

TOWN OF WILTON
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MICHAEL G. DOBIS
Planning Board Chairman

LUCY B. HARLOW
Executive Secretary

PLANNING BOARD MEETING

TOWN OF WILTON

Wednesday, November 20, 2013

A meeting of the Wilton Planning Board (the "Board") occurred on Wednesday, November 20, 2013, at the Wilton Town Hall, 22 Traver Road, Wilton, New York. Chairman Michael Dobis called the meeting to order at 6:29 PM.

PLEDGE OF ALLEGIANCE

I. REGULAR MEETING

PRESENT: Chairman Michael Dobis, Vice-Chairman Harold VanEarden, Erinn Kolligian, William Rice, Sue Peterson, Ron Slone and David Gabay, alternate. Also present are Ryan Riper, P.E., Director of Planning and Engineering; Mark Schachner, Planning Board Attorney; David Gabay, alternate. Also present: James Perella, Connie Towers, Carolyn Lawton, Bernard Lawton, Jim Zack, Dennis Towers, Peggy Kellett, Jan Pazdan, Nancy Gatland, Nancy Dwyer, Joanne Klepetar, Tracy and Jerry Rapant, Ima Ammus, Captain Gary Bullard.

ABSENT: Donald Needham, Tony Mangini, Alternate

APPROVE PENDING MINUTES: Chairman Dobis wants to address the meeting minutes of October 16, 2013 and he asks for a motion and a second to approve the minutes. On a motion introduced by Sue Peterson, the board adopted the following resolution:

NOW, THEREFORE, BE IT RESOLVED, that the minutes from the Planning Board meeting of October 16, 2013 are accepted. The resolution was seconded by David Gabay and duly put to vote, all in favor, on this day, November 20, 2013.

CORRESPONDENCE: Notice of Action from ZBA dated 10/25/13 re: Appeal No. 13-37; Notice of Action from ZBA dated 10/25/13 re: ZBA Appeal No. 13-39; ZBA Meeting Minutes for 10/25/13; Trip Generation Assessment for Saratoga Health and Wellness dated 10/17/13; transmittal letter from EDP dated 11/5/13 re: revised concept plan for Saratoga Health and Wellness; memorandum from Town Clerk dated 11/12/13 re: referral of Saratoga Heritage Phase II Amendment to PUD; *Capital District Data*, Vol. 36 No. 3 for September/October, 2013; *Talk of the Towns & Topics*, Vol. 27, No. 5 for September/October, 2013; AASHTO Publications Catalog, Vol. 5, 2013; transmittal letter from Brett Steenburgh, P.E., dated 10/25/13 re: Everglades revised concept plan; letter from New York State Office of Parks, Recreation and Historic Preservation dated 11/7/13 re: Morris 20-lot subdivision; letter from NYS Department of Environmental Conservation dated 10/23/13 re: Morris Subdivision SEQR Lead Agency Coordination Response; transmittal letter from EDP dated 10/23/13 re: Wilton Dairy Haus Proposed Site Plan Revisions; letter from Bartlett, Pontiff, Stewart & Rhodes, P.C. dated 10/24/13 re: zoning compliance; letter from Bartlett, Pontiff, Stewart & Rhodes, P.C. dated 10/29/13 re: planning approvals; transmittal letter from Ginley & Gottman, P.C. dated 10/30/13 re: Rolling Greens Subdivision.



II. APPLICATIONS

A. William J. Morris: This is an amended site plan application to change the use of the Ellsworth cold storage facility, to add pavement and a pole barn on the property located at 195 Perry Road, on 3.09 acres, zoned C-2. William J. Morris, owner, wants to lease the property to Beacon Roofing Supply, Inc. The green space requirements will be met. The town engineer required examination of the existing storm drainage in view of the additional blacktop. The LA Group prepared a study which shows there is more than adequate storage for storm water. There will be a 6 foot fence around the new paved area and the pole barn. There will be two lights in the parking area for security that should have no impact on neighboring property.

Mr. Riper confirms that warehousing and outdoor storage of materials is an allowed use in this commercial zone. He wants to be sure that the propane tanks are put in an area adjacent to the fence or along the building to meet fire codes. Storm water management meets the required guidelines in view of the increased impervious area. There is an existing vegetative buffer along the fence on the western side. He has been working with Mr. Morris and the LA Group so that the drawings are completed correctly.

Jim Perella, National Director of Sales of Beacon Roofing presents a supplement to the amended site plan which describes the company and their use of the site and how the existing ice cream facility will be used to store products and accessories. The pole barn will be 3-sided. The palletized roofing materials come in on tractor trailers and are stored in the yard. He describes the storage of shingles and the means of the delivery process. The product is moved within the facility and to the delivery vehicles by fork trucks that are run by propane. Propane storage will be on site and it will be in a fire-proof cage as required by local codes. Mr. Gabay wants confirmation that the materials storage outside will be palletized and shrink-wrapped so there won't be any contamination in the runoff. He is assured that everything will be wrapped. The hours of operation are 7 am to 5 pm Monday – Friday. Materials will be received throughout the day: 2 to 4 deliveries a day by tractor trailer loads.

