

Town of Ballston  
Planning Board

**TOWN OF BALLSTON  
PLANNING BOARD**

**Regular Monthly Meeting: June 10, 2015**

Present: Richard Doyle, Chairman  
Jeffrey Cwalinski, Vice Chairman  
John VanVorst  
Patrick Maher  
Audeliz Matias  
James Fischer, 1<sup>st</sup> Alternate  
Thomas Johnson, Building Inspector  
Kathryn Serra, Town Engineer  
Peter Reilly, Planning Board Attorney  
John Munsey, C. T. Male  
Members of the General Public

Chairman Doyle called the May 26, 2015, 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 April 29, 2015 and April 30, 2015 minutes. "Add James DiPasquale under attendance."

**MOTION:** Mr. VanVorst made a motion to accept the April 29, 2015 minutes as amended. Mr. DiPasquale seconded the motion and all presented voted in favor. **CARRIED.**

**MOTION:** Mr. Cwalinski made a motion to accept the April 30, 2015 minutes as amended. Mr. Maher seconded the motion and all presented voted in favor. **CARRIED.**

**OLD BUSINESS:**

Notice is hereby given that a public meeting of the Town of Ballston Planning Board will be held on June 10, 2015 at 7:00 pm at the Ballston Town Hall, 323 Charlton Road, Ballston Spa, New York on the application of Frank Rossi and Ballston Spa national Bank for a seven lot commercial subdivision located on Church Avenue, Ballston Spa, NY 12020 and the application of Wal-Mart Stores, Inc. for site plan approval of the proposed 137,000 square foot retail store to be located on Lot 1 of the proposed Rossi Subdivision.

Town of Ballston  
Planning Board

In attendance were Wendy Holzberger, PE, Creighton Manning, a representative from T. Y. Lin International, Leslie Mauro, Esq, Harter Secrest & Emery, LLP, Frank Rossi, II, Esq. and Paul Olund, Environmental Design Partnership.

Chairman Doyle stated the board promised to get back to the community and give the results of all the questions and discussion from last November 2014. This will be presented by the applicant and by category. Once this is completed, then we (the board) will start working on the SEQRA process. There are three parts to the SEQRA process – Part (1) (filled out by the applicant), Part (2), (filled out by the Planning Board) and Part (3) (the board to review).

Chairman Doyle stated there will be NO public comment.

Leslie Mauro, Esq., Harter, Secrest & Emery, LLP, Nate Buczek, P.E., T.Y. Lin International and Frank Rossi, II, Esq.

Ms. Mauro stated the issues that are covered this evening with the Planning Board will be on behalf of the Rossi family and Wal-Mart Stores at the Planning Board's request.

Ms. Mauro stated we are joined this evening by Wendy Holzberger, PE. (Traffic Engineer) and Paul Olund, EDP who was involved with the PUDD from its inception and providing us with valuable input and information.

Ms. Mauro stated that she would like to take this opportunity to thank the Planning Board for its patience throughout this process for the questions that had asked and for active participation in the review of this project. This presentation is being put forth that the Planning Board request and will not only address questions that have been raised by the Planning Board and the Village of Ballston Spa, but also the individuals who have submitted comments either verbally, through the public hearing process or in written form to the Town of Ballston. Ms. Mauro stated we are addressing not every single issue – SEQRA does not require issues that are irrelevant or ancillary be addressed. We are addressing those issues that seem to have garnered the most comment whether they are part of the SEQRA argument or not so that an answer is given as to why for example Wal-Mart and the Rossi's may consider a certain issue to be separate and apart from the SEQRA process and SEQRA consideration, which is limited to environmental impacts.

Ms. Mauro stated the opposition to the project has stated on numerous occasions that the proposed Wal-Mart store is inappropriate for the Rossi PUDD. Ms. Mauro stated to support this statement opposition has pointed to issues such as traffic, aesthetics and alike. Ms. Mauro stated the applicant would like to first and foremost establish for the Planning Board's consideration is that any arguments with regard of the appropriateness of a 137,000 sq. ft. commercial retail building at the Rossi PUDD is now time barred. Ms. Mauro stated that Local

Town of Ballston  
Planning Board

Law No. 3 establishing the PUDD was passed in 2011. As part of that PUDD process the following SEQRA - related subjects were thoroughly analyzed that it and decided upon – traffic and roadways, greenspace, landscaping, stormwater management, wetlands, site aesthetics (including building architecture), signage, parking, noise and air impacts. The Rossi commercial business PUDD allows amongst other things specifically, retail sales businesses including grocery, department store, sporting goods, hardware, pharmacy, deli, etc. and wholesale businesses.

The time for challenging the Town Board's termination for passing the PUDD or Local Law No. 3, expired approximately four years ago pursuant to the Civil Practice Law and Rule (CPLR) §217 ("a proceeding against a body or officer must be commenced within four months after the determination to be reviewed becomes final and binding upon the petitioner or the person whom he represents in law or in fact"). Whether a 137,000 sq. ft. Wal-Mart store is appropriate for the Rossi PUDD has already been determined and the time for challenging that determination has long since passed.

The applicant submitted their site plan application in August 2014 and the documents that were submitted in support of that application and in support of the subdivision application submitted by the Rossi's would be considered in conjunction with the site plan application are summarized in the June 5, 2015 letter submitted to this Planning Board.

Ms. Mauro stated as the Chairman pointed out, Part (1) on the Environmental Assessment Form (EAF) is supposed to go through each of the areas of environmental concern and compel the applicant to answer as to "what impacts the proposed project will have on each of these environmental resources." Ms. Mauro stated we (the applicant) have provided as part of their application package a Part (1) EAF that detailed each area of concern and every one of Wal-Mart's proposed impact avoidance measures. In considering the project, in its totality and completing Part (2) of the EAF requests that the Planning Board consider these mitigation measures or impact avoidance measures as part of the entire project because they are part and parcel to what Wal-Mart and the Rossi's are planning for this site.

Contrary to what the project opponents have stated, a Positive Declaration of significance is not required for a Type 1 action. In fact, pursuant to NYSDEC Handbook states SEQRA responsibilities for Type 1 actions may be met by a well-documented and well-reasoned Negative Declaration. A Negative Declaration for a large and controversial project will be and has been upheld by the courts where the Lead Agency and has complied with the "Hard-Look" test. The Lead Agency such as the Planning Board must do is identify every "relevant" environmental concern and take a hard look at the issues and explain why those issues do not constitute a significant environmental impact to trigger the need for and environmental impact statement. Part (1) of the EAF that the applicant submitted as part of the site plan application

Town of Ballston  
Planning Board

provides this rational basis for the Planning Board to render a Negative Declaration of significance with regard to this project.

What is the evidentiary burden of proof that we (the applicant) have to come forward with to the Planning Board to demonstrate that the mitigation measures or impact avoidance measures that we (the applicant) are proposing satisfy this test. The Lead Agency has to be able to do that "hard-look" with regard to the project and has to be put in position to offer a written elaboration for its decision. The determination must be supported by substantive evidence and may not be based on upon generalized community objections or suffusions. Substantial evidence is defined by the courts as such relevant proof as a reasonable mind may accept as adequate to support a conclusion or ultimate fact. Wal-Mart and Rossi's have obtained licensed engineers and consultants to review this project. The town has retained its own qualified licensed engineers and consultants. The review has begun by the professionals at the state agencies including the DEC, DOT, DOH and the experts that are employed by Saratoga County. These are individuals who have credentials and have the knowledge that really does provide the support that the Planning Board will need in order to render an appropriate decision on this matter. This information provided by the applicant to the Planning Board has been based in sound principals and sound technical data not speculation or conjecture. In the present situation the projects opponents' allegations have been unsubstantiated by any expert work product.

