

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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4 *****
5 THE CONTINUATION OF THE PUBLIC HEARING REVIEW
6 REGARDING RIDGEFIELD COMMONS PHASE II
7 *****

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9 THE TAPED AND TRANSCRIBED MINUTES of the above
10 entitled proceeding BY NANCY STRANG-VANDEBOGART
11 commencing on July 28, 2009 at 8:47 p.m. at the
12 Public Operations Center 347 Old Niskayuna Road,
13 Latham, New York 12110

14 BOARD MEMBERS:

15 JEAN DONOVAN, CHAIRPERSON
16 CHARLES J. O'ROURKE, JR.
17 MICHAEL STEWART
18 ELENA VAIDA
19 TIMOTHY LANE
20 TOM NARDACCI
21 PETER STUTO, Jr. Esq.,
22 Attorney to the Planning Board

23 Also present:

24 Joe LaCivita, Director, Planning and Economic
25 Development

Kevin DeLaughter, Planning and Economic
Development

Brad Clark, Barton & Loguidice

Kevin Daly, Esq.

Mark Gleason, Manager, City of Watervliet

Joe Bianchini, ABD Engineers

25

1 CHAIRPERSON DONOVAN: This is the
2 continuation of a public hearing on
3 Ridgefield Commons Phase II.

4 Is the applicant here?

5 Joe, are you by yourself tonight?

6 MR. BIANCHINI: Kevin should be here. I
7 didn't realize that we were on for 6:30.

8 CHAIRPERSON DONOVAN: I didn't know if
9 you wanted to take all the abuse or if you
10 wanted to share it a little.

11 MR. BIANCHINI: That's okay.

12 CHAIRPERSON DONOVAN: I was not here
13 for this hearing. C.J. has not arrived yet,
14 and I was going to let C.J. chair this
15 because I wasn't here for the first hearing.

16 Joe, can you give us some background
17 history on this - when this project first
18 came in front of the board and how it got
19 here tonight, please?

20 MR. BIANCHINI: This project was first
21 before the board, I think, back in 2002. It
22 received concept approval at that time;
23 basically for this concept that you see
24 here.

25 CHAIRPERSON DONOVAN: Including this

1 portion in the red (Indicating)?

2 MR. BIANCHINI: It received concept
3 approval for the whole thing. Right through
4 here (Indicating) is an easement that the
5 City of Watervliet has for a stormwater
6 detention dam that was built back in the
7 early 1900's over here (Indicating). This
8 was their emergency spillway, even though it
9 was really overgrown and everything at the
10 time.

11 Because we couldn't cross it with an
12 easement at that time, we developed a
13 Phase I which had 33 lots in it. That's
14 actually been built out at this point. We
15 are back here now because we'd like to
16 extend it to build the remainder. We have 23
17 lots in there and I think that we had 21
18 lots in there at the time of this concept.
19 We had two additional lots in there at this
20 point, from what the original concept was.

21 The current concept is very similar; a
22 cul-de-sac and the same road alignment. It's
23 just slightly different because of crossing
24 the spillway and so forth and the cul-de-sac
25 at the end is smaller which is a typical

1 town cul-de-sac. With the original concept
2 plan, we have a larger cul-de-sac back there
3 (Indicating). The alignment is pretty much
4 the same. We just have two more lots.

5 We have worked out an agreement with
6 the City of Watervliet because they under
7 orders to make repairs to their dam and
8 they're also going to be making repairs or
9 modifications actually to the spillway over
10 here (Indicating) which will serve the
11 emergency spillway, and it will pass over
12 the roadway.

13 I think that there is something in
14 there from Bob Mitchell where he is in
15 agreement with this emergency spillway
16 passing over the roadway. The flood that
17 they're talking about that they're designing
18 for this dam is something that is going to
19 wash out everything, anyhow.

20 MR. LACIVITA: In fact, that work is
21 actually being done now, Jean. I know that
22 was one of the questions that C.J. had
23 brought up. That was to have the developer
24 work with the City of Watervliet. I know
25 that the City of Watervliet has equipment up

1 there and they are actually working on it
2 now.

3 MR. BIANCHINI: They are working on it
4 now and doing the dam and I think that
5 they're working on the spillway.

6 CHAIRPERSON DONOVAN: C.J. is here now
7 so I'm going to let him chair this portion
8 of the meeting because you did it the last
9 time, C.J.

10 MR. O'ROURKE: I apologize. I ran a few
11 minutes late.

12 There are a couple of concerns that I
13 had, Joe. I'm certainly happy to see that
14 Mr. Daly and his clients and your clients
15 have allowed the city to go out there and
16 work. Let me just say, better late than
17 never. I'm certainly happy to see that.

18 I'm just a little concerned still with
19 Pete Lattanzio's e-mail to Joe LaCivita. Is
20 it explicit enough for you guys? I'm just a
21 little dismayed that we had a meeting with
22 somebody running an office in the Town of
23 Colonie that came in and told us one thing
24 and then we get an e-mail - and I'll read it
25 verbatim:

1 If this project continues forward as it
2 was previously approved, I will not override
3 that approval and a single entry exit point
4 will suffice.

