



PLANNING BOARD

MINUTES (FINAL)

THURSDAY, SEPTEMBER 20, 2018

6:00 P.M.

CITY CENTER ROOM 2A

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

SALUTE TO THE FLAG:

PRESENT: Mark Torpey, Chairman, Jamin Totino, Vice Chairman; Janet Casey; Clifford Van Wagner; Bob Bristol; Ruth Horton; Todd Fabozzi

STAFF: Kate Maynard, Principal Planner, City of Saratoga Springs
Vincent DeLeonardis, City Attorney, 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.

18.043 SARATOGA HOTDOG COMPANY, 110 Excelsior Avenue, Permanent Special Use Permit within a Transect (T-5) District. Adjourned to October 4, 2018.

COMMENTS FROM THE CHAIR:

UPCOMING PLANNING BOARD MEETINGS/AGENDA WORKSHOPS:

Planning Board Caravan, Monday, October 1, 2018 at 4:00 P.M.
Planning Board Workshop, Monday, October 1, 2018 at 5:00 P.M.
Planning Board Meeting, Thursday, October 4, 2018 at 6:00 P.M.

PRIVILEGE OF THE FLOOR:

None heard.

A. APPLICATIONS UNDER CONSIDERATION:

1. **18.006 PEPPERS CORNER**, 173 Lake Avenue, Special Use Permit for a convenience sales use in an Urban Residential-3 (UR-3) District.

BACKGROUND:

Site is currently host to Moby Rick's, pre-existing non-conforming use status as per Steve Shaw's correspondence.

SEQRA:

Action appears to be a Type II action, no further environmental review is required.

Mark Torpey, Chairman stated convenience sales is permitted in UR-3 District with a Special Use Permit and Site Plan Review. We have closed the public hearing previously on the project. We have spoken about outdoor seating where the seating would be removed at 9:00 P.M. Maximum number of seating is 20 indoor and outdoor combined. Closing time is 10:00 P.M. Deliveries into the store are limited to Lake Avenue.

We spoke about two delivery vans making 3-4 deliveries per hour. No outdoor music tents, screening to the northern property owner. Single tenant occupancy. Five parking spaces proposed, one handicap space provided and one van will be parked in the lot overnight. No alcohol on the premises. No parking from Lake Avenue all the way to the driveway on Warren Street. We have received correspondence dated September 18, 2018 from James Fauci an attorney for some of the neighbors and that is posted on the web. Also, we have received a zoning determination from Pat Kogan, Zoning Officer regarding the food delivery portion of the project.

Kate Maynard, Principal Planner, City of Saratoga Springs stated a neighbor just presented her with a letter that he delivered to City Hall on August 18, 2018. With the fire this somehow was overlooked and will be posted on the web. The correspondence was from Joseph Kapusta, dated August 18, 2018.

Applicant: Tom West

Mr. West stated the only outstanding issue from the previous meeting was the home delivery issue. The home delivery issue is not a regulated aspect of any business or code in the City. We are in full agreement with Mr. Kogan's determination. We have thoroughly vetted the application.

Mark Torpey, Chairman asked if there was any further discussion from Board Members or we have a draft which provides a framework for addressing some of those questions.

Ruth Horton questioned if Counsel could provide some information on the points in Mr. Fauci's letter concerning the need for a use variance.

Vince DeLeonardis, City Attorney stated he read Mr. Fauci's letter especially the issue in Mr. Kogan's determination concerning the delivery aspect of it. Mr. Kogan is the Zoning Officer and has rendered a determination. There is a process by which anyone can challenge that. As it stands Mr. Kogan's determination is before you as it stands. The Use Variance related to his concept because delivery is not a use allowed in the zone. Delivery is not a standalone use it is a function within a use and based on Mr. Kogan's determination, so is therefore allowed. A use variance is not required.

Clifford Van Wagner stated he is not ready to vote on this tonight. Due to the letter received by the Board from Mr. Fauci, and the hours of operation. The fact that trucks deliveries are being routed to Lake Avenue. This will become a more unsafe intersection that it is now. Also, the hours of operation until 10:00 P.M. is too late for this residential neighborhood.

Mr. West refuted what Clifford Van Wagner stated. Mr. West stated curbing will be added in the area in front of the Store. There is a fire hydrant in front of the proposed store to prevent parking too close to the corner. Also Mr. West spoke in favor of the hours of operation.

Mark Torpey, Chairman stated he will walk through the draft notice of decision to provide some the details and will be helpful for the Board to discuss. Mark Torpey, Chairman stated there are six criteria for a Special Use Permit and we will review them individually.

Janet Casey presented the following:

1. The proposal is in harmony with and promotes the general purposes and intent of the Comprehensive Plan and the Zoning Ordinance.
 - Comprehensive Plan designation is Core Neighborhood (CR-1). The Comprehensive Plan states “although the Core Neighborhood is primarily residential in character, existing neighborhood-scale Commercial uses may currently exist to complement residential uses”.
 - The UR-3 District specifically identifies “convenience sales” as a permitted use with a Special Use Permit and Site Plan approval.

