

10-17-07

Concerned Citizens for Smart Growth 2007 Platform

CCSG asks the candidates running for Ballston Town Council and Town Supervisor to publicly support the following 5 smart growth policies for the Town of Ballston.

CCSG will publicize your positions to ensure that the many Ballston residents who care about smart growth have the information they need to make an informed decision at the ballot box.

Thank you for your comments on the following policy proposals.
– Concerned Citizens for Smart Growth

1. Within 12 months of January 1, 2008, when new council members take office, enact a clear, strong building size cap of 60,000 square feet for single use commercial retail buildings that would completely protect Ballston from ‘big box’ development.

2. Dedicate at least 2% of the town budget annually (about \$100,000 in 2007) to an Open Space Protection Program for at least the next 10 years.

3. Increase the Parks and Recreation fee to \$1,000 per new dwelling unit.

4. Establish a Term Easement Program within 12 months of January 1, 2008.

5. Establish Residential and Commercial Transfer of Development Rights (TDR) Programs within 24 months of January 1, 2008.

Thank you for expressing your position concerning the 5 policy initiatives listed above. Please reply by email to:

Ben Baskin at bjwalter@nycap.rr.com

Questions? Call Ben at 885-1711.

This platform paper can also be viewed by visiting the Concerned Citizens for Smart Growth web site: www.saveballston.com.

**Concerned Citizens for Smart Growth
2007 Platform
Background Information**

1. Within 12 months of January 1, 2008, when new council members take office, enact a clear, strong building size cap of 60,000 square feet for single use commercial retail buildings that can completely protect Ballston from ‘big box’ development.

Store size caps help to sustain the vitality of small-scale, pedestrian-oriented business districts, which in turn nurture local business development. Store size caps prevent the many negative impacts of big box development, such as increased traffic congestion, pollution, crime, and overburdened public infrastructure. They also protect the character of a community by ensuring that new development is at a scale in keeping with existing buildings. Community surveys and public hearings conducted for the 2006 Comprehensive Plan show overwhelming community support for promoting small-scale, local businesses, and against big box retail store development. Big box and large retail store development is squarely against the town’s values and vision as articulated in Ballston’s 2006 Comprehensive Plan.

Members of the current Town board have stated at public meetings that the town code now includes a size cap on commercial retail buildings. However, the “cap” is too large. Currently, for the Mixed-Use Center-North and Business Highway 1 Districts, the zoning reads: “A Planned Unit Development District shall be required for proposals that include buildings with a single-floor footprint greater than 90,000 square feet...” There is a 3 functional-stories maximum, for a total potential building size of 270,000 square feet. The zoning would also allow a single retailer to construct multiple adjacent buildings of 90,000 square feet. A store this large cannot fit within the values and vision of Ballston’s 2006 Comprehensive Plan.

In addition, there is language in the zoning that essentially invites big box developers to apply for an exemption through a Planned Unit Development District (PUDD) application if their building exceeds the 90,000 square-foot footprint. The “cap” is presented in the zoning code not as a cap, but as a procedural hoop for developers to jump through. In paragraphs 138-12.5 and 138-9.4 of the zoning code it is stated:

“The various thresholds set forth in Chapter 138-12.4 above (and 138-9.3) are not maximum limitations but merely direct what type of review will apply to a given project (sic) depending on the proposed aggregate building footprint size or the size of the site. There is no prohibition on the size of the site, the total aggregate square footage of buildings (sic)...except that the site must accommodate all of the features of the project, including the parking areas, stormwater detention or drainage areas, landscaping, buffers, sidewalks and other site features that may be applicable.”

Compare that to Malta’s zoning, which limits its discussion of maximum building size to the following statement (Chapter 167-18. C-1.B.) “The maximum building footprint for retail use will be 20,000 square feet.”

