

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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4 *****
5 THE MAXWELL ROAD SENIOR PDD ALSO KNOWN
6 AS 605 ALBANY SHAKER ROAD AND 210 MAXWELL ROAD
7 DISCUSSION OF AMENDMENT TO ORIGINAL CONCEPT
8 *****

9 THE TAPED AND TRANSCRIBED MINUTES of the above
10 entitled proceeding BY NANCY STRANG-VANDEBOGART
11 commencing on November 17, 2009 at 8:56 p.m. at
12 the Public Operations Center 347 Old Niskayuna
13 Road, Latham, New York 12110

14

15 BOARD MEMBERS:

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

23

24 Also present:

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James Finning, Finning Properties, LLC

Brad Grant, Barton & Loguidice

Jamie Easton, PE

Joe LaCivita, Director, Planning and Economic
Development

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1 CHAIRPERSON DONOVAN: Also on the
2 agenda is the Maxwell Road Senior PDD,
3 discussion on amendment to the original
4 concept.

5 MR. FINNING: My name is Jim Finning
6 and I'm the owner of the plan proposal for
7 the senior project.

8 I believe that this is our fourth
9 appearance in front of the board. We have
10 been at this project for over five years
11 now. We're here to hopefully move the
12 needle forward as we continue to work with
13 the board, Brad and his agency, the town
14 and the neighborhood. We're here to do
15 whatever we need to do to continue to move
16 the project forward and hopefully at some
17 point get permission to get it into final
18 review.

19 CHAIRPERSON DONOVAN: Brad, do you
20 have any comments that you'd like to make?

21 MR. GRANT: I do.

22 Do you want to just give a recap of
23 what's going on?

24 CHAIRPERSON DONOVAN: Yes, go ahead.

25 MR. EASTON: Back in June we came into

1 the Planning Board with a revised concept
2 plan. It was showing some attached senior
3 housing. Upon the recommendation of the
4 Planning Board and the general public at
5 that meeting in June, we went back to see
6 how we could improve the plan.

7 So, we went back to the drafting
8 board, improved that plan and met with the
9 general public in August. We had a general
10 public information meeting at the time
11 about the new layout. We took down some
12 general comments that the public had about
13 that and then we also presented the same
14 information to the Planning Board with
15 those comments and the plans that were
16 presented to the general public. We
17 consolidated all those comments that we
18 received over time into one general plan
19 that has now been submitted along with the
20 long EAF, the revised narrative, the zoning
21 verification form, the subdivision
22 application form and some other things that
23 Brad needed and things that we needed to
24 fill out and get this project moved along.

25 I think that there were some DCC

1 comments that were done on this project way
2 back in May or so. We basically in the last
3 month or so had gotten all of the
4 information back to the Planning Board and
5 to the different reviewing agencies for
6 this project and gotten information in. Of
7 course the plan that we presented in the
8 application package is what we're proposing
9 based upon what the Town Board had said to
10 us and what the general public concerns
11 have been about the project. So, that's
12 where we currently are.

13 CHAIRPERSON DONOVAN: Our attorney is
14 reading this letter.

15 MR. STUTO: Well, if you want me to
16 comment on the letter, I'm happy to do
17 that.

18 CHAIRPERSON DONOVAN: Yes, please.

19 MR. STUTO: I've been conversing with
20 Joe LaCivita and our TDE and other
21 representatives. Whether the proposed
22 changes trigger a full departmental review
23 within the town - that question has been
24 asked.

25 I reviewed it with our TDE, with the

1 Town Attorney and also with the Association
2 of Towns. I've been advised as follows:

3 The Land Use Law offers some guidance
4 but it also offers silence in a lot of
5 ways. PDDs offer no guidance on amendment
6 of PDDs, so it doesn't tell you what the
7 criteria is for that.

8 With respect to site plan review: The
9 Land Use Law simply says that a final site
10 plan review - if upon final site plan
11 review an amendment is proposed, the board
12 can make a determination that if it's not
13 significant, then it can approve the
14 change.

15 It's been suggested to me by the Town
16 Attorney and by the Association of Towns
17 that although the Land Use Law is silent on
18 that with respect to the position that
19 we're in now, which is we have concept
20 approval and we also have PDD approval by
21 the town upon our recommendation, that the
22 same principal should apply. If the
23 Planning Board determines that the changes
24 are not significant, it would not have to
25 go through all the departmental reviews.

1 So, I know that I want to put that on
2 the table so our board understands what
3 their standard of review is.

4 By the same token, there is an issue
5 which may or may not be significant, but it
6 has to do with the conveyance of land to
7 the town.

8 I called into the Town Attorney's
9 office today. They're not aware that you
10 have -- at least the Town Attorney is not
11 aware if you've approached either his
12 office or the Supervisor's office on the
13 conveyance of land to the town. That's
14 something that you need to do with the
15 current proposal. It sounds like you maybe
16 haven't.

