



**COPAKE PLANNING BOARD**  
**JUNE 21, 2014**  
**SPECIAL MEETING MINUTES**

**Approved**  
August 7, 2014

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**Please note that all referenced attachments, comprising 10 pages, are on file with the Copake Town Clerk and in the Planning Board office. An annotated listing of those attachments appears at the end of this document.**

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A special meeting of the Copake Planning Board was called to order at 9:40 a.m. by Bob Haight, Chair. Also present were Chris Grant, Marcia Becker, Steve Savarese, Jon Urban, Julie Cohen and Ed Sawchuk. Lisa DeConti was present to record the minutes. Attorney Ken Dow was also present. The purpose of the meeting was to complete the Berkshire Mountain Club at Catamount SEQRA.

**SUBDIVISION/SITE PLAN**

**2013-30 MAJOR SUBDIVISION –BERKSHIRE MOUNTAIN CLUB AT CATAMOUNT SKI AREA – Route 23 – [Copake]**

**2013-31 MINOR SUBDIVISION –BERKSHIRE MOUNTAIN CLUB AT CATAMOUNT SKI AREA – Route 23 – [Copake]**

Pat Prendergast appeared before the Board along with Developer Harry Freeman and Project Attorney Andy Howard.

The following were submitted:

- Rock Solid Development economic impact letter dated June 16, 2014 [2 pages]
- Clark Engineering response letter dated June 19, 2014 [2 pages]
- NYS Department of Transportation Catamount Road approval letter dated June 20, 2014 [2 Pages]
- Landscape plans
- Lighting Plans

Attorney Howard thanked the Board for agreeing to hold a special meeting. Ms. Becker asked if the Empire State Development Corp. should have been included in the Government Approvals Funding or Sponsorship section of Part I of the SEQRA, page 2. Mr. Prendergast and Mr. Freeman agreed that this should be listed under State Agencies on the form. Mr. Freeman clarified that a \$1.2 million grant was received from New York State. Ms. Becker made acknowledged that the form was mailed to the Empire State Development Corp. and was advised that this was the correct agency.

Attorney Dow acknowledged that the Board held a preliminary review of Part II of the SEQRA form so that the applicant would be aware of any outstanding issues that might need to be mitigated. He advised that some issues might be able to be resolved with more attention to the sub-category details however others might require moving onto Part III of the SEQRA to determine whether there might be a significant adverse impact to consider.

## **PART II**

Ms. Cohen agreed to read through the SEQRA and Ms. Becker agreed to complete the form. SEQRA Part II was reviewed and discussed. The following issues resulted:

- **Section 1, Impact on Land**

It was clarified that 6.5 acres of land will be disturbed.

- **Section 3, Impacts on Surface Water**

Mr. Prendergast acknowledged that a trench will be dug in the bank of a drainage ditch 15-20 feet from the wetland and is permitted by the Army Corp of Engineers. Attorney Howard addressed the fact that the stormwater plan will treat the quantity and quality of runoff issue and Mr. Prendergast clarified that all construction runoff is being directed into the snowmaking reservoirs before it goes anywhere. Mr. Prendergast clarified that the total flow of wastewater discharge is permitted for 50,000 gallons per day however actual discharge is estimated to be 40,000 gallons per day or less.

- **Sections 4, Impacts on Groundwater**

Mr. Sawchuk commented on something he had heard about one of the wells being contaminated or dry. Mr. Haight explained that one of the wells at the Swiss Hutte was abandoned because it was contaminated when the roads were being salted so another well was drilled a short distance from it however he was not aware of the end result.

- **Section 9, Impact on Aesthetic Resources**

Ms. Becker questioned whether the SCOZ defined in the Town Code should be considered as a scenic resource. Mr. Haight then clarified that the Code refers to the SCOZ as the scenic view from Route 22. Ms. Becker noted that the SCOZ considers the most scenic and environmentally sensitive areas in the Town and the objective is to preserve open land now being actively used in agriculture.

Mr. Sawchuk questioned when and if a balloon test would be done. Attorney Howard pointed out that during the previous SEQRA the Board previously in their SEQRA findings made findings that there was no visual impact as a result of buildings of the same height of bigger scale than what is being presented at this time. Mr. Freeman also noted that during the SCOZ discussion the present Board voted earlier in the process that there would be no visual impact from this project. Ms. Becker clarified that the Board waived the requirements for this. A discussion ensued regarding elevations for the project and it was decided that this would be addressed during Part III of the SEQRA.

- **Section 13, Impact on Transportation**

A discussion ensued as to whether the capacity of the existing road network would be exceeded. Mr. Grant acknowledged that the Creighton Manning report needed to be entered into these findings as a possible means of mitigation. Mr. Sawchuk questioned whether this report had an engineer's seal on it so as to release the Town of possible liability. Ms. Cohen acknowledged that there is also a letter from the Department of Transportation to consider. In response to Mr. Sawchuk's concerns Attorney Dow explained that this process is a step along the way to make a reasonable determination. In the context of making a SEQRA determination this is a reasonable judgment based on the information given with respect to environmental impact and not a Site Plan Review and is just one piece of a big picture in making a judgment as to how this project affects the environment. Attorney Howard acknowledged that the State would not let this intersection be built without the appropriate PE stamps and the developer would not pay anyone without the proper stamps.

