

Town of Ballston
Planning Board

**TOWN OF BALLSTON
PLANNING BOARD**

Regular Monthly Meeting: July 27, 2016

Present: Richard Doyle, Chairman
Jeffrey Cwalinski
James DiPasquale
Patrick Maher
John VanVorst
Daniel Shorey 2nd Alternate
Thomas Johnson, Building Inspector
Kim Kotkoskie, Storm Water Mgmt
Officer
Paul Guillett, Town Engineer
Members of the General Public

Absent: Audeliz Matias
James Fischer 1st Alternate
Peter Reilly, Esq.

Chairman Doyle called the July 27, 2016 meeting to order at 7:30 p.m. and led the Pledge of Allegiance. Chairman Doyle reviewed the agenda.

Chairman Doyle asked for corrections to the June 29, 2016 meeting minutes.

MOTION: Mr. Cwalinski made a motion to accept the June 29, 2016 minutes as written. Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. Maher made a motion to accept the June 30, 2016 minutes as written. Mr. Cwalinski seconded the motion and all present voted in favor. **CARRIED.**

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OLD BUSINESS

Mark Katz

Route 50, Ballston Spa, NY 12020 SBL # 239-1-1

Mixed Use PUDD – Residential and Commercial

Scott Lansing with Lansing Engineering was present on behalf of the applicant.

Mr. Lansing stated the proposal is a mixed use PUDD located near McCrea Hill Road. The overall parcel consists of 90.85 acres with two zoning districts that encompass this parcel. The first is an area of 500' off of NYS Route 50 – zoned Business Highway-1 approximately 17 acres and the balance of the parcel is zoned Rural/Residential.

The applicant is proposing a PUDD and has been working with the Town Board. To date, the plan that you see is a plan that the Town Board have reviewed and do like and did pursue with the Town Board and have obtained a Water District Extension for the parcel, which is one of the conditions that the Planning Board wanted to see prior to reintroducing this project to the Planning Board.

Overall the project is a mixed-use development with several different uses;

Mixed-use building in the front – first floor approximately 23,000 square feet – proposed as a mix of retail and office space. The second and third floor are proposed as apartments – second floor 20 apartment units and third floor 20 apartment units totaling 40 apartment units. Parking located in the back of the parcel.

Multi-family – a total of eleven (11) buildings – 11 unit buildings a total of 121 multi-family units.

Single-family – 57 single-family residential lots.

Open space – deed restricted open space approximately 41% of the overall parcel is proposed as open space.

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Parking for the site is proposed in accordance with town standards for the mixed-use building, multi-family in the front and single-family in the back.

The site to be served by public water and public sewer; public water is available on NYS Route 50; public sewer is available along McCrea Hill Road.

Mr. Lansing stated comments were received from C. T. Male and were technical and mostly focused on the EAF – will address. Here tonight to obtain feedback from the board and work through the process with Planning Board and Town Board to get through the technical comments on the project. Mr. Lansing asked the board to possibly start the coordinated review process for the SEQR process.

Mr. VanVorst stated it's going to be difficult for members of the board who did not receive the C.T. Male comment letter and be difficult for the board to evaluate the board's position on some of these issues.

C.iii.C - Which fire protection and emergency medical services serve the project site? – It says "Ballston Lake Fire Department. Mr. VanVorst stated that is not accurate. Burnt Hills Fire Department.

Page 7, D.ii and J.vi - It asks - are public or private transportation services or facilities available within a half mile of the proposed site? Mr. VanVorst stated the EAF was answered no, but believes the answer is yes, and believes there is a bus stop closer than a half mile.

Page 8, Q.ii – The question is not answered. Will the proposed action use Integrated Pest Management practices? Mr. Lansing stated that question is typically for commercial, but there is a commercial element and will make sure to answer.

Page 9, E.1.A - Existing Lane Uses – right across the road is an industrial park; there is a commercial building in that industrial park and the next property to the north is a sheep farm and thinks agriculture should be marked.

Mr. DiPasquale stated Page 3.E., multiple phases yes or no?

Page, 5.C., related to water. Is the project site existing district – "No" – 4, is there a new water district or service area proposed to serve this project site – "No" – incorrect.

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Page 6, E – Will storm water flow to adjacent property - “Yes” – Mr. Lansing stated there would be storm water flow.

Chairman Doyle stated the Planning Board should not be sending out SEQR documents for people to comment on that are not completely filled out in error and cannot send out for coordinated review. Chairman Doyle asked that the SEQR form be updated.

Chairman Doyle asked that Mr. Katz look into the part about the Ag District and send part of this review to the Ag District for their comments. The Ag District runs all the way down NYS Route 50 and across NYS Route 50 on the other side of the road. Back when the town established this 500’ commercial zone – nothing was done with the Ag District part. Chairman Doyle said the board has to take action with the Ag and Market to make sure they know what the board is doing and see what they have to say.

Chairman Doyle stated there are no farming types of assessment that are given and appears Mr. Katz has been paying full tax on this property.

Chairman Doyle received a letter today to use (the board) that there is a legal action going on that Mr. Katz should look at. The town still stands by the water and by the action of the 500’. Mr. Lansing stated the applicant is aware of that.

Chairman Doyle the board resolved the spacing of the houses; accept the TND design even though it’s in the Ag District and to make sure the ACOE has been delineated by letter.

Chairman Doyle opened the public hearing at 7:58 p.m.

