



# PLANNING BOARD

## MINUTES (FINAL)

THURSDAY, JULY 19, 2018

6:00 P.M.

CITY COUNCIL ROOM

**CALL TO ORDER:** Mark Torpey, Chairman called the meeting to order at 6:00 P.M.

**SALUTE TO THE FLAG:**

**PRESENT:** Mark Torpey, Chairman, Janet Casey; Clifford Van Wagner; Jamin Totino, Vice Chairman;  
Todd Fabozzi

**LATE ARRIVAL:** Amy Ryan, Alternate arrived at 6:07 P.M.

**ABSENT:** Bob Bristol, Ruth Horton

**STAFF:** Kate Maynard, Principal Planner, City of Saratoga Springs  
Vincent DeLeonardis, City Attorney, City of Saratoga Springs  
Tim Wales, City Engineer, City of Saratoga Springs

**ANNOUNCEMENT OF RECORDING OF PROCEEDING:**

The proceedings of this meeting are being recorded for the benefit of the secretary. Because the minutes are not a verbatim record of the proceedings, the minutes are not a word-for-word transcript of the recording.

**ANNOUNCEMENT OF ADJOURNED PROJECTS:**

**ADJOURNED PENDING ADDITIONAL INFORMATION:**

**16.025 MENDENHALL SUBDIVISION**, 101 Old Schuylerville Road, 4-lot preliminary conservation subdivision within the Rural Residential (RR) District.

**17.061 STATION LANE APARTMENTS (ASKEW)**, Station Lane, Special Use Permit for 36 multi-family Residential units within the T-5 District.

**17.063 WASHINGTON STREET HOTEL & SPA**, 19-23 Washington Street, SEQRA consideration of Lead Agency Status and coordinated review for construction of 62,567 square foot Hotel & Spa within the T-6 Urban Core District.

**17.074 EXCELSIOR PARK (2017)**, Excelsior Avenue and Ormandy Lane, Special Use Permit for mixed use development including 163 residential units, 36,200 square feet of commercial space and a 60 room hotel with restaurant within the T-4 & T-5 Districts.

**18.036 385 BROADWAY MIXED USE BUILDING**, 385 Broadway, Site plan review for commercial uses and multi-family Residences in a proposed building in the Transect-6 Urban Core District.

**COMMENTS FROM THE CHAIR:**

**ADMINISTRATIVE ACTIONS:**

**17.039.1 SKIDMORE BOAT HOUSE LOT LINE ADJUSTMENT** - Conveyance of County ROW to Skidmore Property.  
**APPROVED BY CHAIR.**

**UPCOMING PLANNING BOARD MEETINGS/AGENDA WORKSHOPS:**

Planning Board Caravan, Tuesday, September 4, 2018 at 4:00 P.M.  
Planning Board Workshop, Tuesday, September 4, 2018 at 5:00 P.M.  
Planning Board Meeting, Thursday, September 6, 2018 at 6:00 P.M.

**PRIVILEGE OF THE FLOOR:**

None heard.

**A. POSSIBLE CONSENT AGENDA ITEMS:**

**NOTE:** The intent of a consent agenda is to identify any application that appear to be “approvable” without need for Further evaluation of discussion. If anyone wished to further discuss any proposed consent agenda item, Then that item would be pulled from the “consent agenda” and dealt with individually.

**15.020.2 BETHESDA PARISH HOUSE,** 26 Washington Street, Site Plan Extension within a Transect-6 (T-6) District.

**BACKGROUND:**

Planning Board issued site plan approval in September 9, 2015. First of 2 possible 18 month extensions granted by The Board until September 9, 2018.

Applicant: Bethesda Church

Clifford Van Wagner made a motion for an 18 month extension until March 9, 2020.

Jamin Totino, Vice Chairman seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

**VOTE:**

Janet Casey, in favor; Clifford Van Wagner, in favor; Jamin Totino, Vice Chairman, in favor; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

**MOTION PASSES: 5-0**

**SARATOGA SPRINGS PLANNING BOARD CONSERVATION AREA AND NO CUT BUFFER POLICY.**

Jamin Totino, Vice Chairman, made a motion to adopt the Saratoga Springs Planning Board Conservation Area No Cut Buffer Policy.

Janet Casey seconded the motion.

**VOTE:**

Janet Casey, in favor; Clifford Van Wagner, in favor; Jamin Totino, Vice Chairman, in favor; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

**MOTION PASSES: 5-0**

## **SARATOGA SPRINGS PEDESTRIAN TOOLKIT.**

Janet Casey made a motion to the Saratoga Springs Pedestrian Toolkit policy.

Clifford Van Wagner seconded the motion.

### **NOTE:**

Planning Board Alternate Amy Ryan joined the Planning Board Meeting at 6:07 P.M.

### **VOTE:**

Janet Casey, in favor; Clifford Van Wagner, in favor; Jamin Totino, Vice Chairman, in favor; Amy Ryan, abstained; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

### **MOTION PASSES: 5-0-1**

#### **B. APPLICATIONS UNDER CONSIDERATION:**

1. **09.057 SARATOGA SPRINGS JOCKEY CLUB**, 66 White Farms Road, Permanent Special Use Permit review of a Neighborhood Bed and Breakfast Use within a Rural Residential (RR) District.
2. **18.035 SARATOGA SPRINGS JOCKEY CLUB**, 66 White Farms Road, Site Plan Review for a Neighborhood Bed and Breakfast within a Rural Residential (RR) District.

### **SEQRA:**

Action appears to be a Type I "An Unlisted Action occurring substantially contiguous to any publicly owned or operated Parkland, recreation area or designated open space." Coordinated review is required. The DRC is the other involved agency. At the January 27, 2010 meeting the Planning Board initiated coordinated review with the DRC. The DRC deferred Lead Agency to the Planning Board on February 17, 2010. A long EAF has been submitted by the applicant.