2. The proposed use is compatible with density, intensity of the neighborhood and community character.
 - The CR-1 Comprehensive Plan designation allows a maximum density of 10 units/acre.
 - The Zoning Ordinance accommodates a myriad of permitted uses in addition to single And two family residences in the UR-3 District including private schools, religious institutions, Private/civic clubs, funeral homes, cemeteries, neighborhood bed and breakfast, neighborhood rooming house, senior housing, senior assisted care facility and convenience sales.
 - Property has historically been used for commercial operation. Surrounding neighborhood reflects a mix of uses and intensities including an active City park, businesses, church, pre-school, and schools, as well as varying density residences.
 - Project is zoning compliant, no variances are required.
 - Zoning Officer has determined conformance of the proposed project with “convenience sales” definition.
 - Preserves the unique character of Saratoga Springs where commercial uses complement Residential uses.

Mark Torpey, Chairman stated this Board does not have the authority to make the interpretation of convenience sales and if it comports with the Zoning Ordinance. That determination has been made by the zoning officer. We then render our decision based on that determination.

Clifford Van Wagner stated he disagrees with the opening statement that the proposed used is compatible with density, intensity of the neighborhood and community character. Longer hours of operation, more uses, more traffic for deliveries. I cannot look at this and say it is compatible with the neighborhood.

Ruth Horton stated it makes sense the way it is written here and she has no problem with it.

Discussion ensued among the Board regarding the hours of operation.

Clifford Van Wagner stated the Board must keep in mind that the approval goes with the property not the applicant.

Todd Fabozzi spoke about the Spring Street Deli which is a comparable use in a residential area. They close at 9 P.M. He agrees with Cliff and feels and the convenience store should close at 9:00 P.M.

Jamin Totino, Vice Chairman stated we have included hours of operation in many Special Use Permits we have granted.

Janet Casey continued:

3. The proposal provides safe and efficient pedestrian and vehicular access, circulation and parking.
 - Loading/delivery activity proposed along commercial corridor Lake Avenue frontage proposed.
 - Up to two small delivery vans will be used for outgoing deliveries.
 - Driveway entrance (Warren Street) is safe distance from Lake Avenue to ensure proper access.
 - Additional parking area will appropriately serve customers driving to the location.
 - Installation of new ADA compliant sidewalks, curves and bike rack will provide safe accommodation for pedestrians and cyclists, especially for the surrounding neighborhood.
 - No concerns noted from Traffic Safety Department.

Mark Torpey, Chairman stated we have no jurisdiction with addition of a loading zone area in front of the store. We can make a recommendation but this must go through proper channels. We still have site plan to review with this project and this can be further addressed at this time.

Mr. West spoke regarding deliveries 3 to 4 times a week to the convenience store. It will not occur every day.

Janet Casey continued:

4. The proposal sufficiently controls existing and future demand on infrastructure, public facilities and services.
 - Existing building to be replaced in-kind with no additional infrastructure needs.
 - No concerns noted from Fire and Police Department.
5. The proposal does not create an impact on environmental and natural resources of the site and neighboring lands including any potential erosion, flooding or excessive light, noise, vibration and the like.
 - Due to the size of the project (less than 4,000 sq. ft.), the SEQRA action is listed as Type II and no environmental review is required.
 - The application requires additional Site Plan approval where issues such as down lighting and sound Proofing of HVAC equipment will be subsequently addressed.

Mr. West spoke regarding trying to make the site as green as possible.

Jamin Totino, Vice Chairman stated we could hold off the deliveries and truck issues until site plan review. It is more of a site plan issue.

Janet Casey continued:

6. The proposal will not impact the long term economic viability of the site, neighboring properties and districts.
 - Existing long term established commercial operation at the site noted.
 - Neighborhood scale of operation, proposed conditions of approval and required adherence to "Convenience Sales" defined use provides complementary use to surrounding neighborhood scaled Commercial operations on Lake Avenue corridor, East Side Rec, and existing residences.
 - No evidence suggests financial concerns with Nine Miles East or possible reductions in neighboring Property values.

Discussion ensued among the Board concerning the indoor and outdoor seating and how this is divided. Also how is the outdoor furniture secured after closing.

Todd Fabozzi stated he felt ten is appropriate for outdoor seating and the furniture will be brought inside at closing.

Bob Bristol stated there are tons of examples of this downtown. He doesn't know why we have to change things. It seems to work. I think it is appropriate here.

Jamin Totino, Vice Chairman stated what Bob is stating is the furniture is moved inside. When a project is in a residential area we have to be sensitive to the residents, so move the furniture inside. He also agrees with Cliff a 9:00 P.M. hard stop would be appropriate.

Janet Casey stated she also agrees with the 9:00 P.M. closing. It is appropriate in the residential area and is in sync with the reference to Spring Street Deli.

Mark Torpey, Chairman questioned how the Board feels about the outbound deliveries. We may want to consider a sunset clause in the Special Use Permit which the outbound deliveries are reassessed after a period of a year or two.

Vince DeLeonardis, City Attorney stated this is unique but can be asked for. Either way the applicant will need to return before the Board for renewal.

Clifford Van Wagner spoke regarding the sunset clause and the Board has implemented this in the past especially when it is in a residential neighborhood.