Chairman Dobis comments that applicant has provided the new short environmental assessment form. Part 1 was completed by the applicant. The Board will complete part 2 after reviewing the questions. Mr. Schachner, the planning board attorney will assist in the SEQRA review. Mr. Schachner explains the differences between the old and new form and the theory behind particular components becoming more user-friendly. The Board has reviewed the application materials and the EAF submitted by the applicant. There are 11 questions in Part II. Mr. Schachner asks:

1. "Will the proposed action create a material conflict with an adopted land use plan or zoning regulation?" The Board answers "No".
2. "Will the proposed action result in a change in the use or intensity of use of land? The Board answers, "No".
3. "Will the proposed action impair the character or quality of the existing community?" The Board answers, "No".
4. "Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?" Mr. Schachner adds he knows of no CEA in Wilton so the answer is "no".
5. "Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?" The Board answers, "No".
6. "Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?" The Board answers, "No".

7. "Will the proposed action impact existing (a) public/private water supplies?" or (b) public/private wastewater treatment utilities?" The Board answers, "No".

8. "Will proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?" The Board answers, "No".

9. "Will the proposed action result in an adverse change to natural resources (e.g. wetlands, water bodies, groundwater, air quality, flora and fauna)? The Board answers, "No".

10. "Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?" The Board answers, "No".

11. "Will the proposed action create a hazard to environmental resources or human health?" The Board answers, "No".

Chairman Dobis indicates that based on the determination of significance it won't be necessary to complete Part 3. Mr. Shachner states that is correct. The Board doesn't have to advance to Part 3 because they have not identified any potentially large impacts. This is not radically different than what has been done in the past. There used to be a choice of three boxes to check; now there is only a choice of two boxes to check. The second one is what is still called the SEQRA Negative Declaration.

Mr. Slone has a technical question about Question #6. "Will the proposed action cause an increase in the use of energy and if it fails to incorporate . . . "how does the Board know that realistically?" Mr. Riper states there is no definitive answer as far as increase. Any new building constructed today, if it's going to be a new structure, it's going to have to meet the energy codes.

There are a slew of questions that require technical knowledge or a technical background but it's very clear under case law in the State of New York that the Board is not charged with being engineers or storm water management experts, or archeologists or architects. The Board is to apply the knowledge as best they can even though in this context there are not necessarily experts – that is okay. The professional can't answer the question, but can provide guidance.

The Board has not yet made its determination. A motion for negative declaration at some point should be made, either separate or incorporated into any other decision. Chairman Dobis prefers keeping it separate. Chairman Dobis asks if there are any other questions or comments. Captain Bullard from Maple Ave Fire Department asks whether the facility will be sprinkled or whether the fire alarm system will be updated. Mr. Morris indicates that sprinklers are not going to be installed, but he will look into the existing fire alarm system. There is a 24 foot gate (indicating) as well as mirrored on the back side. Captain Bullard asks about whether there will be Knox boxes installed and Mr. Morris agrees to install them.

Chairman Dobis asks for a motion on the determination of a negative declaration on SEQR. On a motion introduced by William Rice, the board adopted the following resolution:

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board adopts a negative declaration on SEQR for the amended site plan application to change the use of an existing cold storage facility for use as a roofing supply distribution facility. Property location: 195 Perry Road zoned C-2. The resolution was seconded by Harold VanEarden and duly put to vote, all in favor, on this day, November 20, 2013.

Chairman Dobis asks for a motion on the amended site plan as presented. On a motion introduced by William Rice, the Board adopted the following resolution:

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board approved the amended site plan application to change the use of an existing cold storage facility for use as a roofing supply distribution facility. Property location: 195 Perry Road, zoned C-2. The resolution was seconded by Erinn Kolligian and duly put to vote, all in favor, on this day, November 20, 2013.

B. Saratoga Health and Wellness: The site plan application for a 15,000 SF building with mixed use commercial space on Route 9 is being presented by Joseph Dannible of Environmental Design Partnership for conceptual approval. The owners of Saratoga Health and Wellness ("H & W"), Mike Lapolla and Nicholas Galuardi are present. The project came in as a pre-application before the Board prior to going before the ZBA to obtain variances. As a result, there will be a landscape buffer along the southern property line and also along the rear property line; the rear buffer was a requirement of the ZBA. The site has 41% green space. Mr. Dannible indicates on a map the site of the proposed building on the Route 9 corridor, in proximity to the location of the Maple Avenue Middle School and Loughberry Lake Road. The footprint of the building is 14,000 SF with a 1000 SF mezzanine on the second floor to be used as office space. H & W will start occupying 9,000 to 10,000 SF and the remaining 5-6,000 SF will be leased to a tenant. As H & W grows, it is their intent to occupy the entire 15,000 SF space. Parking has been provided for 75 cars. Storm water will be managed on site. The site will be connected to the Saratoga County Sewer District main which is on Loughberry Lake Road and applicants have obtained an easement from the landowner to the north to connect through his property. A new well will be drilled on the site to provide water to the building and all DOH standards will be complied with.