Ms. Jasinski, 150 Middle Line Road stated her neighbor raises cattle, organic grain, and organic grass fed cattle. Ms. Jasinski stated she has a bunch of chickens and bees and can hear her roosters at the back end of her 38 acre parcel. It’s a beautiful development; the first 500’ get city water and have no issues with. The rest of the 57 acres if buildable contains 9 – 11-unit buildings a total of 99-units and the 57 houses totaling 150 residences’ going on 55/56 buildable acres and understands PUDD’s to group together and give open space, but question the density of that on a rural parcel that has not been removed from the Ag District and need to start doing things by the law by the steps that are required to do. Most of this parcel is in the

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rural district going in next to farmers and farmland or actively farming. There are 57 houses and could cut that in half to 28 houses would legally be able to go into that according to current zoning as opposed to 150 plus and has an issue with that and has not been removed from the rural district. Ms. Jasinski was at the Town Board meeting where they (the board) in her opinion mistakenly granted water to the rest of this development; that is up in the air and being contested. Ms. Jasinski has copies of the letter and has been permission from Chairman Doyle to hand copies to the board; right now going forward with this project, at least the part going beyond 500' of NYS Route 50 until any of these issues are resolved would be a mistake. Going forward with any development in the rural Ag District, that requires water, should not be going forward right now. We need to take the time and step back and get a lot of things in order before moving forward. Ms. Jasinski goes to Town Board meetings, but sees no urgency in getting this taken care of. It's a beautiful development, but maybe part of it doesn't need to be where it is right now, at least according to the law.

Josephine Cristy, 1220 Route 50 former Planning Board member stated someone told her that one of her driveways is going to be directly across from her driveway. With any project safety is the main thing and has a hard time getting out. Right across where this driveway is going to go there have been so many accidents and there is such a blind spot. Just a recently as Easter, a helicopter had to land on her property so they could take someone to the hospital because of an accident across the street; the person unfortunately died. This could happen again and again because if we have a road there, it's going to be like cross roads and people coming out of the project are going to have to look at my driveway, north and south and it's dangerous. Ms. Cristy stated she cannot see why a driveway should be across from another driveway. Mrs. Cristy has two driveways and there is another one to the north of her property and somehow that needs to be changed and feels no one would want to cause another accident or death; so before it's done, this has to be considered. If there are going to be sewers there, could we latch onto them. Mrs. Cristy has lived there over 25 years and was told the land across from her is wetlands and nobody could ever build there and all of a sudden it's not wetlands anymore; would like to know what happened to the wetlands "did they dry up, where are they." Mrs. Cristy stated this project is too large and too many people coming in and NYS Route 50 is a very narrow road, it only goes north and south and no other lanes and is too dangerous of a project and have to think of the future. There is only one car coming out of her driveway, but someday it might be a family of five or six and then what's going to happen. We have no light there and thankfully a light on NYS Route 50. Ms. Cristy asked the board if you approve of this, please make sure the driveways do not come out facing another driveway and consider the safety

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involved it's for the future and don't want to endanger anybody's life, not when we have a chance to save one.

William Crawford stated he owns property on Charlton Road and backs up to Mr. Katz's project. Mr. Crawford has been in house since 1984 and has never had water in his basement. New Year's eve his wife goes down in the basement and has water coming in the basement because of the trees that have been cut on this property and know he has been cited by the town officials for work that he has done and he shouldn't have done and thinks we need to put a stop to this project. As Assistant Chief of BHFD with 46 years with BHFD and is planning a 3-story building and if the town gets a couple more 3-story buildings in our district, ISO (Insurance Service Office) requires BHFD to buy a ladder truck "were talking a million dollars for the tax payers in the BHFD." The traffic along NYS Route 50 in that area is the worst traffic we have in our district and have more motor vehicle accidents between Brookline Road and Outlet/Charlton Road intersection on NYS Route 50 than anywhere else in the district; more are very serious accidents. The NYSDEC has sent a letter to Supervisor Szczepaniak telling him that the water district in that development is illegal.

Mr. Cwalinski asked what ISO stands for. Mr. Crawford stated Insurance Service Organization and they do the ratings for all the insurance companies and BHFD happens to be a four (4) and if we don't put a ladder truck in it goes to a nine (9).

Chairman Doyle stated that is a concern of the Planning Board as we keep adding 3-story buildings, it's beyond the capability of our fire department and there is no doubt what the chief says is correct and have to do something about that. Right now have a mutual aid agreement with the Village of Ballston Spa because they do have a ladder truck.

Mr. Crawford stated if we get five of those 3-story buildings, ISO will not recognize automatic mutual aid.

Kevin Draina stated he grew up right around the corner from the proposed development. Traffic is his biggest concern in this area and this is a blind s-curve on NYS Route 50 with more deaths than he can recall and an existing memorial where the existing driveway is proposed. Now you want to add 500 or so cars pulling out into this area and a blind s-curve where tractor trailers come through every day and does not think that is a good idea. Mr. Draina asks the members of this board do this sound safe to you, who would be responsible for the next life

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lost there and would you feel comfortable having your son or daughter pull out of this development in that area. There is a lot of commercial space and why do we need more and believes Mr. Katz has a building a quarter mile down the road that has been vacant for ten years since it was built not to mention the plethora of commercial property outside of the Ag district or rural district has been for sale for year and counted 21 properties/buildings that are for sale or lease in a commercial area for commercial use. In his opinion, it's an excuse to build houses where they should not be built. The water was extended into this district illegally that is in his opinion and of the many people and professionals here it is of their opinion too and has received letters of that as well. Mr. Draina stated to please consider these matters and urge the board to humbly table any discussions or approvals until these matters can be resolved.