### **BACKGROUND:**

Application for Neighborhood Bed and Breakfast submitted, last reviewed back on March 10, 2010. Applicant tabled application and then also submitted Corridor Bed and Breakfast application last placed on the Planning Board agenda November 22, 2011 before applicant requested to also table that application. Zoning Ordinance does not have automatic expiration of applications; technically current proposal is continuing application from 7 years ago.

Kate Maynard, Principal Planner, City of Saratoga Springs stated the Board has received additional correspondence from the applicant which has been posted. The public hearing should be opened this evening as well as closed this evening. Review of Part 1 and Part 2 of the EAF, with a SEQRA determination. Potential action on the application.

Jamin Totino, Vice Chairman stated he will be abstaining from this application. Due to the correspondence the Board received Monday which I found difficult to read. I was on the Board in 2008, and I was accused myself as well as that Board of being corrupt. I don't believe a vote for this application would not be perceived in a positive way, nor do I think that a vote against this project would be perceived in a positive way. I will abstain from this application.

Mark Torpey, Chairman asked if there were any further comments. None heard.

Mark Torpey, Chairman stated we have seen this project before and the layout of the proposed site. We have a lot of information shared and received drawings of this particular project. We have all the information on the project to make a decision.

## **PUBLIC HEARING:**

Mark Torpey, Chairman opened the public hearing at 6:12 P.M.

Mark Torpey, Chairman asked if anyone in the audience wished to comment on this application. None heard.

Mark Torpey, Chairman closed the public hearing at 6:13 P.M.

Mark Torpey, Chairman spoke about the Saratoga Springs Jockey Club, 66 White Farms Road concerning the request for a Permanent Special Use Permit for a Neighborhood Bed and Breakfast. Mark Torpey, Chairman reviewed the conditions of the Special Use Permit which the Board previously discussed.

- That the use of the property shall be in accordance within the strict interpretation of a neighborhood Bed and Breakfast,
- A supplementary use of a single or two family residential structure having a resident host in which 1-5 rooms are offered for rent, and one or more meals are furnished to guests.
- Regularly scheduled commercial indoor or outdoor activities such as weddings, receptions, showers, business meetings, catered events and the like are not permitted.
- Additional restrictions shall include no amplified music shall take place on the site.
- Food and drinks shall not be sold to anyone other than guests staying at the property.
- Commercial uses outside the confines of a permitted home occupation shall not take place on the site. Any occupation proposed use shall comply with the City requirements in which include issuance building permit or certification of occupancy issued by the building department.
- A maximum of five rooms may be offered for rent.
- The property may not be used for the purpose of parking cars for any use not related to the operation of the Neighborhood Bed and Breakfast.
- Tractor trailers currently stored on the property shall be removed prior to signature of the final plans by the Chair. No further storage of the tractor trailers or the like shall be permitted on the site.
- Completion of all municipal permits and approvals required for the new and upgraded septic system shall take place prior to the permitted use of the property as a Neighborhood Bed and Breakfast.
- Prior to the property being used as a Neighborhood Bed and Breakfast, that the appropriate City Official inspect the premises to document that all fire, health and building code requirements are met.
- The site shall be used in general conformance with the attached sketch plan which has been provided.
- Special Use Permit for a Neighborhood Bed and Breakfast shall expire in two years, on July 19, 2020. But upon application by the applicant it may be renewed by the Planning Board.

Mark Torpey, Chairman stated this Board does not deal with enforcement nor has the jurisdiction to interpret what the definitions are or if they are met by a given use. This is the determination of the zoning officer. We review each project individually and we have limitations on what we can do.

## **SEQRA:**

Mark Torpey, Chairman stated we will now review the SEQRA Part II of the Long Form. A long EAF Part I was submitted by the applicant. No large or important areas or concern were noted.

## **SEQR DECISION:**

Janet Casey made a motion for a SEQRA Negative Declaration.

Amy Ryan seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion.

**VOTE:**

Janet Casey, in favor; Clifford Van Wagner, opposed; Jamin Totino, Vice Chairman, abstained; Amy Ryan, abstained; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

**MOTION DENIED:** 3-0-2

Discussion ensued among the Board regarding the denial of the SEQRA Negative Declaration.

Vince DeLeonardis, City Attorney stated there is a quorum on the Board just not enough votes to pass the motion.

Mark Torpey, Chairman stated we did not in the previous motion read into the record the official SEQRA determination language.

Janet Casey, stated that based upon the information provided by the applicant in Part I of the SEQR Full Environmental Assessment Form, and analysis of the information provided and presented in Part II of the SEQR Full Environmental Assessment Form, the project will not result in any large and important impacts and, therefore, is one that will not have a significant adverse impact on the environment. Based on this, I move to make a SEQR negative declaration for this action.

Amy Ryan seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

**VOTE:**

Janet Casey, in favor; Clifford Van Wagner, opposed; Jamin Totino, Vice Chairman, abstained; Amy Ryan, in favor; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

**MOTION DENIED:** 4-1-1

Mark Torpey, Chairman stated the next review on this application is the Special Use Permit. I have reviewed the conditions for the Special Use Permit previously. Does the Board have any further concerns or issues or changes which might be suggested relative to the conditions of the Special Use Permit.

Janet Casey questioned if the Board grants the two year renewable Special Use Permit, what would the time constraints be upon their return before the Board for the renewal.

Mark Torpey, Chairman stated the renewal terms will be at the discretion of the Planning Board.

Janet Casey made a motion in the matter of the Saratoga Springs Jockey Club, 66 White Farms Road, Special Use Permit that we approve the application with the conditions as noted by the Chair.