- **Section 14, Impact on Energy**

Impacts on energy were discussed further during Part III of the SEQRA

- **Section 15, Impact on Noise, Odor and Light**

Impacts on noise, odor and light were discussed further during Part III of the SEQRA

It was decided that Section 1, Impact on Land (e & f); Section 3, Impacts on Surface Water (e, f, g, h, I & k); Sections 4, Impacts on Groundwater (a, c & g); Section 9, Impact on Aesthetic Resources (3, f, & g); Section 13, Impact on Transportation (a & g); Section 14, Impact on Energy (c & d); and Section 15, Impact on Noise, Odor and Light (b, c, d & e) needed to be considered under Part III of the SEQRA.

Section 2, Impact on Geological Features; Section 5, Impacts on Flooding; Sections 6, Impacts on Air; Section 7, Impact on Plants and Animals; Section 8, Impact on Agricultural Resources; Section 10, Impact on Historical and Archeological Resources; and Section 11, Impact on Open Space and Recreation; Section 12, Impact on Critical Environmental Areas; Section 16, Impact on Human Health, Section 17, Consistency with Community Plans and Section 18, Consistency with Community Character didn't need further consideration under Part III of the SEQRA as there was no impact or the impact was considered to be small.

### **PART III**

- **Section 1, Impact on Land**

Attorney Howard addressed this Category. He explained that the topography of the subject area is relatively flat, with the exception of the area adjacent to the Ski Area, where side slopes exceed 15%. The site development for this new resort hotel is sited in an area comprised primarily of an open area for the formal gravel parking lot with some small portions of succession growth. Storm runoff from the subject parcels presently flow overland and are generally untreated with the exception of natural treatments provided by whatever plants are in the area of the existing retention ponds.

He explained that the potential impacts would be the disturbance and conversion of the parking lot into the resort hotel however he pointed out that several mitigation measures are being incorporated into the project. The site development will be generally limited to areas

where present parking lots have been developed, resulting in a very limited area of disturbance along slopes greater than 15%. He noted that the site development will include use of retention ponds also utilized for snowmaking to capture treated surface water. He added that they have proposed a stormwater management system, which includes a detailed required Stormwater Pollution Prevention Plan (SWPPP) developed specifically for this project and this has been approved by the NYS DEC.

By having temporary and permanent erosion control measures which deal with not only the construction and operation of the resort hotel he explained that this would be the manner in which they control the quality and quantity of the ground water.

He added that a portion of the hotel construction will be located where bedrock is exposed or within 5 feet of the ground level and will be done by blasting or by hydraulic hammer with the areas to be excavated being at least 700 feet from the nearest neighboring structure. He noted that this will be done in a limited area.

Mr. Prendergast explained the manner in which areas are blasted today saying that this is done rather quickly with a single blast to the area.

Attorney Howard went on to note that construction will be done in phases, as units in the three buildings are sold and occupied with no single construction phase being longer than one (1) year with the project constructed in multiple phases. He added that there will be three (3) intermittent phases in a five to ten year period with the first phase designed to involve the majority of the infrastructure and the first 66 unit building of the resort hotel. In connection with phase I he made note of the fact that the roadway improvements will be constructed, together with the water tower, wastewater treatment facility, drainage system, and paving of the main parking areas as well as the gravel parking area to the west.

Attorney Howard explained that the project will proceed as the units grow and if there should not be a market for more than one unit than that would be the scope of the project. Plans are not to overbuild the hotel and leave units vacant.

In addressing the concerns by abutting owners along Catamount Road regarding noise and dust he noted that Catamount Road is a public road maintained by the Town of Copake and there are up to 1000 vehicles per day use this road during the winter ski season which includes trucks delivering supplies to the Ski Lodge, and other support vehicles to service the ski area and its operations.

He explained that construction of the buildings will start with utility relocation work and excavation for foundations, followed by concrete deliveries and this will result in a slight increase in ambient noise for a 3 to 4 week period. Following the foundation work, the shell of the building will be constructed over the course of several months and the noise generated by this phase is mitigated by the fact that the buildings are at least 700 feet away from the nearest neighboring structure. He explained that once the building shell is completed, electrical, plumbing and HVAC work will take place and this work should not generate any audible noise outside of the buildings.

Attorney Howard addressed the fact that construction vehicles will use Catamount road to access the site and this road is a paved Town road that currently supports the traffic that the ski area generates at peak periods. He added that the construction will generate a temporary increase in truck traffic with deliveries of stone, concrete and lumber with on average 3 tractor trailers (or comparable) making daily deliveries to the site. He explained that most of

this traffic will be generated in the spring to fall time frame: when the ski area is not operating and contractors using Catamount Road will mostly be using pickup trucks and cars to report to work that will not cause any significant increase in noise or dust on a paved road and once road and parking lot improvements are completed, dust issues should be far less than the current condition.

Attorney Howard made note of the fact that there have been discussions about limiting the times of the construction vehicles to certain times during the day and the construction will end by 4 pm during the work day.

Ms. Becker questioned whether the intersection improvements will be done at the same time as the Phase I building and was advised by Mr. Freeman that when they get to that point they will do a construction timeline explaining what parts will be done in what order. Mr. Freeman also added that he will try to do some of the intersection work during the slower times of the Swiss Hutte and at the time the Alpers close in the spring.

Mr. Prendergast presented the Board with the Erosion and Sediment Control plan and acknowledged the letter from Engineer Tom Field who he said reviewed this and is OK with it.

Attorney Dow advised that the Board needed to address Section 'e' per Part III requirements and determine the magnitude and importance of each item to see if there is a significant adverse environmental impact.

Attorney Dow advised the Board to consider the magnitude which involves construction for more than one year and multiple phases and make a judgment of the size or extend of this and then consider the importance involving the geographic scope, duration, the likelihood of it occurring and the number of people affected by this and the consequences make.