John Goddard, Chairman of the Board of Fire Commissioners for the Burnt Hills Fire District. Assistant Chief Crawford spoke earlier about ISO. ISO is an organization which all insurance companies whether it is commercial or homeowners, base their premiums on everybody. We do not have a ladder truck – Ballston Spa and East Glensville has one; those are two that we utilize not on a regular basis, but are there when we need them. Ladder trucks run a million dollars or plus and somewhere to put them. We are a 100% volunteer organization and spend roughly two thousand hours right now on training; you bring a ladder truck in the mix, you have to have certified operators for a ladder truck and not just anybody can do it and there is a lot of training to go with it. It's more than what the volunteers need to put up with right now. Mr. Goddard stated he has nothing against this project from a personal standpoint – it's strictly from a fire protection standpoint. Mr. Goddard would be willing to talk to anyone on the Planning Board, Mr. Katz and Mr. Lansing in regards to what is required from us from ISO. Mr. Goddard stated there are 40 apartments proposed along the top of the commercial space, ISO has a rating system where it's possible that each individual parcel is considered a building separated by a fire wall or multiple apartments separated by a fire wall. If we get two more buildings in this district, we are required by ISO to have a ladder truck. Mr. Crawford stated our rating is a four (4); our rating is a 4/4X and are that close to increasing that rating to a three (3) and are working on that now, which will lower taxpayers premiums on their homeowners insurance, but also lower commercial business insurance. Traffic on that section of road is barely straight and can count seven fatalities in the 15 years he has been in the BHFD and thinks there was two more previous to that when on the Ballston Lake Emergency Squad. Mr. Goddard stated he does not know what there is about that section of road – it happens all the time and could get exact numbers and get the calls that we (BHFD) have answered. This entire project is within the Burnt Hill Fire District, not in the Ballston Lake Fire District. Mr. Goddard

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spoke to the board a little of a year ago when a 3-story building was proposed up in that general area and willing to work with them and have an open door policy.

Wayne Bennett stated his concern is for the road and the danger that several people have mentioned. There have been many deaths on that section of road. His daughter moved in to 1226 NYS Route 50 directly across from one of the driveways proposed. He has three sons and three grandsons and does not want them to be one of the fatalities possible in the future and does not want anyone to be a fatality there, but with more and more traffic on that section of road. Mr. Bennett asked the board to take consider of those driveways and that entire project of what is going to do for the area.

Chairman Doyle closed the public hearing for this meeting at 8:20 p.m. The public hearing to reopen at the next meeting the applicant is in front of the board.

No questions from board members.

Application tabled.

Kelley Farms Mixed Use TND
Eastline Rd. SBL # 239.-2-7.1
Mixed Use Traditional Neighborhood Development

Scott Lansing, P.E., with Lansing Engineering was present on behalf of Jeffrey Knox and Geoffrey Booth with New York Development Group.

Mr. Lansing stated the applicant has been working with the board on this project and is very familiar with this project and was not was not planning on going through the existing conditions as the board is familiar.

Mr. Lansing stated one issue from C. T. Male was raised relative to modeling and has since spoke to Mr. Guillett about all outstanding comment for the project. Mr. Lansing stated in his opinion, all comments have been adequately addressed and Mr. Guillett was satisfied with the comments. The other issue was with the filter that is being proposed on the eastern side of the project (Jellyfish Filter) and there were questions from the board regarding ownership and maintenance of that structure. Mr. Lansing stated the applicant did pursue and met with Mr.

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Whalen and Ms. Kotkoskie to discuss those measures; they understood, but were still uncomfortable. The applicants have offered take over the ownership operation maintenance for that Jellyfish structure, storm tank system and cvs unit.

The applicant received comments from C. T. Male and did have a conversation to go through each comment. Comment #2 talks about the O&M responsibilities for the cisterns proposed as part of the project. There were three bullet points;

1. Ownership and Maintenance Responsibilities – it's clearly defined the homeowners deed.
2. Require the homeowner to sign a document acknowledging they are the owner of the cistern – it's something the applicants would like the board to consider of waiving that requirement and feel it is redundant and is in the deed restriction.
3. Electrical metering of the cisterns – a note on the plans indicating electrical requirements will be for the owners of the cisterns.

Mr. DiPasquale asked if the cisterns on the multi-family units being taken care of under a homeowners association. Mr. Lansing stated or the owner of the multi-family complex if there is a condo association, a single owner or multi-families in it would be for that entity; not the town, but the owner of the complex. Mr. DiPasquale stated will it be the same for the commercial. Mr. Lansing stated all the units would be owned by one owner – individual tenants for those buildings and if it were divided and split, then those individual owners would be responsible for those electrical requirements (O&M requirements).

Mr. Cwalinski asked who is responsible for maintenance for this Jellyfish filter. Mr. Lansing stated the owner of the commercial building with a common area charge for the tenants.

Mr. VanVorst asked who is going to verify that it is being properly maintained. Mr. Lansing stated it is a requirement that it be inspected on a routine basis and certification that it is properly inspected. Mr. VanVorst asked who they answer to. Mr. Lansing stated its part of the SWPPP through the NYSDEC and MS-4. Mr. DiPasquale asked if there is a SPEDES permit for this. Mr. Lansing stated yes there is an NOI for storm water discharges for the site. Ms. Kotkoskie stated the town is required to make sure they maintain it.