Ms. Mauro said, "As stated by the court in Gabrielli" (case that has been discussed in Mr. Rossi's recent letter to the Planning Board) "An agency's obligation under SEQRA "must be viewed in light of a rule of reason," realizing that "not every conceivable environmental impact, mitigating measure or alternative must be identified and addressed" before the substantive dictates of SEQRA are satisfied. With all of this being said, is still going to go through the SEQRA issues that have been put forward to the Planning Board and talk about a little, but what it is that Wal-Mart proposes to do to address these different areas of concern that are actually appropriate under SEQRA and do include some of the issues raised by the opposition.

### Visual Impacts

The PUDD requires that the project be something that is aesthetically pleasing and creates a harmonious environment. For this reason the PUDD sets forth specific criteria for things such as the site plan, buildings, landscaping, greenspace. This is all specifically called out or put into the PUDD regulations and their addenda. Including things such as architectural restrictions, outdoor material storage – this was a very detailed Local Law that was passed and done with input from all the experts and types that were mentioned previously. The time for challenging sufficiency of those requirements has long since passed. Wal-Mart and Rossi's have submitted a landscaping plan, site lighting plan, a photometric rendering that was conducted after a balloon study that was requested by the Planning Board to show what the site would look like

Town of Ballston  
Planning Board

from Church Avenue when there are not a whole lot of leaves on the trees – what is this site going to look like from the vantage point that is going to be most critical in this matter. The applicant also provided architectural renderings. Ms. Mauro stated as far as the project applicant are concerned, the Planning Board has sufficient evidence in front of it to make a determination that visual impacts or any impacts that would have been put forward from the project on a visual level have been adequately addressed by the applicant and that the appropriate mitigating measures have been employed so that the project does comply with the PUDD requirements.

Demand for Community Services

The PUDD's ability to handle a 137,000 sq. ft. retail/grocery/wholesale use was considered when the PUDD law was drafted and the SEQRA process conducted. That is once again time barred. With that being said, it's become again a question that has been posed to the applicants and to the Planning Board. The project opponents' to claim that there is going to be this huge uptick in crime provide no expert or even layperson analysis regarding sufficiency of existing services. Nowhere does anybody say "listen we've got "X" number of police officers on staff and we estimate is going to take two more and here's why." Ms. Mauro said, "What we are provided with is anecdotal evidence only." In contrast Mr. Rossi has provided the Planning Board with statements from the EMS providers, fire department and from Saratoga County Sheriff's Office all proving that our community services in the Town of Ballston are more than adequate to handle any sort of need that would be generated by the Wal-Mart store. Ms. Mauro stated that Mr. Rossi send in a FOIL request to the Saratoga County Sheriff's office to see exactly the numbers were from the two closest stores (Wilton – 200,000 sq. ft. and Halfmoon – over 200,000 sq. ft.), which are considerably larger than the store that is being proposed by the applicant. The store that Wal-Mart is proposing is 137,000 sq. ft. Ms. Mauro stated if you take the percentages and the square footage of those three stores (letter sent to PB on June 9, 2015 from Mr. Rossi) showing once they are scaled for the size of the store would have an average of 78 calls per year to emergency responders – 49% of those calls are non-crime related averaging one and a half calls per week generated by the Ballston store based on real numbers not anecdotal.

Noise

The PUDD in section 14 talks specifically about noise during construction and imposes certain time limits so neighbors won't be impacted when the store is being built. Additionally, the restrictive covenants for the Rossi PUDD specifically state that there are lot area requirements, property line setbacks, noise requirements and maintenance standards that need to be observed. The time for challenging sufficiency of these requirements and mitigating the SEQRA impact of noise has long since passed. Ms. Mauro stated that Wal-Mart takes it a step further to ensure that there is compliance and locates its trash compactor, truck loading docks away

Town of Ballston  
Planning Board

from neighborhood residences behind the Wal-Mart building. The building is situated several feet lower than the land elevation standpoint than any of the neighboring residents and proposing vinyl fencing along the lease line and shown to reduce noise considerably. There is no empirical technical data from the project opponents' demonstrating that there will be any noise impact at the lot line. Ms. Mauro stated there are no noise studies, no expert testimony – it's speculation that has been provided to the Planning Board as opposed to real world measures that avoid any potential impacts. Ms. Mauro stated that traffic was a big deal when the PUDD was considered and the Local Law was passed and traffic studies were rendered and came to the conclusion that the traffic generated by the 137,000 sq. ft. supermarket/retail store could with certain impact avoidance measures be implemented and fit just fine within this community. The time for challenging this determination has passed. The Rossi Traffic Impact Study (TIS) was reviewed by the Town of Ballston, Village of Ballston Spa, BFJ Planning, C.T. Male Engineers, Capital District Transportation Authority (CDTA), Clough Harbor and Associates and the NYSDOT. Ms. Mauro stated licensed traffic engineers not just civil engineers, but traffic engineers that are required to take additional courses in order to be certified in or to do what they do. Ms. Mauro stated that all of them concluded that the traffic of impact avoidance measures that have been proposed for the PUDD, are adequate for protecting the community from any potential impacts. The project opponents' have not provided any expert data from a licensed traffic engineer demonstrating that these measures are not adequate. Ms. Mauro stated the applicant has forwarded over to the Planning Board two letters dated December 23, 2014 and May 25, 2015, which the applicant has referred to as the CME correspondence showing the numerous traffic studies and analysis that have been conducted by all of the traffic engineers involved with this project not just for the Rossi's and Wal-Mart, but for the town, NYSDOT and Saratoga County itself. Ms. Mauro stated that NYSDOT has agreed with Wal-Mart and CME analysis that the preferred design for impact avoidance at the NYS Route 50/67 West High Street intersection and sidewalk/pedestrian path along NYS Route 50 should have a new two-way median for portions of Church Avenue, a new traffic signal with an accompanying turning lane and pedestrian accommodations including sidewalks (escrowing money if the project should be approved), a new connector road, internal loop road, sidewalk extensions on the west side of NYS Route 50/67 and new sidewalks along the loop road within the site with a sheltered bus stop. Again, this is a plan that has been approved by NYSDOT and working through the details of it as the site plan progresses. Ms. Mauro stated this has been approved and signed off by the Village of Ballston Spa and by the town's engineers as well as meeting the SEQRA requirements. Ms. Mauro stated that we have something that has been vetted and blessed by licensed engineers and has not received any real substantive evidence disproving its conclusion and the rational basis that the Planning Board would need in determining that these impacts have been avoided is contained right in the information in front of you.

Town of Ballston  
Planning Board

Alternatives

Ms. Mauro stated that Wal-Mart is not required to review alternatives on land that it does not own or under contract for. Ms. Rossi said, "We have an arrangement with the Rossi's for the PUDD land and a specifically allowed use with the PUDD that is being proposed. Additionally, Wal-Mart prides itself on "one-stop-shopping" and wants to be at an adequate size to provide Ballston and its residents with all the things you would expect to get at a Wal-Mart. Ms. Mauro stated she sees a lot of badges that say "shop local" and wants to point out that Wal-Mart has a buy local program that seeks to obtain produce from local growers, which is something they have been putting into place with great success for a lot of environmentally sustainable reasons.

Secondary Growth

Ms. Mauro stated that the allowed uses in the PUDD are specifically stated in the PUDD and that would be up-to the Planning Board in terms of what is brought before the Planning Board for its consideration.

Wetlands

Ms. Mauro stated that Wal-Mart is not touching any of the wetlands and the only disturbance to be had is 0.07 acres of wetlands that has already been permitted by the ACOE in connection with the connector road.

Stormwater

Ms. Mauro stated that Wal-Mart with the assistance from the town's engineer has designed a system that results in a 0 discharge of stormwater from its basin for 100-year storm event. Wal-Mart remains well below the principal spillway (both the outlet structure weir and piped outlet) under its current design. Wal-Mart will be providing twin infiltration basins in parallel, each with a pretreatment sediment basin upstream. There is a 30-inch pipe draining each basin outlet structure as well as an 8-inch pond drain (which is normally closed by means of a sluice gate in the outlet structure); they are not expected result in any overflows of water, but these sluices are an extra safety measure. The basin bottom will be a minimum of 3 feet above the seasonal high groundwater table. Ms. Mauro stated the NYSDEC has changed its guidelines and made sure throughout the process (to make good on the promises made initially) with the site plan application would not have any discharge of any untreated stormwater with regard to this project.