17 MR. EASTON: We haven't approached the
18 town yet. Certainly our idea again is with
19 the PDD Land Use Law and the conveyance of
20 open space to the town whether or not the
21 town ever wants it. The homeowners along
22 this road right here (Indicating) were
23 expressing an interest in maybe purchasing
24 that land to make their lots actually
25 larger.

1 We do have a plan B if the town
2 doesn't actually want it.

3 MR. STUTO: Okay, because there is an
4 obligation for open space and for community
5 area and interconnection with the rest of
6 the community.

7 MR. EASTON: And that certainly is
8 what our intent was. If the town does not
9 actually want that proposed space, we can
10 move to Plan B which is making the lots
11 bigger on either side of it, or giving the
12 land to the adjoining property owners in
13 the rear.

14 CHAIRPERSON DONOVAN: I think when you
15 say that the town doesn't want the open
16 space - the town may not want jurisdiction
17 over the open space, but the town may want
18 the open space.

19 MR. GRANT: There are other options.
20 If the town is particularly sensitive to
21 accepting the conveyance of the land for
22 any reason, there does need to be a
23 stormwater management area.

24 MR. NARDACCI: The public space or
25 recreation is not going to be owned by the

1 town.

2 MR. LYONS: That's correct.

3 MR. STUTO: It was originally proposed
4 that there would be a homeowners
5 association because it was a condo
6 proposal.

7 CHAIRPERSON DONOVAN: The SEQRA has
8 already been adopted on this.

9 MR. STUTO: Right. As long as they
10 have done the archeological and the other
11 requirements -

12 MR. GRANT: There is a laundry list of
13 things. It's a short list as far as that.
14 There is the stormwater feasibility test,
15 the archeology which is what we needed for
16 the water district extension.

17 CHAIRPERSON DONOVAN: So here is my
18 question: Is it your recommendation that we
19 wait until they speak to the town about the
20 open space before we do any adopting.

21 MR. GRANT: What you have is first the
22 original map. Planning has given you
23 packets. I have brought along three
24 documents just in case they weren't there.
25 You have seen these before.

1 One is an eight by eleven. This is the
2 original PDD in 2006. It's evolved into
3 this (Indicating), to make a long story
4 short.

5 I'm not sure why that draft watermark
6 is on there -- where we talk about our
7 recommendations going forward towards an
8 amended PDD concept. The project has
9 changed. The PDD findings statement back in
10 2006 - most of those items still apply.
11 There are some subtle changes.

12 CHAIRPERSON DONOVAN: Most of those
13 were made at the recondition of the board.

14 MR. GRANT: Correct. The project team
15 has done a yeoman's job. The neighborhood
16 meeting that they had in August at the
17 Crossings was a great effort and it was
18 paid for by the developer.

19 Many of the members of the community
20 within the neighborhood did come and there
21 was a lot of good input. There were
22 legitimate questions and concerns on some
23 of the neighboring residential properties.
24 There were some questions about moving
25 certain buildings to provide more open

1 space and the applicants were very
2 responsive in that regard.

3 With that said, we do have to amend
4 the PDD. The second document is a draft of
5 the propose amendment to the Maxwell Road
6 Senior Citizen Planned Development
7 District.

8 MR. O'ROURKE: I apologize. That is
9 dated November 17th, correct?

10 MR. GRANT: Yes. There were some gray
11 areas. As Peter alluded to, there was
12 silence on the parties that make the
13 decisions of significant change versus less
14 than significant change. There were some
15 gaps that had to be filled in.

16 The litmus test for me was the DCC
17 meeting. I think that was July 22 of this
18 year. They had a very productive meeting.
19 They also had the meeting with the
20 neighborhood in August. A lot of comments
21 came out of that which they responded to.
22 The question was should they go back to
23 that process? Should they go back to the
24 department reviews? Should they go back to
25 the DCC? The litmus test that I asked

1 myself is: Is there significant change
2 here? Yes, there were changes. Were they
3 enough to necessitate going back to
4 departmental review? It's a subjective
5 question.

6 I look at this and answer it this way:
7 If we were to go back to the DCC process,
8 of the issues that we know about would they
9 be significantly changed in their responses
10 that we would get out of that DCC process?
11 Quite frankly, I feel that the question
12 would be no. There are issues and there are
13 conditions. There will be conditions of
14 what this Planning Board recommends to the
15 Town Board. As far as that, there are some
16 challenging things.

17 The Maxwell Road relocation project is
18 well underway and anybody who has driven by
19 there recently knows the landscape has
20 changed. They could not wait for the final
21 planning for this project. So they had some
22 wetland mitigation areas. There will be two
23 of these entrances that were in response to
24 additional access points. There was only
25 one in the beginning - of additional access

1 points to Maxwell Road. Unfortunately, they
2 were vying for some space with some wetland
3 mitigation areas. These are wetlands just
4 on paper at this point, but they will be
5 built fairly soon in response to
6 environmental mitigation for the road
7 project. Hopefully, we can deal with those.
8 The Corps needs can always be accommodated
9 but not necessarily where the road
10 connection wants to be for this project. We
11 can't guarantee how that process is going
12 to work out, but it is something to work
13 through.