CCSG recommends the following specific changes to the zoning relating to size caps:

In the Mixed Use and Highway Districts:

- For single use commercial retail buildings, reduce the maximum *total* building size allowable to 60,000 square feet;
- Limit mixed-use buildings (e.g. stores on bottom floor, offices and apartments on top) to a maximum *footprint* of 60,000 square feet.
- Include language to prohibit retailers from building adjacent structures to evade the size cap.
- Require any proposal that includes a commercial retail building greater than 60,000 square feet to apply for a Planned Unit Development District (PUDD), which would go to the town board for review.
- Eliminate from the zoning code all language such as that cited above in paragraphs 138-12.5 and 138-9.4 indicating there “are not maximum limitations” for building size.
- Clearly state the maximum allowable building size, similar to Malta’s statement above.

For more information on the advantage of size caps, please turn to page 9 of this document.

2. Dedicate at least 2% of the town budget annually (about \$100,000 in 2007) to an Open Space Protection Program for at least the next 10 years.

Description: An Open Space Program identifies important open space and farmland resources to protect, and mechanisms for their protection, including funding sources. This Open Space Protection Program would include a dedicated fund established and annually funded by the Town to purchase and protect the town's remaining important open spaces and farmland. The fund can be used to purchase land directly, to purchase development rights, and to leverage county, state, federal, and other grant dollars towards the purchase of open space. A dedicated fund can accept revenue that is specifically earmarked for open space protection, and it can be used to demonstrate necessary matching funds for a grant application.

The establishment of an Open Space Protection Program is a recommendation of the 2006 Comprehensive Plan. As stated in the Plan (p.45):

- "Protecting farmland and open space is more cost effective from a public services standpoint than residential development;"
- "Protecting these resources is essentially protecting the community character and quality of life."

The Plan also states that a dedicated fund will better position the town to work with developers while development occurs, and to apply for grant funding for open space protection (p.46).

Funding: As in the case of a capital fund, the money for this fund could be allocated in small sums over a period of time, so that a single large expense does not overwhelm the current operating budget. If Ballston had been putting away only 2% of our town budget into an open space program since 1995, we would have about \$1 million saved; that would be enough to save a 100+ acre farm. An open space program would require close coordination and voluntary cooperation with property owners.

There are several options for financing the fund, including implementation of a Transfer of Development Rights (TDR) program (described below). As an example of another option, Malta requires an open space fee of \$861 for every acre developed. An additional option is to issue a bond, as Saratoga Springs has done. In 2002, voters approved a \$5 million bond to fund open space conservation. Though people often think of a bond as an expense, a bond to preserve open space could actually save Ballston tax payers money. As stated in the Ballston Comprehensive Plan:

"Some communities have discovered that an investment in farmland and open space conservation would cost less in the long term than the cost of providing residential services in those same areas" (p.48).

In short, financing an open space fund would not only save open space, *it would save taxpayers money.*

Background: Ballston's growth has reached an unprecedented pace that threatens the Town's remaining open land and farmland. Once open space is lost, it is lost forever. Now is the time to act - immediate, focused, and sustained action by town government is necessary to preserve Ballston's important open spaces and farmland. The sooner the Town acts, the less it will ultimately cost to protect open spaces.

Open space has been a priority for Ballston residents since 1964. The Land Conservation Committee survey of 2005 showed that 80% of respondents were willing to pay an increase in Town taxes for open space protection. The 2006 Comprehensive Plan survey results indicated 57% of respondents would be willing to pay an increase in Town taxes for the conservation of open space or environmentally sensitive land. Seventy percent (70%) agreed or strongly agreed that the town should buy land or purchase conservation easements to preserve open land.

Current Status: In 2007, the Ballston Town Board put \$100,000 from the Saratoga County sales tax surplus into a contingency fund that *could* be used for open space, or for anything else the board deems necessary. The board "hopes" to be able to repeat this next year. CCSG wants the Board to go further – to *commit* itself to allocating 2% of its budget, approximately \$100,000 per year, to a *dedicated* open space protection fund.