Town of Ballston  
Planning Board

This system is fully compliant with NYSDEC regulatory requirements and thus anticipates and is confident that the NYSDEC is going to as it has on prior projects using this type of system approve it and commencing with designing out the details shortly with NYSDEC.

#### Economic Impacts

Ms. Mauro stated there have been many topics that are beyond SEQRA and irrelevant for SEQRA purposes. SEQRA is meant to consider environmental impacts and none-the-less these are topics of great importance to the community and brought before the Planning Board on numerous occasions.

Ms. Mauro stated the largest topic is economic impacts. "What is going to happen when a Wal-Mart comes to town, there are going to be dark stores and there is going to be competition?" Ms. Mauro said that is a question that is far beyond the parameters of SEQRA. The NYSDEC has specifically stated as have the courts that economic impacts are irrelevant for SEQRA consideration and those dark stores and impacts that happen to a community due to competition are simply beyond what SEQRA is meant to consider.

Ms. Mauro said The North Elba case that project opponents' love to point to because of that situation were planning a Wal-Mart in an area of Manhattan and would of required the removal of some houses and this-and-that and the other and what ended up happening was that it was determined that area the impacts on that area were so significant that the project was denied. The reason being that it was Chinatown and recently been designated as an historic preservation district. Ms. Mauro stated we (the applicant) are looking to bring a use that is specifically approved for the Rossi PUDD and consistent with the zoning as approved.

#### Employee Benefits

Ms. Mauro stated job-related benefits to its employees are outside of the SEQRA purview. Wal-Mart is not going to make any statements one way or the other.

#### Property Values

Ms. Mauro stated that these issues are simply not under SEQRA's umbrella because they are not environmental issues.

Ms. Mauro stated that she would like to thank the Planning Board and its consultants for all the time that it has spent and you (the board) know how many meetings we have had discussing the amount of meetings for this project, how many workshops, public presentations and have seen the piles of paper that you (the board) have patiently read through and digested and it is Wal-Mart and the Rossi's firm belief that this project is 100% appropriate for the Rossi PUDD

Town of Ballston  
Planning Board

and have provided the Planning Board with the substantive evidence that it requires to issue a Negative Declaration with regard to this project.

Chairman Doyle stated that John Munsey, will read the questions of Part (2) of the Environmental Assessment Form (EAF) and is a Type 1 Action.

Mr. Munsey stated the Planning Board is the Lead Agency and up-to-you (the board) to fill out parts (2) and (3) of this whole EAF and make a determination of significance for the project. There are two options that are available to the Planning Board are a Negative Declaration of Environmental Significance or a Positive Declaration of Environmental Significance. Mr. Munsey stated under that criterion you (the board) would have to identify one or more adverse or environmental impact associated with the project. Mr. Munsey stated the he has the SEQRA Handbook and background materials and have a question regarding any of these questions, as we (the board) are going through them and need to answer – just ask them and can try to address them to the best of our ability.

Mr. Munsey stated there are a number of subject criteria that we (the board) are going to go through and if there is a threshold questions that is asked, and if the answer is “Yes” to that thresholds questions, then you move on an address all the sub-questions associated with that.

Mr. Munsey stated that it is important to point out that when there is a sub-question that we (the board) are going to encounter, there is a quantified threshold that is included in that. A presumption of the SEQRA Handbook is that be characterized as a “Moderate to large impact may occur” associated with the project. Mr. Munsey stated that anything we (the board) identify in the “Moderate to large impact may occur” NOT “will occur”, but “may occur” associated with the project then each of the subject matters are going to run through Part (3) of the EAF for the project. Mr. Munsey stated just because we (the board) identify a specific environmental subject area as possibly having a “Moderate to large impact” does not mean the project is going to be “Pos Dec” – it means that we (the board) have to further evaluate the environmental impacts Part (3) of the EAF and then come to conclusion as to is that impact significant, has it been mitigated and what other extenuating factors are associated with that.

Mr. Munsey read the outline for Part (2).

Ms. Mauro said, “So are you saying that Part (2) in identifying whether an impact is moderate to significant – are you including the mitigation that is being proposed in making that determination – that is part of the project.” Mr. Munsey stated the proposed action is not just what they are proposing to build in terms of the retail store or infrastructure, it’s also all the mitigation measures that go with it – that’s part and parcel of the proposed action. The offsite transportation mitigation measures onsite, transportation mitigation measures that are being proposed as part of this project – are part of the proposed action.

Mr. Munsey stated you do not have to be an expert to fill out that Part (2). The Planning Board is the Lead Agency. A Lead Agency consultation was completed amongst the other involved agencies for this project – no response was received from any of them. Thirty days went by and the Planning Board has assumed the role of the SEQRA Lead Agency in this project.

**1. Impact on Land**

Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. Mr. Munsey said, "YES."

- a. The proposed action may involve construction on land where depth to water table is less than 3 feet. Mr. Munsey stated the requirement for the stormwater system is to have a 3' separation – seasonal high water table.

Mr. Cwalinski stated Part (1) item E.2 d. "What is the average depth of the water table on the project site? Average - 3 +/- feet." Mr. Munsey stated the applicant is stating 3+/- feet. Mr. Maher asked is a storm water system has been higher than 3'. Mr. Munsey stated there is a 3' minimum separation requirement for the stormwater facility. Ms. Serra stated that between the bottom of any infiltration basin and any seasonal high ground water, that design does meet that separation. Mr. Munsey stated that is laid out in the feasibility study for the stormwater management plan where the applicant's team went out and did additional geotechnical and investigative infiltration work to better document their compliance with the newly revised NYS design manual. Mr. Munsey proposed – "No, or small impact may occur" Board concurs.

- b. The proposed action may involve construction on slopes of 15% or greater. Mr. Munsey stated that Part (1) of the EAF identified 10% of the project has slopes greater than 15% however, if you review the site and walk the site, would think that it is very flat. The EAF Handbook states "If only a small percentage of the site has slopes greater than 15% then you should check the "small one." Mr. Munsey proposes "No or small impact occur" Board concurs.
- c. The proposed action may involve construction on land where bedrock is exposed, or general within 5 feet of existing ground surface. Mr. Munsey stated there are no bedrock outcrops on this site and the depth to bedrock is characterized by 30 to 40 feet below grade. Mr. Munsey proposes – "No, or small impact may occur" Board concurs.
- d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material. Mr. Munsey stated Part (1) stated 2,000 cubic yards. Mr. Munsey proposes "Moderate to large impact may occur" Board concurs.

Town of Ballston  
Planning Board

- e. The proposed action may involve construction that continues for more than one year or in multiple places. Mr. Munsey stated this is a large project with estimated construction duration of 24 months. Mr. Munsey proposes - "Moderate to large impact may occur." Board concurs.
- f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides). Mr. Munsey stated NYSDEC will not review the stormwater management plan if it is in compliance with the NYS Design Manual. The town's Stormwater Management Officer will be reviewing and accepting the SWPPP with input from C. T. Male before Notice of Intent (NOI) can be filed with NYSDEC. Ms. Serra stated the applicant is providing Erosion and Sediment Control Plan and a SWPP to minimize offsite impacts during construction, which includes erosion of soil. Mr. Munsey proposes - "No, or small impact may occur" Board concurs.
- g. The proposed action, or may be, located within a Coastal Erosion hazard area. Mr. Munsey proposes - "No, or small impact may occur" Board concurs.

Mr. Munsey asked are there any other impacts on land not specifically addressed here.

Chairman Doyle asked if the board had comments relative to the slope (actual level) of the Wal-Mart store and Zepko Lane. Chairman Doyle stated the slope is steep and the applicant is going to decrease the slope to make it more stable and because of that will be some new trees there rather than the current trees. Mr. Munsey stated there is a small portion of the connector road that has an area of greater than 15% slope.