14 Again, we noted the archeological
15 studies need to be made.

16 This is an area very shallow around
17 water. There have been concerns all along
18 for properties along here (Indicating) that
19 this development not adversely impact those
20 areas and be sensitive to the fact that
21 there is shallow water.

22 There is quite a bit of stormwater
23 management facilities that are needed for
24 this project. We'd like to see the results
25 of the testing. What kind of physical

1 constraints do they have to deal with in
2 regard to stormwater management?

3 CHAIRPERSON DONOVAN: Would that have
4 to be done before we sent a recommendation
5 to the Town Board?

6 MR. GRANT: We would like to see those
7 because of the physical nature of the site.
8 It is challenged with the groundwater and
9 soils. I think that they can run concurrent
10 with it. I don't necessarily think that we
11 have to wait for those things. I think that
12 we can sign a recommendation but there are
13 going to be conditions. They do have to do
14 these things.

15 CHAIRPERSON DONOVAN: Thank you.

16 MS. VAIDA: Where is the other
17 proposed mitigation? If the roadway is
18 going to impact where they are currently
19 designated?

20 MR. EASTON: Currently right now, this
21 dark brown area here (Indicating) is the
22 wetland mitigation and ties into this
23 existing wetland down here. We will only be
24 impacting at this location and this
25 location; one existing wetland, one area

1 wetland mitigation. Now, where are we going
2 to do this? For one is: Certainly you could
3 increase this area or two and increase way
4 back in here (Indicating) to allow wetland
5 mitigation. So there are areas on the site
6 to actually do wetland mitigation, which we
7 are going to have to do.

8 The Army Corp may see this as a new
9 wetland, even though it hasn't been created
10 yet. We will need to do a two to one ratio
11 and that is very typical for wetlands.
12 We'll have to make more back here
13 (Indicating). So, I'm not sure what their
14 stance is going to be with impacted
15 mitigated wetlands that are not constructed
16 yet. I'm not sure where their stance is on
17 that. I've never dealt with that before.
18 I'll be completely honest with you. Whether
19 this over here would be a standard two to
20 one policy or we would have to do something
21 to make it bigger, I'm not sure if it's a
22 one to one or two to one ratio on that.

23 MS. VAIDA: So assuming the worst case
24 scenario, we'd be able to deal with this?

25 MR. EASTON: Oh, absolutely. There is

1 a very large space. If you look at this
2 right here (Indicating), this is very small
3 and this is very small. It's
4 proportionately wide and you could fit a
5 lot more back in that area.

6 MR. GRANT: This was one of the areas
7 that we changed something internally with
8 the plan. One of the comments that we heard
9 from people was more room so essentially
10 the impact of development is less here.
11 Whether the Corp develops the philosophy or
12 not, I'd rather have the larger wetland
13 increase than a bunch of pockety wetlands.

14 MS. VAIDA: For the purposes of
15 amending the plan as it stands now, we
16 don't need to have the exact location of
17 these things on a map in order to approve
18 the change?

19 MR. GRANT: We wouldn't be making
20 these recommendations as a final. That
21 would be too much up in the air for the
22 final. They have submitted plans but
23 they're still going to go through the Corp.
24 To receive final approval, they have to
25 deal with this. It's hard to predict how

1 the Corp will react. This could be
2 accommodated and you could still have
3 wetlands here, but from right now we can't
4 say what the Corp will do.

5 MS. VAIDA: How soon will there be an
6 answer to that?

7 MR. EASTON: Until we get town
8 approval on this, I can really take this
9 plan which is now buildable and present
10 something to the Corp with true grading
11 plans and everything else. We generally
12 have them right now but we need to present
13 them to the Army Corp and you go from that
14 step. Once they make that contact
15 information, it's anywhere between two to
16 three months before I get a response back
17 from them. I probably won't even have a
18 response and which way they even want to go
19 on this until early spring as to how they
20 want to act.

21 MR. GRANT: Could conceivably change?
22 Absolutely. This is logical for this to
23 come out to the library road. This is a
24 logical location.

25 MR. O'ROURKE: But that's not going to

1 change what's before us tonight - to
2 amending the PDD.

3 MR. GRANT: These are just some of the
4 challenges going forward.

5 MR. NARDACCI: The point that counsel
6 made about really understanding open space,
7 whether it be town or maintaining that
8 property, we would want the open space as
9 per the requirements of a PDD. I think
10 that's something that we really need to
11 have that dialogue with the Town Attorney's
12 office about. This is to understand what
13 the situation is. I think that's an
14 outstanding issue.

15 MR. GRANT: I think that's something
16 that we can clear up in a short while
17 before we meet again.

18 MR. NARDACCI: I'm just understanding
19 how the open space integrates with the
20 whole site. I like the product here. I
21 think that the Comprehensive Plan is very
22 clear that there is a lack of senior type
23 housing. My feeling is that there is a lack
24 of town homes in the town. I think that
25 it's a nice product. We even talked about

1 that location. It's close to Wolf Road and
2 it seems like a very reasonable and very
3 popular project.