CCSG Position

CCSG supports the establishment of a dedicated Open Space Protection Program and Fund that will receive, annually, the equivalent of not less than 2% of the Town's annual budget for at least the next 10 years.

3. Increase the Parks and Recreation fee to \$1,000 per new dwelling unit.

Description: The Land Conservation Committee recommended, and CCSG agrees, that the town should increase its parks and recreation fee to \$1,000 per new dwelling unit. The LCC provided background information on national standards for parks and recreation, and a survey of comparable fees in other Saratoga County towns. The LCC also made a very conservative estimate of the parks and recreation money needed over the next ten years and concluded that Ballston was seriously under-funded and would continue to be, even with a \$1,000 parks and recreation fee. Malta has a \$1,000 parks and recreation fee for new residential lots, and a fee of \$.89 per square foot for commercial. Milton's parks and recreation fee is \$500 for minor and \$1,000 for major subdivisions. The Ballston Town Board enacted an increase to \$500 per unit in the summer of 2004. It is time to increase the fee to \$1,000 per new dwelling unit.

CCSG Position

The town should increase its parks and recreation fee to \$1,000 per new unit within 6 months of January 1, 2008.

4. Establish a Term Easement Program within 12 months of January 1, 2008.

Description

Term easements are voluntary agreements between the town and landowners to not subdivide specific property for a period of time. The agreement is for a fixed term such as 10 or 20 years, as opposed to conservation easements or purchase of development rights that are forever. In exchange for the agreement, NYS municipal law allows a reduction in assessed value. The reduction in assessed value reduces all property based taxes: county, special district, town and school tax. Since total property tax revenue remains the same, the effect of the easements is to shift tax burden from open lands to residential, commercial and industrial properties. It does not require a new tax, but it will result in an increase in the effective tax rate for all properties not under easement.

Term easements serve two very important purposes. First, they provide a low front-end cost method to protect significant acreage while other protection measures are pursued, giving the town time to deal with immediate growth pressures. Second, finite term tax relief is important to the farming community where landowners may not be willing or able to commit to protect their land in perpetuity. The easement only removes the right to subdivide - it does not give the public access to the property or otherwise affect the private property rights of the landowner.

Background

Clifton Park has had a term easement program in place for about 10 years and has about 3,000 acres protected under easement. The effect of their program on property taxes is less than 1/4%, or \$25 on a \$10,000 tax bill. Both the 1964 and 2006 Ballston Master plans call for the Town to consider term easements. The Ballston Land Conservation Committee (LCC) reviewed the Clifton Park model and created a detailed proposed term easement program for the Town of Ballston that was submitted to the council in December, 2005. The proposal describes eligible properties, the amount of assessment reduction, enforcement, and early withdrawal penalties. The LCC proposed that the total tax impact be capped at 1/2% - sufficient to protect more than 3,000 acres in Ballston.

Current Status

The Ballston Town Council has taken no action or made any public comment on the proposal.

CCSG Position

CCSG recommends that the Town Council take up for consideration the LCC Term Easements proposal within 100 days of taking office on January 1, 2008, and implement a Term Easement Program within one year.

5. Establish Residential and Commercial Transfer of Development Rights (TDR) Programs within 24 months of January 1, 2008.

Description

Transfer of Development Rights is a program that allows developers to buy the right to increase the amount of development on a parcel above a base established in the zoning. For instance, in a residential area zoned for one house per acre, the town might allow two houses per acre (if the land and infrastructure permit), however, the developer must "buy" the right to do so. There are two main ways developers can buy this right, either they can pay a fee to the town, or they can directly buy a conservation easement from a landowner in a part of town identified for open space protection.

Clifton Park uses the first approach and they call it "amenity zoning." Clifton Park charges \$30,000 per additional approved dwelling. Two recent developments netted the town close to \$1 million, money that is placed in an open space fund that the town can use to purchase open space directly, or to purchase development rights on open space.