Mr. Grant acknowledged that the magnitude and duration of the construction stage is the fact that this could go on and off for between 5 and 10 years as addressed previously by Attorney Howard. Mr. Grant than referred to the noise factor which he feels can be mitigated by the fact that this will be at least 700 feet away from the nearest neighboring structure with the work then moving to the inside of the building. He then pointed out that the construction will generate an increase in traffic. Attorney Howard added that this can be considered mitigated inasmuch as there will be 3 construction deliveries on what is now a public highway maintained by the Town of Copake and the time of these deliveries can be structured to occur around 10:30 am if desired. Mr. Freeman also made note of the fact that the majority of the heavy work and activity will be done in phase 1.

Ms. Becker questioned whether the road improvement will be done in Phase 1 as well and noted that the Board does not have approved plans for this as yet. Mr. Freeman advised her that the State will not give final approval prior to the SEQRA being completed and a Site Plan being done however acknowledged that conceptually approval had been given. Ms. Becker did note that the DOT was proposing some changes. Mr. Freeman clarified that after speaking with Creighton Manning none of the changes are major.

**Sub-Category 'e'** *The proposed action may involve construction that continues for more than one year or in multiple phases:*

The magnitude of Sub-Category 'e' was noted to be the fact that the project will be constructed in three intermittent phases in a 5 to 10 year period, the building construction will be 700 feet away from the nearest neighboring structure and tractor trailers will be making daily deliveries to the site.

Attorney Howard pointed out that the magnitude of this particular project from a land use area perspective is smaller than previously reviewed and approved from an environmental standpoint by the Board as are the units in keeping with the size.

The mitigating actions were noted to be the fact that most of the infrastructure work will occur in the first phase of the project limiting the negative impacts of the phase construction with each individual phase taking up to 12 months to complete and not be continuous, most of the traffic will be generated in the spring and fall timeframe and so as not to interfere with the businesses in the area, the applicant limiting hours of construction to Monday through Friday, 7 am to 4 pm in most cases so as to minimize the impact on the neighbors, delivery hours will be limited to 9 am to 4 pm, excluding holidays with an average of 3 tractor trailer per day and conceptual approval has been received from the DOT.

Mr. Savarese asked if Nicholson Road is going to be improved to the point that Great Barrington will be able to get their ladder truck through it. Mr. Freeman explained that it will not however the Fire Department is comfortable with this as there will be 2 accesses off of a public road, that road being Catamount Road with Nicholson Road allowing for a third access road.

Mr. Grant advised the Board to consider whether the actions discussed are sufficient enough to mitigate any environmental impacts as set forth in Sub-Category 'e'. The Board was in agreement that these actions would mitigate any environmental impacts of the construction continuing for more than one year.

**Sub-Category 'f'** *The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides):*

The magnitude was noted to be erosion.

The mitigating actions were noted to be that the applicant provided an approved Stormwater Pollution Plan reviewed and approved by Town Engineer Tom Field and weekly inspections will be done as required under the Stormwater permit.

The Board was in agreement that these actions would mitigate any environmental impacts of erosion.

### ▪ **Section 3, Impacts on Surface Water**

**Sub-Category 'e'** *The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments:*

Regarding the magnitude on Surface water Attorney Howard explained that the proposed action will introduce new replacement impervious surfaces through the construction of the Resort Project, accessory structures and paved surfaces which are the driveways, parking areas and sidewalks. He clarified that there will now be paved surfaces where there were none, alleviating past muddy surfaces which would result in increased channeling of stormwater and picking up of pollutants. He explained that these issues have been addressed by Utilizing the NYSDEC Stormwater Design Manual, along with a hydrologic analysis to create the stormwater management plan that have been submitted and reviewed resulting in a

permit being issued by NYS DEC. Mr. Grant asked if the oil and water separator a part of that and was advised that it is.

Attorney Howard made note of the fact that it was also mentioned in their response to the Board that previously the Planning Board when serving as lead agency on the prior project on June 2, 2005 in their SEQR Findings Statement for the same site found that no significant impacts to the receiving stream would occur as a result of the DEC approved wastewater system and stormwater prevention plan. Attorney Howard continued to note that those same environmental issues were reviewed, are now being looked at again and conformation of the renewals of those permits are being providing. Attorney Howard also acknowledged that there is a SPDES permit for general construction.

Mr. Haight asked the Board if everyone was in agreement that there is no significant impact from this. The Board was in agreement.

A discussion ensued regarding the intake for withdrawal of water from surface water and Attorney Howard explained that the intent of the ponds is not the pooling of ground water but for use in fire fighting emergency purposes.

**Sub-Category 'f'** *The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water:*

Mr. Grant clarified that the intake will be through a 6" pipe coming from the reservoir and only in emergency situations. Mr. Haight noted that the water would then drain back into the ponds.

The mitigating factor being that this is only for emergency use and water will only be withdrawn from the retention ponds in an emergency situation.

The Board was in agreement that this does not constitute a significant impact.

**Sub-Category 'g'** *The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s):*

Attorney Howard made note of the fact that this is referenced in Engineer Tom Field's most recent correspondence conforming that the applicant has a valid permit DEC wastewater SPDES permit and an Army Corp of Engineer's National permit for the installation of the treatment plant outfall.

Mr. Grant noted that the magnitude of the issue is that the maximum daily discharge into the waterbody will be 50,000 gallons per day and the mitigating factors are that there is a valid SPDES permit from the DEC which permits this, the waste water will be treated through a state of the art sequencing batch reactor type plant including phosphorous removal and Engineer Field confirmed that all permits are valid and in place.

Mr. Prendergast acknowledged that the waste will be removed approximately once a month by a licensed party.