4 MR. GRANT: Holistically, the town
5 homes are needed and there was definitely a
6 need for this change from a mix of
7 apartments, condo units and town homes.

8 This is essentially what came out of
9 the process from meeting with the Planning
10 Board and meeting with the neighbors.

11 The original 2006 PDD finds that they
12 were sensitive to the condo units. They put
13 a cap on it. They didn't put a cap on the
14 town houses but no more than 18 condo units
15 here. So, while there is recognition of
16 mixed use as a result of that proposal, we
17 still don't want to go overboard on the
18 condo units. Those are gone. But in looking
19 at the Comprehensive Plan, it's holistic.
20 This is something that this area of town
21 does not have.

22 MR. LACIVITA: It's an ease transition
23 too, from the single family down through.

24 MR. GRANT: Exactly. I made that point
25 as well.

1 CHAIRPERSON DONOVAN: Brad, what time
2 frame are we looking at to send this to the
3 Town Board?

4 MR. GRANT: I think that we have to
5 get everybody on board with the open space.
6 I don't think that the town needs all this
7 land. I think that there are other ways of
8 doing it.

9 CHAIRPERSON DONOVAN: I don't think
10 that the town would want them.

11 MR. GRANT: These are for buffering.
12 Maintaining existing vegetation,
13 supplementing with mature trees to the
14 extent necessary -- I think that was a part
15 of that mix. A landscape, pristine gardens
16 back here that the town maintains. I don't
17 think that the town wants that. They have
18 enough to take care of. The conservation
19 easement and the open space and extending
20 the lots - those are conceivable.

21 CHAIRPERSON DONOVAN: Okay, so what
22 are we looking at now?

23 MR. GRANT: Joe, when do you meet
24 next?

25 MR. LACIVITA: We meet December 1 and

1 then December 15th. Those are the two dates
2 that we have currently available.

3 MR. GRANT: Next week is a short week.
4 I think December 1st would button this up.
5 The board only got this in draft form
6 tonight so I'd like them to look at it.

7 How is the agenda on the 15th?

8 MR. LACIVITA: The 15th will have
9 enough space to put that on, too.

10 MS. VAIDA: Did we talk about
11 sidewalks anyplace?

12 MR. EASTON: They didn't want them.

13 MR. GRANT: Yes, that was something -

14 MR. NARDACCI: Let me ask you a
15 question? Who are they?

16 MR. LANE: Here is the thing with
17 that. You are talking about a senior
18 development. Seniors like sidewalks.

19 MR. NARDACCI: We're connecting to
20 Albany-Shaker Road, which has sidewalks, to
21 walk down to the Crossings.

22 MR. LACIVITA: Did you get a response
23 from DPW as to not wanting to do sidewalks?

24 MR. GRANT: Yeah, that came out of the
25 DCC process. They did not want sidewalks.

1 MR. LACIVITA: There is a difference
2 in philosophy between what we try to do in
3 getting mobility through various locations
4 and various pockets.

5 MR. LANE: You're saying sidewalks
6 will hinder mobility?

7 MR. LACIVITA: No. That's actually
8 connected through so you're helping
9 mobility. There is a different philosophy
10 with other departments that who is going to
11 maintain them?

12 MR. LANE: The residents maintain
13 them.

14 MR. NARDACCI: There are definitely
15 parts of town that do not need sidewalks,
16 but there are certainly places that I think
17 it's a good idea.

18 MR. LANE: And with a sidewalk, there
19 is not a lot to maintain. You shovel it and
20 keep it clear.

21 MR. LYONS: Tim, that's actually a
22 policy that really the Town Board would
23 probably have to address when this comes
24 back to them.

25 MR. NARDACCI: Does Maxwell Road have

1 sidewalks?

2 MR. LYONS: No, it does not.

3 CHAIRPERSON DONOVAN: Maxwell Road is
4 a county road or is it a town road?

5 MR. LYONS: A town road.

6 CHAIRPERSON DONOVAN: it's
7 Albany-Shaker that's a county road.

8 MR. NARDACCI: Maxwell Road doesn't
9 have sidewalks and there is nobody that is
10 going to be walking down from the site down
11 to the road.

12 MR. O'ROURKE: They can walk into the
13 neighborhoods.

14 MR. NARDACCI: If there are no
15 sidewalks -- I don't want to build
16 sidewalks to nowhere.

17 MR. LYONS: They would do sidewalks
18 from Albany-Shaker up to Maxwell to a point
19 and that would service this area.

20 MR. LANE: They said that the town
21 didn't want them.

22 MR. EASTON: Not in our project. The
23 understanding is that a typical road
24 section of 32 feet wide provides access for
25 bicyclists, pedestrians walking and car

1 traffic. If you actually look at the
2 proposed Maxwell Road, you have a 12 foot
3 travel lane, a four foot shoulder for the
4 person or the bicyclist that's in the
5 bicycle lane and then a five foot sidewalk.