Mr. Dannible presents a graph showing the average check-in times for patrons of H & W and the number of visits that occur on a weekly basis. Applicants are aware that there are significant concerns by the Town of Wilton and the community as a whole with regard to the traffic that exists on Route 9. Mr. Dannible understands that the traffic generated by the Maple Avenue Middle School is of very short duration. From 7:30 AM to 8 AM there is significant stacking in the lanes and also at 3 PM, when students are being picked up from school. The peak check-in times for H & W do not coincide with the peak school traffic. There have been discussions with Kevin Novak of the NYS Department of Transportation Safety Department ("DOT"), who stated that the short duration of potential conflicts is essentially of no concern to DOT; they don't see it as an issue for what is being proposed by the applicants. Creighton Manning has been hired by applicants and its engineers have prepared a trip generation assessment and that report was provided to the Town of Wilton. Mr. Dannible presents a summary of the report indicating that the magnitude of traffic generated by the site does not meet the trip threshold established by the DOT & ITE of 100 vehicles per hour. The detailed traffic impact assessment indicates that the site traffic can be accommodated by the existing road network. Mr. Ripper has reviewed the assessment and asked for a sight distance evaluation. That will be provided as the application moves forward.

The emergency services access has been evaluated and a turning template has been created based upon 45' vehicle turning around which can be accommodated on this site. Anything larger than that will have difficulty maneuvering. In accordance with the Town Code, connections to the north and south of the property are provided on the plan so that when those parcels get developed in the future there will be alternate means of ingress and egress from the site. The parcel to the south is residential and the parcel to the north has been developed on the Route 9

frontage, but not at the rear of the property. Ultimately as the parcels along Route 9 are developed the cross-access that the Town is looking for will be created. DOT's recommendation is that cross-access is promoted on lots along Route 9 because there are many narrow lots with limited frontage on the highway. Mr. Dannible indicates a narrow parcel on Route 9 that a site plan was recently approved for, with only one means of access in and out of the site – no room for any type of emergency vehicle to turn around – this was approved by the Planning Board.

Mr. Riper reviews the comments of his 11/13/13 letter. The Board should declare itself lead agency once conceptual approval is granted. He confirms with applicant that the drawings have been sent to the emergency services. The site plan should show where the lateral sewer connection is through the easement will be made. Dr. Turco wants it along the frontage – Dannible states it will be shown in the detail plans. The sight distance comparison should be placed on the drawing. The "No Parking in Fire Lane" should be indicated along the south side of the building. A stabilized construction entrance detail needs to be added to the plan. A 35' pavement radius needs to be noted at the road intersections. The plan should be sent to DOT for their review. With the future cross-access, the plans show that as being paved – it would be better if that was left as green space until it's developed. Mr. Riper states that in the CR-1, the Board must decide if a 28' wide easement for lighting and sidewalk will be required. Street trees are required unless the Board waives that requirement. The Board will have to make a determination on those issues. Mr. Slone says if there was a sidewalk, it would not be connected. Mr. Dannible indicates there are no sidewalks in the area and no sidewalk or lighting is planned in the easement. There will be lighting in the parking lot. He states that he and the applicants don't see any issue in being able to address any of Mr. Riper's comments as they move through the detailed engineering phase.

With regard to Mr. Riper's comment #13 regarding the 28' easement, Chairman states that in a CR-1 zone, the easement is not required. Mr. Dannible says the 28' easement can or will be provided and incorporated into the site plan. Mr. Rice asks why is it up to the Board to decide whether or not an easement is required. The issue came up because the Hamlet zone is bordered by commercial area on the north and south. DOT prohibited putting the sidewalk in the Town easement due to liability issues if sidewalks just ended without any destination. If a project is close to the Hamlet and there is some potential down the road that sidewalks and lighting would be beneficial and there is that flexibility for the Planning Board.

A couple of street trees along the frontage are indicated on the plan on each side of the project sign with some additional landscaping. Chairman Dobis suggests that on the west side of the front parking area, there be some low plantings to break up the black top, although it is not a requirement. Mr. Dannible's concern with putting some bushes adjacent to the parking lot is that the snow plowing being apt to destroy them. Applicants want an aesthetically appealing site and will look at the suggestion.