5 I think that we're trying to be more
6 proactive as a board and certainly as a
7 town. I think that what we have to watch out
8 for is setting precedence. So, this e-mail
9 to Joe, although he may think that it says
10 something, to me it really doesn't say a
11 whole lot. I'm a little dismayed with that
12 from the fire safety person running our fire
13 safety.

14 MR. LACIVITA: May I just address that
15 for a moment?

16 MR. O'ROURKE: You may.

17 MR. LACIVITA: In the meetings that we
18 had, Peter Stuto and I, and actually Peter
19 Lattanzio talked about this access road
20 because there was a time when the idea of
21 having a secondary means of egress came up.
22 When Peter and I spoke to Peter Lattanzio,
23 the fact that this roadway is actually is
24 wider - Joe, correct me if I'm wrong. Was it
25 32 or 36?

1 MR. BIANCHINI: I believe it was 36.

2 MR. LACIVITA: It will allow for fire
3 apparatus to come in, fight a fire if in
4 fact there is one on the cul-de-sac and also
5 allow for additional vehicles to get through
6 on it. That's why I think that based on the
7 conversations that Peter Stuto and I had
8 with Peter Lattanzio, to me, this was
9 telling me what we heard. Unfortunately, I
10 don't think that it was explicit enough, but
11 we know exactly what the intent was.

12 MR. O'ROURKE: Sure, and I do get the
13 intent. What bothers me is that our Fire
14 Services Chief who is responsible for the
15 safety of the citizens of the Town of
16 Colonie is making comments in regard to it
17 being previously approved. That's for boards
18 such as this, Town Boards and for other
19 things. He should concern himself with: Is
20 this project safe? Does it meet the
21 standards of safety within the Town of
22 Colonie? That's where I have a little
23 difficulty with the e-mail back and forth.

24 I certainly would err in judgment that
25 he is 100% protected when I think that we,

1 as a board, have to ensure that we are not
2 going to set a precedent six months from now
3 when another project comes up and we say
4 well, 1,500 feet is the maximum single
5 egress and entry point to developments. Then
6 the attorney says well, you just let one go
7 that was 3,300 feet.

8 MR. NARDACCI: C.J., I'm in complete
9 agreement. When it comes to prior approvals,
10 how many times have we seen projects that
11 previously this was okay?

12 Joe, I appreciate the explanation. From
13 my standpoint if I hear that it's 36 feet,
14 there's a difference and this is why.

15 I think that we just need to have that
16 sort of explanation. I mean, that says it
17 all to me because this is the burning
18 question: What does that mean that just
19 because there was a prior approval, I won't
20 override it? The roadway is wider and there
21 is plenty of apparatus to move. I mean, for
22 me, hearing it from fire safety, that's
23 plenty of reason why to be okay with it. I
24 think that we just needed that
25 clarification. I agree with C.J.

1 MR. O'ROURKE: Tom, I'm 100% with you.
2 I would much rather see Fire Services tell
3 us why the project is either safe or not
4 safe and don't get into the inertia of
5 whether it was approved in 2002 or 2004.
6 That really should have little bearing if
7 any for his department. So, that was the one
8 thing.

9 One thing that I would like to bring up
10 is that I'm not against the project moving
11 forward, personally. I'm a little dismayed
12 at some of the things that happened, and
13 it's at little fault of anyone's. For me,
14 for the project to move forward, I would
15 like to see - because we are allowing it to
16 go beyond what Fire Services claims is the
17 longest point that we should, I would like
18 to see the homes built down there to be
19 sprinklered. I know that I certainly don't
20 have the only say on the board. For me to go
21 forward, I would like to see at minimum that
22 the homes be sprinklered down there. Then
23 we, as a board, can say yes, we allowed the
24 project to move forward; but we're also
25 making sure that the homes are sprinklered

1 in case anything were to happen on that road
2 and apparatus couldn't get down there. I
3 mean, with the steepness of the slopes, it
4 could be very difficult to get back there
5 and I think that having the homes
6 sprinklered would certainly help me going
7 forward.

8 MS. VAIDA: Where did you see the
9 maximum length of the road? Those two points
10 that you raised were part of my concerns.
11 The e-mail I don't think really gave me any
12 information other than - to me it sounded
13 like: I wouldn't approve this, but since
14 it's not safe - - I wasn't at this meeting.
15 I don't know what happened at the meeting
16 but reading just the e-mail it sounded like
17 this isn't such a great idea, but since
18 there was prior approval, my hands are tied.
19 I don't know if that's true. That's
20 something that's bothering me.

21 MR. LACIVITA: Let me bring you back
22 historically as to why all of the sudden
23 we're starting to see secondary means of
24 egress being looked at by Fire Safety.