Amy Ryan seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

**VOTE:**

Janet Casey, in favor; (Clifford Van Wagner stated these comments are directed at the Planning Board Staff, my fellow Planning Board Members and the City Attorney. On this past Monday, I received a 6 page letter from this applicant

questioning my integrity, degrading my character and threatening me. In my 24 ½ years of volunteerism on the Saratoga Springs Zoning and Planning Boards as well as numerous other boards, this is a first. My responsibility on this board is to assess every project on its merits, not the applicant. Despite this letter I continue to remain a neutral party with regards to this application. Regarding my vote, I refer to Section VI-240-6.4 of the Zoning Code “Standards for Special Use Permits”. I find this application does not comply with the Standard #1 specifically, I don’t believe that the proposed use is in harmony with and promotes the general purposes of and intent of the Comprehensive Plan and this ordinance and Standard #2 that this use is not compatible with the neighborhood and will have a negative impact.) Therefore I vote negatively; Jamin Totino, Vice Chairman, abstained; Amy Ryan, Alternate, abstained; Todd Fabozzi, stated he will abstain; concerning the recent correspondence directed to the Board by the applicant. I find the remarks offensive. Mark Torpey, Chairman, in favor spoke regarding the project and the Boards responsibilities.

**MOTION DENIED: 2-3-1**

Vince DeLeonardis, City Attorney spoke regarding the application and the options afforded to the Board. The Board does not have all the Board members present this evening. The application could be tabled until September awaiting a full Board representation.

Amy Ryan, Alternate stated she wishes to abstain at this moment. She does appreciate the idea of having an opportunity to revisit this.

Vince DeLeonardis, City Attorney spoke regarding closing of the public hearing today, the Board does have the allowable time 62 days. Tabling it would not be inappropriate.

Mark Torpey, Chairman stated it was the consensus of the Board to table this application awaiting a full Board representation.

Janet Casey withdrew her motion.

Mark Torpey, Chairman stated the motion has been withdrawn and tabled to a future meeting.

3. **17.079 ERICSON SUBDIVISION**, 517 Grand Avenue, proposed final 2 lot residential subdivision in a suburban Residential -2 District.

**BACKGROUND:**

Two lot subdivision proposed in the SR-2 District. SR-2 District offers potential of clustered subdivision; this is not currently proposed by the applicant. Public water is available at the proposed lot 2 site, sanitary is not. Septic system is proposed.

**SEQRA:**

Action appears to be an unlisted action with the Planning Board as only involved agency.

Mark Torpey, Chairman stated a waiver proposed for sidewalks and streetscape details for Slade Road was a major issue of discussion for the Board.

Kate Maynard, Principal Planner, City of Saratoga Springs stated as noted this has been awaiting additional information since the Board last reviewed this application. We have explored an in lieu of situation. DPW is one situation and is not currently able to commit nor interested in the idea of in lieu funding that later DPW could complete the construction of sidewalks. Potentially at some point in the future this could be an option. Currently it is not within DPW’s capability. We have spoken with Tim Wales, City Engineer concerning the in lieu of amount. The total was \$7,400.

Tim Wales, City Engineer stated \$7,400 is an appropriate amount.

Mark Torpey, Chairman stated what was previously discussed was having the in lieu of amount and being able to apply it to another location within the City that needs to be stitched together to provide continuity of the sidewalk within the inner area. As a Board we need to develop a standard policy.

Applicant: Patrick Donworth

Agent: Kristen Darrah

Ms. Darrah stated that was the big question the applicant had leaving the last meeting before the Board. However, if the Board is comfortable with that resolution and amount then my client is also comfortable with it.

Mark Torpey, Chairman stated DPW will not do the work. So, this will be contracted out to a private contractor. So, how is that handled regarding the payment.

Tim Wales, City Engineer, City of Saratoga Springs stated if an applicant or private party does something in the City they can just hire a private contractor. If the City were to contract out for a private party to do sidewalks, we have to pay the prevailing wage rates.

Mark Torpey, Chairman questioned how the funds are collected.

Tim Wales, City Engineer, City of Saratoga Springs stated the City Finance Department is well versed in the collection of funds and proper appropriation.

Jamin Totino, Vice Chairman stated he would like to add that along with building an in lieu sidewalk he would like to add the possibilities of sidewalks repair in some areas of the City.

Discussion ensued regarding funding, collection of funds and the location of the proposed sidewalks as well as who will complete the work.

Mark Torpey, Chairman stated the applicant will work out details of the in lieu of sidewalks portion of the application with the City Engineer.

### **PUBLIC HEARING:**

Mark Torpey, Chairman stated the public hearing was opened and remains open.

Mark Torpey, Chairman asked if anyone in the audience wished to comment on this application. None heard.

Mark Torpey, Chairman closed the public hearing at 6:52 P.M.

### **SEQRA:**

The Board reviewed the SEQRA short EAF. No large or important areas of concern were noted.

### **SEQR DECISION:**

Jamin Totino, Vice Chairman stated that based upon the information provided by the applicant in Part I of the SEQR Short Environmental Assessment Form, and analysis of the information provided and presented in Part II of the SEQR Short Environmental Assessment Form, I make a motion for a Negative SEQRA declaration since the project will not result in any large and important impacts and, therefore, is one that will not have a significant adverse impact on the environment.

Clifford Van Wagner seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

**VOTE:**

Janet Casey, in favor; Clifford Van Wagner, in favor; Jamin Totino, Vice Chairman, in favor; Amy Ryan, in favor; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

**MOTION PASSES: 6-0**

Mark Torpey, Chairman stated we will now move onto the final two lot residential subdivision. We spoke about the waiver request which we are granting with a fee in lieu of \$7,400, and with the details, and where that installation will occur to be worked out in good faith with the applicant and Tim Wales, City Engineer. The option exists that repair work could be completed in lieu of new sidewalk installation. Correspondence from Shirley Tracy a neighbor about the possibility of a fence being installed at the adjacent property to provide some privacy. The other item was to show more appropriately on the drawings the no cut buffer on both Lots#1 and #2. A no cut buffer area should be delineated on the plans as well for lots #1 and #2 as no cut areas.