The Board was in agreement that there were no adverse impacts from this.

**Sub-Category ‘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 waterbodies:*

Attorney Howard pointed out that in their response they acknowledged that any areas disturbed during construction will be stabilized by the proposed new construction and restored landscaping, there is a comprehensive Stormwater Pollution Prevention Plan (SWPPP), including pre and post construction stormwater controls. He continued to note that the proposed erosion and sediment controls include minimization through topsoil protection, silt fencing, stabilized construction entrance, storm drain inlet protection, mulching, dust control, seeding and inspection and maintenance according to DEC standards.

Mr. Grant questioned whether the stormwater plan addresses the potential volumes of water and requested a record of the SWPPP be put together. Mr. Freeman advised that the documentation supports this information.

The Board was in agreement that with the mitigation measures there will be no significant adverse impacts from this.

**Sub-Category ‘i’** *Proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action:*

Mr. Sawchuck questioned how the water quality will be affected. Mr. Prendergast pointed out that the affluent from the sewer plant is mitigated by the fact that it has been reviewed and approved by the DEC and the flow will be quite low. Mr. Sawchuk questioned what the nitrate levels are expected to be. Mr. Prendergast believed that these are not specified however everything is at the lowest it could be. Attorney Howard acknowledged that there is a SPDES that is valid until January 2017. Mr. Sawchuk still had concerns about the nitrate levels. Mr. Haight explained that most of the problems the area has with nitrate levels come from the farms.

The Board was in agreement that there will be no significant adverse impacts from this as mitigated.

**Sub-Category ‘k’** *The proposed action may require the construction of new, or expansion of existing wastewater treatment facilities:*

Mr. Grant acknowledged the magnitude to be is that a new wastewater disposal facility will be constructed which can handle a daily maximum flow of 50,000 gallons of wastewater per day and the treatment plant will be state-of-the-art sequencing removal batch reactor (SBR) type plant which will feature phosphorous removal, tertiary filtration, ultraviolet disinfection and post aeration prior to discharge to an unnamed tributary.

The mitigating factors were noted to be that it has been approved by the DEC and there is a SPDES permit valid until January 2017

The Board was in agreement that there will be no significant adverse impacts from this as mitigated.



▪ **Sections 4, Impacts on Groundwater**

**Sub-Category ‘a’** *Proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells:*

Mr. Grant noted the potential impact to be the fact that the proposed project will require an estimated 40,000 per day of normal consumption and to achieve this. A previously constructed on-site water supply well system will serve the project during the site development. A design 72-hour pump test was conducted on the water wells and during the test adjacent tests adjacent wells were monitored with the result of the test yielding 30 gallons per minute with no impact to the water levels.

The mitigating factors are that it was noted that the resultant yield of 30 gallons per minute far exceeds the minimum required flow rate for the facility and therefore the site appears to contain adequate water supply the project without resulting in an impact adjacent property water well. The water samples were sent to a lab and the lab results indicated that the water quality meets the requirements of NYS Sanitary code Subpart Part 5 for public drinking water supplies. Therefore no adverse impacts from groundwater withdrawals associated with the new water supply are anticipated.

Attorney Howard made note of the fact that Engineer Field’s June 19, 2014 letter confirms what the applicant provided to the Board that an approval letter was issued and updated from the Columbia County Board of Health for the water system. Ms. Becker acknowledged that the Engineer’s report which will be considered later in the review process verifies this.

Mr. Grant questioned how often the water is tested and was advised by Mr. Prendergast that it could possibly be done once a month according to whatever the latest requirements dictate. It was also acknowledged that there will be a water tank on the site and the capacity has been increased to 70,000 gallons. Ms. Becker questioned whether any water treatments will be needed. Mr. Prendergast clarified that the only thing some of the wells might need is a water softener treatment as the ground water is a good quality.

The Board was in agreement that there will be no significant adverse impacts from this as mitigated.

**Sub-Category ‘c’** *The proposed action may allow or result in residential uses in areas without water and sewer services:*

Attorney Howard reminded the Board that the reason this was marked as moderate and not small is the fact that although they are building a public system it is only being governed by the Columbia County Board of Health.

Mr. Grant noted that the magnitude of the project is that there will be 153 units which will not be connected to a municipal sewer or water supply.

The mitigating factors were noted to be that an on-site water and sewer system is being constructed to provide 40,000 gallons per day of drinking water and to handle up to 50,000 per day of waste water. The sewage system has received DEC approval and the water system has been reviewed for adequacy and was found to be adequate.

The Board was in agreement that there will be no significant adverse impacts from this as mitigated.

- **Section 7, Impact on Plants and Animals**

Although this section was originally marked as a moderate to large impact after review of the subsections the Board decided that there will be no or a small impact on plants and animals. Ms. Becker corrected and initialed this section. Ms. Becker acknowledged that there was a letter from a wildlife biologist but this was from the previous application.

The Board was in agreement that after considering the subcategories of this section there will be no significant adverse impacts from this.

- **Section 9, Impact on Aesthetic Resources**

**Sub-Category 'c'** *The proposed action may be visible from publicly accessible vantage points: i) Seasonally; ii) Year Round:*

Ms. Becker asked whether there was a sketch plan of the proposed three building project and was advised that the three buildings will be the same architecturally however the full design has not been done at this time.

Attorney Howard noted that none of the vegetation between the site and Route 23 or the adjacent parcels will be removed. He also acknowledged that the footprint for the present project is smaller than the previously approved Neopois project. He noted that although this project is a smaller project in overall scaling in size, the height of the buildings will be consistent with the 67' and shorter than the highest level of the prior project as that project had a clock tower. Attorney Howard pointed out that previously the Board found the prior to have no significant adverse aesthetic problem. He added that the prior project had a clock tower that was higher than anything proposed in the present project.