25 You all know where the Century Hill

1 office complex is. A couple of years back
2 there was a fire there that actually shut
3 the road down. Everybody behind there was
4 kind of held hostage to the point in time
5 that the fire was brought under conditions
6 where they could let people out. Since that
7 time, Peter started looking for secondary
8 means of egress to a lot of different
9 developments. Unfortunately, through the
10 change of our Land Use Law and so on, it's
11 really not specific. In fact, it's not
12 specific at all that it says there must be a
13 secondary means of egress or a cul-de-sac
14 can only be such and such a length of road
15 frontage. So, we really don't have, by
16 standards, to say that we can point to a
17 section in the law to say that we can only
18 be so far with only one means of egress.

19 MS. VAIDA: So there is no highway
20 safety standards?

21 MR. LACIVITA: There is actually a
22 state fire code that points to something
23 about the length of road, but it's not
24 adopted in our Land Use Law that we could
25 point to. Certainly, Peter Stuto can correct

1 me if I'm wrong.

2 MR. STUTO: That's my understanding,
3 too.

4 MR. O'ROURKE: And I specifically asked
5 that question and I was told that although
6 it's not written in law, we have our
7 following of that State Code which I believe
8 is 1,700 feet.

9 Pete, do you know the exact feet?

10 MR. STUTO: I don't know the exact
11 feet, no.

12 MR. O'ROURKE: I believe it was because
13 it came in from Burton Meadows.

14 MR. LACIVITA: I had given everybody
15 the code.

16 MR. O'ROURKE: And again, that's just
17 from my knowledge. What I think that we just
18 have to be careful with is that we can't say
19 to one developer, it's 1,500 feet and to
20 another developer, it's 3,300 feet.

21 MR. LACIVITA: I think down the road as
22 we're starting to make changes to the Land
23 Use Law, certainly this has become an issue
24 time and time again that we're going to see
25 a more definitive answer as to the length of

1 road with future development or a secondary
2 means of egress be written into the code a
3 little bit better than what it is now.

4 Sufficed to say that we have talked to
5 Peter about it. He did bring up the options
6 about sprinkler systems as an option to
7 homeowner about it. The fact is that there
8 is a wider roadway in here and we can get
9 apparatus in here. Certainly life safety is
10 always something that you think about. He
11 was comfortable with the fact that it was
12 preapproved at the roadway conditions. I
13 just wanted to bring it back to that point.

14 MS. VAIDA: Again, I'm just still
15 troubled by the fact that that was seven
16 years ago and standards were different and
17 our knowledge was different. Safety has
18 greatly improved in the last seven years. I
19 just don't have enough information as to
20 under today's standards and today's Land Use
21 Law if this project be going forward as it
22 is.

23 Has SEQRA changed from seven years ago
24 during that time period? Would this be
25 classified differently? It would be helpful

1 if we had somebody who could answer some of
2 those questions as to: Would this be
3 approved today? Would this pass everything
4 today?

5 MR. LACIVITA: I will defer that to
6 Kevin as he was here back in 2002.

7 MR. DELAUGHTER: As far as SEQRA, there
8 hasn't been any changes in the regulations
9 and as I pointed out in the cover memo that
10 I sent out dated July 17th; I don't think
11 that there is any substantive change to the
12 proposal that would warrant additional SEQRA
13 attention.

14 MR. O'ROURKE: I hear what you're
15 saying. To have somebody develop the
16 property and have as much money as they have
17 in it, I think that we do have to give some
18 leeway. I feel that we do. I don't think
19 that this project would go forward with this
20 one means today. If DEC hadn't got involved
21 with the spillway, it would have already
22 been built out.

23 MS. VAIDA: Is that the reason for the
24 delay? It has nothing to do with the
25 developer?

1 MR. DELAUGHTER: Basically, it was
2 coming to an acceptable design to both the
3 City of Watervliet and the town for the town
4 road to cross that spillway.

5 MR. BIANCHINI: When we came in for
6 concept in 2002, there was no Phase I or
7 Phase II. It was one phase and when we got
8 to the Watervliet easement, the Town of
9 Colonie stopped us and would not permit us
10 to extend and get this approved in 2002.

11 CHAIRPERSON DONOVAN: Can I just
12 interject for one moment please? I don't
13 have any paperwork that shows why the town
14 stopped you. Was there paperwork to show why
15 the town stopped this project?

16 MR. DALY: Probably a file about this
17 thick (Indicating). It came down to the fact
18 that the Town of Colonie has a policy that
19 you cannot cross over someone else's
20 easement without the permission of the town.

21 We engaged in conversations for years
22 with the City of Watervliet. The City
23 Manager is here with us tonight. We have
24 become pretty good friends over the course
25 of the years.

1 Once DEC got involved, as I think
2 someone mentioned, we were basically put on
3 hold indefinitely until the City of
4 Watervliet came up with a design, Madam
5 Chairman, that was acceptable to DEC. The
6 City of Watervliet had put together funds to
7 be able to go and do this work not only here
8 to do the spillway, but there is a
9 tremendous amount of money being spent on
10 the dam. It's all for the public safety of
11 the citizens of the City of Watervliet. We
12 had no choice than to basically sit down and
13 take a chair and wait.