6 You start adding up all those numbers
7 and it's basically the same 32 foot width
8 of pavement which is the town's standard.
9 The Town of Colonie has just basically
10 incorporated in a very wide pavement
11 section all of those amenities into one
12 feature to have snow plowing and
13 maintenance of those things very easily.

14 Now, sidewalks are very nice and they
15 add character to a neighborhood and things
16 along those lines. I'm not going to
17 disagree with that. If the town wants that,
18 then that's certainly the case but the
19 intent of the 32 foot wide pavement section
20 is for pedestrians, vehicles and bicyclists
21 to use that same area.

22 CHAIRPERSON DONOVAN: There are
23 sidewalks on Maxwell Road, but there isn't
24 sidewalks on the interior of the project,
25 isn't that right?

1 MR. LYONS: That's correct. The
2 interior of this project was very similar
3 to the interior of any single family
4 residential cul-de-sac development.

5 MR. NARDACCI: I don't think that
6 sidewalks are a necessity. All through my
7 neighborhood we have zero sidewalks.
8 Everyone walks all over the place. It's a
9 great walking neighborhood. There is not a
10 sidewalk. No one gets hit by a car.

11 CHAIRPERSON DONOVAN: Osborne should
12 have sidewalks.

13 MR. NARDACCI: There should be
14 sidewalks on Osborne.

15 MR. LYONS: There are no proposed
16 sidewalks on the proposed development where
17 the townhouses are going to go leading up
18 to the new Maxwell Road.

19 MS. VAIDA: You'll still be able to
20 walk around.

21 MR. O'ROURKE: It's a 32 foot road.

22 MR. LYONS: Maybe to summarize why
23 there are no sidewalks: It's not a through
24 street. It's a single family residential
25 character type street where you would find

1 town homes or single family. It has the
2 town's standard width, as C.J. noted, of
3 32 feet that accommodates a combination of
4 everything. If there were sidewalks being
5 proposed along Maxwell Road, I'd say maybe
6 we should ask the developer to do that but
7 since the project, which I think includes
8 federal funding -- that's why the sidewalks
9 are being proposed along Maxwell Road.
10 Those sidewalks on Maxwell Road will
11 provide pedestrian access to Albany-Shaker.

12 MR. LANE: The whole reason for the
13 PDD is to have a combination of
14 connectivity and that's it, as far as I'm
15 concerned.

16 MR. O'ROURKE: But there is an overall
17 need for the town for this type of housing.
18 That is a benefit, in and of itself. Let's
19 not forget that.

20 MR. LANE: But it's not a public
21 accommodation.

22 MR. O'ROURKE: It's a public
23 accommodation if it's community based. I
24 can interpret the Land Use Law in those
25 terms and be 100% correct; right Pete?

1 MR. STUTO: Yes.

2 CHAIRPERSON DONOVAN: We'll be back on
3 the 15th then. You will talk to the Town
4 Attorney.

5 We have a couple of people that have a
6 comment.

7 FROM THE FLOOR: I have a question.
8 The new Maxwell Road - they have that grade
9 raised very, very high. Are you going to
10 have to bring a whole bunch of fill in?

11 MR. EASTON: I'm not sure about the
12 accommodation but yes, we will be bringing
13 in fill.

14 FROM THE FLOOR: What is going to
15 happen to us that are on the border there?

16 MR. EASTON: You're worried about the
17 grade on your property?

18 FROM THE FLOOR: We have it now.

19 MR. EASTON: Where do you live?

20 FROM THE FLOOR: On Karen, right on
21 your map right there (Indicating).

22 MR. EASTON: I would certainly address
23 that during our proposed cross sections
24 that we provide to the town, based upon the
25 public meeting. I actually have a copy of

1 that here.

2 FROM THE FLOOR: Is there any reason
3 why they raised it so much?

4 MR. EASTON: Basically they had to
5 because they had to get a good sub base
6 underneath it so that they could actually
7 build a road.

8 We gave two cross sections and one
9 here is of Karen Court. The existing homes
10 are very much higher than what we had
11 initially planned for.

12 MR. O'ROURKE: Jim, your grading plan
13 is going to have to change then?

14 MR. FINNING: Our grading plan will
15 change.

16 MR. O'ROURKE: And it will correspond
17 to the houses and road.

18 MR. GRANT: The general concern has
19 been out there right from the beginning.
20 When you come down Karen Court, the ground
21 water is a concern and that's been
22 recognized. That's one of the major topics
23 at the neighborhood meeting.

24 There will be swales to intercept that
25 problem the drainage issue. The drainage

1 moves in this direction (Indicating) toward
2 the library.

3 MR. EASTON: The stormwater has
4 certainly been one of our concerns from the
5 very beginning; the grading issue,
6 everyone's backyards and everything else.