Mark Torpey, Chairman stated the Planning Board hereby grants approval of the applicant's Special Use Permit per the Requirements set forth in the City of Saratoga Springs Zoning Ordinance and subject to the following conditions:

1. The conversion of Lake Avenue frontage from 15-minute parking to loading area shall be implemented, with approval details to be confirmed by the City Department of Public Safety.
2. Hours of operation shall include 7AM-9PM, 7 days per week.
3. Outdoor furniture shall be brought inside by 9:00 PM.
4. Total occupancy is limited to 20 seats per the Convenience Sale Definition. Only a total of 10 seats may be present outside at any one time.
5. Outbound deliveries from site are permitted within the hours of operation but shall expire on September 20, 2020 but upon application by the applicant may be renewed by the Planning Board.
6. No outdoor music or tents.
7. Screening buffering to the neighbors on the north. Shall be discussed further on site plan review.
8. Single tenant occupancy.
9. 5 parking spaces to include 1 handicapped space which will be ADA compliant. Shall be discussed further at site plan review.
10. No alcohol.
11. No parking from Lake Avenue to the driveway. Shall be discussed further on site plan review.

Bob Bristol made a motion in the matter of Peppers Corner, 173 Lake Avenue that the Special Use Permit for convenience sales use be approved 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, opposed; Jamin Totino, Vice Chairman, in favor; Bob Bristol, in favor; Ruth Horton, in favor; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

MOTION PASSES: 6-1

NOTE:

The agenda was heard out of order due to lack of representation for Agenda Item #2.

3. **18.027 LAKE LOCAL SITE PLAN**, 550 Union Avenue, Site Plan review for Eating and Drinking and Marina uses in a Water Related Business and Rural Residential District.

SEQRA:

Action appears to be a Type I action with Involved Agencies of Planning Board (Special Use and Site Plan), ZBA and DRC. Planning Board accepted Lead Agency Status on December 14, 2017.

BACKGROUND:

Project has decreased from original application of Restaurant, Marina, Eating and Drinking, Inn and Bed and Breakfast to new Eating and Drinking facility and Marina use. Project now is deemed zoning compliant, and uses proposed require site plan review (no longer Special Use Permit required). DRC architectural review continues for application. What is proposed is a 290 seat restaurant with 146 seats outdoors, 108 rentable boat slips, and 159 vehicle parking spaces. ROW may change the necessity for zoning involvement.

Applicant: Mike Phinney, Principal, Phinney Design Group; John Haines, Phinney Design Group

Agent: Matt Brobston, Doug Heller, LA Group

Mr. Brobston stated the 183 parking spaces include some boat slips as parking spaces. 15% over. 155 parking spaces on site. Mr. Brobston stated there have been some changes to the project. A visual of the updated project was provided for the Board. Use has been pared down to a 298 indoor eating and drinking establishment with 146 seasonal outdoor spaces for eating and drinking. 108 boat slips have been approved. Regarding the Board Shop the building which is there now will be reused for an office for the marina. The property boundary has been shrunk. It is solely on the WRB zone. The lodging component has been removed from the project. The sewer district does own the parcel where the pump station exists. It does have setbacks and we have kept the parking out of that area. The ROW does divide the two parcels. We have provided this information to the City. We are seeking title to that property with the City. We have proposed to take those 31 spaces impacted would become temporary seasonal parking spaces to remain gravel until the title is secured. If unsuccessful those spaces will require a variance. If approved, they will be converted into parking spaces. If unsuccessful they will remain seasonal parking spaces. The Board has the ability to grant the number of parking spaces required for the project during site plan approval.

Vince DeLeonardis, City Attorney stated it is an odd situation. The title needs to be judicially determined. There is no clear chain of title on this particular right of way. It is not definitive of ownership. They have filed a claim of Quiet Title.

Mike Phinney stated regarding the access to the cottages and who use the road. We will keep it plowed and maintained.

Mr. Brobston stated the applicant appeared before the DRC last night and did receive approval. No Special Use Permit is required and no ZBA variances at this time are required. A visual of the previous site was provided as well as an updated survey and layout plan for the site, showing the gravel area for the temporary seasonal parking.

Doug Heller, LA Group spoke regarding the high point on the left side of the site, these parking spaces a bioretention area in this vicinity and how the stormwater sheds differently in this area could break down the aggregate in this area.

Mr. Brobston reviewed the proposed revised site with the Board. We have been in conversation with staff regarding the DOT area. We will place information on the plans and send it to DOT for approval. The pedestrian crossing will have a placard and a flashing beacon light with a crosswalk.

Kate Maynard, Principal Planner, City of Saratoga Springs stated she has had verbal conversations with the DOT staff. Written conversation was requested but we have not yet been successful. On the site with DOT we spoke about a crosswalk and they did agree that was worthy of being considered. We also looked at the area where it is currently being placed and felt this was the most appropriate location considering site distance a hill and the traffic.

Mr. Brobston stated this application is proposing saving several large trees which currently exist on the site. There has been a discussion of this access point. It is a deeded in and out right of way for the residences and they do not wish to relinquish that. So, we will leave it as it is and designate it as a private drive no Lake Local Traffic. Mr. Brobston spoke about the green space on the site; it will be increased on site and in the right of way. We have proposed the use of porous pavement as well. This will be noted on the plans. Reconfiguration of the boat slips was provided per the City Engineer's and SLPID's request. Stormwater management collected and discharged into the lake. Regarding the water main we are in discussion with the City Engineer and he is concerned with the ownership and maintenance of the main as well as the location. The City Engineer has proposed the main go along the DOT right of way. This also needs approval from the DOT. City Water will be offered to the residences down the private access road. This will require an easement and will be in place prior to the signing of the Certificate of Occupancy. Mr. Brobston reviewed the landscaping plan noting the trees on site will remain and plantings will be increased. Planting in the ROW will need approval from the DOT as well. The applicant will maintain the view of the lake from the neighbors.