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Chairman Doyle stated the board was concerned about ensuring that there was an individual who if that ownership should change, the town would be notified. Chairman Doyle asked if the board accepts this method of infiltration. The board concurs of this method of infiltration for the project.

Mr. Cwalinski asked Mr. Lansing to clarify note #2 above relative to requiring the homeowner to sign a document acknowledging they are the owner of the cistern. Mr. Lansing stated the applicant feels it's redundant; there will be a deed restriction for those individual parcels and ask the board for a waiver. Mr. VanVorst asked what would be the negative to have them sign that. Mr. Lansing stated it's redundant; it's in the deed and read it in the deed to have a second letter stating the same thing and the applicants would rather not have that. Mr. Booth stated there are buildings with multiple units and maybe one cistern for four of six units and each individual would not be responsible and would be an HOA who is responsible for it; saying unequivocally the homeowner has to sign a letter of responsibility does not really make sense for multi-unit buildings. Mr. Kotkoskie stated that needs to be clarified and do we have to say its and HOA, then and make that really clear. Mr. DiPasquale stated the applicant is not clear if it's going to be apartments or condos. Mr. Booth stated we do not want to commit to one and adhere to the requirement. Chairman Doyle stated this needs a little legal attention.

Mr. DiPasquale asked about construction traffic and to minimize the traffic for this neighborhood through the existing subdivision. Mr. Lansing stated for the construction on this project and the second phase of Kelley Farms subdivision the connection to Eastline Road will need to be managed and the construction traffic will be shifted to Eastline Road.

Mr. VanVorst stated on C. T. Male's comment letter #10 and #11 – both statements ended with discrepancies noted – how many discrepancies and what they were. Mr. Guillett stated they are very minor – HydroCAD not properly transposed into the report and the same with #11, they were on the level on typos; nothing to be concerned about, the results in Hydro CAD were acceptable.

Mr. Guillett stated the discussions here tonight focused on cisterns, which are for the residential units as stated in the comment letter, but subsequent to writing the comment letter believes there was an agreement for the maintenance of the Jellyfish system and the storm tank that would be held by the owner of the commercial property. Mr. Booth stated that's what Mr. Lansing talked about and that is what we (the applicant) are going to do.

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Chairman Doyle stated the public hearing was closed on June 26, 2016; the Town of Ballston Planning Board declared themselves Lead Agency November 30, 2015 and had a coordinated review, which stated that everyone agree that the Town of Ballston Planning Board be the Lead Agency in the SEQR process.

Chairman Doyle recommends the Planning Board issue a conditional approval conditional upon C. T. Male to take care of the miscellaneous outstanding engineering items and an agreement be made by the Town of Ballston Planning Board, Mr. Reilly and whoever will be doing this for New York Development Group. Mr. DiPasquale stated he would consider conditional approval on language under the review of Mr. Reilly related to the maintenance of the cisterns and the Jellyfish.

Mr. Maher stated he wanted to make a motion and wanted to be sure that he has the entire basis covered. To clarify, we are going to add a note on the drawing that is going to require the O&M responsibility of all the storm water management practices to be clearly defined the homeowner's deed. Mr. Lansing stated it would not be all of the storm water practices. We would clearly define in the deed that the homeowners would be responsible for any applicable storm water equipment that's assigned to the property owners for the cisterns and Jellyfish. The metering will be on the drawing as well. The homeowner's maintenance agreement will be added to the drawings. Mr. Booth stated yes and a note will be added to the plans about all these items we are talking about – cisterns and storm water related items.

MOTION: Mr. Maher made a motion for the Site Plan for Kelley Farms Traditional Neighborhood Development (TND) on Eastline Road be approved contingent on the resolution of comments of the July 22, 2016 letter from C. T. Male to the developer and the proper notations be included on the site plans to address the maintenance issues with respect to storm water management systems and the O&M responsibilities.

Chairman Doyle asked the board, based on the C. T. Males review; the system enforced there meets the requirements of the NYS storm water management and in his opinion, does meet the requirements. The board concurs as well as Mr. Guillett that it meets the requirements.

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MOTION: Mr. Maher motioned to declare this a Type I Action under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Mr. Cwalinski seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. Maher made a motion to grant conditional approval for the Kelley Farms Subdivision Traditional Neighborhood Development (TND) project on Eastline Road contingent on the resolution of the comments of the July 22, 2016 letter from C. T. Male and that all of the appropriate notations are included on the site plans with respect to the O&M with respect to storm water at the site, legal agreement contingent on the Planning Board attorney relative to the control of the storm water management system and Park and Rec fees subject to current regulations. Mr. VanVorst asked if the traffic mitigation (\$65,250.00) should be read into the record. Mr. Booth stated its part of the plan and a noted will be added to the plan. Mr. VanVorst seconded the motion and all present voted in favor. **CARRIED.**

Zaremba Group (CVS)

120 Lakehill Road, Burnt Hills, NY 12027; SBL #257.-1-46.1

Lot Line Adjustment / Site Plan Review / Special Use Permit / New 13255 sf Retail

Stephanie Bitter, Esq., BARTLETT, PONTIFF, STEWART & RHODES, P.C., John Wojtila, Zaremba Group, Pat Mitchell, VHB and Mark Nadolny, CME were present.