Mr. Gabay's question is on the Trip Generation Summary – Table 1, specifically the math calculation on the potential use of the 5,500 SF juxtaposed with the proposed use of the 9,500 SF for the wellness facility. The proportion in each case of entry and exit opens a lengthy discussion. Wendy Holzberger of Creighton Manning addresses the question by saying it is assumed that the extra space would be some type of office use. In a typical office setting, you would come in the morning and work until 5 and there would be very few people leaving in the morning peak hour. Mr. Gabay states that in a professional office such as doctor, dentist, or chiropractor office work would start around 8 AM and typically there will be two appointments every

15 minutes to every 20 minutes; so during that peak hour from 8 – 9 AM you will have more people leaving than just 1 person as indicated on the table. She agrees that a medical office could potentially have a few more. 5,500 SF is pretty small for that kind of use and the trips are low. Even with a client-based use with people in and out during the day, you are not going to trip any thresholds e.g. a hundred vehicle trips that DOT uses. There is plenty of room before that threshold is met. Mr. Gabay points out that as H & W takes over the additional 5,500 SF, that number should increase proportionally. Ms. Holzberger emphasizes that they had a lot of information from the applicants about their operation and about their client patterns. Mr. Dannible states the wellness center is not a by-appointment type of facility, so there is a self-mitigating use, if between 7:30 and 8AM the traffic on Route 9 is backed up because of school drop offs, the people that come to the wellness facility are going to learn that and they will show up before 7:30 and leave after 8 AM. They will spend their time at the gym coming and going outside of the school traffic congestion.

Dr. Gabay states that this intersection is the most contentious and highly controversial intersection in Wilton, the number one generator of complaints and concern for safety. It is between 7:15 AM and 7:45 AM that cars are really lined up in both directions. DOT says it's not a problem because it is only during a limited time. It's a no win situation. The Board doesn't see any mitigation in the near future as far as turning lanes, as far as a traffic light, or sidewalks or crosswalk or crossing guard. There could be an emergent situation that needs attention if sidewalks are developed and bicycle traffic increases. Our duty as planning board members is to plan what is fitting for size, density and the effect and possible future effect it can have on the community. It's a great project but in the wrong place. There could be a better fit for a commercial office that is smaller. If this site was a ¼ mile to the north or to the south, these problems would go away. We need more projects – more facilities like this in our area. But this is not the optimal fit for this particular site.

Bill Rice says the traffic is a problem for ½ hour in the AM and ½ in the PM. In the morning, cars are traveling at 10-15 mph. He doesn't see the danger when cars are traveling that slowly. Mr. Gabay clarifies his concern that there is no line of sight when pulling out between 2 cars when leaving the site turning south. Mr. Riper clarifies if two cars on Route 9 traveling north and you want to travel south; leaving the site between the two cars that are on the roadway in the northbound lane you're pulling between them and nosing out.

Wendy Holzberger: the chart indicates the peak for H & W is really 8 to 9 AM. That is what the trip generation was based on, because it is still during that commuter peak hour – that is the second hour which is really when the site would have more volume out. For that hour which is past the school peak there's approximately 15 trips coming out the site. That's during that full hour 8 to 9 AM – one vehicle every four or so minutes. If you took that worst case, the school peak and moved it back the earlier hour [7 to 8 AM] and said this is now our worst case, the school peak if that is a half hour, you take those 15 trips and say half of them would be in that half hour that would be about 7 to 8 trips and then not everyone is going to left, some will go right, so if you split it 50/50 you're talking about 3-4 people that may want to exit. She understands the concern but says there really is not that magnitude of traffic. The site and this use do work because you are not adding a site that has substantial amount of traffic – especially during the AM peak hour when exiting is the least.

Mr. Riper states that the root cause of the traffic issue is the school. The school board can change the way the buses come in, they can change the patterns. Mr. Rice thinks DOT's position is that they don't want to fix the traffic situation; they don't want more people dropping their kids off. If traffic is that bad, it might discourage parents from dropping their children off. Ms. Holzberger states the DOT has its own guidelines that a certain threshold must be met for a traffic signal. It is based over a period of hours. Schools create an exacerbating condition because of the short term issue of 20 to 30 minutes. That's not going to meet the thresholds that DOT wants. If a traffic signal is put in place it will stop traffic on Route 9 all the other hours of the day. Mr. Rice asks about the number of accidents. Captain Bullard says not during school hours. The traffic is moving so slow.

Chairman Dobis recognizes Jerry Rapant, who is the resident to the south of the proposed H & W site. Living there for the past 14 years, the traffic has probably tripled in volume and they make it four lanes in the morning and four lanes in the afternoon cause everybody is in a hurry to get around everyone that is turning or going in [to the school]. Mr. VanEarden comments that it's illegal in NYS [use of the shoulder]. At Daniels Road there is a big sign that says that it's illegal to drive on shoulder. He has had his turn signal on and had people pass him to make that turn. It is a hard thing from a planning perspective – it's outside the Board's sphere. It is the Board's duty to work with everybody on their projects and everything that's happening on there is contributing to the traffic – not just this. To solve that problem that we're all discussing and we know is a problem, I have a hard time to look at these applicants, with a project that fits, and I believe the experts on the traffic generation. Ms. Kolligian believes it is the magnitude of the size of the building on that piece of property; the size and the trip generating size of the building

Mr. Rice asks Mr. Rapant, "what if the Board said there was no development on that side of Route 9 because of the school across the street." Mr. Rapant replies everything else around him is commercial right now. He would want his property available for commercial use. Mr. Rapant says it's the school is major impact for the area and is the cause of most of the traffic.