Kate Maynard, Principal Planner, City of Saratoga Springs stated this plan is showing a clearing limit. That is different than a no cut buffer.

Ms. Darrah stated the no cut buffer will be placed on the plans and submitted to staff.

Mark Torpey, Chairman stated he would like to see the no cut buffer on the plans for both Lot #1 and Lot #2. I am looking for the no cut buffer in the 30 foot rear setbacks and 12 feet on each side. This can be approved via Administrative Approval.

Clifford Van Wagner made a motion in the matter of the Ericson Subdivision, 517 Grand Avenue for a final two-lot residential subdivision with the conditions as noted by the Chair.

Janet Casey seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

**VOTE:**

Janet Casey, in favor; Clifford Van Wagner, in favor; Jamin Totino, Vice Chairman, in favor; Amy Ryan, in favor; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

**MOTION PASSES: 6-0**

4. **18.006 PEPPERS CORNER**, 173 Lake Avenue Special Use Permit for a convenience sales use in an Urban Residential -3 (UR-3) District.

**BACKGROUND:**

The site is currently the host to Moby Rick's, pre-existing non-conforming use status as per attached correspondence from Steve Shaw.

**SEQRA:**

Action appears to be a Type II action (less than 4,000 square feet of gross floor area), no further environmental review is required.



Applicant: Tom West

Agent: Jeff Anthony, Studio A

Mr. West stated they have tried to make some additional concessions. We decided to replace it in kind. The new site plan is fully compliant with all the zoning requirements, i.e., setbacks, etc., In addition we tried to propose something that is consistent with what is in there and also would fit in with the character of Saratoga. A visual of the new proposed project was provided to the Board as well as the floor plan. This will be operated as convenience sales. Outside seating is limited to 20 and will be a hard stop for outdoor seating at 9:00 P.M. The chairs will be either taken in or stacked and locked.

Mr. West reviewed the Evaluation Criteria for Special Use Permits, noting it is in harmony with and promotes the general purposes and intent of the Comprehensive Plan and this Chapter. We revised our plan to replacement in kind. It is a mixed use area. We have taken a non compliant situation and created enough off street parking to meet the code requirements. We have spoken about the delivery issue. Public safety has supported making the 15 minute parking zone into a delivery zone. Delivery trucks will be a box truck not a tractor trailer. This is a good solution to keep deliveries off of Warren Street. No increase demand on infrastructure or utilities. We are continuing the use which has been there. We will have a reduction in impermeable surfaces. Rain gardens are proposed for the site.

Discussion ensued regarding deliveries to the store and the parking setbacks to the neighbor's property as well as buffering to the neighbors property.

Mr. West spoke regarding the long term economic viability of the site. The applicant's tenant is willing to sign a long term lease and has a reputation and client base in the community currently. Mr. West spoke about the capital investment and hoping the Board will approve the Special Use Permit.

Mark Torpey, Chairman stated no outdoor music or entertainment is a condition as well. Single tenant occupancy only.

Mark Torpey, Chairman asked if there were any further questions or comments from the Board.

Clifford Van Wagner spoke regarding the definition of "Convenience Sales – A small retail establishment providing a limited line of groceries and household items, and catering primarily to nearby residential areas. The use may have up to twenty seats for customers consuming food sold or prepared on-premise." My question to staff was how does pizza delivery fit into this. Vince DeLeonardis, City Attorney's suggestion is perhaps the Zoning Officer could rule on this because I don't know that we can. I don't know if this is within that definition which is in our zoning code.

Vince DeLeonardis, City Attorney, City of Saratoga Springs stated to the extent that you don't feel comfortable rendering a determination. That is within the purview of the Zoning Enforcement Officer to interpret the Zoning Ordinance which is what you are looking to do. The definition of convenience sales does not call out in any way delivery of any service. It does point out the primary purpose is to provide household items catering primarily to nearby residential areas.

Mark Torpey, Chairman questioned if the Board has received any feedback at this point in terms of the Zoning Officer interpretation if whether this particular project satisfies, I had assumed that we had already had that in terms of the record.

Kate Maynard, Principal Planner, City of Saratoga Springs stated we did and we have Steve Shaw's original determination which we discussed at length at the last meeting. We looked at what was proposed with the project in general and then provided that it was consistent with the definition. It was definitely 9 Miles East which was known. We also discussed communication from the interim Zoning Enforcement Officer in terms of the use being compatible with convenient sales. We also discussed one other portion of it which is the general sense that it is compatible. If the Board is looking to further restrict, number of seating is an issue the Board could consider to restrict. It is also a potential to

look at that as an aspect of that use and potentially any conditions the Board would like to apply to that. If you feel you need more direction on this portion that is an option for the Board. The second is to review the definition with the purview as Planning Board and Special Use Permit criteria and any potential impacts you are perceiving conditions you would like to make based on that and how it provides clarity and how it applies to that site.

Mark Torpey, Chairman stated this is a fairly detailed project. We are speaking about a lot of potential conditions. We are trying to orchestrate this in a way that is optimal for all parties. In trying to formulate language for this it seems there is a lot going on and language which needs to be parched out. I would suggest that we wouldn't be in a position to formally vote on all those conditions until the next meeting so we can lay everything out articulate the language in the public record. At this point, I would like to question the Zoning Officer and question his whether this particular project would comport with the definition.

Clifford Van Wagner stated he grew up in this area, and never remembered anyone ever delivering. I think it is incumbent upon the Board to make the right decision, so it is a good project for the applicant as well as the neighbors. In light of that I would be interested in seeing if the hours of operation could be shortened by an hour to 8:00 P.M. Again, since this is inside a residential district 8:00 P.M. seems appropriate.