Mr. Sawchuk suggested a balloon test be done to view the scope of the project from ground level. Mr. Freeman advised that he is not aware of any requirements of any code that this test be done which was why a site visit by the Board was done. He did acknowledge that the building will be visible from a public road. Mr. Freeman also noted that he offered Attorney Ferradino to visit the site to see where they would like any additional screening. Mr. Freeman also made note of the fact that Attorney Ferradino's client's property is also a commercial property and the project is a commercial property that will be viewed from other commercial properties and this does not automatically constitute a negative environmental impact.

Mr. Sawchuk continued to argue that he felt a balloon test should be done. Mr. Freeman advised him that the Board has not asked that this be done. Mr. Freeman acknowledged that they have been very responsible when the Board has asked them to do something and the decision of the Board was to make a site visit to assess the impact. Mr. Haight addressed Mr. Sawchuk by pointing out that if everyone on the Board agrees to this then it would be done. Mr. Grant made note of the fact that there has already been a variance granted to go up 67' and there is nothing the Board can do about this along with a set-back variance that has also been granted so he was not sure what a balloon test would accomplish.

Attorney Howard advised that the Board call review all that was previously looked at and the prior project on the same site was found not to have a significant adverse impact and they are within the height variances and within the scale of the prior project.

Ms. Becker acknowledged that she is comfortable with looking at that one building on that one site and making a decision but is uncomfortable in making aesthetic decisions without seeing the other buildings even in sketch form. Mr. Freeman advised her that the aesthetics and height of the additional buildings will be the same. Mr. Grant agreed with Ms. Becker and felt a full set of elevations should be entered into the record. Mr. Freeman brought up the fact that additional engineering will be back before the Board before any additional buildings will be built. Mr. Freeman advised that the second building is about ¼ of the length of this building and the third building is roughly the same size of this building. Mr. Prendergast added that they would have to be back before the Board with detailed site plans and the Board isn't being asked to approve all three buildings. Ms. Becker disagreed and advised that by making a SEQR determination at this time they are being asked to do just that by making a SEQR determination for the whole project. Mr. Freeman addressed the fact that they are within their rights once the approvals are done they would be within their rights to build building three on that footprint if they choose and if they choose to change that footprint they would have to return for further review. The owner of Catamount advised the Board that the elevation of Catamount Ski Area from the base to the top is approximately 996 feet.

Mr. Grant noted the magnitude is the fact that the project is three structures comprising roughly 300,000 square feet with a maximum height of 67 feet that will be visible within the Town of Copake Scenic Corridor Overlay Zone and Catamount Road.

Attorney Dow advised the Board that if an issue is not resolvable the Board can make the decision that this 'may' have a significant impact which would then constitute a positive declaration and move on to the EAF. Attorney Howard addressed the Impact on Aesthetic Resources and noted that this project is for a resort hotel at a ski resort. Attorney Dow also clarified that this factor needs to be considered seasonally and year round. The significance needs to be viewed as well as what the impact is anticipated to be, how important it is and to what extent. He added that the magnitude should be considered (ie, who sees it and to what extent do they see it, under what circumstances).

Ms. Cohen brought up the fact that going down Catamount Road you are either going to the Ski resort or the Swiss Hutte, not just passing through. Mr. Haight also brought up the fact that during the summer the project will not be visible from Route 23. Mr. Grant suggested taking a photograph of the ski area and paste on a rendering of what the project will look like built out. Ms. Becker added that adjacent properties needed to be considered as indicated on Subcategory 'g'. Mr. Prendergast brought up the fact that the Swiss Hutte was originally built by Jack Fischer who was the former owner of Catamount who built the Swiss Hutte so as to have rooms for skiers to stay in and view the ski area.

Mr. Haight asked if the Board felt this project would be seen seasonally and have a significant adverse impact on the aesthetics. Mr. Haight pointed out that seasonally this has been noted as being visible to a small area. Ms. Becker had issue with applying this to buildings two and three.

Attorney Howard summarized that from their standpoint they have a project site that is not visible from State Route 23 during the Spring, Summer and Fall seasons when there is foliage on the trees, but will be partially visible during the Winter season. Attorney Howard also pointed out that this Board previously visited the issue of aesthetics in connection with the SCOZ analysis. In addition he added that the Berkshire Mountain Club project as proposed will occupy less square footage than the Neopolis resort hotel previously evaluated and approved by the Town, the project footprint is smaller and will be notched into the

adjacent hillside to take advantage of the elevational differences and will create separation with the existing snowmaking reservoirs and previously in 2005 that was something that this Board made their decision found that the notching of the building into Catamount ski area was important for the reasons talked about, 16 feet against almost 1,000 feet. Attorney Howard noted that the construction of this project does not involve the removal of any existing vegetation near adjacent properties.

Attorney Dow advised the Board that they need to consider the impact of the whole situation and if different specifics of the building or the elevations can change judgment then it would be relevant to see these however if in either case the same conclusion would be met then it is not a relevant factor. If you feel your judgment can change with that information then you would need to see that information.

Mr. Sawchuk asked Mr. Haight how the decision came about regarding the SCOZ and was advised that this relates to the visibility from Route 22.

Regarding Item #9 'c' Impact on Aesthetic Resources Mr. Haight asked the Board if they felt this would result in no significant adverse environmental impact. Ms. Cohen, Mr. Haight, Mr. Savarese and Mr. Urban voted that this would have no impact, Ms. Becker, Mr. Grant and Mr. Sawchuk voted that this may have an impact. By a margin of 4 to 3 the Board voted that this will not have a significant adverse environmental impact.