Chairman Dobis responds to the remark about Route 9 becoming 4 lanes at the morning and afternoon peak hours. The Town could request DOT to put a sign that it is illegal to drive on the road shoulder. There are two locations on Route 9 where this has been done upon request. Then the state police and the sheriff will have a presence there from time to time and will write tickets for illegal turns on the shoulder. This could serve the purpose. The other issue he heard was about coming out of the proposed facility and taking a left; this could be remedied by posting a "no left turn" sign from 7:30 AM to 8:30 AM. It doesn't solve the whole problem but it can help. Mr. Gabay likes the idea of enforcement of prohibiting cars from driving on the shoulders; then you have forced what had been four lanes of traffic down to two which is going to cause more congestion. Mr. Gabay doesn't want to shoot this project down, but he wants to look at the potential hazards.

Chairman Dobis recognizes Nancy Dwyer in the audience who agrees with restricting left hand turns out of the site at certain times of the day or all the time. She has another question about the northern property on the back side where you have the ingress and egress; what is the potential of having an entrance/exit on to Loughberry Lake Road? Mr. Dannible has discussed this at length with the applicants and they have talked with Dr. Turco, the doctor on the corner and they haven't been able to reach an agreement. The doctor is uncomfortable with people crossing

his property and the potential liability. Mike Lapolla agrees that Dr. Turco was uncomfortable with the liability and providing a never-ending easement of access to the project site.

Mr. Lapolla would like to comment on the peak traffic times. His facility is more of a medical-minded fitness facility; it is not comparable to Planet Fitness. His clientele is different; the average age is 55 to 65. "Our peak hour is not 7 AM and even 8AM – 9AM is not our peak check in hour." The busiest hours are when people will be there for two plus hours from 9 AM until 11 AM. When people arrive is usually 9 AM, 10 AM or 11 AM. At 7 AM there are fewer people checking in. Applicants have 13 years of data to back this up. There is aggregate data for years that will show that during those 30 minutes of school peak traffic; there will be perhaps an average of 3 people checking in. The size of the facility and square footage footprint is not a high impact use. It is much less than a physician's office would be for that particular size. Mr. Lapolla states that they anticipate a 30% growth in volume of clients and that would enable them to take over the extra 5,500 SF. The numbers that were presented by Creighton Manning – they projected more than 30% - they projected a worst case scenario of 41 at the peak 9 AM hour which is not the school peak hour. Mr. Rice asks about dovetailing the H & W operation with the school across the street. Mr. Lapolla agrees that it is a self-mitigating use at that particular time. They are not in the business of aggravating their clientele. Wendy Holzberger of Creighton Manning comments on the 5500 SF – even if it was a different office use, it still is a small facility. For instance an insurance office could only service a few people because it's not a big office space. Mr. Gabay adds that typically offices open after 8 AM, so that is not a concern. Mr. Gabay asks if the applicants have made site visits during the peak hours. Mr. Dannible states that he has been there 3 times, both in the AM and PM peak hour. Creighton Manning has also during the school time, just not during the peak.

Jim Zack, a resident, states that each new project that comes before the Board is tested on its own merit, not in concert with other projects that are in the pipeline, not in concert with the increased traffic that's already happening which isn't factored into the current Creighton Manning studies that are using 2006 and 2009 data as far as he can tell. The impacts of other projects that are already in the pipeline – you may end up with all these projects coming on line at once, more than a 100 trips being generated cumulatively. Where are the cumulative impacts being tracked? He urges the Board to consider not only the traffic, but the wildlife and the mitigation of traffic heading around Loughberry Lake Road.

Chairman Dobis comments on the fact that DOT, when they issue curb cut permit, it's at their discretion and they do look for the cumulative effect. Mr. Riper adds that each time a traffic engineer analyzes a project they take the latest traffic data and they add in a percentage depending on whatever the growth may be. It's cumulatively accounted for. Chairman Dobis describes his meetings with DOT, one of the requirements they ask for is the cumulative effect of a project.

There is a question about the curb cut; the minimum distances that DOT permits a curb cut to come in. Mr. Dannible states that DOT requested that the curb cut be as far south on the property as possible. Chairman Dobis interjects that DOT cannot refuse a curb cut if you have frontage on a state highway; you are entitled to one. They can tell you where to put it. If there were ingress and egress off of Loughberry Lake Road, it would solve a lot of problems.