Ms. Bitters stated they are here to answer and questions the board may have relative to moving forward with the SEQR determination for the project and possibly a formal concept approval. The applicant was before the board on June 29, 2016 at which time had a public hearing, outlined the site details as well as the development plan, and presented the photo rendering on how this project will fit on this intersection. We went into a detailed review of the traffic analysis and engineering comments that have gone back and forth with the projects sponsor and C. T. Male. Since that meeting, we have worked diligently with C. T. Male and their efforts have been very much appreciated with this project, to get to a point, in which we think we are ready to discuss a SEQR determination. In doing so, modifications have been made to the site and have incorporated a storm water design, septic design as was requested by this board and had slight modifications to the elevations, again, based on comments from this board at the last meeting. The applicant has met with C. T. Male over the last several days to address their latest July 22, 2016 comment letter and will go into detail later. The uniqueness of the project is that it involves and access easement across the Fire District's parcel so we can

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access NYS route 50. As a result, we have been in contact with the Fire District, John Wojtila was at the July meeting with the Commissioner's to go through the project status. If we get a SEQR determination we will return to the Commissioner's at their August meeting to present this purchase and sale agreement for a formal vote. The applicant has been in limbo and waiting for a Negative Declaration so they can have a formal resolution, which will be subject to a referendum. It's CVS's desire to commence this project in the beginning of 2017.

Mr. Wojtila stated last month talked about the building design. The renderings and elevation were submitted a couple weeks ago that show the change in the gable roof that now match and looks a lot better. One comment last month was making the approval conditioned on the delivery trucks being in non- bus delivery times for the schools and certainly CVS is fine with that as soon as we get to site plan approval; similar to what the board placed on USA Gas.

The proposal to the BHFD is an either/or proposal that the applicant would build a new septic system in the area in the back which in on their property or alternatively if we did not build the septic system at their choice, there would be a monetary contribution equal to the cost of the septic system; this is part of the agreement in front of the Burnt Hill Fire District building. Mr. Wojtila stated he met with the Burnt Hills Fire District Commissioner's on July 12, 2016 and told them what we were hoping for that we would be able to receive the Negative Declaration and return to them in August and they would then review the project and hopefully send it onto the voters of the Burnt Hills Fire District and hoping sometime in September. Part of the recent change involves the area, which was previously a rain garden and now is a bio retention area and includes a modification to the Lot Line Adjustment. Mr. Wojtila stated that the Burnt Hills Fire Commissioners are aware of the plan that was presented to them in January was going to be required to be modified and adjusted; substantially it's the same proposal and believe that the Burnt Hills Fire District Commissioners are on board with that and once you (the board) issues a Negative Declaration, then will return to the Burnt Hills Fire District Commissioners and have the ability to make the same determination.

Mr. Mitchell stated since the previous meeting, the applicant has extended the landscaping fence along Lakehill Road and received a comment letter from C. T. Male that focused on the septic system and storm water management. We met with C. T. Male both yesterday and today airing those issues out. We now meet the NYSDOH criteria for the septic system for both CVS and Burnt Hills Fire Department; there was a concern of the setback of the septic tank and also the leach field (basal area of the field). There were inconsistencies between the hydrologic

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model, water calculations and run-off volumes, which are part of the NYS guidelines. There is three tenths of an acre of new impervious added overall to full sites which we are looking at as a single project. Currently run-off from both of the sites runs untreated into the wetland and into the stream. All the storm water is being collected from both the fire department and CVS and meeting the water quality volume, run-off reduction volume and treating all the impervious area based on NYS guidelines. NYSDEC has reviewed and submitted for the permit.

Mr. VanVorst stated in the last couple of days changes were made and the board has not seen or aware of and yet you're asking the board to make a SEQR determination on information we do not have. Mr. VanVorst stated it would be inappropriate for us as representatives to the community to make a decision based upon information we have not even seen.

Chairman Doyle stated the board concurred with Mr. VanVorst that it is unreasonable to act as fast without giving the community the opportunity to look at this.

Mr. Maher stated he would be comfortable with granting a Negative Declaration this evening based on the information that we (the board) have in front of us.

Ms. Bitter stated she appreciates where we (the board) are coming from and not at all trying to rush the board. We asked the chairman for an exception due to the uniqueness of these circumstances relative to the Negative Declaration documents and have been working on those documents till the eleventh hour to ensure he was comfortable with the language and apologize and not trying to put the board in a difficult position to see that if this was feasible. We want to make sure all the materials are available to especially for the fire fighters to review those because we (the applicant) understand the interest there. We (the applicant) would request due the circumstances of the timeline if there is any possibility to have a special meeting to discuss this because of all the efforts that have been done to get us here today. Chairman Doyle stated we could consider that and not prepared to provide a decision, but could consider that, but as you can tell we (the board) have everyone would like to move forward, but we all has this concern we really need to go through this – information discussed today is new to the board and the only one on this board that has read the 19 pages and the rest of the members present, scanned it at the agenda meeting.