Attorney Dow asked the Board to summarize their reasons for the vote.

Mr. Haight explained his reasoning is that the building is 67 feet high up against a mountain backdrop of almost 1,000 feet, driving by Route 23 this time of year it wouldn't be visible at all, in the winter time there would only be a small window where this could be visible if you were traveling east, as situated a couple of the buildings back into the mountains which would cause them to blend in and the overall mass of these buildings is small compared to the backdrop. Mr. Sawchuk believed the Board made a decision in haste that is not supported by the record. Mr. Haight pointed out that the decisions he is making are supported by the record in the elevations before him, including the plan elevations and the visual elevations.

Ms. Cohen explained that she felt a 996 foot mountain would dwarf the building and with the earth tones of the buildings it will blend into the mountains  $\frac{3}{4}$  of the year and only a small portion of it will be visible from Route 23 in the winter heading east.

Mr. Savarese added that when they did the site visit there was a shed that looked like it was going to fall down and was definitely not aesthetic.

Mr. Urban added that there are other things obstructing the landscape and this is not a significant increase over the buildings that are already there and with the elevation of Route 23 it doesn't seem that it will be a major impact.

Attorney Gilchrest requested that the tape be preserved.

**Sub-Category 'f'** *There are similar projects visible within the following distance of the proposed project. (0- 1/2 miles, 1/2 -3 miles, 3-5 miles, 5+miles):*

Mr. Grant questioned the meaning of this as he felt this is either a yes or no answer as it either is or isn't visible from these locations. Mr. Freeman advised that it would need to be viewed as whether it has a significant negative environmental impact from these distances.

Attorney Howard acknowledged that their position is that it is not in sharp contrast to the Catamount Ski Area located directly adjacent to this particular project and it is certainly an associate use to a ski area to have a resort for people to stay when they are skiing. He noted that there is presently an existing developed ski area with out-buildings, snow making ponds and chair lifts. Ms. Becker added that there are similar businesses in the area.

The Board was in agreement that there will be no significant adverse impacts from this.

**Sub-Category ‘g’** *Other Impacts: Impact on Adjacent Properties:*

Attorney Howard summarized their position by stating that they are not going to be removing any neighboring foliage, they have a landscaping plan to deal with the aesthetics around the building, they are going to maintain the height previously approved for this particular site, they are going to maintain the scaling of the project in a manner that will be less expansive than that which had previously been analyzed by the Board and found and determined to have no adverse visual impact. Attorney Howard pointed out that he has seen no photographic evidence submitted in the Public Hearing that suggests that there is some sort of open area that they are cutting off. He noted that this will not cut off the view of anyone looking into the ski area.

Mr. Grant acknowledged the potential impact to be the visibility from neighboring properties with the mitigating factors being no vegetation will be removed, there will be additional landscaping.

Mr. Freeman explained the landscaping plan and added that he would be willing to put additional plantings on Mrs. Breen’s property should she wish. Mr. Grant asked about the Swiss Hutte had any screening issues. Mr. Freeman noted that the Swiss Hutte is also a commercial property and added that he is trying to make an aesthetic property. Mr. Freeman also noted that the Swiss Hutte is 250 feet in length compared to the proposed building which is going to be 320 feet in length.

The Board voted 5 to 2 with Ms. Cohen, Mr. Grant, Mr. Haight, Mr. Savarese and Mr. Urban for and Ms. Becker and Mr. Sawchuk against that there is no significant adverse environmental impact from this. Mr. Grant and Mr. Urban agreed that added screening for the Breen property be given consideration.

▪ **Section 13, Impact on Transportation**

**Sub-Category ‘a’** *The proposed action may exceed capacity of existing road network:*

Attorney Howard summarized their position stating that the proposed project includes the reconfiguration of Catamount Road and State Route 23, and the installation of dedicated left and right turning lanes for those vehicles leaving Catamount Road. He pointed out that updated traffic counts were provided and noted that Creighton Manning Engineering reported that the traffic flows on State Route 23 are down 25% and peak hour traffic flows are down forty-eight (48%) percent. Attorney Howard added that the worst case peak hour traffic flow leaving the Berkshire Mountain Club Resort site will be entering traffic flows on State Route 23 which are 48% less than when the prior resort hotel project was approved for this Site. Attorney Howard also acknowledged information provided by a Copake ZBA member regarding traffic counts taken on the Massachusetts side that supported and were consistent

with the idea that the traffic flows on Route 23 have decreased. With regard to this section as to whether the projected traffic increase may exceed capacity of existing road network Attorney Howard acknowledged that there is specific data stating that this is not the case. Attorney Howard also made note of the fact that there is conceptual approval with regard to the intersection from the New York State DOT.

Mr. Grant acknowledged that the issue is that there will be additional traffic generated by the resort hotel use which will use Catamount Road and exit onto Route 23, the State road with the mitigating factor being that there was a study done by Creighton Manning which was recently updated stating that the volume of traffic on State Route 23 has fallen over the last 10 years. He added that the study says the worst case peak hour traffic flow leaving Berkshire Mountain Club is down 48% and other than the addition of the turning lane and signage, no other traffic control devices such as a signal were identified as being warranted by the applicant's traffic engineer, the NYSDOT or the Town Engineer. A review by NYSDOT was conducted and in a letter indicated its concurrence with the findings of the applicant's traffic study as well as the proposed entrance plan improvements. Mr. Freeman added that the traffic study states that based on the improvements traffic flow and traffic safety will be improved.