Mr. West stated regarding the home delivery aspect, we did look at all the zoning districts in the code. Not one of them mentions delivery. Many businesses use delivery and this has become a part of our society. This is a way to reduce traffic by combining deliveries in one vehicle. We will take the reduction of hours under consideration.

Jamin Totino, Vice Chairman stated the if the business grows and what could happen the bulk of the business could be delivery and could greatly affect the neighborhood. I am worried about the neighborhood and the reality of the business down the road.

Todd Fabozzi also is in agreement with reducing the hour of closing time.

Mark Torpey, Chairman stated the Board will review and walk through the conditions for Special Use Permit conditions at the next meeting in September.

Janet Casey stated she is concerned about the delivery aspect and if it fits the criteria of Convenience Sales. I am trying to balance this with the concerns of the neighbors. Happy to see the bicycle deliveries. I also agree with Jamin concerning the delivery service which may become a more prominent part of the business. Pizza reference could be confusing this a bit.

Amy Ryan, Alternate questioned are we to consider this with every new establishment from the get go. We will expect to future forecast on all applications which come before the Board.

Jamin Totino, Vice Chairman spoke regarding businesses in neighborhood districts, and Special Use Permits.

It was the consensus of the Board to defer this application to the September 6, 2018 meeting awaiting interpretation from the Zoning Enforcement Officer.

7:55 P.M. The Board recessed.

8:07 P.M. The Board reconvened.

5. **18.038 LIBERTY AFFORDABLE HOUSING**, Crescent Avenue and Jefferson Street, Advisory Opinion to City Council for a proposed Comprehensive Plan Amendment, Zoning Map Amendment from a RR District to an INST-HTR District, and Zoning Text Amendment in the INST-HTR.

Mark Torpey, Chairman stated what is before the Board is An Advisory Opinion to the City Council for a proposed Comprehensive Plan Amendment, Zoning Map Amendment as well as text amendment.

## **BACKGROUND:**

The property is currently zoned Rural Residential, and is located adjacent to Saratoga Spa State park and Racino. Applicant is requesting a Zoning Map and Text Amendment, and a Comprehensive Plan and Text and Map Amendment to accommodate the construction of two 96-unit building and related amenities or "Residential Recreational Facilities". Units are being proposed as "workforce housing".

Mark Torpey, Chairman stated the Board has seen this project previously and has provided some comments to the applicant. Previously the Board was looking at having a more definitive linkage or commitment with respect to this request and the particular project which is providing workforce housing.

Kate Maynard, Principal Planner, City of Saratoga Springs stated correspondence was received from Matthew J. Jones dated July 11, 2018.

Applicant: Liberty Affordable Housing, Inc.

Agent: Bruce Steves, Jones Steves Attorneys; Arthur Loomis; Tara Miller; Dan Hershberg, Project Engineer;  
Mark Brusio

Mr. Steves stated what was posed at the workshop was the Boards desire in providing a favorable opinion is to linking this project to workforce housing to ensure that market rate apartments do not end up at this location. John Vagianelles is Corporate Finance Counsel to Liberty and will discuss why this is not feasible.

John Vagianellis, Vagianellis & Mazzotta stated he has been involved with affordable housing for the last 23 years. Liberty Affordable Housing is non for profit 501C3 tax exempt charitable organization whose sole mission is to provide safe and decent affordable housing across New York State with a great track record. The Harness Track Board of Directors reached out to Liberty and asked if they would be interested in developing this site. The Harness track is very aware that many of the Racino workers cannot find affordable housing within Saratoga and the majority of them live outside of the city. The projects that Liberty develops are time intensive, dollar intensive and Liberty needs to demonstrate to its financing sources primarily which is the State of New York that they have site control via a contract – which Liberty does with the Harness Track. Also, the zoning at local level accommodates what is proposed and that the City supports the project by way of a pilot agreement and that would be under Section 577 of the Private Housing Finance Law. This is not simply a zoning change. This project is for affordable housing and that is Liberty's business. The City in addition to the Comprehensive Plan Amendment, Zoning Map Amendment, and Zoning Text Amendment the city will need to approve and be a part of the pilot agreement approval process project. Without that pilot the project is not viable. New York State Regulatory Agreement will also be in place which will require that the units of the project remain affordable for a minimum of 30 years and that can be extended up to 50 years.

Mark Torpey, Chairman questioned how to ensure it remains affordable housing and if there is a way to connect the Board the notion of affordable component of the project in partnership with the zoning change. A mortgage lender will not finance the project with that condition in place, because if they were to foreclose, they may not necessarily wish to keep the affordable component. I would like to get a second opinion if there were other banks, local banks with a public benefit charter that would be willing to work and lend without having to revert back to market rate as a condition of the loan. This is a missing piece of information I would like to obtain.

Todd Fabozzi spoke regarding the criteria for affordable housing and the New York State Regulatory Agreement.

Mr. Vagianellis stated the probability of a project like this going to foreclosure is very remote. It also is a requirement that in case of foreclosure the New York State Regulatory Agreement is null and void.

Discussion ensued among the Board and the applicant concerning the affordable housing component and foreclosure as well as financing for the project.

Mark Torpey, Chairman stated the specific question the Board is asking is if there is any instances or processes which we could envision or guarantee the affordable workforce housing component of this project part and parcel of this project Comp Plan Amendments, Zoning changes that are requested.

Vince DeLeonardis, City Attorney stated he will research the question the Chairman has and provide him with that information. Regarding the financing, when the City was undertaking the analysis to incorporate inclusionary zoning, that specific issue did come up and there were representatives from various local banks which did indicate that under conditions of foreclosure, or in the event of something similar, they were looking for language that would release that restriction. This is something that has come up and is arguably appropriate. With regard to guaranteeing this, one of the conditions stated was the entering of a pilot agreement. This is between the applicant and the City, and those terms have not yet been broached let alone agreed upon. If the pilot agreement is not entered into, I don't believe that Liberty is then bound by their contract with the property owner. A zoning change will already have taken effect. In terms of the guarantee I don't know how we would get there.