Mr. DiPasquale stated he agrees with Chairman Doyle and Mr. VanVorst and feel given the complexity and sensitivity of the project would like to see all the updated information before he

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votes one way or another – thinks it's a very good project. Mr. DiPasquale asked who owns the 36" line to be repaired. Mr. Mitchell stated that a very good question and what we (the applicant) could tell NYSDOT does not want to take ownership; it appears it was put in privately believe some time in 1956. There is certainly some public use because of the huge watershed that contributes to it. Mr. DiPasquale stated the County has flows going into it. Mr. Mitchell stated at the intersection there are six or seven other catch basins that tie in. Mr. DiPasquale stated he is looking at plans dated July 13, 2016 and asked if there is a plan that shows the actual easements that are proposed to be granted by an access road. Mr. Wojtila stated the applicant did not provide any of the easements; the applicant prepared a document that was sent to the Burnt Hills Fire District in early June 2016. That document is a development agreement which explains how the development will occur and attached are two other documents – one the permanent easement that establishes the rights after everything is built and transferred. The second attachment is a temporary easement – how does this get built during the construction; that has not been submitted. Mr. DiPasquale asked the exception 7, number 7 on page C-2. Mr. Wojtila stated that is an underlying easement that exists on title that is not an easement as proposed by CVS and the Burnt Hills Fire District. Mr. Mitchell stated we cannot find any record of any easement for that drain. Mr. Wojtila stated exception 7 represents the title to associate with the property; it's an existing easement that benefits somebody. Mr. Mitchell stated there is no easement of any record we (the applicant) could find and thinks it's listed in the title report because it's fairly obvious that people have used that pipe. Mr. DiPasquale asked who would be responsible. Mr. Mitchell stated at this point, would only suspect it would be the land owner and does not know if there is a legal issue, a description and if there were some sort of failure there today and does not know how to answer that.

Chairman Doyle stated the bad part of that is, the line continues through the town, it goes under the road in back of the strip mall, continues across the back of Burnt Hills Hardware, all the stores along NYS Route 50, cuts through the wetlands, goes under Kingsbury Road and finally goes into a stream on Blue Barns Road; it's a very complicated system. Mr. Mitchell stated even once it gets to NYS Route 50, NYSDOT has ownership under the road and the diagonal that crosses there and have plans that NYSDOT installed it there and maintenance of that.

Mr. Shorey asked if the applicant can explain the logic to having a heliport just north of the building given the athletic fields within one or two minutes driving time. Mr. Wojtila stated we

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are not proposing that we (the applicant) will be building a heliport, but are proposing to show that a heliport could work in this area based on the FAA guidelines. Mr. Wojtila stated he met with Kurt Bedore, P.E., who the Burnt Hills Fire District retained to look at the information and have shown that as a potential benefit to the community being that a heliport can land there based on the required clearances that FAA establishes; we (the applicant) can build it, but not touting it as a heliport and if the fire district once they own the land, wants to tout that or use that they can do that. At their last meeting they were talking about some grant monies that would allow a lighting that was somehow activated when the helicopters come in. Mr. Shorey stated it's a foolish thing to do given that there is such good landing site relative to that and seconds away from a helicopter and minutes away via a vehicle. Mr. Cwalinski asked if there is still a 15 second delay northbound. Mr. Nadolny stated that is correct. Mr. Cwalinski asked if NYSDOT was supposed to issue a waiver. Mr. Nadolny stated the language in the traffic study sounds worse than what it is and the reason why it's there is; traffic volumes are dense with a lot of charts and numbers and the department just wants to municipalities to be aware of anytime there is change in the LOS; even from a LOS A to a LOS B, from five seconds to nineteen seconds, it's not that it's a failing condition, but the municipalities just want to be aware that there is a change in the LOS and specifically called that out just so it does not get lost in all those numbers that are being presented. The department does not want to get a call in a year and did not know that this was going to go from five seconds to 19 seconds of delay – it was specifically in that document. The town has actually acknowledged in the past for the Rossi project; the town has actually acknowledged those changes in the LOS and recognizes there is going to be a change with future conditions with our without the project and want to make everyone aware. Mr. Cwalinski stated in our case it go from 30 to 45. Mr. Nadolny stated approximately yes and it's still in an operating condition during the peak time with a LOS D is considered acceptable during that time, but would call that out it was a LOS A and LOS B drop.

Mr. VanVorst was unclear and hoping we could have a special meeting before the end of August to consider this. Ms. Bitter stated if possible. Chairman Doyle stated he has to talk to the Town Supervisor and asked board members if they could support another meeting and if the applicant can have the information ready in about a week before that. Mr. Bitters stated we (the applicant) have made their submission to C. T. Male with the changes and have a verbal understanding. Mr. Mitchell stated he spoke with Mr. Johnson 15 minutes before the meeting and gave him everything that has been reviewed by C. T. Male. The calculations and copies of the plans and the comment response letter transmittal. Mr. Mitchell stated he gave Mr. Johnson only two full size copies and 12 small copies thinking we might hand them out tonight,

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but at this time, follow-up with the full size copies by Friday. Ms. Bitter stated the applicant did not submit any of the Negative Declaration documents and Mr. Munsey did email to the board, but will submit them by tomorrow.

Chairman Doyle stated the reason the board is doing this is to give the public a chance to look at this and think that through and talk to both parties and asked the fire district how much time they need to review and then we can get back and talk. Mr. Wojtila stated we (the applicant) appreciate the board's consideration.

Chairman Doyle opened the public hearing at 9:15 p.m.