## **2. Impact on Geological Features**

The proposed action may result in modification or destruction or, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). Mr. Munsey proposes - "No, or small impact may occur" - it's a former sand pit. Board concurs.

## **3. Impacts on Surface Water**

The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers ponds or lakes). Mr. Munsey stated the attorney for the applicant correctly identified that the proposed action will have just under a tenth of an acre of wetland impacts, and have received a permit from ACOE. Mr. Munsey - "Yes"

- a. The proposed action may create a new water body. ). Mr. Munsey proposes - "No, or small impact may occur" Board concurs.

Town of Ballston  
Planning Board

- b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water. Mr. Munsey proposes "No, or small impact may occur" Board concurs
- c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body. Mr. Munsey proposes "No, or small impact may occur" Board concurs
- d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body. Mr. Munsey stated this is a freshwater wetland and being impacted by the project – it's at a very deminimis level being covered by the ACOE – the presumption is a small impact. Mr. Munsey proposes "No, or small impact may occur" Board concurs.
- e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments. Mr. Munsey proposes "No, or small impact may occur"

Mr. DiPasquale asked how dewatering is being handled during construction. Ms. Serra stated the SWPPP does cover dewatering (dewatering trench or filter hose on the end of a pump) would be monitored during construction and not permitted to discharge turbid water from dewatering operations from the site. Board concurs. –

- f. The proposed action may include construction of one or more intake(s) for withdrawal of water form surface water. Mr. Munsey proposes "No, or small impact may occur" Board concurs.
- g. The proposed action may include construction of one or more outfalls(s) for discharge of wastewater to surface water(s). Mr. Munsey proposes "No, or small impact may occur" Board concurs.
- h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies. Mr. Munsey stated it's not just having a SWPPP and reviewed by and engineer and accepted, but during construction there will be oversight to make sure that the SWPPP will be adhered to and potentially modified. Mr. Munsey proposes "No, or small impact may occur" Board concurs.
- i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action. Mr. Munsey proposes "No, or small impact may occur" Board concurs.

Town of Ballston  
Planning Board

- j. The proposed action may involve the application of pesticides or herbicides in or around any water body. Mr. Munsey proposes “No, or small impact may occur” Board concurs
- k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities. Mr. Munsey proposes “No, or small impact may occur” Board concurs

Mr. Munsey asked if there were any other surface water impacts the board may want to address.

Mr. Fischer asked for a clarification on the amount of wetlands that are being impacted (0.07 acres). Part (1) EAF page 9 E.1. (Wetlands)

Current acreage 22.83

Acreage after project completion 22.76

Change acres 0.07

Mr. Munsey stated the ACOE has been reviewed and in place for the connector road.

#### **4. Impact on groundwater**

The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. Mr. Munsey – “NO”

All wastewater to be piped offsite – it’s just stormwater managed on site

Ms. Matias asked the residents on Zepko Lane use water wells. Mr. Munsey stated the Rossi PUDD has a requirement that prior to construction, the wells on Zepko Lane must be tested so the comparison is made at some future time of potential impact associated with the project. In addition, not only is the water being piped not only to the Wal-Mart store, but piped to Zepko Lane as a potential future tie-in associated with the project.

#### **5. Impact on Flooding**

The proposed action may result in development on lands subject to flooding. Mr. Munsey stated there is no 100 or 500-yr flood plain located on this project. Mr. Munsey – “NO” Board concurs.

#### **6. Impacts on Air**

Town of Ballston  
Planning Board

The proposed action may include a state regulated air emission source. . Mr. Munsey – “NO” Board concurs.

**7. Impact on Plants and Animals**

The proposed action may result in a loss of flora or fauna. Mr. Munsey – “YES”

- a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site. Mr. Munsey stated NYSDEC databases were checked by C. T. Male today to confirm their databases were up-to-date. There are no threatened or endangered species in the Town of Ballston that are identified in the NYSDEC database at this time. . Mr. Munsey proposes “No, or small impact may occur” Board concurs.
- b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the Federal Government. Mr. Munsey stated no issues identified by these agencies. Mr. Munsey proposes “No, or small impact may occur” Board concurs.
- c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal Government. Mr. Munsey proposes “No, or small impact may occur” Board concurs.
- d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal Government. Mr. Munsey proposes “No, or small impact may occur” Board concurs.
- e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect. Mr. Munsey proposes “No, or small impact may occur” Board concurs.
- f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Mr. Munsey proposes “No, or small impact may occur” Board concurs.
- g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.

Town of Ballston  
Planning Board

Mr. Munsey stated it will eliminate habitat for common species that we have throughout New York State, but would suggest that impact minor. Mr. Munsey proposes "No, or small impact may occur" Board concurs

- h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Mr. Munsey proposes "No, or small impact may occur" Board concurs
- i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides. Mr. Munsey proposes "No, or small impact may occur" Board concurs

Mr. Munsey stated there is going to be a loss of forested communities.

Chairman Doyle about the Long-Eared Bat. Mr. Munsey stated the Northern Long-Eared Bat was recently listed by the US Fish and Wildlife service as a threatened species on March 1, 2015. Mr. Munsey checked all the databases and confirmed with Carl Herzog, NYSDEC Wildlife Diversity Unit today that in the Town of Ballston there is no known summer roosting habitat for the Northern Long-Eared Bat – 95% of the bat population in NYS has been wiped out by White-Nose Syndrome.

#### **8. Impact on Agricultural Resources**

The proposed action may impact agricultural resources. Mr. Munsey proposes "No, or small impact may occur" Board concurs.

#### **9. Impact on Aesthetic Resources**

The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns, between the proposed project and a scenic or aesthetic resource. Mr. Munsey stated "YES" - this is very subjective and asked the applicants to prepare renderings of what the facility will look like from Church Avenue. The applicant is proposing a building less than 40' in height and will have nominal visibility offsite based on the visual impact analysis.

Mr. Fischer asked for definition of scenic or aesthetic resource. Mr. Munsey said it's something that is specifically identified by the locality as a local significance, state park, federal park, even a local park or historic resources nearby.

Mr. Maher said, "What is proposed has a sharp contrast." Mr. Cwalinski agrees with Mr. Maher. Mr. Maher said, "The town has designed that site for the sort of use." Mr. Munsey

Town of Ballston  
Planning Board

stated the proposed action is not inconsistent with the existing PUDD adopted by the town board.

Ms. Matias said, "There is an impact and would say "YES" to this one."

Mr. DiPasquale stated "NO" because there was a mitigation with the varied planting and shrubs.

- a. The proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource. Mr. Fischer said there are none. Mr. Munsey stated there are none nearby. In Park (1) of the EAF, the applicant identified the Saratoga Lake and Saratoga Spa State Park, which are four miles away. In discussions with Paul, EDP we both concur that they are so far away that the intervening topography and vegetation is going to obscure this project from being seen offsite. Mr. Munsey proposes "No or small impact may occur." Board concurs.
- b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views. Mr. Munsey proposes "No or small impact may occur." Board concurs.
- c. The proposed action may be visible from publicly accessible vantage points:
  - i. Seasonally (e.g., screened by summer foliage, but visible during other season)
  - ii. Year round

Mr. Munsey said, yes it is going to be partially visible from Church Avenue, but everything should look much like originally what was indignant of the original PUDD. Mr. Munsey proposes "No or small impact may occur." Board concurs.

- d. The situation or activity in which viewers are engaged while viewing the proposed action is:
  - i. Routine travel by residents, including travel to and from work, Mr. Munsey stated yes.
  - ii. Recreational or tourism based activities, Mr. Munsey stated perhaps. Mr. Munsey proposes "No or small impact may occur." Board concurs.
- e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource. Mr. Fischer said there is no

Town of Ballston  
Planning Board

designated resource. Mr. Munsey proposes "No or small impact may occur." Board concurs.

