

1 STATE OF NEW YORK TOWN OF COLONIE  
2 PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT  
3 PLANNING BOARD  
=====

3  
4 PUBLIC HEARING ON RIDGEFIELD COMMONS,  
5 Phase II, Review and Action on Final Plans

6 O'CONNOR OPEN DEVELOPMENT

7 DiBELLA's, Review/Action on SEQ

8 FIRST COLUMBIA OFFICE PLAZA  
9 Parking Waiver/Concept Acceptance  
=====

10 347 Old Niskayuna Road  
11 Latham, New York 12110

12 October 26, 2010  
13 7:00 p.m.

14 STENOGRAPHIC RECORD of Proceedings in the above  
15 entitled Matter conducted pursuant to notice at  
16 the Public Operations Center.

17 BOARD MEMBERS PRESENT:

18 THOMAS NARDACCI, Acting Chairperson  
19 MICHAEL SULLIVAN  
20 PETER GANNON  
21 TIMOTHY LANE  
22 LOUIS MION  
23 PAUL ROSANO

24 ELENA VAIDA, ESQ.  
25 Counsel, Town Planning Board

26 REPORTED BY: BETH S. GOLDMAN  
27 Registered Professional Reporter  
28 Certified Shorthand Reporter

29 Alliance Reporting Service, LLC  
30 P.O. Box 12459  
31 Albany, NY 12212-2459  
32 (518) 861-3600

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A G E N D A

- 1. Call to order, 7:25 p.m.....Page 3
- 2. Tribute Page 3
- 3. Public Hearing, Ridgefield Commons Page 4
- 4. Public Hearing, O'Connor Open Development Page 50
- 5. Public Hearing, DiBella's, 2 Wade Road Page 57
- 6. Public Hearing First Columbia Office Plaza, 3 Autopark Drive, The Chazen Companies Page 66

1 P R O C E E D I N G S

2 (Meeting called to order at 7:25 p.m.)

3 MR. NARDACCI: Good evening. I truly  
4 apologize for my late start. That's what you get  
5 for getting a fill-in chairman. C.J. couldn't be  
6 here tonight and asked me to chair this meeting.

7 There are no minutes from the prior  
8 meetings to adopt. So, our first item on the  
9 agenda is a continuation.

10 A VOICE: It's actually a continuation,  
11 but we are going to call it a public hearing.

12 MR. NARDACCI: This is a public hearing  
13 in relation to Ridgefield Commons Phase II, 29  
14 Charterpoint Road, a 23-lot residential  
15 subdivision, review and action on final plans.  
16 ABD Engineering is here for the applicant. And,  
17 Joe, would you like to give us a brief review.

18 JOE: Sure. Before we get started, Tom,  
19 I think you all know Bill Laney who oversees us  
20 and gets us going through our Planning Board  
21 agendas every week. Last week he lost his wife.  
22 And I know how important Bill is to this board.  
23 We all go through life trying to find a special  
24 someone, and he shared his life for 62 years with  
25 his wife, and she passed last Thursday. I just

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 want to send our condolences. Bill, you are very  
2 special to us, and we are sorry for your loss.

3 (Pause taken)

4 JOE: With that said, Ridgefield Commons  
5 is here tonight, 22 Charterpoint Road. It's a  
6 23-lot subdivision on 28.56 acres of land. They  
7 are here for final approval. They have been  
8 working diligently with the Town, the  
9 Town-designated engineers, the city of Watervliet.  
10 There was some significant work that had to be  
11 done as a consent through DEC to have work done in  
12 the spillway. I know Luigi is here to speak  
13 tonight on behalf of ABD Engineering. I'm going  
14 to turn it over to him to speak on behalf of the  
15 project, and then we'll turn it over to Brad  
16 Grant.

17 MR. PALESCHI: My name is Luigi Paleschi  
18 with ABD Engineers and Surveyors. The location of  
19 the project is on Boght Road, about 700 feet south  
20 of Haswell Drive. Haswell is in this direction  
21 here. (Indicating on map) Phase I was completed  
22 back in '05, and part of Phase I Charterpoint Road  
23 was built along Ridgefield Way. And Phase II is a  
24 continuation of Charterpoint Road. This project  
25 is overall 28 acres with some land swap with the

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 city of Watervliet. Almost ten acres is going to  
2 the city of Watervliet and, we are acquiring  
3 almost one and a half acres. So, the overall  
4 Phase II-b subdivision totals 19.8 acres. Phase  
5 II consists of 23 lots. 21 of those lots are  
6 residential with two storm water lots.  
7 (Indicating on map) The temporary cul de sac here  
8 at the end of the existing Charterpoint Way, we  
9 have been working diligently with the City  
10 Engineer, city of Watervliet for their proposed  
11 emergency spillway design. Basically, at the end  
12 of the existing cul-de-sac, the road is going to  
13 dip down and come back up. And, lot #20 is one of  
14 the lots for storm water detention to take care of  
15 DEC's requirement and the Town's requirement for  
16 storm water treatment. And, then, the rest of  
17 Charterpoint Road and the lots all drain southerly  
18 to the end of the cul-de-sac. And there is  
19 another detention basin on Lot #40. The sewer and  
20 water, that will all be connected and extended.  
21 So we will have to deal with DEC on the extension  
22 of the water. That's just a brief explanation  
23 here. I guess I will turn it over to the Board at  
24 this point if there are any questions.

25 MR. NARDACCI: Brad, do you want to give

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 us a review? Have you had a chance to review this  
2 project?