7 At one of the public information
8 meetings, one of the cross sections were
9 actually included.

10 CHAIRPERSON DONOVAN: It would be
11 helpful if you could address the board, as
12 well.

13 FROM THE FLOOR: I'm still concerned
14 about the water. I don't understand the
15 drainage management.

16 CHAIRPERSON DONOVAN: How will they
17 take the water away from your property?

18 FROM THE FLOOR: Right.

19 MR. EASTON: Which property are you?

20 FROM THE FLOOR: I'm on Margaret.

21 MR. EASTON: Where are you located on
22 Margaret?

23 FROM THE FLOOR: I'm at 10 Margaret.

24 MR. EASTON: Certainly you can see
25 Maxwell Road right here on the general site

1 (Indicating) and you can see your house
2 here. Everything in your back yard goes
3 away from your house. I'm going to just
4 keep that moving in that same direction.
5 What I'm going to do is make this higher
6 here and back up that stormwater and make
7 sure that the water isn't going to sit in
8 your backyard and cause problems.

9 The grading plan that we've provided
10 to the town which they have already looked
11 at does allow for that water to keep moving
12 in that direction that it wants to go. The
13 idea is to take it and try to bring it
14 around our proposed swale and ditching it
15 to a place where it wants to go. That's
16 really all it is.

17 CHAIRPERSON DONOVAN: Which is not
18 going to be Margaret Drive, right?

19 MR. EASTON: No. It's physically
20 impossible to do it on Margaret Drive.
21 Margaret Drive is so much higher an
22 elevation.

23 This right here (Indicating) is going
24 to be sitting on the road and your houses
25 would be pretty much at the ceiling

1 (Indicating). Everything has to go in that
2 general direction. Some places, it's
3 certainly less than that but everything
4 goes in that direction. Everything wants to
5 go that way.

6 FROM THE FLOOR: I have a question.
7 Should we have been notified of this
8 meeting?

9 CHAIRPERSON DONOVAN: We adjourned the
10 meeting until tonight; is that correct,
11 Joe?

12 MR. LACIVITA: We did push it to
13 another day but there was no action being
14 taken tonight. It was only discussion. The
15 action is really going to be on the 15th so
16 there will be public notification.

17 CHAIRPERSON DONOVAN: All of our
18 meetings are posted on the town's website.
19 Are we personally notifying anybody?

20 FROM THE FLOOR: Some of the people
21 have been notified by the builder. I wasn't
22 and few other people weren't. We were sure
23 that anytime that there was going to be a
24 town meeting that we wouldn't be notified.
25 I was at the meetings here and at the one

1 at the Crossings. Of all those meetings, I
2 found out accidentally.

3 MR. LACIVITA: Is he outside the 200?

4 MR. FINNING: I have gone door to door
5 on Margaret Drive. I personally delivered
6 those notices and I go all the way down to
7 here (Indicating). I have never missed a
8 house.

9 MR. LACIVITA: There wasn't any
10 notification on this meeting.

11 MR. FINNING: I always check to see if
12 it's a requirement and Joe said that it's
13 not a requirement.

14 FROM THE FLOOR: You assured us that
15 we would be notified if there were any of
16 these meetings and nobody else got a notice
17 tonight either.

18 MR. FINNING: Nobody got a notice
19 tonight because it wasn't required.

20 FROM THE FLOOR: You assured us that
21 we would be notified.

22 MR. LACIVITA: Sir, that was my
23 recommendation to Mr. Finning that there
24 did not need to be any notification. It was
25 purely for discussion purposes.

1 As to the findings, what I really
2 wanted this board to hear tonight was from
3 the town designated engineer as to the
4 significance on the conceptual change.

5 That's what we were here for tonight
6 because it was an administrative action
7 that took place within my department. That
8 administrative action should have been
9 actually at the hands of the Planning Board
10 and not of my department. That was the sole
11 purpose of this meeting tonight. We are
12 having other conversations on this which
13 actually will be on the meeting on
14 December 15th, where a final action would
15 be done and you'll be notified at that
16 time. Just make sure that you leave your
17 address with me.

18 FROM THE FLOOR: At the last meeting
19 that I was at there was some question about
20 the PDD. You had to have an association. Am
21 I correct, or am I wrong?

22 CHAIRPERSON DONOVAN: I think that
23 it's a requirement of a PDD to have a
24 homeowners association, isn't it?

25 MR. STUTO: Or some other similar

1 mechanism to preserve the open space.

2 FROM THE FLOOR: Has that all been
3 taken care of?

4 CHAIRPERSON DONOVAN: Now he's saying
5 that he wants to give the land to the Town
6 of Colonie. I'm not certain that the Town
7 of Colonie wants to take the land and
8 maintain it. If the town does not want to,
9 he'll have to go back to the requirements
10 of the PDD.

11 MR. GRANT: Originally there were some
12 condos involved and they would have an HOA.

13 FROM THE FLOOR: Right and there was
14 supposed to be an association and I don't
15 quite understand the need to take those
16 common areas.