Carl Thurneau stated he lives in Burnt Hills and is a member of the fire department and is speaking as an individual and do not represent the Burnt Hills Fire Department and is an individual member. The transparency problems continue and the fire department members have not been supplied with new drawings recently submitted to the Planning Board. The attorney from CVS advised me that they were sent in the mail, however does not know if that the set the board received today at 4:00 p.m. and does not think the Board of Fire Commissioners got them. The trailer dug set office, the use of the existing Homestead restaurant, access entrance directly after the left turn onto Lakehill Road will cause heavy traffic disruptions as customer's pickup their prescriptions; historical evidence shows traffic disruptions using this entrance while the restaurant was in operation was terrible. The entrance will be about 75' from the construction entrance to the CVS project. The lot line adjustment shown on the drawings will transfer ownership of the new replacement culvert as well as the wetlands to the fire district; this will result in the removal of land from the tax rolls as well as a future liability to the fire district. The NYSDEC letter (tab 9 in the book) indicates that the wetland boundaries must be re-validated after three years and have not received a return call from NYSDEC clarifying this issue. The septic system drawing show the present gravity septic system abandoned and a grinder pump system installed pump effluent up the wetlands border – that's a bothersome thing, expensive maintenance costs and unknown NYSDEC evaluation are an issue in my opinion. A letter to the board in February 2016 outlines his concerns of traffic and congestion problem and still maintains the approval of this proposal will create and extremely large safety and health hazard at the intersection of NYS Route 50 and Lakehill Road. Very recently indications have surfaced to the effect that Stewart's has execute a contract to buy the corner on the south east side of the intersection where the strip mall is located; apparently going to build on of their big operation similar of the one they just

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put in at the Ballston Spa location. This may well show my estimates of traffic in his February letter are well below of what is actually going to happen there; this is a two-lane intersection. The NYSDOT letter that was received on June 23, 2016 by the Planning Board, item 2 on the NYSDOT letter refers to the approval by the Burnt Hills Fire Department. Mr. Thurneau submits that the petition of disapproval previously submitted to the board by a majority of the fire department members constitutes disapproval of the CVS proposal by the fire department not the fire district. Mr. Thurneau states why NYSDOT is now asking for approval or disapproval of the fire department members.

Tim Bachand owner of Burnt Hill Hardware and has looked at the drawing and is very upset about the drainage situation. Mr. Bachand's main concern is that besides the drainage is the traffic. These folks are basically lying to you (the board) when they tell the board that they are going to deliver in an off period time. Mr. Bachand has a letter from 1996 from CVS that says they are going to deliver in off time hours and they don't – trucks come whenever truck come and have any control of it. Say a 53' truck comes into that parking lot does not see it possible and to back into that parking lot. They are basically going to tell the board that they are going to deliver in the off time and drive down the one-way strip the wrong way and back into the loading dock is absolutely ludicrous that they are going to sit here and d tell you they are going to deliver at midnight or six in the morning. Mr. Bachand said to trust him and will take pictures of when their delivery truck comes. The size of the Town of Ballston parking requirements and have made some concession on parking spaces. Mr. Bachand drives an F-350 pick-up truck and these little parking spots they like to put in here to appease town boards so they have adequate parking – they are good if you drive a Prius, not a truck. The underground storage tank is not built to the proper standards for property tractor trailer traffic if they were planning on bringing it in the other way. It's a beautiful picture of the proposed CVS, but does not know if that is the actual elevation, but with whatever water garden pond and we all know that the property dips down to a "V" kind of at the corner because all the water goes that way. That culvert going through there and these guys do not want to take any responsibility for any of that stuff – they want to build a CVS, take our money and don't want any responsibility and have seen that at the previous property they are using; they may rent that now, but are the representatives of that property and have not made the improvements that should have been made originally. The developers like to come in a build and cut corners at the town's expense and say we get everything we can out of them.

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Nancy Reynolds stated she spoke last month over the concerns of the wetlands. So far is not satisfied with anything that has occurred – that seems to be a low priority for what she is hearing. That wetland backs up-to at least a dozen homes on Sherwood – every house from the fire station, apartment and to the bowling alley plus homes on Goode Street. Ms. Reynolds remembers the drainage (culver installed 1956) and her father had a concern with that. Ms. Reynolds spoke with NYSDEC and has no plans right now to do anything with the drainage with the pipe that is there now. Ms. Reynolds is asking the board to very sensitive and if this plan were to go through, because right now it seems to be brushed off and get a permit to get out of the buffer zone – the buffer is there for a reason. Chairman Doyle stated that the board is looking at that with C. T. Male. Chairman Doyle has physically looked into the pipe and there is no doubt there is corrosion, but the pipe seems to be adequately sized and never runs full. Ms. Reynolds stated the drainage/creek starts on her property.

Chairman Doyle closed the public hearing at 9:30 p.m. for this meeting. Public hearing to remain open until the applicant is in front of the board.

Chairman Doyle stated he hopes to get this done at the next meeting in August and feel free to call.

Application tabled.

Mark & Sandra Dionne
Devils Lane, Ballston Spa, NY 12020; SBL # 227.-2-11
Minor Subdivision

Raymond Koch, Land Surveyor was present on behalf of the applicant's.

Mr. Koch stated the applicant was in front of the board a few months ago for this project with a couple items the board was concerned about. The plans needed the perc test results and the right-to farm note be placed on the plans.

Chairman Doyle stated the applicant shows the proposed wells along the property line intersecting the two lots and was concerned about any septic systems in front of the houses across the street. Mr. Koch stated across the street is a pasture for horse. Chairman Doyle asked that a note be placed on the drawing stating that.