14 Phase I was given final approval by
15 this board in 2004. If the additional lots
16 had been included in that time, this entire
17 project would have been built out and
18 completed by now. We were somewhat the
19 victim of circumstances. We understand that.
20 We have three parties to deal with;
21 Watervliet, DEC and the Town of Colonie.
22 Essentially, we're just trying to close the
23 loop and finish up at this point.

24 CHAIRPERSON DONOVAN: Just one more
25 question: The City of Watervliet is going to

1 have an easement over a town road; is that
2 correct?

3 MR. BIANCHINI: That's correct.

4 CHAIRPERSON DONOVAN: Has our Town
5 Attorney reviewed the easement? Have we seen
6 the easement, or is that going to be
7 something that you're going to draw up?

8 MR. BIANCHINI: It's something that
9 would come with the final design.

10 CHAIRPERSON DONOVAN: We don't even
11 know if the Town Attorney would accept the
12 easement, is that correct?

13 MR. BIANCHINI: The easement exists.
14 The question is whether the town will accept
15 the road that crosses the existing easement.

16 CHAIRPERSON DONOVAN: And nothing has
17 been done? No contact to the Town Attorney's
18 office or there has been no input from the
19 Town Attorney's office in relation to this?
20 I'm assuming what stopped it seven years ago
21 was the previous Town Attorney. Am I
22 correct?

23 MR. BIANCHINI: Yes.

24 CHAIRPERSON DONOVAN: Does the new Town
25 Attorney know anything about this? Have you

1 shown it to him? Has he reviewed the
2 project?

3 MR. LACIVITA: I have talked to Mike a
4 little bit and I've encouraged him to talk
5 with Yorden Huban, the City of Watervliet's
6 attorney's office. Mark, I don't know if
7 they've ever had that contact as of yet.

8 MR. GLEASON: Not much.

9 MR. LACIVITA: There has been initial
10 contact but nothing definitive as to the
11 language.

12 CHAIRPERSON DONOVAN: What is that
13 easement going to be used for? Is it just a
14 spillway or is it going to be used for
15 equipment?

16 MR. BIANCHINI: Just the spillway.

17 CHAIRPERSON DONOVAN: And that's for
18 the 800 year storm. We'd all be long gone
19 after the 800 year storm.

20 MR. DALY: I personally know that
21 precedent exists in the Town of Colonie for
22 this arrangement. There is another easement
23 located in a different location in the City
24 of Watervliet and that water comes down all
25 the way through the Watervliet reservoir in

1 Guilderland. There is another easement for
2 water. The pipeline passes through or under
3 a road that is owned by the Town of Colonie.

4 CHAIRPERSON DONOVAN: So one project
5 was given approval and the other wasn't;
6 that's what you're telling me.

7 MR. BIANCHINI: This goes back probably
8 20 years. A precedent exists and when Arnis
9 was Town Attorney he wanted to stay with the
10 precedent that had been established.

11 MR. GLEASON: There is only situation
12 that I know of where a new town road crossed
13 that borderline easement in the last 20 or
14 30 years. I believe the city of Watervliet
15 relinquished their existing easement and
16 took a new easement that was subservient to
17 the town -

18 MR. BIANCHINI: That's exactly what
19 happened and essentially the easement in its
20 current configuration would go away and then
21 would grant a new easement because it's
22 expanding and getting bigger.

23 When I was here last time, I brought in
24 two maps that showed the existing easement
25 and the second showing what it would look

1 like as expanded to accommodate with the new
2 design which is a more robust design that
3 existed from 1913.

4 MR. NARDACCI: I'd like to have you
5 address specifically what's happened since
6 our last meeting with the City of Watervliet
7 and someone made mention that work was being
8 done. Can you just fill us in on exactly
9 what has transpired and where things stand
10 with them right now?

11 MR. BIANCINI: We were encouraged by
12 C.J. to let Watervliet go ahead. I listened
13 and I heard and within several days we had a
14 letter authored by me and signed by Mark
15 Gleason authorizing the City of Watervliet
16 to undertake the work. Bob Mitchell's office
17 had granted a permit to the city to do that
18 work. I think that there was an e-mail
19 received today relative to not only the
20 granting of the permit but the design of the
21 road; which I think you have probably all
22 seen.

23 Today, on my fax machine I received
24 from Yorden Huban who is the attorney for
25 the City. He's the corporation counsel. He

1 sent in legal format a temporary
2 construction easement to allow the work to
3 continue and we will sign that. We just got
4 it. But the work is underway and probably by
5 the time that we sign it, the work will
6 actually be done.

7 MR. GLEASON: There has been
8 substantial work that has been done already.
9 We've probably been working up there for a
10 solid week.