- f. There are similar projects visible within the following distance of the proposed project: Mr. Maher asked what similar projects? Mr. Cwalinski what are similar. Mr. Munsey said other retail facilities. Mr. Maher stated retail stores. Mr. Munsey said yes. Mr. Maher said convenience store or restaurants. Mr. Munsey said flex office. Mr. Munsey would say perhaps there are, but would not be of any significance. Mr. Maher asked what similar projects? Mr. Munsey proposes "No or small impact may occur." Board concurs.

Mr. Munsey asked does the Planning Board have any other impact on aesthetics that you want to consider.

**10. Impact on Historic and Archeological Resources**

The proposed actions may occur in or adjacent to a historic or archaeological resource.

The applicant as part of their submittal has provided a SHPPO no-effect correspondence on this project. They have completed archeological studies. SHPPO concurred there are none on this site. Mr. Munsey proposes "No or small impact may occur." Board concurs.

**11. Impact on Open Space and Recreation**

The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designed in any adopted municipal open space plan. Mr. Munsey proposes "No or small impact may occur." Board concurs.

**12. Impact on Critical Environmental Areas**

The proposed action may be located within or adjacent to a critical environmental area (CEA) Mr. Munsey stated none in the Town of Ballston. Mr. Munsey proposes "No or small impact may occur." Board concurs.

Mr. Munsey stated that is something the town could designate- if you (the board) want to designate something that is a critical environmental resource – it's done at the town level.

**13. Impact on Transportation**

Town of Ballston  
Planning Board

The proposed action may result in a change to existing transportation systems

Mr. Munsey – “YES”

- a. Projected traffic may exceed capacity of existing road network.

Mr. Fischer, what did the DOT say?

Mr. DiPasquale asked about mitigation improvements. Mr. Munsey stated the loop road and connector road to provide alternative access to get through the PUDD, sidewalks along the Route 50 corridor, intersection improvements at West High Street and Church Avenue, Route 50/67, turning lane, signalization and bus stop. Mr. Munsey stated it's a correct statement that this project has been scrutinized from a Transportation Impact Analysis - C. T. Male, BFJ and NYSDOT (concept mitigation plan approved). The only activity after the Planning Board completes its SEQRA determination is issuance of a work permit going through detailed design for the transportation measures that are part of the project.

Mr. Maher asked before the mitigation measures are implemented or with the mitigation. Mr. Munsey said with the mitigation, which are part of the proposed action. Mr. Munsey stated Peter Reilly, Esq., pointed out that Mike Hollowood, Clough Harbour on behalf of the Village of Ballston Spa also has critically reviewed the Transportation Impact Study (TIS). Mr. Maher said it says the existing road – this is more of splitting hairs.

Mr. Munsey said the proposed action may result in a change to the existing transportation system.

- A. Projected traffic increase may exceed capacity in the existing road network. Mr. Munsey said capacity is defined as the maximum number of vehicles for any given unit of time which can be accommodated on a road – capacity is semi-independent of the demand for roads and considers the traffic conditions, roadway characteristics and traffic control such as the signing or signals at an intersection. It addresses the physical amount of vehicles and pedestrians that the road can handle and does not depend on the total number of vehicles demanding service, but is influenced by relative distribution of vehicles by lane. The geometric design of the road influences capacity (example a curved road has lesser capacity compared to a straight road). Increasing the proportion of traffic turning left on a shared lane, may reduce capacity.

Ms. Mauro said the letter from BFJ January 2015, addressed capacity.

Mr. Maher said how we answer this question with the mitigation measures factored in would say no moderate impact or very small.

Town of Ballston  
Planning Board

Mr. Fischer asked "Do we have a determination from DOT to answer A.

Mr. Munsey said, DOT has in their November 2013 correspondence has basically found the mitigation measures proposed for this project to be adequate. Mr. Fischer asked "So would that mean it would not exceed the capacity of the existing road." Mr. Munsey said he thinks by definition yes and to defer to more traffic engineers. Ms. Serra said she concurs with what John said. An extensive review and correspondence from agencies has indicated that with the mitigation measures they do not exceed the capacity of the road network.

Chairman Doyle said the board should not that we are responding to this question with the already agreed upon mitigation and approvals of the agencies, two engineering firms, applicants engineer from CME and the Village of Ballston Spa as pointed out by Mr. Reilly. Mr. Munsey proposes "No or small impact may occur." Board concurs.

- b. The proposed action may result in the construction of paved parking area for 500 or more vehicles. Mr. Munsey – "YES" – Wal-Mart is proposing 516 spaces the total PUDD is estimated 850 parking spaces. Mr. Munsey proposed "Moderate to large impact may occur" Board concurs.
- c. The proposed action will degrade existing transit access. Mr. Munsey asked what is meant by transits access. Ms. Serra stated transit would be public transportation buses, trains and subways. Mr. Munsey stated there has been coordination with CDTA and routed through the loop road. Chairman Doyle said it should improve it. Mr. Munsey proposes "No or small impact may occur." Board concurs.
- d. The proposed action will degrade existing pedestrian or bicycle accommodations. Mr. Munsey said there are a lot of sidewalks being proposed. Chairman Doyle said he feels just the opposite again – bicycling will be safer. Mr. Munsey proposes "No or small impact may occur." Board concurs.
- e. The proposed action may alter the present or movement of people or goods. Mr. Munsey said sure, it's consistent with the Local Law and the zoning change that was made. . Mr. Munsey proposes "No or small impact may occur." Board concurs.

Chairman Doyle stated the town has received letters relative to the new gaming center in the City of Schenectady. Mr. Munsey said emails and correspondence are being reviewed when they are received. The last theme of the public comments mentioned the Schenectady Casino and identifying that those trip counts have not been taken into consideration with the existing Traffic Impact Study (TIS). Mr. Munsey said we took what we saw was a substantive comment and kicked it to the applicant team and asked them "here is a public comment and

Town of Ballston  
Planning Board

what do you think about it?" We got a well written cogent response from the applicant and passed it onto BFJ and asked "what do you think of the response." The response from BFJ as the town's transportation engineer is that they believe it's within the purview of the Planning Board to require that the applicant update the Traffic Impact Study (TIS) with the new counts associated with the Schenectady Casino. Mr. Munsey stated BFJ said it's an easy assessment and something that is recommended to be done to further assess the cumulative impacts associated with this project and the demonstrate that we are taking a look at the public comments. Mr. Munsey stated the applicant's response made sense; it's only five percent of the traffic from the Schenectady Casino is estimated to come up the Route 50 corridor, it's a low amount, its far way 14 miles, however what George Jacquemart, BFJ focused in on was – what time was the casino proposed. The casino was not proposed until it was selected by the Gaming Commission - December 2014 despite the transportation study was done before that and make sense to include it in the traffic study.

Chairman Doyle asked the board's feelings.

Mr. VanVorst asked how the applicant feels. Ms. Mauro stated our position is that it's less than 5%, 14 miles away which is outside of what would be a study area and pursuant to SEQRA were not required to consider impacts from a project that where application was made after our application was submitted. They are required to if relevant if in the study area to assess impacts including our traffic, but is improper to require an applicant to continue to spend money and update its traffic studies every time somebody submits and application - that is the SEQRA standard.

Wendy Holzberger, PE, CME said after reviewing that comment, went back to the timeline and pulled that study and looked at that volume of traffic that would potentially come up Route 50. Updated counts were performed in 2014 to verify studies that were done previously. There is additional background that was included to almost include that casino in our numbers and feels the background traffic already added in and analyzed several times actually would include enough to cover that 5% based on changes and included projects that have not come to fruition and estimated a projection of 1% a year over so many years, updated those numbers in 2014 and did a lot of comparisons. Ms. Holzberger said we feel our traffic assessment is valid.

Ms. Mauro stated the current amount of traffic that's allowed under the PUDD is more than what the Wal-Mart is projected. Ms. Mauro stated that Wal-Mart's traffic numbers are below what was projected under the PUDD.

