. After the ZBA has made its determination, the project reverts to the Planning Board to complete its review.

This project, for some reason, was presented to the ZBA before the Planning Board had an opportunity to see it, or consider the approval of the required Special Use Permit. Our question is: is our understanding just articulated erroneous? This project seems to be a reverse of the practice we have come to expect.

Just a few more questions:

- Something that was discussed at length during the ZBA meeting – the uniqueness of the development parcel. As noted, the land is bounded on the north by Route 146A, on south by the Norfolk Southern Railroad, and on the west by a National Grid substation. It is our understanding that the placement of electrical substations in residential areas requires additional threshold standards [**Section 209.79(2)**]. Could the placement of a four residences

in proximity to an existing power substation and an existing class 1 railroad also be required to meet those '**additional standards**'?

- During the June 18<sup>th</sup> meeting, the ZBA Chair asked if the applicant could place two single family homes on the subdivided parcels and was told that it would not work, because he couldn't sell them. However, two duplexes would work for renters. Some of us are wondering who would want to rent housing on such a unique parcel of land.

Once again, thank you for the opportunity to ask these questions.

TO: Planning Board Members

FROM: Friends of Clifton Park Open Space

James Rule

SUBJECT: S.U.P. FOR Boni Duplex Project

DATE: August 13, 2019

Good evening ladies and gentlemen, tonight the issues for the Board are derived from a June 18 meeting the ZBA and the minutes derived thereof. These minutes allude to some very important residual issues for the PB.

First and foremost, the approval of the duplexes is a prerogative of the PB not the ZBA. At the beginning of the ZBA meeting: "Mr. Myers reminded the ZBA that the issue of duplexes was not under the purview and that the issue would be decided as part of a special use application with the Planning Board."

Second, the applicant (Mr. Ryan Boni) has alluded to a very significant environmental and public health issue with the following statement. "Mr. Boni added that he felt it was not a desirable location for a single family home and that he felt it would be better suited as duplex rental units." This is a tacit admission that the railroad and road noise levels could be a serious environmental, noise problem for the site. As such, the statement assumes that renters will tolerate annoying noise levels better than owners of single-family units. But from a health and safety perspective, why should they?

The "remedy" is to increase the number of people annoyed by the surrounding noise levels by building duplexes. But this "remedy" is in fact, a self serving "market" assumption that ignores the environmental (noise), public safety (wandering children in rental units) and health (possible hearing damage especially for children) aspects of the site.

Consequently, the above mentioned contradictions and the odd shaped physical characteristic of the site demand a comprehensive noise and public safety study for any type of residential development.

According, to established literature ( see attached "Noise Fact Sheet") Trains in close proximity are particularly noisy and potentially damaging. Noise levels of over around 80 DB's can be expected within 200 ft. of the track. According to the World Health Organization prolonged exposure to 80 DB's or above can cause a variety of conditions and problems such as hormonal imbalances, pain, fatigue and poor performance at school or work. Also according to the CP Town Code, noise levels of over 50 DB's are generally not permitted. (see Sections 149-5,6,7,8)

Based on the SUP Town Code, the Planning board has sufficient powers to require a comprehensive noise, public safety and health study for this SUP application. (see Section 208-79) As stated by Mr. Boni "...in an area (20.9 acres) that he stated was unlike any other in the CR zone in Town, as it is surrounded by commercial properties and train tracks..." It is incumbent upon the Planning Board to make sure that the "uniqueness" of this parcel is not a detriment to potential buyers or their progeny. Public safety requirements must preempt any market appeal considerations.

## Noise Fact Sheet

### How is Noise Defined?

**Level:** Sound level is expressed in decibels (dB). Typical sounds fall between 0 and 120 dB. A 3dB change in sound level represents a barely noticeable change outdoors; a 10 dB change is perceived as a doubling (or halving) of the sound level.

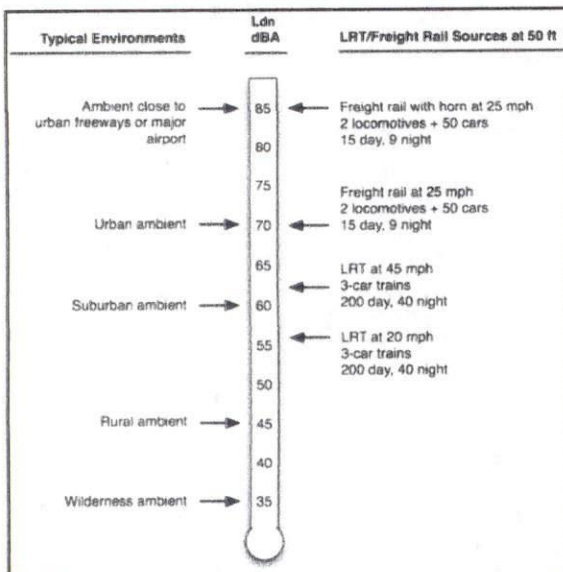
**Frequency:** The tone or pitch of a sound is expressed in Hertz (Hz). Human ears can detect a wide range of frequencies from about 20 Hz to 20,000 Hz. However, human hearing is not effective at high and low frequencies; we use a measure called an A-weighted level (dBA) to correlate with human response.

**Time Pattern:** Because environmental noise changes all the time, it is common to condense all of this information into a single number, called the "equivalent" sound level. It represents the changing sound level over a period of time.

For light rail transit (LRT) and freight rail projects, the Day-Night Sound Level (Ldn) is the common noise descriptor adopted by most agencies as the best way to describe how people respond to noise in their environment.

The Ldn is a **24-hour cumulative noise level** that includes all noises that happen within a day, with a penalty for nighttime noise (10 PM to 7 AM). This nighttime penalty means that any noise events at night are equal to ten events during the daytime.