11 MR. BIANCHINI: Hopefully, when we
12 receive final subdivision approval, there
13 will be some various land swaps going on.
14 We're giving the City of Watervliet some
15 land. They are giving us some land, and we
16 will also be giving to the Town of Colonie
17 land and easements. We're going to meet with
18 all the attorney's involved. We'll be
19 drawing up all the legal descriptions but
20 there are three parties that will be
21 involved in terms of land going back and
22 forth and easements to finish up the work.
23 It doesn't make sense to do that now until
24 we actually know where all the lines will be
25 so that we can actually draw up all those

1 agreements.

2 MR. NARDACCI: Just a comment, Jean.
3 From my standpoint, the two major issues
4 that I had at the last meeting were this
5 clarification on what exactly fire safety
6 thinks, which I've gotten tonight from Joe.
7 This 36 feet of roadway is larger than usual
8 and is acceptable. There is also this issue
9 of whether or not the city is moving forward
10 with what they need to do up there because
11 you know it's a major undertaking for them.
12 They're under a consent order from DEC to do
13 work on this dam that's been ongoing for
14 many, many years.

15 As far as I'm concerned, there are two
16 issues that I had that are both addressed.
17 That's where I'm coming from. On this issue
18 of length of roadways: We don't have a clear
19 standard. It's not in the code or the Land
20 Use Law. Sometimes it's good and sometimes
21 it's not necessary. We just need to have a
22 clear understanding. What is the standard
23 that we're going by? There is this national
24 fire safety standard that we try to base our
25 decisions on and absent that in the code, at

1 least with myself, I really have to rely on
2 Fire Safety and what they say. If they say
3 that it's good, it's fine. I feel like I
4 have to go by what they recommend. That was
5 something that was seriously absent last
6 time. I felt like we shouldn't even have
7 been looking at this because that's the
8 number one issue and that has been
9 addressed.

10 CHAIRPERSON DONOVAN: I'm sorry, C.J.

11 MR. O'ROURKE: No, that's fine.

12 The other things that were brought up
13 were the archeological report which we have
14 received information on. It looks sufficient
15 to me. Tom certainly has more knowledge than
16 I do, but it looks to suffice.

17 MR. NARDACCI: And in the future for
18 the staff if there is a cultural study that
19 is required, I'd like to see at least the
20 executive summary included in our packets.
21 Sometimes we get them and sometimes we
22 don't. I had requested that last time. In
23 the future, if you could make a mental note
24 that if there's a project that comes forth
25 that requires that, I'd like to see it. A

1 lot of times we get them but this time we
2 didn't. It would be helpful to see those.

3 MR. O'ROURKE: Honestly, those are the
4 issues. There was one issue that Elena had
5 with the SEQRA because if the project came
6 in and was fully approved, does that then
7 change SEQRA? I don't know if that question
8 has been 100% answered. Mike didn't have a
9 lot of knowledge. Kevin wasn't here in that
10 regard.

11 CHAIRPERSON DONOVAN: We know that
12 stormwater requirements have certainly
13 changed from what they were in 2002. This is
14 a question, I guess, for counsel.

15 If a previous board approves a concept
16 and seven years later somebody comes in to
17 move forward on it and some state
18 requirements have changed, similar to the
19 stormwater, are we bound by the 2002, or can
20 we get a new stormwater review of the
21 project?

22 MR. STUTO: My understanding is that
23 the new stormwater requirements apply to
24 this project and I think that the engineer
25 is asserting that not only does it apply but

1 it conforms. I'll let them speak to that.

2 MR. BIANCHINI: The concept stays the
3 same. We're still going to have the
4 stormwater detention basin here
5 (Indicating). The design of that basin will
6 be brought up to today's standards. We have
7 a stormwater basin over here (Indicating).
8 That's going to be modified again to meet
9 the new standards. Everything will be
10 brought up to current standards on the
11 water.

12 CHAIRPERSON DONOVAN: And the
13 stormwater has been signed off; is that
14 correct?

15 MR. STUTO: I don't know the answer to
16 that.

17 MR. BIANCHINI: Well, it hasn't been
18 signed off. We haven't submitted the final
19 design for the stormwater. So, it will come
20 during a final design, but it's the same
21 concept that was basically submitted with
22 the stormwater detention basins.

23 CHAIRPERSON DONOVAN: All right, now
24 I'm going to raise a question that I
25 sometimes have. I don't understand. I've had

1 this problem in the past regarding how a
2 board can grant a SEQRA at a concept stage
3 when something as relevant as a stormwater
4 issue has not been completely addressed.
5 We've talked about this before with my being
6 uncomfortable with granting the SEQRA at
7 this early stage of concept. It has,
8 however, already been done in this case.
9 That's what you're telling me. So, other
10 than the stormwater requirements being
11 updated, I'm not certain that we would need
12 a new SEQRA for the project.

13 What are your thoughts, Peter?

14 MR. STUTO: With regard to whether we
15 should do SEQRA at concept or at final, my
16 feeling is that if this is contingent upon
17 SWPP compliance in the end - I don't see a
18 substantial enough change to make any change
19 to the SEQRA determination. That's my
20 opinion.