Mr. Sawchuk believed the issue to be with the valley and Catamount Road and not Route 23 and vacating from the valley would be an issue in the event of a catastrophe. Mr. Sawchuk felt this issue has not been addressed. Attorney Howard addressed this by acknowledging that the senior transportation analyst of the NYS DOT in his June 20<sup>th</sup> letter found that they concur with the applicant's assessment of Trip Generations, its impact on the highway system and proposal to mitigate the Route 23/Catamount Road Intersection and they conceptually approve the manner it is being mitigated. He also pointed out that in terms of the difficulties of Catamount Road, one of the major attributes of this project is that this will allow east/west egress from Catamount Road with dedicated lanes allowing for quicker, safer access onto Route 23. Mr. Freeman added that this will also allow vacating to be done quicker as well. Mr. Sawchuk felt anything less than an engineer's seal was not acceptable and an engineer is needed to dictate how 1000 cars can be vacated from a 2-lane road in an emergency. Mr. Prendergast made note of the fact that the fire department addressed this at a meeting Mr. Sawchuk was not present at and Nicholson Road would be used to evacuate cars in the event of an emergency. Mr. Freeman also advised that in the event of a fire people could be housed in the Catamount lodge so as to lessen the need for evacuation. Ms. Becker brought up the fact that a substantial letter has not been received from the Fire Department.

Attorney Dow advised that this discussion is more Site Plan related and the issue at hand right now is the SEQR. He referred to Subcategory 'a' and pointed out that it refers to a projected traffic increase for this to be relevant. Mr. Grant noted that our Town Engineer has basically said that: the entrance design has since been revised and is under review by DOT; Creighton Manning has prepared a letter summarizing the new traffic impacts and indicating that there would be no change; Since actually obtaining a permit may take some time, we suggest that a letter of approval from DOT would help the Board complete the SEQR process. Mr. Grant acknowledged that the Board has this information and if our Town Engineer is comfortable with this he is comfortable with it as well.

Attorney Dow questioned whether there is a projected traffic increase. Mr. Freeman clarified that there is a projected traffic increase but traffic flow will be improved so that the net environmental impact will actually be less as it will take less time to exit the property as well as

being a safer egress and ingress due to the traffic improvements. Mr. Savarese did not believe the Engineer addressed the sharp turn leading to Catamount Road and the need for signage. Mr. Haight advised that the Town would have to request to the State for this. Mr. Freeman explained that there are standards for sight distances and they are referenced in the traffic study and he believes that there is twice the required distance for this in both directions. Mr. Grant felt this was addressed by Attorney's response which stated that other than the addition of the turning lane and signage, no other traffic control devices such as a signal were identified as being warranted by the applicant's traffic engineer, the NYSDOT or the Town Engineer.

The Board voted 6 to 1 on Subcategory 'a' with Ms. Cohen, Mr. Grant, Mr. Haight, Ms. Becker, Mr. Savarese and Mr. Urban for and Mr. Sawchuk against that there is no significant adverse environmental impact from this as mitigated.

**Sub-Category 'f'** *Other Impacts: Reconfiguration of Public Road (Catamount Road) and the increase of traffic on a secondary access road:*

Mr. Freeman advised that there will be two access roads off of a public road (Catamount Road) with one road paved and the other gravel.

The Board voted 5 to 1 on Sub-Category 'f' with Mr. Grant, Mr. Haight, Ms. Becker, Mr. Savarese and Mr. Urban for and Mr. Sawchuk abstaining that there is no significant adverse environmental impact from this as mitigated. Ms. Cohen was excused shortly before this vote was taken.

▪ **Section 14, Impact on Energy:**

**Sub-Category 'c'** *The proposed action may utilize more than 2,500 MWhrs per year of electricity:*

Attorney Howard acknowledged that there are existing electric transmission lines with enough capacity to provide electricity to the project and the project is being constructed in accordance with the New York State Building and Fire Code and they are working with NYSEG for energy efficiency.

Mr. Grant acknowledged that the issue is that the proposed action will utilize more than 2,500 MWhrs per year of electricity and the mitigating factor is that there is sufficient capacity and NYSEG is working with the applicant for energy efficiency.

The Board voted all in favor on Sub-Category 'c' that there is no significant adverse environmental impact from this as mitigated.

**Sub-Category 'd'** *The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed:*

Mr. Grant acknowledged that the magnitude is that the applicant will be heating and/or cooling approximately 300,000 square feet of building area and the mitigating factors are that the applicant has been working with NYSEG and any building construction will be compliant to maximize energy efficiency.

The Board voted all in favor on Sub-Category 'd' that there is no significant adverse environmental impact from this as mitigated.

▪ **Section 15, Impact on Noise, Odor and Light:**

**Sub-Category ‘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. Grant acknowledged that the magnitude of this is that there will be noise from blasting within 1,500 feet of residences, hospitals, schools, licensed day care centers or nursing homes. The mitigating factors were noted to be that modern blasting techniques use the smallest charge needed to accomplish the work and sounds from the blast will be of limited frequency and audibility at the property line. In addition it was noted that there are only 2 residences within the 1,500 area of the blasting. Ms. Becker questioned whether there were any limitations on time and was advised that this would take place during regular working hours. Mr. Freeman advised that they were hoping to limit the duration of the blasting to a few days. Ms. Becker asked if there were is any other mitigation that could be used. Mr. Freeman acknowledged that they could limit the amount that is necessary, limit the hours and put down sound blankets if needed. Mr. Haight pointed out that these aren’t always needed. It was noted that the blasting will not be needed for buildings 1 and 2 and is only needed for building 3.