Ballston must decide where increased density is acceptable and where it should be avoided. In the best of situations, a town can identify an area that can accept enough additional development to fully protect the areas that should not be developed.

The Town of Ballston had such a situation in 2006, when the area east of Ballston Lake was identified as having the infrastructure to support higher density, while it was felt that the Northwest portions of the town needed to remain rural. It was perhaps the most spectacular failure of the new master plan and zoning that the town gave away the density in the eastern region rather than initiating a TDR program. Density increases of up to 10 times were allowed in the eastern areas - about 2,000 acres of developable lands. At half the Clifton Park rates, even a permitted 2-times increase in density compared to 2003 zoning would have netted the town **\$15 million dollars** for open space protection had a TDR program been instituted. Instead, the town gave away these development rights, a huge giveaway to landowners and developers in that area, but without benefit to the town. It is not too late to modify the zoning for this portion of Ballston and remedy this error.

CCSG Position

Enact a Residential Transfer of Development Rights Program within 24 months of January 1, 2008, with the goal of raising revenue that is earmarked for open space protection, and for directing future development around existing development.

Establish a Commercial Transfer of Development Rights Program

In addition, TDR can also be applied to commercial development rights. Ballston has an excess of commercially zoned land and the distribution of those lands in the town is not consistent with the goals of the master plan to have commercial centers, rather than commercial strips. Ballston has grappled with the problem presented by the commercial strip on Route 50, but proposals to reduce the extent of commercial zoning and create commercial nodes have been opposed (and rightly so) by landowners that have purchased commercial property and paid commercial rate taxes on these lands, but who would receive no compensation for the reduction in their property value.

A fair solution is to purchase the commercial development rights in the areas where the town wants to avoid development - for instance the Capiello Farm area on Route 50. However, the town lacks the financial resources to do so. Fortunately, additional lands in the Mixed Use Area North or Mixed Use Area South could be zoned commercial. In a commercial TDR, the developer of these newly designated commercial lands would have to buy the rights to develop from landowners in (for instance) the Route 50 area near Capiello Farms. Likewise, the proposed Eastline Crossing development at the corner of Eastline and Route 67 will replace industrially zoned lands (the lands that generate the highest tax revenue to spending ratio) and replace them with commercial mixed use development. While this proposal makes planning sense, the town could use this opportunity to rationalize its distribution of commercial lands, rather than simply increasing the overall amount of commercial lands, increasing the value of the land without extracting a community benefit.

The entire Route 50 corridor remains commercially zoned, although parts of the corridor are currently undeveloped and represent key greenspace for the town (especially the area between Route 146a and Middleline Road, including the Capiello farm, Lakeridge farm, Egan's horse farm and the old Hawkwood Estate.) A Commercial TDR program would allow someone to buy the commercial development rights from designated areas where we don't want commercial development and apply them to commercial node areas, or industrial areas that do not currently support commercial use, but would be a logical location. For instance, Schultz would have been able buy the commercial retail space he wants for his mixed use PUD at Eastline and 67 from Capiello.

A commercial transfer of development rights program would allow the town to begin to rationalize commercial uses without "takings."

CCSG Position

Enact a TDR program for commercial development within 24 months of January 1, 2008. Initially target the Capiello area of Route 50 for open space preservation.