17 MR. FINNING: The only reason for the
18 HOA was because of the condos. The condos
19 got eliminated because there was no need
20 for HOA.

21 FROM THE FLOOR: My biggest concern is
22 the water table. At the first meeting I
23 asked if there was going to be basements
24 there and they said no and that the water
25 table was too high. Now, we all have

1 basements. I believe that it's going to be
2 higher than the grades now and that it
3 would be the same level as our houses. They
4 stated that the reason that they don't have
5 basements in any of these houses is because
6 the extremely high water table.

7 I'm concerned about the fill in
8 Maxwell Road. I'm not a surveyor but
9 Maxwell Road is visually higher. I don't
10 know what the provisions are for the drains
11 there but my biggest concern is that we're
12 going to get the water from this.

13 I think that the comment was that
14 there is going to be in close proximity to
15 the Crossings. A few days later the events
16 at the Crossings were closed because the
17 water at the Crossings was out of control.

18 My biggest concern is the same as a
19 lot of people and that is that the water
20 table. You're talking about making this
21 (Indicating) five feet higher and now
22 you're talking that it's going to be higher
23 than that.

24 MR. NARDACCI: One of the requirements
25 of the review is that the water doesn't

1 leave their site. That's why we spend a lot
2 of time talking about it. It's good that
3 you brought it up and it's good that this
4 is consistently brought up because as we go
5 through the process, that has to be clearly
6 our biggest concern for the residents that
7 live and have lived for many years along
8 Margaret and that cul-de-sac.

9 Our TDE, Brad Grant is actually a
10 stormwater expert in this area. That's
11 something that we are seriously looking at
12 here.

13 MR. GRANT: That's been our concern
14 from the beginning. We recognize the
15 limitations there. There will be a number
16 of utilities and utility trenches that are
17 necessary and will be within this project
18 here. This is going to give this area what
19 it doesn't have now which is the ability to
20 drain. We're not going to drain the
21 wetlands but we want to have a positive
22 flow of water in this direction of where it
23 goes now. We don't want water going places
24 where we don't want it.

25 FROM THE FLOOR: Is the water going to

1 cross under Maxwell? I understood that the
2 water was going to be contained and now I'm
3 understanding that it might be sent across
4 Maxwell or under.

5 MR. GRANT: There are stormwater
6 management areas but they are there for
7 your everyday storms. Ultimately we have a
8 lot of significant rainfall in this area
9 with a couple of the storms this summer.
10 They have been 100 year storms and 50 year
11 storms. They come every two years now. The
12 stormwater management areas will be
13 managing the stormwater for the everyday
14 storm events and the 100 year storm, as
15 required.

16 CHAIRPERSON DONOVAN: We're pretty
17 confident that with Brad looking at this,
18 that we will have the right combination
19 here.

20 MR. GRANT: I have ground water in my
21 basement floor. It's not a fun thing. I
22 used to have carpeting and flooring in my
23 basement and it's been ruined a couple of
24 times.

25 FROM THE FLOOR: There have been

1 people running sump pumps closer to
2 Margaret year round and we just don't want
3 to see a worse problem that we have.

4 CHAIRPERSON DONOVAN: Yes, sir.

5 MR. JOHNSON: My name is Robert
6 Johnson, 18 Margaret Drive.

7 Before I speak, I might say that I'm a
8 civil engineer and I have my license in New
9 York State and I have extensive experience
10 in highway construction projects.

11 I live here on the corner of this
12 project and I think that it's a good idea
13 and that it's a great project. We do need
14 this kind of thing in the town.

15 However, I am now very concerned about
16 the water table rising because of the
17 elevation of the new relocated Maxwell
18 Road. I haven't walked back there. It's a
19 restricted area but from my viewpoint out
20 here on Shaker Road, it appears that the
21 road elevation is probably three to four or
22 maybe even five feet above the original
23 ground in this area. There will probably be
24 another foot of pavement in there. That's
25 going to be a real rise in the elevation.

1 We're looking at a substantial rise in the
2 pavement area of this whole new facility
3 with the adjoining new proposed project
4 happening beneath that, it is certainly
5 going to raise this property in there. I'm
6 very concerned that back along the area
7 here (Indicating), there has been a lot of
8 discussion about the water table and it is
9 high here of course and sometimes it's at
10 the surface of the ground. I'm concerned
11 that any kind of raising of the fill in
12 here is going to raise the groundwater
13 table.

14 My basement is currently dry and has
15 been since we lived there forty-some years,
16 I guess. Next door is dry. Next to them,
17 I'm not sure about them. They do, as they
18 progress down the street, pick up a bit of
19 water and they do pump.

20 These houses down in here do pump
21 currently during certain times of the year.
22 Any rise in the topography here is going to
23 exacerbate the ground water situation. That
24 will cause dry basements now to be wet
25 probably. Wet basements that have water

1 issues now will be pumping longer and more.
2 I have an idea what I would think should be
3 a requirement to perhaps mitigate this
4 water issue would be to require a swale
5 right along the back property line - the
6 boundary line right in along here
7 (Indicating) to take this water away. If I
8 understand this gentleman, he's right,
9 there are culverts under this new Maxwell
10 Road, is that correct?