Mr. Rossi, Esq., said the numbers of the original PUDD was 75,000 sq. ft. of grocery and 62,000 sq. ft. of other retail was in the vicinity of 800 trips in the PM peak including both in and out. The new numbers that were submitted based on Wal-Mart being the user was down to 600 – a difference of 200 give or take a couple trips. Mr. Rossi stated based on Ms. Holzberger's

Town of Ballston  
Planning Board

analysis on the casino would equate to approximately 80 vehicles 40 in each direction during the PM peak associated with full build out of the casino site. Therefore the difference between the differential users in that traffic growth has been shown would be less than as estimated in 2011. The 80 should fit comfortably inside – back ground numbers were included and at least one project that did not come to fruition in the original numbers. These numbers should be easy to understand in terms of the growth question being less, differential from 2011 to 2015, the user and this added use that just came up.

Chairman Doyle stated that traffic is a concern and feels that traffic numbers will be o.k. What are we looking at and what are we asking you do to, to redo that.

Ms. Holzberger said essentially if we are going to add in the casino traffic and background would go back and analyze existing and then the no-build condition, which is the projected condition in the study area, with growth besides the subject project. That casino would be added into that no-build condition and the build volumes would be with the Wal-Mart/Rossi PUDD.

Chairman Doyle asked about the timeframe. Ms. Holzberger said several days' worth of work to go back and look at the peak hours and look at the several intersections in the study area. Chairman Doyle said a couple days work.

Chairman Doyle asked Mr. Munsey if he agrees with their recollection. Mr. Munsey said he does, but it's not just me, it's my firm and another firm as well.

Chairman Doyle asked the Planning Board how they feel.

Mr. DiPasquale asked if it's possible they look at it closer and would not want to deviate from the BJT recommendation.

Mr. Munsey said part of it was the timing (December 2014) not timing relative to when the applicants transportation study was done and updated, but rather when an official update were done. We discussed the level of effort and he characterized the level of effort as low. Chairman Doyle said two days of work is not excessive.

Chairman Doyle asked how does the board feel and would recommend to continue with our consultants and based that the effort two weeks, two months or two days and ask the applicant to do that check for us.

Mr. Cwalinski is in agreement, two days effort is not that much.

Mr. Maher is in agreement.

Ms. Matias said it's to the benefit of the applicant.

Chairman Doyle said we would appreciate that and realize that your numbers indicate that everything should be ok. There are a group of people in the Village of Ballston Spa that are really concerned about traffic. Chairman Doyle said it's worth two days of work and would truly appreciate it and the individuals out in the audience.

Mr. VanVorst asked Chairman Doyle if we (the board) can stipulate this would be the last time we would require them to do that. Chairman Doyle said yes. Mr. Maher said he would second that.

Chairman Doyle said we are getting near the end here and not too far away from the current SEQRA and have the site plan to do so yes, we will make the commitment to that.

Ms. Mauro said that's fine obviously without waiving our statements earlier made we will commit to doing that and provide the information to the board so that it can factor into however, they make their determination.

Chairman Doyle asked could this be done in correlation with the seven days that we (the board) are going to wait for comments.

Mr. Rossi said both applicants have nodded in affirmance for the record.

Chairman Doyle thanked the applicants.

#### **14. Impact on Energy**

The proposed action may cause an increase in the use of any form of energy. Mr. Munsey – "YES"

- a. The proposed action will require a new, or an upgrade to an existing substation. Mr. Munsey proposes "No or small impact may occur." Board concurs.
  
- b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use. Mr. Munsey said yes its true, but a small impact. Mr. Munsey proposes "No or small impact may occur." Board concurs.

Town of Ballston  
Planning Board

- c. The proposed action may utilize more than 2,500 MWhrs per year of electricity. Mr. Munsey said the estimated is 9MVAhrs of electrical demand for this facility. Mr. Munsey asked for both heating and lighting because there is no natural gas available at this site. Mr. Baczek, PE, T.Y. Lin said he has asked that question of the electrical engineers in the office and will hopefully have that answer probably tomorrow. Mr. Munsey said o.k. and asked his electrical engineers at C. T. Male and provided an equation (MVA = Mega Watt (MW) x Power Factor (PF)) power factor: is a number that normally ranges from 0.78 to 0.91. Mr. Maher said do you want to hear about the power triangle, there is real power and imaginary power. Mr. Munsey said we are well below the threshold even if we were to double that number. Mr. Munsey proposes "No or small impact may occur." Board concurs.
- d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed. Mr. Munsey proposed "Moderate to large impact may occur" Board concurs.

**15. Impact on Noise, Odor, and Light**

The proposed action may result in an increase in noise, odors, or outdoor lighting. Mr. Munsey "YES"

- a. The proposed action may produce sound above noise levels established by local regulation. Mr. Munsey said what is allowed by the existing permitted use – commercial facility that is being proposed. Mr. Munsey proposes "No or small impact may occur." Board concurs.
- b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home. Mr. Munsey said no bedrock and no blasting. Mr. Munsey proposes "No or small impact may occur." Board concurs.
- c. The proposed action may result in routine odors for more than one hour per day. Mr. Munsey said It's possible with the dumpster could stick for a while. Mr. Munsey proposes "No or small impact may occur." Board concurs.
- d. The proposed action may result in light shining onto adjacent properties. Mr. Munsey said no, the applicant has provided a lighting plan. The criteria of site plan approval is zero at the property line with the exception of lighting at the entrance roads into the site and want to have lighting for purposes of safety, but all perimeter areas the requirement is zero lumens around the perimeter of the site.

Chairman Doyle said the problem talked about was the Groski's on the east side and

Town of Ballston  
Planning Board

engineering is working on that and should not be a problem.

Mr. Munsey said the applicant has stated that night sky compliant lighting is associated with this project. We have not seen any fixtures, but will be getting them with the site plan approval process. The original PowerPoint presentation showed luminaires that appear to be night sky compliant, in terms of directing all the light downward

Mr. Munsey proposes “No or small impact may occur.” Board concurs.

- e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions. Mr. Munsey proposes “No or small impact may occur.” Board concurs.

Mr. Munsey said that will be addressed next in the site plan approval process as well following the SEQRA.

#### **16. Impact on Human Health**

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. Mr. Munsey would say there are no new contaminants. There have been some historical spills on the project site as identified in the applicants Part (1), but all of those spills have been reported to DEC, cleaned up and closed by DEC. Mr. Munsey “NO” it’s a commercial facility, not an industrial facility. Board concurs.

#### **17. Impact with Community Plans**

The proposed action is not consistent with adopted land use plans. Mr. Munsey “NO” it’s zoned for this activity and consistent with what the town board has approved at the PUDD level.

Chairman Doyle asked if the board has questions, it’s an approved PUDD by the town board in 2011. The square footage for retail is 137,000 sq. ft. (what the PUDD says) and does not have any of the restrictive uses in the PUDD. Board concurs.

#### **18. Consistency with Community Character**

The proposed project is inconstant with the existing community character.

Ms. Mauro said community character is defined in terms of SEQRA in terms of what the zoning is not community character “like this quaint town.” Community Character is defined with the zoning – it’s an allowed use in a zoned area.

Mr. Munsey said the EAF workbook “Community character is defined by all the manmade and

Town of Ballston  
Planning Board

natural features of the area. It includes the visual character of a town, village or city and its visual landscape and also includes buildings and structures and their uses, the natural environment, activities, town services, and local policies that are in place. These combine to create a sense of place or character that defines the area.”

Mr. Maher said hasn't this already been vetted during the adoption of the PUDD. Chairman Doyle said that is correct these were the questions, and the town board went through the SEQRA process at that time. Mr. Maher said he is not trying to discount the questions or make it sound irrelevant, but in his view this has already been vetted. Mr. Munsey said they go on to talk about changes to types and intensity of uses.

Mr. DiPasquale said the only comment he would have is in that general area, it is a commercial strip of a mile of with numerous gas stations, McDonalds, Dunkin' Donuts etc.

Mr. Fischer said his only thought is similar to earlier in the question there. It may not do us any harm to go through each and every sub item here.