Additional Information on the Importance of Strong Size Caps

1. Big Boxes Will Harm the Social, Physical, and Economic Health of Ballston

Based on the published research and experiences of other small towns, we can expect big box development in Ballston inevitably to have the following negative effects on our town:

- Increase in traffic and pedestrian accidents in the immediate vicinity of Ballston Spa Public Schools;
- Huge increase in traffic congestion;
- Increase in demand for public services, especially police, fire, ambulance, and road maintenance;
- Increase in air pollution;
- Increase in water, noise and light pollution
- Increase in Ballston's crime rate
- Increase in Ballston's poverty rate
- Increase in bankruptcies of local businesses on Rts. 67 and 50;
- Increase in store closings and vacancies in the Village of Ballston Spa;
- Slowing of total economic development over the long-term;
- Decrease in nearby residential property values;
- Decrease in wages and working conditions for local retail employees;
- Decrease in civic participation as long-time community members and business owners look for better quality of life and greater opportunities elsewhere;
- Increase in number of empty, unusable big-box stores and parking lots owned by absentee landlords;
- Decrease in variety of consumer offerings and loss of personal service;
- Harm to the tourist industry, particularly for the Village of Ballston Spa;

2. Clear, Strong Size Caps Offer Legal Protection

Size caps are the strongest, most effective legal protection against large-scale development.

Size caps have repeatedly held up in court as a necessary ingredient for preserving the character of the town. Towns in New York State with size caps include: North Elba, Skaneateles, and Warwick. Malta recently enacted a size cap of 20,000 square feet.

A 60,000 square foot commercial retail building in Ballston is big enough. It is two-thirds of a typical block size in the Village of Ballston Spa. It would be one of the largest size caps in N.Y., and larger than most size caps that have been enacted by towns of Ballston's size in the U.S.. An modern grocery store does not need more than 45,000 square feet. Under no circumstances does Ballston need a single use commercial retail building bigger than 60,000 square feet.

Clear, strong, and smaller-sized caps will save the board valuable time, and help prevent lawsuits, saving the town thousands of dollars in legal fees. It will also help heal the community.

With a clear, unqualified and smaller size cap in the zoning, developers with oversized projects will be less likely to look to Ballston for their building site. A contentious PUDD process that could have led to lawsuits and community discord will have been short-circuited before it begins.

Size caps will heal the community, and allow Ballston to grow in a way that is congruent with its history and its rural way of life.

3. Size Caps Reflect the Values of the Majority of Ballston Residents

The vast majority of the town supports a size cap that favors small, local business.

- 2005 town survey:
 - 85% of residents ‘strongly agree’ or ‘agree,’ that “The Town needs to regulate development so that it results in a Town with a distinctive sense of place/identity.”
 - 86% ‘strongly agree’ or ‘agree’ that “The Town should support small, local business.”
 - Only 11% said they wanted “large-scale commercial.”
- Over 800 petitions returned from Ballston residents asking for a 60k size cap in 2005.
- Previous surveys, comprehensive plans, public hearings, letters to the boards have all shown strong majority support for preserving the small, rural character of the town. Most residents do not want regional, large-scale development.

4. Size Caps will Promote Economic Growth and Save Tax Dollars

Large-scale development is bad business.

Large-scale development is very expensive to maintain – it could increase our taxes

- Big-boxes can cost more in services than they deliver in property taxes – due to the increase in crime and traffic accidents that they bring, and the cost of maintaining infrastructure. Half Moon and Clifton Park have big box development, and have among the highest taxes in Saratoga County.
- Sales tax in Saratoga County is distributed throughout the county, so spending in Ballston makes no difference to Ballston's sales tax revenue.

Large scale development hurts small business

- Big boxes force smaller employers out of business. There could be a net loss of jobs. The big box jobs often pay less, with fewer benefits.
- Two-thirds of new jobs created in past 20 years have come from small business. Small businesses are 99% of all businesses. We don't need big-boxes to develop economically.

Road improvements paid for by big development would be short-term and inadequate

- Improvements will be offset by the increase in traffic
- Improvements will be limited to the front gate, simply moving choke points upstream and downstream.
- Developers will pay for initial upgrades, but the town will have to pay for ongoing maintenance.

And the so-called consumer benefit? Over 90% of the people who will patronize big box stores will come from outside Ballston. Though Ballston residents will represent less than 10% of the customer base, we will bear the *entire* economic, social, and environmental costs of big box development.