### Cumulative Noise Levels from LRT and Freight Rail



### How Loud are LRT and Freight Rail?

Noise levels (in Ldn) from LRT and freight rail depend on the type of vehicle, how loud each individual vehicle could be (see table below), the number of trains per day, and train length and speed. In addition, noise levels decrease with increasing distance from the tracks.

#### Typical Maximum Noise Levels (dBA)

Distance	LRT @ 45 mph	Freight Rail @ 20 mph	Other Sources
50 feet	76	88	Lawnmower: 72
100 feet	71	83	Bus Idling: 66
200 feet	66	78	Diesel Generator: 67

### Light Rail Transit (LRT) Vehicle



### How is Noise Impact Assessed?

Noise impact from LRT and freight rail projects are assessed by comparing the existing (ambient) noise with the noise predicted to be generated by the project.

The Federal Transit Administration's (FTA) noise criteria take into account the noise sensitivity of the receiver by land use category, including:

**Category 1:** Highly noise sensitive, such as recording studios

**Category 2:** Residences and other places where people sleep

**Category 3:** Schools, churches and other places with daytime use

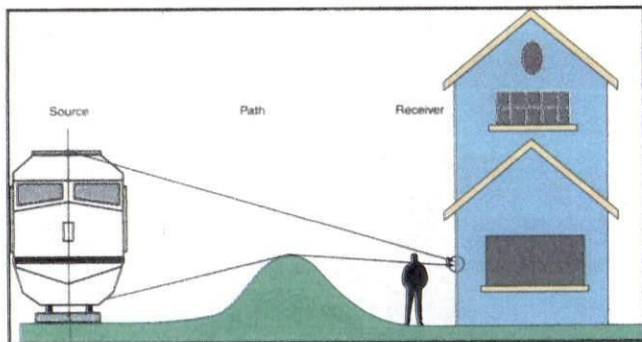
A noise assessment is broken down into three pieces:

**Source:** What is generating the noise (such as an LRT vehicle or freight train)?

**Path:** How far and over what type of ground does the noise travel?

**Receiver:** Who or what is experiencing the noise, such as a residence or a school?

#### The Source – Path – Receiver Concept



Noise impact assessments are based on applicable FTA and Federal Railroad Administration (FRA) models, and are assessed using the source-path-receiver framework. Some of the key components of a noise impact assessment include:

#### Source

Noise levels of transit and freight trains

Number, length, and speed of LRT and freight trains

- Time of day of train passing by
- Grade crossings, including horns and bells
- Track type, including elevated tracks, a tunnel, or at-grade track
- Special trackwork including crossovers

#### Path

- Distance to noise sensitive locations
- Rows of buildings
- Ground type

#### Receiver

- Type of land use (Category 1, Category 2 or Category 3)
- Sensitivity of the land use, including highly sensitive locations such as recording studios, residences or parks

Noise impact assessments also address the potential for impacts from maintenance facilities and stations.

#### Typical Output of a Noise Impact Assessment



The output of a noise impact assessment includes locations with Severe Impact (yellow) and Moderate Impact (orange). This information is used to determine the location and extent of any potential noise mitigation.

#### How is Noise Mitigated?

Noise mitigation is applied at locations where impact is identified. Severe impacts generally require noise mitigation. At the moderate impact level, noise mitigation is also addressed. Mitigation can be applied at the source of the noise, along the path, or at the receiver. Examples of typical LRT and freight rail noise mitigation include:

#### Typical Mitigation Measures

Mitigation measures can be applied to the source, the path and/or the receiver:

**Source:** Wheel damping, rail grinding, wheel truing, wheel skirts, quiet zones

**Path:** Noise barriers, berms, buffer zones

**Receiver:** Sound insulation

Comments to the CP Planning Board on Bonni Project 8-13-2019

The ZBA approved this project on the condition that the applicant obtains the approval of the Planning Board. Tonight, I ask the Board to carefully reflect on the proper dwelling unit density for this project and weigh the question of whether one or two duplexes should be approved given the zoning rules for duplexes in Western Clifton Park. Please consider the following issues:

1) A letter from John Scavo was key to the ZBA's approval of this project and the ZBA Chairman cited that "the support from other agencies was positive" in his remarks approving of the project. It is important to note that comments from the ECC were quite negative about the proposal, so the Chairman could only have meant the Planning Department's letter. Mr. Scavo's letter argues that the site which is near wetlands and a railroad track is better suited to the residents of duplexes rather than single family homes because in his experience duplex renters would be more tolerant of railroad noise and less inclined to invade the wetland boundaries. I am not disputing this contention. What I want to point out to you is that this is only an argument for a duplex over a single family and Mr. Scavo's letter makes no argument justifying two duplexes over one duplex. In fact, I hope you will consider absurd that argument would be – because we are concerned with wetland intrusion and exposure to noise we will double the number of people exposed to these site conditions. On the wetland issue alone, if we are concerned about the intrusions of a single family surely four duplex families would have a greater impact. Mr. Scavo's letter makes a case for a duplex over a single family residence which required the variance the ZBA granted. I have yet to see or hear any argument justifying two duplexes over one. I urge you, after consultation with Mr. Scavo, to continue this project with a single duplex.

2) A second issue with this project is the density of dwelling units. In effect, two duplexes on this parcel so exceeds the allowable CR Zoning that it amounts to Incentive Zoning which, according to Town Code 208-43.13, can only be granted by the Town Board and, for duplexes, only in the HM district. Before proceeding with this project, I hope you will ask your attorney to determine if this increase in dwelling unit density meets Town Codes?