The Board voted 5 to 1 on Sub-Category ‘b’ with Mr. Grant, Mr. Haight, Ms. Becker, Mr. Savarese and Mr. Urban for and Mr. Sawchuk abstaining that there is no significant adverse environmental impact from this as mitigated.

**Sub-Category ‘c’** *The proposed action may result in routine odors for more than one hour per day:*

Mr. Grant acknowledged that the issue is that the new waste water treatment plant is going to be installed to handle processed waste water from the project and the mitigating factors are that the process is aerobic and does not generate significant odors, sludge will not be processed on site and will instead be hauled away for processing approximately once a month and is held in an aerated storage tank in the meantime. Mr. Urban asked if this was the best location for the treatment system and was advised that it is because it is downhill. Mr. Grant acknowledged that inasmuch as the system is discharged into the stream he could not see where else it could be located.

The Board voted all in favor on Sub-Category ‘c’ that there is no significant adverse environmental impact from this as mitigated.

**Sub-Category ‘d’** *The proposed action might result in light shining onto adjoining properties:*

Mr. Grant acknowledged that the issue is that the project will have a parking lot to handle 436 vehicles and there will be on-site lighting in the parking lot and in addition there will be lights incorporated into the building and pedestrian ways which may affect neighboring properties. He noted the mitigating factors to be that the applicant will utilize full cut-off light fixtures in the parking lot meaning that the lights are recessed, they will be dark sky compliant and it may affect neighboring properties. He noted the mitigating factors as will utilize full cut-off light fixtures for the parking lot meaning the lights are recessed in the unit and they will be dark sky compliant and will limit the amount of off-site light spillage to



negligible levels. Mr. Grant noted that Engineer Tom Field acknowledged that the applicant will meet the minimum light levels recommended. Mr. Prendergast made note of the fact that light levels were increased as per Mr. Field's recommendations for public safety to meet minimum levels. Attorney Howard noted that the lighting plan shows that there will not be spillage onto adjacent properties.

The Board voted all in favor on Sub-Category 'd' that there is no significant adverse environmental impact from this as mitigated.

**Sub-Category 'e'** *The proposed action might result in light creating sky-glow brighter than existing area conditions:*

Mr. Grant acknowledged that the issues are the same as in the previous sub-category that the project will have a parking lot to handle 436 vehicles which will need to be lit by illumination with the mitigating impact being the use of full cut-off light fixtures in the parking lot and internal vehicular driveways and the light fixtures will be dark sky compliant. Attorney Howard added that the light plan has been approved.

The Board voted all in favor on Sub-Category 'e' that there is no significant adverse environmental impact from this as mitigated.

**Sub-Category 'f'** *Other Impacts Construction Noise, Light and Dust:*

Mr. Grant believed this has been addressed in the previous sub-categories. Mr. Haight questioned the condition of the construction entrance and was advised by Mr. Prendergast that Catamount is paved to the site and at that point the site will be paved. Mr. Haight questioned how long the entrance is before it is paved. Mr. Prendergast made note of the fact that the entrance is presently a paved hardened gravel road. Mr. Freeman clarified that there is presently a 500 foot construction entrance. Attorney Howard noted that in connection with the sediment control plan the inspectors are coming out to analyze surface water coming off but are analyzing any materials coming off as a result.

The Board voted all in favor on Sub-Category 'f' that there is no significant adverse environmental impact from this as mitigated.

On a motion made by Ms. Becker and seconded by Mr. Savarese the Board voted 5 to 1 with Mr. Sawchuk opposed to issue a Negative Declaration stating that this project will result in no significant adverse environmental impact on the environment and therefore an Environmental Assessment Statement need not be prepared.

On a motion made by Mr. Haight and seconded by Mr. Grant the Board voted unanimously that Attorney Dow prepare a finding summary and resolution notice of determination to be circulated.

**2014-15      ZBA REFERRAL – FARMLAND RENEWAL LLC – County Rte. 7A– [Copake]**

Farmland Renewal is before the ZBA for a variance to construct a 10 foot fence. Mr. Haight noted that code regulations are for a 6 foot fence however Farmland Renewal is arguing that 10 foot fences already exist in the Town and they were never required to obtain a permit.

Attorney Dow made note of the fact that there are specific opinions from New York State and Ag and Markets that where there are any need to protect crops they have found this to be an agriculture practice and farmers are permitted to do this under the Ag and Markets law.

Ms. Becker acknowledged that she did a lot of research regarding the issue of a 10 foot fence being constructed around the perimeter of the Farmland Renewal field and noted that the relevance is that the farm cannot harm people or threaten health or safety and it cannot create a nuisance. Ms. Becker made note of the fact that the fencing regulation has been in the code book since 1972 and is not new.

Ms. Becker will write a referral letter to the ZBA regarding this.

**ADJOURNMENT**

There being no further business, on a motion made by Mr. Haight and seconded by Ms. Becker, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 2:55 p.m.

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Bob Haight, Chair

**Please note that all referenced attachments, comprising 10 pages, are on file with the Copake Town Clerk and in the Planning Board office. The referenced attachments are filed in the individual project files. An annotated listing follows:**

## **ADMINISTRATION**

### BERKSHIRE MOUNTAIN CLUB AT CATAMOUNT SKI AREA RESORT HOTEL

June 16, 2014	Freeman to Haight/CPB (2)
June 19, 2014	Field to Haight/CPB (2)
June 20, 2014	Shareef/NYS DOT to Haight/CPB (2)
May 14, 2014	Bernstein to Thomas/ZBA (4)