21 CHAIRPERSON DONOVAN: It's something
22 that we have addressed with Brad and with
23 Joe Grasso from Clough Harbour, the town
24 designated engineer. The way that I
25 understand it other communities really don't

1 go forth with SEQRA at concept. Most of them
2 wait because as hearings go on, the board
3 gets more information. That information, at
4 some point, impacts the SEQRA recommendation
5 that we make.

6 MR. GRANT: It doesn't preclude some of
7 the final details coming out in the
8 preliminary and final phases.

9 I actually did have a project that was
10 approved in the Town of Bethlehem in 2001.
11 The developer kind of pocketed it for two
12 years and then wanted to build it. The
13 stormwater regulations were changed and he
14 had to redesign the project to accommodate
15 that. You can't get around the state
16 statute.

17 CHAIRPERSON DONOVAN: That's the way
18 that I look at it too, Brad.

19 I'm sorry, C.J.

20 MR. O'ROURKE: No, that's fine. Those
21 were the only issues that we had. I believe
22 we thought that if we could get the
23 information, get Mr. Daly back in here, let
24 Mr. Gleason do some work up there while we
25 received all the information, that we could

1 make an intelligent decision; that's why we
2 tabled it for two weeks.

3 MR. BIANCHINI: There was one other
4 issue that you wanted to know. If the design
5 of the spillway with a road going over it
6 was approved by Bob Mitchell's office. That
7 was one of the issues that came up and I
8 think that Bob did address that.

9 MR. O'ROURKE: There is a memo in
10 there.

11 CHAIRPERSON DONOVAN: And he did
12 approve it, C.J.?

13 MR. O'ROURKE: Yes.

14 CHAIRPERSON DONOVAN: So, C.J., they
15 were here for amended concept; is that
16 correct?

17 MR. O'ROURKE: That's correct.

18 CHAIRPERSON DONOVAN: Do you want to go
19 forth and ask for a vote or what?

20 MR. SULLIVAN: I have just a few
21 questions on the spillway. It was mentioned
22 that for the 800 year event, there would be
23 three feet of water going over the road. I
24 assume a hydraulic analysis was performed?

25 MR. BIANCHINI: Absolutely. For DEC, we

1 had to go through all kinds of hydraulic
2 analyses.

3 MR. SULLIVAN: Do we know if any is
4 coming over for the 100 event or the
5 500 year event.

6 MR. BIANCHINI: Nothing for the
7 100 year event.

8 MR. SULLIVAN: Do we know how close
9 it's getting?

10 MR. BIANCHINI: It's not even getting
11 close.

12 MR. SULLIVAN: Any ballpark range?

13 MR. BIANCHINI: This dam has been in
14 place for over 100 years or close to
15 100 years. It's never even come close and we
16 had lots of 100 year storms in the recent
17 past.

18 MR. SULLIVAN: I thought that it was
19 mentioned that there was one storm where the
20 basin did fill up. It may have been an ice
21 jam or something.

22 MR. BIANCHINI: It filled about half
23 way up and that was it. That was way back in
24 the '50's.

25 MR. GLEASON: That was an ice jam and

1 apparently the city hired a diver to go in
2 there with some dynamite and they took care
3 of it that way.

4 MR. SULLIVAN: And does the hydraulic
5 analysis account for future development in
6 the drainage area? We have another project
7 on the board to approve just across the
8 ravine.

9 MR. BIANCHINI: There is a barge
10 drainage area that comes into this. That's
11 all part of the DEC calculations that the
12 City of Watervliet had to do to prove the
13 safety of the dam and the spillway and a lot
14 of it was future development.

15 MR. SULLIVAN: My concern is that it
16 was based on farmland from 1960. In the
17 future we may have a much shorter return
18 period if we put water over the roadway.
19 That was my main concern.

20 MR. CLARK: I was involved in some of
21 the original model here tonight and worked
22 with the city's consultant. I don't remember
23 the exact numbers, but it may have been
24 perhaps 10 feet below level.

25 MR. SULLIVAN: And it hasn't plugged

1 except for that ice jam?

2 MR. CLARK: No.

3 MR. SULLIVAN: I looked online and I
4 saw a picture of a tower-like structure at
5 the standpipe with the various inlets.
6 That's how it drains?

7 MR. BIANCHINI: Actually, there's a big
8 arch culvert that runs through the dam and
9 it doesn't stop the water.

10 MR. SULLIVAN: So it's only during a
11 flood event that that would be an issue.

12 MR. BIANCHINI: It's a very significant
13 public work that was designed 100 years ago.
14 It has worked all those years. Maybe past
15 administrations in Watervliet didn't pay
16 much attention but this administration has.
17 They have done a tremendous amount of work
18 down there near the witch's tower in terms
19 of dredging out a lot of debris and opening
20 up channels, which has never happened. A lot
21 of those holes have been plugged.