Mr. Brobston reviewed staff comments. We discussed the access signage. The main entrance size is necessary for fire safety equipment access. The Union Avenue crosswalk was discussed, what we proposed and acceptance and approval from DOT. Parking concerns, shuttling and valet parking is proposed. With the reduced use we believe we have sufficient parking.

Clifford Van Wagner questioned if there was discussion with the Saratoga Rowing Association for shared parking.

Mr. Phinney stated we are very open to it. We hope to afford them parking for their big events.

Mr. Brobston reviewed the parcel boundary. The flood plains will be denoted on the final plans, both 100 and 500 year floodplains. We discussed the boat slips, and relocation. The usage of the outdoor stage will be a complementary use. The hours would follow the ordinance 12AM to 8AM for outdoor entertainment. They have designed the bandstand to mitigate sounds.

Kate Maynard, Principal Planner, City of Saratoga Springs stated she spoke with the Zoning Officer regarding the outdoor entertainment and he stated this is considered an ancillary use.

Mr. Phinney stated there will be some amplification of music. The sound will be mitigated with the installation of sound wall and will be in compliance with the City Zoning Ordinance.

Mr. Brobston stated lighting near the restaurant sufficient for safety and will be dark sky compliant.

Mr. Phinney stated there are big changes the 25 room Inn which would have occupied the hill and the Bed and Breakfast are no longer a part of this application. Mr. Phinney provided a visual of the proposed site and renderings. The restaurant will be operated on a year round basis. Zoning requires a 2 story building. The restaurant will be a combination of wood, steel, metal and stone materials. The front of the restaurant there is currently a large front porch which will remain with sliding glass door panels to open into the restaurant. We are trying to create an outdoor feeling indoors. We are proposing using the weathered reclaimed posts which exist on the site to be placed in the design. Aesthetically we are looking for a more modern rustic nautical feel. Views from the lake were provided. There is a seasonal structure and we are looking to control the use by having an outdoor bar and restrooms. There are areas of some shade and sun and we are trying to create an arrangement of those with the building and landscape. Small band structure with sound rated walls to keep the music on the site and for sound mitigation. The Board shop use will be eliminated and now will be used for an office. A review of all elevations was provided to the Board as well as a review of the proposed windows to be used. The large trees on the site will remain. We are proposing passive heating and

cooling techniques. Cedar siding is proposed as well Cedar siding is proposed as well. We will install a larger kitchen and storage area. There will be a bar in the picnic area. Upstairs will provide an open flexible space. Mechanicals will be on the roof and shielded from view with a parapet roof. The bandstand, will be designed the same as we designed at SPAC. It is more modern and we are proposing a similar one which is interesting to look at and smaller and it functions acoustically. Stone veneer and grey rustic siding in different patterns. We are proposing a butterfly roof which will house a solar array which has an optimal position. Entry will be landscaped. The exterior enclosure for the dumpster will remain.

Mr. Brobston stated there are several conditions he would like for the Board to incorporate in the approval:

- 31 spaces for temporary seasonal parking until a final surface can meet.
- DOT rapid flashing beacon will be shown on the plans, with a note that this is subject to final plans and DOT approval.
- Outdoor storage will be noted on the layout plan as it pertains to that use.
- Water line location will be shown in the DOT Right of Way.

Kate Maynard, Principal Planner, City of Saratoga Springs requested the applicant to clarify the parking. The demand is 159 spaces for the use. You are providing 155 spaces. Are you proposing that the 4 remaining space be shared among the uses.

Mr. Brobston stated again we have proposed 31 boat slips spaces for restaurant uses only which can be considered as parking spaces.

PUBLIC COMMENT:

Mark Torpey, Chairman asked if anyone in the audience wished to comment on this application.

George Santoni, 686 Crescent Avenue. I have lived here for 25 years. The base music over the last three years has been awful in the home. He stated the applicant should be concerned with providing good service, good food and a good view. What he objects to is the rock band style music. Please protect us from the noise pollution.

Mary Skevenington, 690 Crescent Avenue. Right around the corner from the project. We applaud that the paddle board shop is gone, that the Inn and Bed and Breakfast is gone. She questioned the portion of SEQRA which as to do with the property being within 1500 square feet of children. Should be changed to yes due to the SROA is across the street. Noise it is important that the noise ordinance be followed. For a residential area the noise ordinance stated quiet time 11pm to 7am. Also, traffic is a concern.

Mr. Brobston stated concerning the SEQRA question. Many adults do row in this area. The question is regarding more of a proximity to a school. The correct answer should remain no.

Marybeth Winn, Crescent Avenue. We are delighted that the plans have changed so we don't have to worry about the size. I am still concerned about the size. The numbers of boat slips are too great. I am concerned about the band stand.

Mr. Phinney stated our intention is not to have music at 7AM. We are using sound deadening materials for the construction of the bandstand. We open at 11AM and we have background music at this time. We do have fundraisers in which the music may begin at 10:00AM. The applicant will adhere to the residential noise ordinance.

Mark Torpey, Chairman stated we have several items to move through on this application. One of which is to reaffirm our SEQRA Negative Declaration. The project is scaled down from the original presentation. Also the site plan has a lot of specific components that we spoke about. Does the Board feel we are in a position to complete this application this evening.