Gary Bullard of the Greenfield Fire Department asks about what the access is for the fire trucks. Mr. Dannible states the main two entrances are going to be on the front parking lot and at the

rear of the building and a third access in the middle which will be the least used entrance. There are striped islands to increase maneuverability. Chief Bullard states the trucks are 48 feet in length not 45. There is a discussion of how a truck of that length can turn around in the rear parking. Bullard states if there are a lot of cars in the back parking lot, the fire truck won't be able to turn around and he doesn't want to back out on Route 9. He needs more room in the back parking lot. Mr. Dannible says its 26 feet wide which accommodates the fire apparatus turning around per the NYS Fire Code. He can possibly do a sub base section with a couple of inches of topsoil with grass on top so that a fire truck could back over the grass. Bullard asks about whether the building is going to have a sprinkler system. Mr. Dannible states he doesn't believe the building fire rating requires sprinklers, but the building code will be adhered to.

Ms. Kolligian and Mr. Gabay clarify their positions about the building use and the traffic issue. Mr. Gabay states it's a great building but it's the worst possible location because of the traffic issue. Ms. Kolligian agrees but adds that Gordon Development which is in the hamlet zone, bought 3 lots to put that building on. She understands the community concern about setting a precedent by allowing a building this big on such a narrow parcel. Every parcel on Route 9 is that narrow – what are we setting ourselves up for down the road in front of the Middle School. Mr. Gabay adds that as a planning board, that must be planned for. Chairman Dobis asks if it is the size of the building or, is it the size of the building that's generating the density that's generating the traffic. The density is what drives the traffic. For Mr. Gabay and Ms. Kolligian it's the traffic, the specific location of the site and the safety of the road.

Joanne Klepetar states that it does set a precedent. This gentleman said that was the only way is to get the variances. That is not the only way; if you shrink a building then you don't need variances. Mr. Dannible contends the zoning requires a minimum lot width of 200 feet. Chairman Dobis interjects that the required frontage has nothing to do with the size of the building in this case. Further discussion ensues about what might be the optimal on this site or by comparison, if there was a high-intensity use.

Mr. Riper says the traffic is on a state highway, it is where you want your commercial businesses. There is a short duration traffic issue; the root cause is the school. It's always going to be there. Our hands are tied as far as the school traffic, but you can manage the peak traffic times.

Chairman Dobis wants to know from the Board whether it will approve a motion for conceptual or not. If we do give conceptual approval for this project, then the next stage is the preliminary plans and if Mr. Riper deems them complete, a public hearing will be set. With regard to SEQRA, Mr. Schachner indicates that the old long form environmental assessment was completed by applicants and is part of the record. They will submit a new short form EAF. Chairman Dobis states that during that procedure, the Board will get another look at traffic. He wants to make sure that the comments were not about the size of the building but rather, they were about the traffic. There is still opportunity for looking at signage and other factors involving site plan review. Mr. Schachner indicates that during the SEQRA review, the Board will be looking at: "is there a potentially significant impact on traffic." These issues will be looked at in more detail.

On a motion introduced by William Rice,

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board approves the conceptual site plan application for a 15,000 SF building to be used as a health/fitness center with mixed use commercial. Property located at 538 Route 9, near Loughberry Lake Road, zoned CR-1.

Chairman Dobis asks for comments. Under comments, if this motion carries, it's conceptual only and then we take all the comments that we heard tonight and there will also be a public hearing, additional comments and any other information that is brought in from the public or from the applicants or from the Board or the Town, e.g. traffic or DOT that's when we take a hard look at that.

The resolution was seconded by Sue Peterson and duly adopted, on this day, November 20, 2013 by the following vote:

AYES: Harold VanEarden, Erinn Kolligian, William Rice, Sue Peterson, and Ron Slone

NOES: David Gabay, alternate.

ABSENT: Donald Needham, Tony Mangini, Alternate

Chairman addresses the applicants in saying that if there is any other information they could get and he emphasizes to both sides, the main issue here is traffic.

The Board now should seek lead agency designation. William Rice makes a motion that the Wilton Planning Board seeks lead agency designation. David Gabay seconds the motion. All Board members are in favor and the motion is duly adopted this 20th day of November, 2013.

III REFERRAL: Request from the Town Board for an advisory opinion re: the proposed amendment for Saratoga Heritage II PUD.

Chairman Dobis: This is a request for an advisory opinion regarding the proposed amendment to Saratoga Heritage II PUD for the construction of 40 new parking spaces and pedestrian facilities for the benefit of the proposed Everglades development to the south. Property location: Route 9 and Waller Road zoned PUD.