22 MS. VAIDA: I have another question. In
23 the Land Use Law, as it is now, it states
24 that if there is a modification to the prior
25 concept plan review that the applicant shall

1 resubmit the modified plan to PEDD for
2 review as described above under the initial
3 approval process. So, that's been done;
4 right? Does that also encompass sending
5 notice out to all of the various department
6 heads to say that there is a change and this
7 is what it is? Does this affect your prior
8 sign-off on this project?

9 CHAIRPERSON DONOVAN: Does it require
10 another DCC meeting?

11 MR. BIANCHINI: First of all this falls
12 under the grandfather provision so any
13 provision of the Land Use Law that's
14 contrary to what was in it previously does
15 not apply.

16 That being said, we have had
17 conversations with the departments on the
18 subject of the revisions as proposed and in
19 meeting with those departments, a
20 determination was made that a full
21 conceptual level review was not required
22 because the plan and the layout was
23 essentially the same as the previous one.

24 MR. LACIVITA: And part of that is that
25 there was a change in lot dimensions as time

1 went on. So, we added the two additional
2 lots based on additional land that was
3 swapped over time.

4 Also, we have the town designated
5 engineers on board as well. Brad was very
6 familiar with this area. We brought the town
7 designated engineer in early in the concept
8 phase where we normally would have him
9 review it. So, Brad reviewed it under my ask
10 to do so.

11 MS. VAIDA: This project?

12 MR. LACIVITA: Yes.

13 MS. VAIDA: It would be helpful to the
14 board if we have that information so that we
15 know that process has taken place.

16 MR. O'ROURKE: Brad did speak at the
17 last meeting. I had that understanding. I
18 can't speak for anybody else.

19 CHAIRPERSON DONOVAN: But there was
20 nothing in writing to the board.

21 MR. O'ROURKE: No, but the way that
22 Brad spoke at the last meeting, I figured
23 that either he didn't have enough work and
24 he was just doing this for fun or he was
25 involved. So, I took it to mean that he was

1 involved.

2 CHAIRPERSON DONOVAN: C.J., did you get
3 any public comment?

4 MR. O'ROURKE: The last time, yes, we
5 did.

6 Is there anybody in the audience that
7 has comments, questions or concerns
8 regarding the project that is before us?

9 ***(There were no additional comments.)***

10 CHAIRPERSON DONOVAN: Elena, do you
11 have anything else?

12 MS. VAIDA: No.

13 MR. O'ROURKE: Tim, did you have
14 anything?

15 MR. LANE: No.

16 MR. O'ROURKE: Would anybody on the
17 board like to make a motion?

18 MR. NARDACCI: C.J., I'd make a motion
19 to grant amended concept.

20 My sense on this is that I guess I
21 would like to discuss this with the board,
22 but my sense is that not to go forward with
23 the sprinklers and the reason being is that
24 we're talking about precedent and we haven't
25 done this before. That wasn't something that

1 was recommended by Fire Safety. I would
2 defer to your judgment on things like this,
3 too, with your background.

4 MR. LANE: I agree with Tom. I don't
5 know if under the State Fire Code you could
6 require that of a residential building.

7 CHAIRPERSON DONOVAN: I think that they
8 are in 2010. So, if you don't start building
9 to 2010, guess what you have to put in them
10 anyway? And then you have to come to us for
11 more final approval.

12 MR. O'ROURKE: Or as an option perhaps
13 that it's on the table as an option.

14 MR. NARDACCI: Yeah, I think that it's
15 something that they should consider and
16 maybe we can talk to Fire Safety and we can
17 see if he has specific thoughts on that.

18 CHAIRPERSON DONOVAN: I would
19 assume - and I could be wrong - that you
20 would not start building anything here until
21 sometime in 2010 or 2011. By that time
22 you'll be required to sprinkler those homes
23 anyway.

24 MR. BIANCHINI: We'd like to come back
25 in as quickly as we can so that we can go

1 through the rest of the approval process.
2 We've waited so long that we're anxious to
3 move forward. The builder is anxious to move
4 forward.

5 MR. O'ROURKE: Do I have a second?

6 MR. LANE: Second.

7 MR. O'ROURKE: All those in favor?

8 CHAIRPERSON DONOVAN: Aye.

9 MR. NARDACCI: Aye.

10 MR. O'ROURKE: Aye.

11 All those opposed?

12 MR. SULLIVAN: Nay.

13 CHAIRPERSON DONOVAN: Mike, you're
14 opposed?

15 MR. SULLIVAN: Yes.

16 MR. O'ROURKE: I did not see Elena's
17 vote.

18 MS. VAIDA: I feel like my hands are
19 sort of tied because I think that the law is
20 clear on the prior concept approval. I
21 didn't have this until tonight - this
22 provision that states that concept approval
23 was granted, or any other prior approvals.
24 The current law is inconsistent with that. I
25 think that's an issue that the Town Board or

1 Town Attorney should look into is how much
2 time can go by. On concept approval I
3 understand that this wasn't their fault, but
4 if 15 years go by, I mean, they still can
5 come in and go forward?