Clifford Van Wagner stated he does make a motion to reaffirm the SEQRA Negative Declaration for this project. The conditions that they have asked for are succinctly noted in their presentation. So, I feel we can move this forward. It is all about what the court and DOT say, along with the four conditions as noted by the applicant.

Discussion ensued among the Board regarding moving this application forward this evening.

Mr. Brobston requested the Board take action this evening on the application.

It was the consensus of the Board to move this application forward this evening.

Clifford Van Wagner made a motion in the matter of the Lake Local Site Plan, 550 Union Street to reaffirm the SEQRA Negative Declaration.

Ruth Horton seconded the motion.

VOTE:

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

MOTION PASSES: 7-0

Mark Torpey, Chairman stated moving onto site plan.

Kate Maynard, Principal Planner, City of Saratoga Springs reviewed the conditions for site plan approval with the Board.

Clifford Van Wagner made a motion in the matter of the Lake Local Site Plan, 550 Union Avenue that the application for Site Plan Approval be approved with the following conditions:

- Noting the office use for the former Board Shop to be noted on the plans as an ancillary use.
- Parking situation – consider 4 parking spaces being shared between the two proposed uses on the site.
- 31 spaces for temporary seasonal parking until a final surface can meet.
- OT rapid flashing beacon will be shown on the plans, with a note that this is subject to final plans and DOT approval.
- Landscaping along Union Avenue, location upon final DOT determination, with the remainder of the landscaping location to be determined based upon the water line installation. Any changes to the landscaping plan to be made via Administrative Action by the Chair.
- Music ending at 11PM and in conformance with the residential noise ordinance.
- 2 new water lines to be offered to the cottages at the bottom of the hill.
- No off season boat storage on site.
- Water line service offered to other residential homes down the access road.
- Lighting plan as proposed to be dark sky compliant.
- All final engineering plans to be to the satisfaction of the City Engineer.
- The applicant will commence Quiet Title Application within 90 days. If unsuccessful a ZBA application will commence. If unsuccessful the temporary parking spaces will remain pervious and temporary.
- Restaurant will close at 12 PM.
- The music stage will be denoted as an ancillary use, no concerts.

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; Bob Bristol, in favor; Ruth Horton, in favor; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

MOTION PASSES: 7-0

8:55 PM – The Board recessed.

9:05 PM – The Board reconvened.

3. **18.013 SARATOGA PET RESORT**, Kaydeross Avenue West, Special Use Permit for an Animal Kennel in a Rural Residential (RR) District.

Mark Torpey, Chairman stated we have reviewed this project back on September 6, 2018. Two areas were identified on the Part II SEQRA Form that the Board identified as moderate to large impact may occur. We will review the Part III.

BACKGROUND:

Subject parcel located along rural stretch of Kaydeross Avenue West, wooded, low intensity uses within the vicinity. Proposed 11,761 square foot facility for dog and cat boarding. Materials provided include a concept plan, building rendering, VHB Traffic evaluation, DEC Natural Heritage, and DEC Wetland Non-Jurisdictional assessment correspondence. Since the last meeting submitted by the applicant to the Board on September 14, 2018 a petition from Stable Lane neighbors.

Applicant: Jen and Peter Lopatka

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

Mr. Lapper stated at the workshop the Board spoke about the Comp Plan and the rural characteristic of the area.

Mr. Anthony stated looking at the Conservation Development District language it requires a Conservation analysis be done for a project proposed within that district. The Conservation Development District states “this designation allows for low density residential, outdoor recreation, agricultural, and other rural uses utilizing land conservation methods”. Secondly, “Commercial activities should be limited to those that support rural and recreational uses and which protects valuable open space, protect natural resources and maintain natural systems. The design of the Saratoga Pet Resort shows we have done just that. We have limited development to the northwest corner of the property in less than 20% of the site. We are maintaining permeable space over 80% of the site. This includes not only the Kaydeross Street corridor, wetlands associated with the Kaydeross Street corridor, flood plains associated with the Kaydeross Street corridor and steep banks on the north side of the street corridor and wetlands at the north end of the site, and a drain way that goes into the creek at the north end of the site. That land will be protected forever as permanent open space and it is a critical environmental resource. This project has met the measure of protecting these resources for the community forever. The land use and character of the land use proposed is also in harmony with the CDD, which is to protect valuable open space, protect natural resources and maintain natural systems which are valuable community resources. This building which is proposed looks like a barn stable and is housing animals and is an agricultural related use and is in harmony with agricultural and animal related uses. This project meets the spirit of the CDD. We submitted the Conservation Analysis which was required by the Board.

Clifford Van Wagner stated in visiting the site 3 flags were noted with orange ribbons.

Mr. Anthony stated he has no idea what those stakes indicate.

Mr. Lapper stated if the Board would like to have the building staked out they will comply.

Jamin Totino, Vice Chairman he will read the following into the record:

PROJECT STATISTICS:

- Employees number 12.
- The hours of operation would be Monday-Friday 6AM-9PM; Saturday 7AM-9PM; Sunday 7AM-9PM.
- Building area of 12, 176 square feet.
- Animal enclosures include 162. 27 vehicle parking spaces with an additional 38 parking space being banked.