Linda Leary, the attorney from Donald Zee's office is representing the applicant, Thomas J. Farone Homebuilders, Inc. who was also represented by Brett Steenburgh, the engineer. Ms. Leary and Mr. Steenburgh came before the Board approximately a year ago with the conceptual plan for the former Everglades property. She indicates a site plan that the Farones are looking to construct, four buildings with mixed use and commercial on the ground floor. There is adequate parking currently to the Saratoga Heritage II site and applicant wants to put 40 parking spots on that site to accommodate the Everglades development. One of the advantages is to allow a restaurant on the ground floor so the additional parking would allow for people from Saratoga Heritage II to park for purposes of using the restaurant. It also would provide that connectivity that is desired to provide another access to and from without putting additional parking on to Route 9. Before coming to the Planning Board to address what applicant is formally proposing, and go through that process, the PUD needs to be amended to get the additional parking. The Town Board is requesting the Planning Board's opinion as well as the County's. So applicant is asking the Planning Board to relay its opinion to the Town Board whether this is something the Board would be in favor of.

Chairman Dobis clarifies that what is being requested is a recommendation to the Town Board for 40 parking spaces which will still be on the existing Saratoga Heritage Phase II PUD. It will not become part of the Everglades project. The properties are in different zones: the Everglades are in the Hamlet zone, and Saratoga Heritage II is a PUD. The issue is whether they can be counted twice. Saratoga Heritage II has adequate parking as it stands. What is being requested is that some of the PUD land to con-

struct additional off-site parking for the Everglades. There is the benefit of cross-connectivity between the parcels. The spaces will be counted solely for the Everglades. The spaces will be owned by Saratoga Heritage II. Mr. Slone wants to know what will happen if the property is sold. Why not just purchase the property and incorporate into the Everglades property. What is the rationale if the PUD has adequate parking?

Mr. Schachner refers to the draft Town Board meeting minutes in reference to the presentation by Ms. Leary. The applicant is requesting to amend Saratoga Heritage II PUDD to add 40 additional parking spaces that will be utilized by the property next door located in the hamlet district. Forty parking spaces would facilitate parking for the Everglades project. The Town Board Resolution of Referral was to refer the amendment to Saratoga Heritage II PUDD to Town and County Planning Board for initial advisory opinion. The Board is being asked to make a recommendation, as to whether the PUDD should be amended. Mr. Riper states it is required by Town Code to refer to the Wilton Planning Board and also the Saratoga County Planning Board for an advisory opinion if the PUDD should allow the 40 spaces for the benefit of the Everglades.

Ms. Leary states that applicant could, for purposes of future sales, put in place an exclusive easement of use for the spaces to accompany just this parcel. Green space for the PUDD would decrease from 45% to 41%. The 40% requirement would be met in the Hamlet Zone.

Brett Steenburgh says applicant is pursuing the amendment to the PUDD because he cannot get any conceptual approval on the Everglades site plan without the PUDD being amended

Mr. Riper addresses the issue of quantity of parking. The onsite parking is 116 spaces, the offsite is 40 spaces for a total of 156 spaces, which on average usage is still only 82% of the required parking, even with the 40 additional spaces, and only 82% of the required parking for the Everglades project is being met. These calculations did not include a restaurant. Mr. Steenburgh states they included the restaurant as 5 spaces per 1000 or whatever the requirement is. These calculations also don't include the fact that 4,700 SF of the commercial space will be for the Farone offices and an additional 1700 SF will be for the rental office and exercise facility which will be exclusively for the use of the residents of the Everglades. This comes to about 32 parking spaces; the offices will only use approximately five parking spaces. There is also the component of shared parking between the uses and it is applicant's position to utilize some shared parking which is the intent of mixed used development in the hamlet zone.

Mr. Towers comments about the fact that the Saratoga Heritage II has been approved and built and has consumed as much as it can and if that is the case, why is it being considered that it could be utilized as parking for another project. If that's the case, how does the Everglades project stand on its own? If each project has to be looked at on its own, how can projects are combined?

Mr. Gabay recalls that when the Everglades project was reviewed, it was determined that it was deficient in the number of parking spaces it needed for the proposed usage. It was recommended that the applicant downsize the project.

Chairman Dobis states that any applicant has the right to come in to the Town and apply to have his or her project reviewed. The process in this case is that the applicant came to the Town Board and applied to amend the PUDD. The Code states that the Town Board shall refer the application to the PB and the County if applicable. The Planning Board can voice its opinion – which is non-binding opinion. The applicant then goes back to the Town Board for its ruling. The Town Board can accept the opinion of the Planning Board; they can throw it out or whatever. But that is the process.

Mr. Schachner: The Town Board has allowed an applicant to seek an approval for something the applicant may or may not get but has decided to run it through the process. The process in the Town of Wilton Zoning Law calls for referrals to this Planning Board and the County Planning Board – and that's all

that is happening. The Town Board could have exercised their legislative discretion to not even entertain an application.

Mr. Slone asks for clarification as to the applicant's intent with regard to parking requirements for the four buildings that were on the initial site plan. The applicant's intent is to utilize space on Saratoga Heritage II for parking for the project to the south. Applicant is not here for site plan approval or review. That plan is where applicant left off when previously before the Planning Board.