Janet Casey stated she is trying to balance two things, and this seems like spot zoning. The only thing is that is outweighing that is the possibility that we could use this land very productively for a need that the City really has. But, if we can't guarantee that then I don't think the other concern is outweighed.

Mark Torpey, Chairman stated to get into the specifics, the zoning is RR designation now. The allowable uses are animal kennel, farms, riding stable, nurseries, golf course, private civic clubs, religious institutions, cemeteries, heliport, marines, docks, neighborhood bed and breakfast, and neighborhood rooming house. So, if you are working within the confines of those uses, I am not sure how you can necessarily support an affordability or workforce housing. Concept into that with the appropriate density would be needed to provide substantive response to a problem that exists at the racino. It is difficult to figure out how to provide that and it could very well be that this site is appropriate for doing that based on the way we are zoned. With 75% of wetlands covering the site, the RR designation foregoing the conservation easements and conservation analysis protections are part of that property. It just doesn't seem appropriate for the site.

Jamin Totino, Vice Chairman stated there are a number of issues. This Board and the City are very interested in affordable housing. Is there a listing of approved projects in this area?

Kate Maynard, Principal Planner, City of Saratoga Springs stated the Vecino project we have had the preconstruction meeting last week is moving toward construction. That is 157 affordable housing units in this project with a spectrum of income levels. There is the South Broadway Mixed Use project which is moving forward with 110 residential units. Stonequist which is a housing authority project and is 63 additional units. Allen Drive is also contemplating a zoning map amendment change. That is 200 plus units contemplated and we expect to continue. Also, the housing authority units being added on Jefferson Terrace. In total 530 additional units which do not count the Jefferson Terrace units. That is 330 units which have been approved.

Jamin Totino, Vice Chairman stated he was curious about the applicant's response to Todd's question. We have had housing projects that create a concentration of a range of incomes i.e., workforce housing. The City and the Country has worked hard to rebound from that since the late 50's and 60's from housing projects in cities. I am curious about the motivation and experience with regard to building these types of projects, knowing that the bulk of our Comprehensive Plan is to infuse and try to spread out affordable housing throughout the city which these other projects are doing quite well. One of the problems I have with this proposal is that it creates especially for the people who work in the INST-HTR District a campus type of arrangement where they live and work in the same area without any real connection to any part of the city. The trend is to move away from this type of affordable housing project towards more infusion into the cities. Can you respond to that?

Mr. Vagianellis spoke regarding these types of projects throughout other cities very successfully. Liberty has focused on the upstate cities in New York and has built and rehabbed housing projects to provide safe affordable housing.

Amy Ryan, Alternate stated just to support what Jamin was saying, this is a smaller town and has the potential for stigmatizing if it was located in this area. It is a bit off from the downtown area and does have the potential for a campus type feel.

Art Loomis, President of Serra Housing Development Consultant for Liberty Affordable Housing project. This site was chosen because we were asked to look at it by the Racino Board. The need for workplace housing is evident here and we are proposing to add walking trails, bike trails and bike sharing as well as a bus stop. You will see these people being active members of the community. There are different levels of income in this project. We are working with the State currently. This has been done in other communities very well. This will not look like affordable housing; there will be green areas as well.

Todd Fabozzi stated there is no guarantee that the Racino employees will live there. They may choose to or they may not choose to.

Mr. Loomis stated workforce housing is usually built where you are targeting the housing is needed.

Jamin Totino, Vice Chairman questioned the proposal and what the applicant is requesting with the Comp Plan Amendment, Zoning Map Amendment and Zoning Text Amendment. This re-zoning affects other properties in the area, and other projects that we cannot even foresee.

Discussion ensued among the Board regarding the Advisory Opinion to the City Council and what the applicant is proposing, and the possibility of other locations for this type of project as well as a different type of design.

Todd Fabozzi questioned if a study could be done to provide information to the Board regarding what options would be available under current zoning in the city for affordable housing projects such as this. To be able to see if there are other places, or where there are other places for this to go without a zoning change.

Kate Maynard, Principal Planner, City of Saratoga Springs stated there are a number of opportunities in the City to house the affordable housing project.

Clifford Van Wagner stated there is not an abundance of blank underdeveloped areas in the city where this type of project can be located however, where there is the cost of land could be prohibitive. The Board must look at the project and see if we can massage this and see if there is an opportunity to make this happen.

Jamin Totino, Vice Chairman, stated the design is an issue, two buildings with 96 units in each surrounded by parking is just not convincing to me. We need to move in the direction of creating a neighborhood.

Janet Casey stated again she can't help but feel this is a square peg in a round hole with this project. I can't help but feel there is a better place.

Discussion ensued among the Board regarding requesting an extension from the City Council for the Advisory Opinion Request.

Jamin Totino, Vice Chairman questioned if another zone could be considered for this project.

Mark Torpey, Chairman stated perhaps the applicant can perhaps discover a way to maneuver the City's zoning districts, with some offering a density bonus.

Mark Torpey, Chairman is requesting from the legal staff to review this application since the Racino has ownership of the Racino property and this property. If the change in the zone goes forward and if the project does not move forward, now you have a situation where that owner could ask for a lot line consolidation and in essence the two parcels

could become one with the same INST-HTR designation. That would by definition open up the entire area to the full complement of uses in this district and could be a problem.

Vince DeLeonardis, City Attorney stated this would be a stretch but it could be possible.

Mark Torpey, Chairman stated a great deal of information has been supplied to the applicant. We will request an extension from the City Council regarding our Advisory Opinion. We spoke about perhaps an outside opinion whether this could be tethered to the affordable izard and the inclusionary zoning to help the Board.