LAND USE:

- Zoning Ordinance Designation: Rural Residential (RR)
- Principal Uses: Single Family Residences, Agricultural
- RR District Intent: To provide low density residential and agricultural uses in order to preserve open space and a rural character. Limiting topography, soil conditions, slopes and lack of public infrastructure also warrant the low densities.

COMPREHENSIVE PLAN: CONSERVATION DEVELOPMENT DISTRICT (CDD)

CCD DEFINITION:

The Conservation Development District designation reflects the “Country” of the City in the Country. This designation allows for low density residential, outdoor recreation, agricultural, and other rural uses utilizing land conservation methods such as clustering. Areas typically include single-family lots and subdivisions, existing planned developments, farms, estates, and natural areas. Commercial activities should be limited to those that support rural and recreational uses and which protect valuable open space, protect natural resources and maintain natural systems. This designation reflects a rural or agrarian character that works to preserve contiguous open spaces, protect natural resources and maintain natural systems, which will all become increasingly important and valuable community resources.

Todd Fabozzi spoke regarding what is truly rural character, farm houses, open spaces, and cows or others associated with farming uses. What you don’t see typically is cul-de-sac subdivision. That is typically considered suburban character. He is struggling on what is the character that is being impacted here? Rural character could mean a farm, farm animals and the smells associated with that. This is not out of character with what rural is.

Mark Torpey, Chairman stated what is different about this district designation is that it allows residential and agricultural. There are no density requirements associated with this district.

Ruth Horton spoke regarding the document provided by the applicant saying that agriculture is defined in the City zoning that “the raising of crops, agriculture and keeping and raising of domestic animals, fowl and livestock.”

Discussion ensued among the Board regarding the use in the area.

Todd Fabozzi stated he believes the use maybe too big for this area but is not necessarily out of character for this area.

Mark Torpey, Chairman stated he is having difficulty with the CDD which states “Commercial activities should be limited to those that support rural and recreational uses and which protects valuable open space, protects natural resources and maintains natural systems. He cannot fit this project to comport with this designation.

Jamin Totino, Vice Chairman stated when the Planning Board reviewed SEQRA Short Environmental Assessment Form Part II for the Saratoga Pet Resort at the September 6, 2018 meeting. We identified two specific questions where a “moderate to large impact may occur” as follows:

- Will the proposed action result in a change in the use or intensity of use of land (Q2).

- Will the proposed action impair the character or quality of the existing community? (Q3)

QUESTION 2:

REGARDING THE CHANGE IN THE USE OR INTENSITY OF USE OF THE LAND, THE PLANNING BOARD Finds

The site is current undeveloped with an existing older barn present along the roadway. The proposal is for a 12,176 square foot structure, and associated parking, utility, connections, well and septic system. Currently, the 8.77 acre parcel is undeveloped but will be permanently altered through the construction of the vacant, partially cleared parcel to a large-scale structure with commercial level activity (in terms of traffic, parked cars, etc.) that is notably distinct from the surrounding uses. The highlighted areas noted above regarding the RR (Zoning Ordinance) and CDD (Comprehensive Plan) land use designations-considered in aggregate-do not appear to support the commercial project as proposed. While an animal kennel is a permitted use with special use permit and site plan review per the City's Zoning Ordinance, the larger scaled commercial operation as proposed is not reflective of a use appropriately scaled for the context of the site and surrounding area. Potential mitigation of decreasing the overall scale of the facility both in building square footage and programming could be possible.

Although the Zoning Ordinance provides guidance regarding the allowable density for single-family residential projects (e.g. maximum of 0.5 units/acre), the Ordinance does not address the allowable scale and magnitude of other commercial uses. Absent a standard commercial use benchmark, the Planning Board has considered the impact of the Saratoga Pet Resort application in comparison to what could be built via a residential conservation subdivision. The Applicant has offered that the unconstrained acreage on the parcel is less than 5 acres. Assuming this is correct (as the Planning Board maintains ultimate jurisdiction on this determination through a comprehensive conservation analysis), the parcel would potentially accommodate a two-lot residential subdivision and average statistics as follows:

- Residents: 8 (two families with four members)
- Building Area: 5,000 square feet (two homes at 2,500 square feet)
- Animals: 2 dogs/2 cats
- Parking: 4 vehicles

A scaled down version of the proposed Pet Resort more closely aligned with the comparative density/intensity of a two-lot residential subdivision could be considered.

QUESTION 3:

REGARDING WHETHER THE PROPOSED ACTION WILL IMPAIR THE CHARACTER OR QUALITY OF THE EXISTING COMMUNITY, THE PLANNING BOARD FINDS:

The proposed site is currently meadow and remaining woodland property that fronts on Kaydeross Avenue West, a low volume, narrow rural road, and with Kaydeross Creek and I-89 directly abutting the property to the rear. The immediate surrounding area includes NYS established parkland and protected open space including contiguous forested area, low density single uses, barns, and a pre-school program currently operating out of an existing NYS Parks structure.

The physical magnitude of the proposed project is far too inconsistent with the residential dwellings of the surrounding neighbors and neighborhood. While there is a nearby school that has been referred to as an example supporting consistency, it is important to understand this was an adaptive reuse of a pre-existing structure and the hours of operation do not extend to evenings and weekends. The educational curriculum includes the management of a rural community garden and emphasizes the importance of natural systems and open space consistent with the Comprehensive Plan's overarching CDD designation.