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Mr. Cwalinski stated he was talking to Mr. Hayden property owner of 6 Silver Springs Drive and stated his concerns with still unresolved – the correct property owners noted on the drawing. Mr. Koch stated the corrections have been made to the drawing – lot #4 (Brower) and lot #2 (Berninger) and the corrections are in his office. Mr. Cwalinski stated that Mr. Hayden had a concern that the buildings are located where the existing vegetation supplies a natural buffer and screening of the neighboring properties. Mr. Cwalinski asked that be incorporated on the drawing. Mr. Cwalinski stated that Mr. Hayden would like to ensure that any screening is incorporated. Mr. Cwalinski stated that Mr. Hayden asked that the rock wall be used as a property boundary. Mr. Koch will put a note on the drawing that the rock wall to remain. Chairman Doyle stated we (the board) normally have a no-cut zone in the back and asking if you're thinking of something like that. Mr. Cwalinski stated yes and thinks it would be a great idea to somehow put a note on the drawings stating "do not cut vegetation unless it's dead, dying or diseased. Mr. Johnson asked how is that going to be enforced. Chairman Doyle stated that he has no idea, but to put a note on the drawing. Mr. Koch stated if a tree dies, who will cut it down. Mr. Cwalinski stated to maintain to the maximum extent practical.

Mr. VanVorst stated that lot #3 and lot #2 do not know the location of the well and the proposed septic system for this new lot #1 is fairly close to the property line and know where the well is on existing lot #1.

Mr. Cwalinski asked the applicant to mark the area of disturbance on the map. Mr. Guillett stated the total area of anticipated disturbance for construction purposes because of its more than one acre total, will need to apply for a general permit coverage (erosion and sediment control). Mr. Guillett stated the applicant will need general permit coverage, not storm water basins, but erosion and sediment control plan is needed and also an area of disturbance; less than an acre the applicant is all set; more than an acre an erosion and sediment control plan.

Chairman Doyle stated this should have some MS-4 paperwork to go with it – a plan to provide that and Ms. Kotkoskie could help the applicant through that process. Ms. Kotkoskie stated even for a minor subdivision if there is a disturbance of over one acre, but less than five acres would still need to do an NOI with NYSDEC and a SWPPP with erosion and sediment control measures. Recently in the last two months a minor subdivision across the street, their approval was contingent on submitting a SWPPP if exceeded an acre. Mr. Koch stated there will not be a disturbance over an acre. The note on the plan stated if you were to go over an acre, would notify the DPW. Ms. Kotkoskie stated to add that the area is under an acre. Mr. Cwalinski

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stated that note #6 on the drawing references the DPW and believes that should be the Town of Ballston Building Department.

Chairman Doyle opened the public hearing at 9:45 p.m.

No one wished to speak.

MOTION: Mr. VanVorst motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Mr. Cwalinski seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. VanVorst motioned to declare this an unlisted action under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Mr. Cwalinski seconded the motion and all present voted in favor. **CARRIED.**

Chairman Doyle closed the public hearing at 9:46 p.m.

MOTION: Mr. Cwalinski made a motion to approve the minor subdivision as described on the drawing titled Subdivision of Lands of located on Devil's Lane belonging to Mark and Sandra Dionne dated January 19, 2016 subject to park and rec fees of one thousand dollars per unit payable at issuance of building permit. A note be placed on the drawing stated that there is a no cut zone, corrections of the land owners, limits of disturbance being shown, an area be calculated on the drawing, stone wall be maintained, location of well of existing lot #2 be added to the drawing and DPW replace with Town of Ballston Building Department. Mr. VanVorst seconded the motion and all present voted in favor. **CARRIED.**

OLD BUSINESS:

Jeff Katz

15 Outlet Road, Ballston Lake, NY 12019; SBL #239.-1-89

Lot Line Adjustment

Jeff Katz presented.

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The applicant wanted to add the lot line adjustment to the map because basically the purpose is to eliminate ingress/egress easement for access for the property.

Mr. Cwalinski stated the applicant is annexing a certain amount of land from a piece of property located to the west and increase the road frontage. What is the new frontage of the property to the west? Mr. Johnson stated that lot on the corner is in the Business Highway District-2 and has no minimum frontage or no minimum lot width.

Mr. VanVorst stated page 4 of the EAF states "check all land uses that occur on adjoining or near the proposed action." Mr. VanVorst stated across the road there are agricultural fields and not listed on the EAF. Page 2 #8 B "Are any public transportation services available at or near this site of the proposed action." Mr. VanVorst stated there is a bus stop right at the corner of Outlet Road and NYS Route 50.

"Are there any pedestrian accommodations or bicycles?" Mr. Vorst stated the bike trail is just down the bottom of the hill and does not know how you define near and would think that would be near and think those answers need to be changed.

Mr. DiPasquale stated the application looks straight forward, but there is no indication of Outlet Enterprises is willing to grant this property. Mr. Katz stated that Outlet Enterprises is own by Skip Katz.

Mr. DiPasquale stated that part of the water easement will be on said property.

Chairman Doyle opened the public hearing at 9:55 p.m.

MOTION: Mr. VanVorst motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. VanVorst motioned to declare this an unlisted action under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. Maher made a motion that the Lot Line Adjustment detailed on drawing 16-057 dated July 13, 2016. The existing transfer of the 30' waterline easement to be intact and the

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corrections to the EAF. Mr. VanVorst seconded the motion and all present voted in favor.
CARRIED.

MOTION: Mr. Maher made a motion to adjourn. Mr. Cwalinski seconded the motion and all present voted in favor. **CARRIED.**

Meeting adjourned at 10:01 p.m.

Respectfully submitted,


Michelle L Dingman
Planning Board Secretary