Mr. Rice asks about what appears to be parking on Niagara Mohawk's land. Mr. Steenburgh states applicant did seek approval from Niagara Mohawk for additional parking that they had approved in the past and is still waiting to hear back. If it is not approved 2 or 3 parking spaces may be lost from the 40 being requested.

A member of the audience asks for clarification regarding the density of this site, going from 8 units to 15 units per building. Chairman Dobis responds that all the phases of Saratoga Heritage PUDD are 8 units per building. There was a change of density in the hamlet zone. Fifteen units are for the entire H-1 zone in terms of maximum density. Mr. Schachner adds that was a district-wide change, not a project specific change.

Another question is about the parking and if the amendment is approved, only being at 82% of the parking space requirement. That percentage is without calculating the shared parking and it depends on what the uses are. In the hamlet, there has to be a certain percentage of commercial on the building's first floor. There can be a certain percentage of shared usage between the residential and commercial parking for a project. Shared parking is a planning tool which is used also to prevent "a sea of blacktop."

Ms. Leary addresses this as being a unique situation of having a PUD next to the hamlet zone. This amendment facilitates the connectivity between sites, which in the case of another application was looked for in terms of access to another roadway. Mr. Ripper indicates that cross-access is a requirement.

The question of jurisdiction is presented. PUDD amendment is in the jurisdiction of the Town Board. The Everglades project which is in the hamlet goes directly to the Planning Board. If the Planning Board was to give a positive recommendation to the Town and the Town did approve the amendment to the PUDD for the 40 spaces to be used for the Everglades project, is the Planning bound to allow those 40 spaces to be used for parking at the Everglades? Mr. Schachner: if the Town Board approves the PUDD amendment that means that use of those 40 spaces would be authorized; just like Saratoga Health & Wellness is an authorized use in the zone in which it is located, but it would still be subject to site plan review by this Board. In theory, the Board could decide that more than 40 spaces are needed or that the 40 spaces are not in the proper location. It would not eliminate this Board's review authority, but it means that those 40 spaces would at least be potentially available. There would be an authorization for them to be utilized for that purpose.

Mr. Ripper asks about what he believes is the fire access road and the fact that it cannot be blocked off by a parking lot. That being the case the 40 spaces could be reduced by 3 or 4 spaces, which may or may not be enough for whatever is being proposed. Ms. Kolligian says there are questions that have not been answered and more information is needed about the fire access road; if it is a fire access road it should not be blocked.

Ms. Kolligian is suggesting there could be contingencies to the recommendation such as the parking spaces being agreed to by National Grid and whether the Town Board is asking the Planning to consider this for the hamlet.

Mr. Gabay asks if the Board can make the assumption that if the 40 spaces are approved, that they will be used for the hamlet that will give applicant the allowed parking to facilitate the higher density of four

buildings in the Everglades project. Mr. Gabay recalls the Board's recommendation to the applicant at an earlier meeting [12/19/12] to reduce the size of the project so it did not need the additional parking spaces.

Chairman Dobis indicates that the opportunity for comments has been adequate and that the Board should consider whether to make a recommendation to the Town Board. That decision does not have to be made tonight; the Board has 90 days to decide to make a positive recommendation, a negative recommendation or a recommendation with conditions. He asks if the Board is ready to make a motion tonight.

Ms. Leary indicates that if the Board says the 40 parking spaces are not an issue; the applicant still has to come back before the Board for site plan review of the Everglades parking area. In effect the Board is not bound by the PUDD amendment.

Chairman Dobis expresses some concern about whether the PUDD legislation has specific language about the fire road access. Ms. Peterson suggests that the Board recommend to the Town to look into that PUDD legislation specifically regarding the fire access road and the other questions the Board has; in essence, let the Town look into the contingencies. Ms. Kolligian and Ms. Peterson have expressed legitimate concerns. Chairman Dobis asks for a motion.

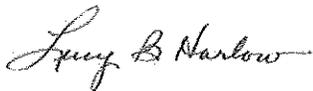
William Rice makes a motion that the Town Board should not amend the Saratoga Heritage II PUDD to construct 40 new parking spaces and pedestrian facilities for the benefit of the proposed Everglades development to the south. Mr. Gabay seconds the motion. Chairman Dobis asks for any comments. All the Board Members are in favor and the motion is duly adopted.

Chairman Dobis asks the applicants representatives, Brett Steenburgh and Linda Leary if they are clear on what happened tonight. They both indicate their understanding of the Board's decision.

Under comments, Chairman Dobis asks if any Board Members know that they cannot attend the December 18th meeting. He also asks what the cutoff date is for incoming applications. The cutoff is December 3rd for applications to be on the December agenda. If there are no applications, then the December meeting can be cancelled.

On a motion introduced by Sue Peterson that the meeting be adjourned; it is seconded by Ron Stone. All board members are in favor. The meeting is adjourned at 9:15 PM.

Approved: January 15, 2014



Executive Secretary