While an animal kennel is a permitted use within the Rural Residential District with special use permit and site plan approval issued, this specific location which is adjacent to rural residential buildings and a notable area of contiguous

open space, wetlands, and woodlands would result in disrupting the overall rural residential characteristics of the surrounding properties and would likely result in diminished property values.

The City's 2002 Open Space Plan identifies Kaydeross Avenue West as a rural road corridor which notes "Rural Or scenic roads and vistas enhance the character of our community in many ways... In rural areas such as the City's outer district, narrow country roads and undeveloped lands adjacent to them create a sense of remoteness and calm. In Saratoga Springs, this experience is particularly valuable because these rural features are in such close proximity to the City's vibrant inner core. "

Potential further mitigation by reducing the scale of the commercial operation could be considered.

Mr. Lapper spoke regarding the scale of the project and the applicant's willingness to decrease the size of the project to 10,000 square feet. The applicant is now proposing the scale of the project be reduced to 9,000 square feet which is 66% of what was originally proposed. This is a compromise and would require less parking and proportionately reduced by 10%.

Clifford Van Wagner stated this change is not enough to make an impact on the decision.

Mark Torpey, Chairman stated he agrees with Cliff. The commercial activity does not comport with the rural recreational use. I do not feel the commercial use is supporting that. Scaled down or not I am not personally compelled to support this. This is a rural residential district with a CDD overlay which further reinforces my thoughts.

Mr. Lapper stated he feels this project meets the standards.

Clifford Van Wagner stated it is still 7 days a week usage and operation. Too close to a residential area.

Mark Torpey, Chairman stated there really isn't a way for the Board to evaluate what the intensity is. We do not have information about how to look at the density and intensity of a commercial use. There is no guidance for the Board in this regard.

Mark Torpey, Chairman stated the Board is looking at a Conservation Subdivision as a benchmark and having that as a basis of our decision.

Todd Fabozzi questioned why the Board would be looking at Conservation Subdivision for comparison. He spoke about rural character.

Discussion ensued among the Board regarding rural character.

An attorney for the homeowners stated their property adjoins this property.

Mark Torpey, Chairman stated the public hearing was closed.

Mark Torpey, Chairman stated the Board has 2 ways to proceed. One is a negative declaration, look at some mitigation strategies due to the changes which were made and the Board feels comfortable going forward with a negative declaration. The other is even with the changes which were presented it doesn't solve the problem and is still a positive declaration path.

Vince DeLeonardis, City Attorney stated the Board has to make a determination based on their analysis. Whether or not you have made a determination based on the information. That the proposed action may result in one or more potentially large or significant impacts as indicated on the form. If yes, you may need the EIS.

Mr. Lapper requested that the Board table the application and allow him to speak with his clients and return to the Board at a future date.

Discussion ensued regarding SEQRA.

Janet Casey stated this has been a tough application. We have to consider the use or intensity within the context that already exists.

Ruth Horton stated she is on the fence. She appreciates the offer to change the intensity. I am thinking about alternative uses on the property. This seems to her an inappropriate use.

Bob Bristol stated he agrees with what Todd said. This would be a travesty to issue a positive declaration for this. That is just avoiding what we can do as a Planning Board.

Mark Torpey, Chairman stated he would like to call a motion for a positive declaration of environmental significance for this project.

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 positive declaration since the project will result in 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; Bob Bristol, opposed; Ruth Horton, opposed; Todd Fabozzi, opposed; Mark Torpey, Chairman, in favor

MOTION PASSES: 4-3

Mark Torpey, Chairman stated the next step is an Environmental Impact Statement.

Mr. Lapper asked is there a smaller number that the Board would be comfortable with and the applicants can make some changes and return before the Board.

Kate Maynard, Principal Planner, City of Saratoga Springs stated within the EIS it is further review and scoping. You are looking at those 2 items, the 2 questions or factors you are considering in terms of the procedure.

Vince DeLeonardis, City Attorney, City of Saratoga Springs questioned Mr. Lapper as to what the applicant is proposing.

Mr. Lapper stated he is making a request to modify and make this a smaller project.

Discussion ensued regarding possible application mitigation.

Clifford Van Wagner stated the applicant has received a positive declaration for SEQRA on two points. They need to present a different proposal to the Board.

Vince DeLeonardis, City Attorney, City of Saratoga Springs stated the review of SEQRA was completed with regard to a specific proposal. The project as it is requires an EIS. If the project is modified you may not need to get to that step. The Board at that time will re-look at Part II.

Mr. Lapper requested that the Board will table the project for a few weeks.

Mark Torpey, Chairman stated the last two projects on the agenda will not be heard this evening.

4. **18.036 385 BROADWAY MIXED USED BUILDING**, Consideration of lead agency for SEQRA review and site Plan review for commercial and multi-family residences in a proposed building in the Transect-6 Urban Core District.

Mark Torpey, Chairman stated tonight we will assume Lead Agency Status for the project and site plan review.

SEQRA:

Action appears to be a Type I action due to the site's location within the downtown historic district. DRC is the other involved agency with potential interested agency of SHPO. DRC deferred Lead Agency status to the Planning Board at their July 18, 2018 meeting. A long EAF has been submitted. SHPO response states, "Because the building is non-historic, we have no concerns with any interior work". Desire to provide additional information to SHPO for further consideration elevations drawings and aerial perspectives.