11 MR. EASTON: That's correct.
12 Everything that you've said so far, we've
13 done. If you want to take a look at that
14 grade plan, as a civil engineer, you can
15 certainly look at that.

16 MR. ROBERTSON: The invert of that
17 swale needs to be at the original ground.

18 MR. EASTON: Our area is lower.

19 MR. ROBERTSON: Okay, then you're in
20 good shape.

21 That would be good. That needs to be
22 done all the way around. It needs to be
23 required to be done so that there is not a
24 rise in the groundwater area or in the
25 ground water in this whole area. The other

1 part of it would be that there should be
2 some sort of binding legal requirement that
3 this ditch be maintained. Property owners
4 could come in here and fill those in and
5 you don't know. So to make that a
6 functional facility, that should be some
7 sort of a legal requirement that stay in
8 original constructed condition.

9 MR. NARDACCI: That's something in the
10 past that we've addressed. We have put some
11 of those things in the deeds and made them
12 in town homes that it has to remain in that
13 condition.

14 MR. LYONS: Tom, normally what happens
15 is if you have drainage running from one
16 yard to the next year to the next and the
17 next, the town usually requires a utility
18 easement over that ditch line so that you
19 don't get someone building a pool and then
20 taking the fill of that pool and filling a
21 ditch or doing something of that nature
22 that would cause problems upstream to the
23 neighbors.

24 CHAIRPERSON DONOVAN: But you're all
25 on the same page with that, right?

1 MR. GRANT: The only thing is that
2 there are a couple of competing interests.
3 We want buffering. It's just generally
4 vegetation so that swale might have to be
5 inside it. You don't want the wet but you
6 don't want anyone looking into the back of
7 anyone's backyard that way.

8 MR. EASTON: Certainly you can look at
9 the plans.

10 I want to say that if your house is
11 running at elevation 314, the new one here
12 is going to be at 311 right here
13 (Indicating) at centerline and this is at
14 elevation 315. You can see that right here,
15 your house is roughly built on the 310 to
16 309.

17 MR. GRANT: Those swales need to be
18 maintained.

19 CHAIRPERSON DONOVAN: Anybody else?
20 We'll come back on the 15th.

21 Yes, sir.

22 FROM THE FLOOR: I think that all of
23 my other questions have been answered, but
24 I wanted to know what was the reason that
25 you wanted to transfer some land to the

1 town if you don't want it?

2 CHAIRPERSON DONOVAN: I don't know
3 that we don't want it.

4 FROM THE FLOOR: I'm assuming that you
5 don't want it. Maybe you do want it.

6 MR. GRANT: The reason here is the
7 buffering.

8 MR. EASTON: That would be about 300
9 or 400 feet. The intent is also to meet the
10 PDD legislation of having common open space
11 that everybody can enjoy and use. That was
12 our intent. That's why we thought that if
13 each house was individually owned, this
14 open space could be a park area or whatever
15 that the town could maintain and own. It
16 would be basically from this location here
17 (Indicating). It's behind all these houses
18 on Margaret.

19 FROM THE FLOOR: This is my house
20 right here (Indicating). Would they have to
21 go through my yard to get to it?

22 MR. EASTON: No, they wouldn't have to
23 go through your yard to get to it. They
24 would walk down Margaret Street, walk down
25 the multiuse path and then it would be

1 running into that space.

2 CHAIRPERSON DONOVAN: Gloria?

3 MS. KNORR: The question is: You did
4 on your initial plan have apartments and I
5 just want to say that why I attended all of
6 those town Comprehensive Plan meetings is
7 that we need housing options.

8 Seniors need apartments. When you age
9 out of your home, you cannot afford a
10 \$350,000 home, even if you want to live in
11 a townhouse or condo. We do need apartments
12 in Colonie.

13 MS. LACIVITA: Gloria, on
14 November 30th I have a meeting with a
15 developer bringing in apartments in the
16 Town of Colonie specifically for senior
17 housing. The Supervisor and I would be
18 having that meeting.

19 MS. KNORR: The meeting date again?

20 MR. LACIVITA: It's November 30th and
21 we're going to give him various area where
22 those abilities are.

23 MS. KNORR: Thank you, very much.

24 CHAIRPERSON DONOVAN: Then we'll be
25 back on the 15th.

1 MR. LACIVITA: And that would be for
2 review and action on the PDD findings and
3 the recommendation to the Town Board?

4 CHAIRPERSON DONOVAN: Yes.

5 Thank you all for your input.

6

7 *(Whereas the proceeding concerning the*
8 *above entitled matter was adjourned*
9 *at 9:51 p.m.)*

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CERTIFICATION

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

NANCY STRANG-VANDEBOGART

Dated December 29, 2009