Clifford Van Wagner stated additional information would be helpful, however, this is a non-binding Advisory Opinion requested by the City Council. When we return in September we will review any additional information the applicant has provided and then this Board can issue our Advisory Opinion.

**6. 18.017 WITT SUBDIVISION, 32 Hyde Street and 9 Birch Street, final 3 lot subdivision in an Urban Residential-2 District.**

Mark Torpey, Chairman stated the Board has looked at several items previously relative to lot line configuration, some complexity to the line that is being proposed. Right of Way concerns we discussed regarding Birch and Hyde being substandard streets. A waiver of sidewalks was requested for Birch as well. We had chances to look at the property and the lot. We are looking at a final 3 lot subdivision.

**BACKGROUND:**

Subdivision proposed with subject parcel and portion of adjacent property currently owned by Living Resources.

**SEQRA:**

Action appears to be an Unlisted Action. Short form EAF Part 1 was provided with the application.

Applicant: John Witt, Witt Construction

Agent: John Canney, Carter, Conboy

Mr. Canney provided a visual of the site. An existing condition map was provided to the Board. No improvements to the site. Mr. Canney provided responses to the comments of the Board. The first is lot configuration. These lots are not squared off lots. The requirement in the code is to meet the area requirements, which we have done. The lot configurations are the way they are presented due to the constraints on the lot size, and that they are all within the 6600 square foot requirement. The next was a request for more information regarding meeting the criteria for the right of way waiver. We are requesting waivers for the Right of Way for both streets, Birch and Hyde Streets. A waiver is requested for sidewalks on Birch Street only. Sidewalks will be installed on Hyde Street.

Mr. Canney reviewed the four criteria required for the waiver.

- The granting of the exception or the waiver will not be detrimental to the public safety, health or welfare or injurious to other property.

These streets have been this way for over 80 years and have no history of any issues in this regard. Many streets such as these exist currently in the City.

- The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable, generally, to the other property.

This is a locked parcel. It is in the middle of the street and does not allow for the ROW to continue down the street. The ROW would be to nowhere going in either direction. Providing a ROW would also create issues with the streetscape.

- Because of the particular physical surroundings, shape or topographical condition of the property involved, a particular difficulty for the owner would result, as distinguished from a mere inconvenience, if a strict interpretation of this chapter were carried out.

Due to the shape of the lot as it stands currently, if the ROW were extended the property could not be subdivided because of the minimum lot size. The lot itself taken on its own causes a unique difficulty to the owner.

- The relief sought will not, in any manner, vary the provisions of the City of Saratoga Springs Zoning Ordinance, Comprehensive Plan or Official Map, except that those documents may be amended in the manner prescribed by law.

There will be no issues with the Comprehensive Plan, and no issues with the Zoning Ordinance, or the Official Zoning Map of the City. We comply with all four issues.

Mr. Cannery stated the applicant requests the Board to grant the waiver of the ROW for both Birch and Hyde Streets. We are also requesting a waiver of sidewalks on Birch Street only due to the unique topographical feature on that street. Under the zoning standards this is an applicable reason to request a waiver. We also identified all the trees in the setback.

Amy Ryan, Alternate questioned the applicant regarding additional testing for radon particularly in areas with extreme topographical grade usually are indicative of elevated radon levels. I think it would be advisable to just understand what that is in this area.

John Witt, applicant stated we do not warrantee against radon when constructing a home. There will be some in the home. We pre-mitigate for radon with crushed stone and piping during construction. It would be up to the individual homeowner to eradicate this if necessary. Radon is usually found in rocky soil, this soil is sandy.

Mr. Cannery provided a visual of the grade on the site.

### **PUBLIC HEARING:**

Mark Torpey, Chairman stated the public hearing was opened and remains open.

Mark Torpey, Chairman asked if anyone in the audience wished to comment on this application. None heard.

Mark Torpey, Chairman closed the public hearing at 9:16 P.M.

Jamin Totino, Vice Chairman stated he has no issues with the granting of the ROW waiver, the applicant has presented a convincing argument. Regarding sidewalks this project area is a seed for other people to create sidewalks. He is not in favor of the sidewalk waiver on Birch Street. Sidewalks are needed in this area which calls for pedestrian connectivity. This is our opportunity now.

Discussion ensued among the Board regarding sidewalk waivers, topography of the area.

John Witt spoke regarding the feasibility of the sidewalk waiver on Birch Street, he will put a sidewalk in but it does not make sense in this area.

Mark Torpey, Chairman spoke regarding relocation of a sidewalk comparable to what would be installed in this area. There is an opportunity on Ash Street to connect from Birch to Hyde that was missing which would complete a segment to the High School in that area which would be a perfect in kind replacement in a strategic area.

Discussion ensued among the Board and the consensus of the Board to have the applicant meet with City Staff to determine a satisfactory agreement whether to repair or replace or install sidewalks equivalent to the area on Hyde Street and the repair if decided should be in this neighborhood.

**SEQRA:**

Short form EAF Part I was provided by the applicant. The Board reviewed Part II of the EAF. No large or important areas of concern were noted.

**SEQR DECISION:**

Jamin Totino, Vice Chairman stated that based upon the information provided by the applicant in Part I of the SEQR Short Environmental Assessment Form, and analysis of the information provided and presented in Part II of the SEQR Short Environmental Assessment Form, I make a motion for a SEQR negative declaration since the project will not result in any large and important impacts and, therefore, is one that will not have a significant adverse impact on the environment.