6 MR. BIANCHINI: There is a time limit
7 in that provision.

8 MS. VAIDA: Not on concept approval.

9 MR. STUTO: Well that plan is filed by
10 2010, I think -

11 MS. VAIDA: Okay.

12 MR. BIANCHINI: That has been extended.
13 I think the original for subdivision was
14 January 1, 2009. It was extended for one
15 year. The Town Board could extend it
16 further, but that would be something that
17 would take legislative action by the Town
18 Board.

19 MS. VAIDA: I'm just going on the
20 verbal comments that have been reported that
21 everything is in order. I don't have
22 anything really to rely on. I would have
23 been happier to see something from the Fire
24 Chief saying that he is comfortable with the
25 single access as long as the road is long

1 enough. It would be nice if that was in
2 writing. But you're saying that he's
3 comfortable with it. He doesn't feel that
4 it's a danger to the public. I can only rely
5 on that opinion.

6 MR. LACIVITA: I would speak to that
7 document that you have right there. When
8 this project came in, I know that Joe and
9 Kevin were looking to go towards final and
10 based on that document that you just read,
11 we brought them through where we had
12 departmental comments. We actually took them
13 back a step.

14 I had some reservations in the
15 beginning because the concept did change a
16 little bit, but we have moved past that. If
17 you wanted to, I would suggest that maybe we
18 amend the motion to include that we need to
19 get satisfactory notation from the Fire
20 Chief to say that the roadway suffices; if
21 you're comfortable with that.

22 MS. VAIDA: It's just that he came in
23 and had a special meeting and a special
24 presentation to us about fire safety and
25 sort of made it very clear about access by

1 the fire trucks and other emergency vehicles
2 so I feel that it's a very important issue.
3 I wouldn't want to approve this if it wasn't
4 really safe for the community.

5 MR. LACIVITA: The only thing that I
6 could provide to you is that Peter Stuto,
7 Kevin and Joe were in that meeting as well
8 as Mr. Gleason that we talked about the
9 roadway and that it would suffice because of
10 the width.

11 MR. NARDACCI: We still have to look at
12 this for final. Perhaps Peter could put
13 those comments in writing in a formal memo
14 to us to just address that specifically.

15 Also, I'd like to have his thoughts on
16 this issue of sprinklers in a residential
17 capacity.

18 CHAIRPERSON DONOVAN: Do we have an
19 amended motion, or is your motion still
20 holding?

21 MR. NARDACCI: What would the amendment
22 be?

23 CHAIRPERSON DONOVAN: The amendment
24 would be based on what Joe just said. We
25 would have a written clarification.

1 MR. NARDACCI: I think that's good.

2 CHAIRPERSON DONOVAN: Tim, you seconded
3 it?

4 MR. LANE: Yes, that's agreeable.

5 MR. O'ROURKE: All those in favor of
6 the amended motion?

7 MR. NARDACCI: Aye.

8 MR. LANE: Aye.

9 CHAIRPERSON DONOVAN: Aye.

10 MR. O'ROURKE: Aye.

11 MS. VAIDA: Aye.

12 MR. O'ROURKE: All those opposed?

13 MR. SULLIVAN: Nay.

14 CHAIRPERSON DONOVAN: I think that this
15 board, as we look at this Land Use Law and
16 we continue to find things almost on a
17 weekly basis, I think that we may want to
18 look at it, Peter. I think that we should
19 talk to Pete Lattanzio and come up with a
20 recommendation as to the length of roadway
21 and length of a cul-de-sac that he would
22 require before we have a second meeting. We
23 should look at the ingress and egress, the
24 width of the roads, the fire hydrants and
25 all these issues and then we can ask the

1 Town Board formally to amend the Land Use
2 Law to address our concerns from this board.

3 MR. DALY: I have robbed some
4 paragraphs from another town's code on that
5 specific point and sent that to Peter and
6 suggested that is something that you should
7 have in your code. It would be something
8 good for the Town Board of the Town of
9 Colonie to take up.

10 CHAIRPERSON DONOVAN: Thank you.

11 MR. NARDACCI: What town was that?

12 MR. DALY: Clifton Park.

13 CHAIRPERSON DONOVAN: Could you send me
14 a copy of that as well?

15

16

17

18 ***(Whereas the proceeding concerning the above***

19 ***entitled matter was adjourned at 7:34 p.m.)***

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CERTIFICATION

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3
4 *I, NANCY STRANG-VANDEBOGART, Notary*
5 *Public in and for the State of New York,*
6 *hereby CERTIFY that the record taped and*
7 *transcribed by me at the time and place*
8 *noted in the heading hereof is a true and*
9 *accurate transcript of same, to the best of*
10 *my ability and belief.*

11
12
13
14 -----
15 **NANCY STRANG-VANDEBOGART**

16
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18 *Dated August 17, 2009*
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