Ms. Matias was thinking about the same even the same with the aesthetic part.

Mr. Fischer said there are only seven items.

Mr. Rossi, Esq., asked Chairman Doyle to make one request to just remind the crowd perhaps to keep the commotion down so we have a complete record – it's important that the record is complete. Mr. Doyle said yes, it's important the stenographer get all the information into the transcript and to speak one at a time.

Mr. VanVorst asked the Chairman Doyle that we not make a determination until we go through these and then make a determination. Can we do that? Mr. Munsey said procedurally not correct.

Mr. Munsey “YES”

- a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community. Mr. Munsey proposes “No or small impact may occur.” Board concurs.
- b. The proposed action may create a demand for additional community service (e.g. schools, police and fire).

Mr. Fischer said those items were addressed or were they not. Mr. Munsey said they were. Chairman Doyle asked Mr. Munsey to elaborate. Mr. Munsey said that was one of the

Town of Ballston  
Planning Board

comments that we heard loud and clear at the public hearing at the high school that this proposed project is going to tax community services. On the issues of fire and EMS, there is documentation that says the emergency services and fire department don't feel that this creates any additional excess burden on them and think those issues can be ruled out pretty quickly – minor impacts.

The issues of schools – They're going to be paying school tax as a result of this project and do not see how this project has an adverse impact on the community of schools.

The issue of police is another issue – let's say it's another issue for purposes of discussion. The research that has been provided to us and have the opportunity tonight to query a Wal-Mart representative as well in terms of how accurate is this information. Mr. Munsey had the opportunity to review the information that was provided by the applicant, read through the information on community services and even if you were to say "Well forget about proportioning the impacts, these are the two closest Wal-Mart stores", but are in a similar community and did not look at the Glenville Wal-Mart. They look at Wilton and Halfmoon. Even if you assume it's going to be the same number of calls in Wilton, the number of calls was reported at 2.4 calls per week. The Halfmoon site the number of phone calls to the police was reported at 1.9 calls per week. Even if you were to double those numbers, it's a rather large commercial facility; it's still a nominal amount if paying taxes. Maybe half of the calls were larceny of some sort or associated with that. The Wal-Mart monitor would call the local police who would then come and apprehend the folks, but there is going to be an increase in policing activities as a result of any commercial establishment associated with the project. Mr. Munsey said these numbers do not strike him as being excessive, but would ask the Planning Board to ask the Wal-Mart representative for other stores – do these seem to make sense.

Ms. Mauro said she is not with lost prevention and did not FOIL the information, which was FOILed by Mr. Rossi and is not in a position to say one way or another.

Mr. Maher asked if there will be internal security. Ms. Mauro said yes, we have loss prevention people who are there. There is internal security – we do not have armed guards, it's a Wal-Mart not a penitentiary we don't force anybody to come and stay.

Mr. Rossi said you sited to the letter that he submitted yesterday and information that was vetted in the public view prior to that, in The Ballston Journal Online. It comes down to your community and the character of the community in and of itself and is why as John (Mr. Munsey) pointed out; you use other Saratoga County stores if you feel that there is uniformity in Saratoga County – we happen to be between the two stores site. Mr. Rossi found it interesting in the Smart Growth Ballston Facebook page they sited to oppose our article from June 8, 2015 that points out the two Queensbury stores have seen at least a dozen arrests this year alone – that's five months into the year. It's another case of your community defines your

Town of Ballston  
Planning Board

crime level. As John said, does not think from seeing those numbers that's a surprise based on a 137,000 sq. ft. retail center.

Mr. Fischer said the question that is being asked to get specific is "Will the proposed action create a demand for additional community services." Mr. Fischer read through all reports today and seemed pretty clear to him and EMS and fire said, "This is not a problem, we have absolutely no concern about this" and the level of reports of crime from Mr. Rossi's letter seem pretty nominal a lot was mundane stuff, people locked out of their cars and general traffic violations, which are going to happen regardless.

Mr. Maher said I guess I see the way the question is worded as it may create a demand for additional community service. In essence, the local sheriff or village would have to hire additional personnel to police the new facility. Ms. Mauro said there has been no evidence that it's necessary.

Mr. DiPasquale said there is no doubt there's going to be increased demand and in his opinion, relatively small. Chairman Doyle said no or small. Mr. Maher asked if this can be addressed with the existing police force.

Chairman Doyle proposed "No or small impact may occur." Board concurs.

- c. The proposed action may displace affordable or light-income housing in an area where there is a shortage of such housing. Mr. Munsey proposes "No or small impact may occur." Board concurs.
- d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources. Mr. Munsey proposes "No or small impact may occur." Board concurs.
- e. The proposed action is inconsistent with the predominant architectural scale and character. Mr. Munsey said as dictated by the PUDD. Mr. Munsey proposes "No or small impact may occur." Board concurs.
- f. Proposed action is inconsistent with the character of the existing natural landscape. Mr. Munsey said what is the zoning and what does it allow.

Mr. Munsey asked if there are any other community issues that the Planning Board might have.

Chairman Doyle said the applicant did a great deal of renderings to provide the community of what this would look like. The most prominent is when heading in the southern direction where you are looking over St. Mary's cemetery and you see the top of the building. It will look

Town of Ballston  
Planning Board

like a small two-floor home, is what you are going to be looking at for height-wise its wider than a regular home, but height wise it's not going to be that high. Chairman Doyle proposes "No or small impact may occur." Board concurs.

Mr. Munsey said so running through Part (2) of the full EAF, we have four items that have been tagged as "Moderate to large impact may occur" and that triggers the board to go through Part (3) of the EAF assessment of environmental significance for the project.

Mr. Munsey said the term significance as pointed out in our pre-meeting is somewhat subjective this is because the significance of an impact is dependent upon the magnitude duration, likelihood of that impact occurring and scale and contexts of the project. Contexts refer to the unique characteristics of the natural and manmade environment at any given location. Significance is very much tied to the context of the site and the community; similar projects may receive different decisions insignificance because the difference is in context. What could be significant? A significant action whether a potential impact is significant or not, is what the Planning Board is going to do for those four items. Many variables go into the significance determination.

In going through Part (3), would go through it in a routing way tonight, not formally come to any conclusions. The public comment period is still open. There could be some more comments that come in that might of some significance and may want to evaluate. In Part (3) provide a reasoned elaboration that goes behind the significance of the determinations. Look at the Part (2) responses and describe the magnitude of the impact. Magnitude considers facts such as severity, size or extent of an impact. Assess the importance of the impacts. Important relates to the geographic scope, duration, probability of impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur. Any design element or project changes – part of this project goes with the mitigation of this project. Then you repeat this process for every Part (3) question where we check the box "Moderate to large impact" and provide reasoning way the impact may or will not result in a significant or adverse environmental impact. There is no condition Neg Dec for a Type 1 action and have to evaluate the impact for a Type 1 action as either significant or non-significant.

1. d. The proposed action may involve the excavation or removal.

Mr. Munsey said the proposed action involves the excavation and removal of approximately 2,000 cubic yards of natural material. What the applicant has said in Part (1) of the EAF is some scrub vegetation; topsoil will need to be removed, some additional sands that may not be suitable for sub-base and that is the approximate amount of excess excavation materials will be carted off-site disposal or used someplace else. What does that equate to? Mr. Munsey said, "It's 2,000 yards with a factor of 1.35 tons per cubic yards. Mr. Fischer said 2.7, 2,700. Mr.

Town of Ballston  
Planning Board

Munsey said 2,700 tons divide that by 20 tons per truck. Mr. Munsey said 135. That equates during the initial construction period of 135 trucks would go off site.

Mr. Cwalinski asked how long will that initial construction period last. Mr. Munsey said it depends on the contractor and the terms of it, but usually contractors like to go in and move dirt quickly. Mr. Munsey said a month. Ms. Serra said a month for this site work. Ms. Serra said you would have the 135 trucks unless someone pulls a small load over the course of a month is pretty similar to a lot of other projects that the town sees and would not say that amount of truck traffic is large. Mr. Fischer said six trucks a day. Ms. Serra said there are some local construction projects that are pulling a truck every five minutes. The reason is we did kick that 1 ton threshold on the form so we have to discuss is.