BACKGROUND:

Property is located in the heart of Broadway, project proposes to demolish existing single story building, and Construct mixed use 5-story building consisting of 10,000 square feet commercial space, and 72 multi-family residential units. DRC Historic Review is also required.

Updated information was submitted including revised site plan set, Full EAF, traffic study, SHPO response letter, easements grants memo and exhibits, comment response letter, cost estimate for LOC and SWPPP.

Applicant: Burns Management, Peter Rosecranz

Agent: Dave Carr, LA Group
Doug Heller, Project Engineer, LA Group;
Mike Phinney, Principal Phinney Design, Architect

Mr. Carr stated the applicants met with the DRC in July. We had a very positive meeting. We expect to return before the DRC in October. A visual rendering of the proposed building and site. A traffic study was provided to the Board. The study was completed with 72 units proposed and 60 parking spaces. The study indicated the peak hour in 8-9AM would be 18 vehicle trips on this easement between Division and Woodlawn. At the PM peak hour of 4:30-5:30 20 vehicle trips. This is one car every 3 minutes. The traffic study was done on April 29, 2018. Level of Service does not change in the AM or PM at this intersection with the proposed project. Mr. Carr discussed the distances between the buildings. Between 18 Division and the back of our building is 43 feet. Parking space availability was discussed. Mr. Carr stated the City would like the applicant to replace the sewer line all the way back to Division Street.

Mr. Heller stated in discussion with Tim Wales, City Engineer regarding the sewer line and replacement which is approximately 200 ft. The applicant is considering exploring the cost with Fingerpaint.

Mark Torpey, Chairman questioned egress for Druthers.

Mr. Phinney provided information regarding a walkway in the back. A retaining wall may provide access or additional space for Druthers. We discussed this with Druthers as well as the access easement along the back of the property which would help all the properties.

Mr. Rosencranz stated he had a meeting with the construction team today to discuss the impact during construction with the least amount of impact to our neighbors. We are formalizing plans. We anticipate 18 months construction time.

Mark Torpey, Chairman questioned civic space.

Mr. Carr stated they have added a walkway facing Division Street. We are looking to improve the connection between parking and Universal Preservation Hall as an access point from the parking garage and spaces available off Woodlawn. An easement will be granted to the City on the side of the building.

Mr. Carr provided a visual of the proposed project. The green roof deck sets back from the alleyway. The building design pulls some historic elements from the past. An idea is a creative interpretive space as well as information and signage regarding the United States Hotel which was on this site. It was a significant piece of architecture in the City and the largest hotels in the world. Also, the applicant proposes the addition of trees and a sitting area. Proposed introduction of some kind of short picket style iron fencing.

Todd Fabozzi suggested perhaps a fountain "Springs of Saratoga" on Broadway in this location.

Mr. Carr provided a visual of the crosswalks and access. The traffic study provided calculations concerning pedestrian traffic in this area which was reviewed with the Board.

Kate Maynard, Principal Planner, City of Saratoga Springs stated the T-6 District does not require parking. She also spoke about pedestrians using shared mobility. We want to provide safe walking, biking, driving, ride sharing and public transportation. This ties into less traffic and less pollution. Contribution funding was discussed to increase public transportation.

Mark Torpey, Chairman questioned where the mechanical equipment will be located.

Mr. Phinney spoke regarding the height of the parapet which is 7 feet in height. Mechanicals will be screened on the roof and not visible from other buildings. The roof will be a terraced roof, with greenery and plantings. This will be a nice amenity for the tenants as well as the neighbors. The green roof on the upper roof as well as the terraced roof will be a part of the stormwater management control.

Todd Fabozzi questioned the onsite parking.

Mr. Rosecranz stated 69 units proposed with 49 parking spaces on site.

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

Mark Torpey, Chairman asked if anyone in the audience would like to comment on this application.

Ted Winnowski, 18 Division Street. Written communication was sent to the Board from him and several other neighbors. These communication stated their issues and concerns. He spoke regarding the positives of the project. He is concerned regarding the traffic patterns, access and egress. Alley access will be congested. Think about the things that affect your neighbors. Parking is another issue. The applicant should find another way of increasing the parking inside. Trash location is opposite to his trash location.

Ben Penny stated it is very important to consider the impact of the construction vehicles and traffic at 18 Division Street.

Clifford Van Wagner made a motion in the matter of 385 Broadway, Mixed Use Building, and 385 Broadway that the Planning Board assumes Lead Agency Status for SEQRA for this application.

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; Bob Bristol, in favor; Ruth Horton, in favor; Todd Fabozzi, in favor; Mark Torpey, Chairman, in favor

MOTION PASSES: 7-0

NOTE:

The remainder of the agenda items were not heard this evening due to time constraints. They will appear on the next Agenda for the next Planning Board meeting scheduled for October 4, 2018.

5. **18.034 41-45 JEFFERSON STREET SUBDIVISION**, 4 Lot final residential subdivision within a UR-2 District.
6. **18.041 GARY STONE**, 68 Weibel Avenue, Consideration of SEQRA Lead Agency and environmental review within a Transect (T-4) District.

B. APPROVAL OF MEETING MINUTES:

The approval of meeting minutes was deferred to the October 4, 2018 meeting.

MOTION TO ADJOURN:

There being no further business to discuss Mark Torpey, Chairman adjourned the meeting at 10:50 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 11-1-18