Clifford Van Wagner seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

**VOTE:**

Janet Casey, in favor; Clifford Van Wagner, in favor; Jamin Totino, Vice Chairman, in favor; Amy Ryan, Alternate, in favor; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

**MOTION PASSES: 6-0**

Mark Torpey, Chairman stated on the three lot subdivision; agreement to extend the waiver for the Right of Way. No change in the lot line configuration which will allow the 6600 square foot requirement to be met to avoid variances. Waiving the sidewalks on Birch and in lieu of sidewalks on Hyde Street the applicant agrees to place 85 feet of sidewalk working with City Staff to identify the best site for this placement within the west side neighborhood district. Preservation of the large silver maple tree with a discussion with the city arborist for a protection strategy.

Clifford Van Wagner made a motion for in the matter of the Witt Subdivision, 32 Hyde Street and 9 Birch Street for a final 3 lot subdivision in an Urban Residential -2 (UR-2) District be approved with the conditions as noted by the Chair.

Amy Ryan, Alternate seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

**VOTE:**

Janet Casey, in favor; Clifford Van Wagner, in favor; Jamin Totino, Vice Chairman, in favor; Amy Ryan, Alternate, in favor; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

**MOTION PASSES: 6-0**



7. **18.039 CHERRY STREET AND MARVIN ALLEY CONDOS**, 18 Cherry Street/38 Marvin Alley, Site Plan Review of 8 multi-family residences in an Urban Residential-4 (UR-4) District.

**BACKGROUND:**

The project has been revised since the first proposal. It was initially one large scale structure, and now is reduced in number of units to 8, and decreased in scale to 3 separate structures. DRC provided an Advisory Opinion to the Planning Board which resulted in a layout and design changes including proposed carriage houses on Marvin Alley. Variances have now been received by the ZBA permitting the current site plan application before the Board.

**SEQRA:**

Action is a Type I action due to the proximity to the National Historic District. Coordinated review with the ZBA. ZBA deferred proactively SEQRA to the Planning Board. Planning Board accepted Lead Agency Status and provided a negative determination on 02/1/18.

Applicant: Anthony Maney

Agent: Jon Lapper, Attorney, Jeff Anthony, Studio A

Mr. Lapper spoke regarding the first project on the agenda this evening which a previous engagement prevented him from attending. He spoke about working with the Board and never making it personal. That was unfortunate and should not have happened. Mr. Lapper continued with the current application and stated this project first appeared before this Board one year ago. We have dealt with many issues and changes over the course of this year which made this a better a project. All the recommendations which were made at the workshop the applicant is willing to agree to. Sidewalks and curbing on Cherry Street, reducing the height of the lights, removing the snow from the site as necessary. Fencing was modified to the side and rear property boundaries and buffered with mature trees. Fencing is no longer shown at Cherry Street and Marvin Alley. Trees will be maintained and saved along the perimeter of the site to the best of their ability. We staggered the building from the front not all the driveways are suitable for parking and will be designated as such. Parking is provided in the rear of the buildings. The fire issue was investigated and we do comply with the fire distance. These are all of the issues. We have reviewed the engineering comments with the City Engineer and they are just details and clarifications which we can work with the City Engineer to finalize that.

Tim Wales, City Engineer stated we have just received our consulting engineer's report this afternoon which was forwarded by email. All technical comments are straightforward and nothing presents to be a roadblock. We met this week to work out sanitary issues and several technical comments which are not substantial.

Mark Torpey, Chairman stated there will be no curbing or sidewalks on Marvin Alley. Sidewalks and curbing on Cherry Street, reduction in the height of the lights, removing the snow from the site as necessary. Fencing was modified to the side and rear property boundaries and buffered with mature trees. Fencing is no longer shown at Cherry Street and Marvin Alley. Trees will be maintained and saved along the perimeter of the site to the best of their ability and work in concert with the city arborist.

Todd Fabozzi made a motion in the matter of the Cherry Street and Marvin Alley Condos, 18 Cherry Street and 38 Marvin Alley that the application for site plan be approved.

Jamin Totino, Vice Chairman seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

**VOTE:**

Janet Casey, in favor; Clifford Van Wagner, in favor; Jamin Totino, Vice Chairman, in favor; Amy Ryan, Alternate, in favor; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

**MOTION PASSES: 6-0**

**C. APPROVAL OF MEETING MINUTES:**

Mark Torpey, Chairman made a motion to approve the minutes of the June 21, 2018 Planning Board Meeting be approved as submitted.

Clifford Van Wagner seconded the motion.

**VOTE:**

Janet Casey, abstained; Clifford Van Wagner, in favor; Jamin Totino, Vice Chairman, in favor; Amy Ryan, Alternate, abstained; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

**MOTION PASSES: 4-0**

Jamin Totino, Vice Chairman made a motion to approve the minutes of the July 5, 2018 Planning Board Meeting be approved as submitted.

Clifford Van Wagner seconded the motion.

**VOTE:**

Janet Casey, in favor; Clifford Van Wagner, in favor; Jamin Totino, Vice Chairman, in favor; Amy Ryan, Alternate, abstained; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

**MOTION PASSES: 5-0**

**16.038 PET LODGE**, NYS ROUTE 9, South Broadway, Site Plan review for 6,000 square foot pet boarding facility within the TRB/RR District.

Kate Maynard, Principal Planner requested the Board approve an extension of the site plan approval per Justin Grassi, Counsel to the Land Use Boards.

Mark Torpey, Chairman made a motion in the matter of Pet Lodge, NYS Route 9 South Broadway for an extension of the site plan approval for 60 days.

Jamin Totino Seconded the motion.

**VOTE:**

Janet Casey, in favor; Clifford Van Wagner, in favor; Jamin Totino, Vice Chairman, in favor; Amy Ryan, Alternate, in favor; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

**MOTION PASSES: 6-0**

**MOTION TO ADJOURN:**

There being no further business to discuss Mark Torpey, Chairman adjourned the meeting at 9:55 P.M.

Respectfully submitted,

Diane M. Buzanowski  
Recording Secretary

APPROVED 11-15-18