Ms. Serra asked if anyone on the board feels that magnitude of truck traffic for the month duration would be a negative impact to the surrounding community.

Chairman Doyle said based on trucks coming out of Curtis and other concrete pours, six trucks per day would not be excessive for this project.

Mr. Fischer said this is under impact on land and talking about impact on trucking and traffic. Mr. Munsey said that is where the community would see the impact is taking that excess material and bringing it offsite. Mr. Munsey said the duration of that impact is not permanent and just for the construction period. In general in SEQRA lingo that considers a typical short term impact, any construction impacts are short term impacts versus a long term impact, which is more significant -the duration is short term. Mr. Munsey asked, "What is the likelihood of that impact happening- yes it's going to happen, it will occur and what is the importance of that impact. It's important that it be properly managed. They are using trucks that have mufflers and not overload the trucks – it's important that it be done properly. In the context of overall what is the importance of that. In general the short term impacts are not considered to be overly important.

Mr. Munsey said in terms of 1 (d) we can put together a suggested language to support a not significant adverse impact. Chairman Doyle asked if the board was in agreement. Board concurs.

1 (e) The proposed action may involve construction that continues for more than one year or in multiple phases. Mr. Munsey said it's going to take two years to construct the Wal-Mart store. Mr. Rossi said to avoid segmentation the timeframe was increased to locate office/industrial users as well and construct in that respect. Mr. Munsey said the road, infrastructure plus the Wal-Mart store. There is going to be a variable amount of construction during that period.

Mr. Munsey asked the magnitude of that.

Town of Ballston  
Planning Board

Mr. Cwalinski asked what is exactly going to be constructed within the 24 months, Wal-Mart store, all infrastructures or are we approving all the plans that are in the PUDD. Mr. Munsey said the construction of the Wal-Mart store includes by definition the construction of the loop road, connector road and offsite transportation mitigation measures and assuming that a condition of site plan approval. The Planning Board is going to lay out all the criteria that will be required before a Certificate of Occupancy can be met including the infrastructure, water sewer and the offsite transportation.

Chairman Doyle said Stonebridge and other construction projects of that nature have many houses and do not see how this will have a much different impact –major housing areas going on as roads as not as suitable as Route 50 is for getting in and out. Chairman Doyle asked if the board was in agreement on that. Board concurs.

Mr. Munsey said the duration of the impact.

This is a short term impact period of construction. The likelihood of impact occurring is probable and the importance of that impact. You have to have a construction period to construct the facility. Mr. Munsey said the board is leaning on “not a significant adverse impact”. Board concurs.

13. (b) The proposed action may result in the construction of paved parking area for 500 or more vehicles.

Mr. Munsey said the parking spaces for this project are 516 – a large number of parking spaces are associated for this project. It goes back to what does the PUDD say for parking. The PUDD legislation specifies a minimum number of parking spaces for retail oriented one (1) space per 300 square feet totals 456.6 or 457 – that’s the minimum number of parking spaces that the PUDD mandates or the Wal-Mart store as proposed. Wal-Mart is proposing 516 spaces and that number could fluctuate as we go through final segmented approval. They appeal to meet the minimum number of parking spaces. Ms. Mauro said for the record it 504 spaces. What is the direction of that impact? It will be for the life of the store. We want to have adequate parking there. Is that likelihood there? Yes, parking is going to be built. What is the importance of that impact? It seems to not be a significant adverse impact to provide adequate parking for a commercial facility. Mr. Munsey would recommend that the board move in the direction relative to this issue. Board concurs.

14. (d) The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.

Town of Ballston  
Planning Board

Mr. Munsey said this is a default where you have to check "Moderate to large impact" because it's a large building being proposed.

The interior of the building has to be heated and cooled. The PUDD contemplated more square footage than that. They contemplated a total of 269,000 square feet of enclosed building space with 132,000 square feet being for flex/office space and the remainder 137,000 sq. ft. being for either flex/office space or retail use for the project.

The PUDD legislation adopted by the town board it does not appear to meet the criteria for a significant adverse impact.

Chairman Doyle asked Ms. Serra in your discussion with Wal-Mart, have never talked about anything that there was a shortage of electricity in the area or anyone as having problems with that. Ms. Serra said that was never brought up. I would guess with the new transmission line that went over to Global Foundries and the upgrading of the transformer at the west side of the Village of Ballston Spa, that power is probably not a problem. So I think it would have a small impact and research a little more to make sure. Mr. Munsey said this is looking at the consumption of the energy that's creating the impacts as well. Mr. Doyle said there are some positive things within this. There's no doubt all the interior lighting is LED lighting, the outside is LED lighting, that is in consistency with the PUDD, which talks about mercury and other incandescent lighting, but the move and for the Planning Board is to go with the best energy source. Incandescent bulb and run it as some frequency, as wise to change to LED.

Mr. Munsey is going back to Wal-Mart's initial proposal that they made when they were in concept plan to the Planning Board back in May 2014. The guy with the ponytail that got up and talked had a great detail about the energy efficiencies that Wal-Mart uses in their stores. In terms of site lighting, having transparent roof panels so they can capture sunlight in the stores. The use of low power consumption electrical fixtures. Ms. Mauro said to look on facts on-line for sustainability measures that we employ. Mr. Munsey said they feel short of saying they are going to be LEED certified. Chairman said, that's true, but they're close. Mr. Munsey said but they seem were fully compliant with LEED certification and know that it's very expensive and know why companies choose not to.

Chairman Doyle asked how the board feels about this and does not seem like a tremendous problem. Board concurs.

Mr. Munsey said we will draft up something for the next meeting for the board to take look at in greater detail in Part (1) and finalize Part (2) to review at the next meeting.

Chairman Doyle said just looking at where we are now; there are not numerous problems or major problems with this project.

Town of Ballston  
Planning Board

Chairman Doyle asked the board after going through this is there possibilities of approving this. Mr. Cwalinski asked Chairman Doyle to say it again. Chairman Doyle is looking to see how the board feels about this project, the number of items we had in Part (3) are very small, the other items that we went through with each one of the categories and had a "Yes"; it turns out to be small or minor.

Chairman Doyle said consequently to keep the process moving would ask the engineers look at generating a Negative Dec and working in a direction of resolving the Part (3) problem. This is not a decision we have a long way to go. The board has to meet on this. We have comments coming in and were going to look at road things and work on something that leads in that direction.

Chairman Doyle said everybody will get to vote on this. This will be a clean piece of paper and we will discuss it again and decide where we are going.

Mr. Munsey asked if there is a specific timeframe for the next meeting. Has that been established?

Chairman Doyle said he was going to talk to you about his after the meeting. Thinks he has talked Wendy into a week and does not think we can do it in a week and consequently does not know, but will assure to give people a couple weeks' notice.

Ms. Mauro said thank you Mr. Chairman and the board on behalf of Wal-Mart and the Rossi's. Mr. Rossi said thank you.

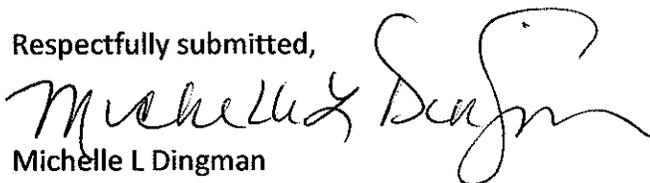
Chairman Doyle asked if there are any questions from board members.

Chairman Doyle would entertain a motion to adjourn.

**MOTION:** Mr. VanVorst made a motion to adjourn. Mr. Maher seconded the Motion and all board members voted in favor. **CARRIED.**

Meeting adjourned at 9:25 p.m.

Respectfully submitted,



Michelle L Dingman  
Planning Board Secretary