3 MR. GRANT: Yes. We have done a few  
4 reviews on this project. The last culminated in a  
5 comment letter dated October 19th, and I will give  
6 you the highlights on it. Under General Comments,  
7 I think we have an answer to my question number  
8 one. The applicant is going to be here tomorrow  
9 night, I believe in this room, for a CMap variance  
10 to their work within the Lot #20 area of the  
11 protective drainage course. So, that is a process  
12 that will go on tomorrow night.

13 Number 3 was: Provide status of Lot #9  
14 amendment and transfer land to the City of  
15 Watervliet. From what I am hearing, that is an  
16 ongoing process and it sounds as though it's  
17 almost at the tail end of it. Has that transfer  
18 happened yet?

19 MR. PALESCHI: Not yet. In order for  
20 that to happen, this Board needs to grant  
21 subdivision approval. But, as far as I'm  
22 concerned, or from what I know, Kevin Daley here  
23 has got all the documentation pretty much drafted  
24 up for the next move.

25 MR. GRANT: The second part of that

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 comment 3, the Town needs a signoff from the city  
2 of Watervliet regarding the proposed subdivision  
3 within their the easement. The first part of  
4 that, I saw a letter here from Frasier and  
5 Associates, Jeff Budrow's letter, that they have  
6 reviewed the elevations and profile. To make a  
7 long story short, Luigi, if you will point to  
8 where that crossing is, there is a sag in the  
9 profile of the road there, which represents lands  
10 that have been dedicated for an emergency spillway  
11 for the city of Watervliet's dry river dam since  
12 1911.

13 MR. PALESCHI: That's the area shown in  
14 yellow, the City of Watervliet's spillway.

15 MR. GRANT: Yes, thank you. That has  
16 not occurred. The water has not gotten up that  
17 far. That would be the equivalent of an 800-year  
18 storm and approximately 25 inches of rain in a  
19 day. We would have a world of trouble if that  
20 happened. But if it were to happen, that's the  
21 area that can spill over and go down by the lower  
22 dam to the drainage course. But working within  
23 that, it's a protective water course or a spillway  
24 easement in the city of Watervliet. So we needed  
25 the city engineer's signoff and DEC's signoff on

1 the profile of that road, which should not be an  
2 issue. They are anticipating the plans and those  
3 need to be submitted. Scott Kramer is the one who  
4 has been working with DEC and has been working on  
5 this project.

6 Now, as to general comments: The storm  
7 water management and the plans, there are some  
8 minor comments, details that I will pretty much  
9 talk about. Number three was an 18-inch pipe  
10 going to the detention basin. At that point we  
11 are looking for a better capacity with a smooth  
12 board pipe. The rip-rap at the end will take care  
13 of the velocities out of the pipe. But,  
14 typically, the Town requires a smooth interior  
15 pipe.

16 MR. PALESCHI: Can I comment on that?

17 MR. GRANT: Yes.

18 MR. PALESCHI: The reason for the  
19 corrugated -- there is a reason behind it. The  
20 corrugation actually reduces the velocity of that  
21 pipe and, again, with rip-rap down below. We have  
22 used this in places with high velocities in the  
23 Town of Colonie. So, if we go are going to go  
24 with smooth pipe, then there needs to be other  
25 alternatives, and the corrugated pipe is what is

1 preferred here.

2 MR. GRANT: Now, I was more concerned  
3 about capacity if there was a 24-inch pipe. The  
4 medium rip-rap at the end, that's what it is  
5 intended for. And, number 5 wanted another anti-C  
6 collar. The detention basin down at the end is  
7 near an existing drainage course and slope. And I  
8 just wanted to have additional protection on any  
9 C-pod of the permanent pool of the storm water  
10 pond. The top of the berm elevation, there was  
11 some remodeling done and a 100-year storm level  
12 was 196.66. And, we wanted to have the top of the  
13 berm elevation raised to provide that 12 inches of  
14 pre-board as required by DEC requirements for the  
15 100-year storm.

16 The water and sewer comments from  
17 previous reviews were taken care of. And, other  
18 comments, essentially we are down to some  
19 regulatory issues and getting all the sign-offs  
20 from the city of Watervliet and DEC and those  
21 involved parties. Joe, were you going to go over  
22 it?

23 JOE: There are a few talking points  
24 there.

25 MR. NARDACCI: Yes. There are a few

1 items that we have discussed that we are going to,  
2 if this board decides to move forward tonight on  
3 approval, that would meet the approval conditions.  
4 And one of them is with regard to a CMAP variance.  
5 That is on the agenda for tomorrow. And, why  
6 don't you address that up front.

7 MR. PALESCHI: That's correct. On page  
8 two of your checklist that was prepared for you  
9 last week, if the Board is looking to consider the  
10 application tonight for final action, there are  
11 four that are listed on that. One is to obtain  
12 the signoff from the city of Watervliet on the  
13 proposed work on their easement. In fact, we have  
14 received that letter, as Brad mentioned today.  
15 You all have a copy of that to see that number one  
16 has been reviewed, the submission, and they are  
17 fine with it.

18 Number two of that says: To ensure that  
19 the work is consistent with the city of  
20 Watervliet's permit by DEC.

21 Number three: To obtain signoff from  
22 DEC to modify the existing permit. DEC is  
23 anticipating a submission, and we will get answers  
24 to that as well.

25 Number 4: Acquire the proper CMAP

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 approvals at tomorrow night's meeting.

2           Number 5, which was added, is that there  
3 has been some review of the SEQR documents that  
4 are before us that have be approved in 2002. We  
5 need confirmation to ensure it's not a Type 1  
6 action and it is, in fact, an unlisted action as  
7 approved in 2002. And we will get that to the  
8 Board.

9           MR. NARDACCI: With regards to SEQR,  
10 that's something that we spent some time just  
11 trying to get the documentation organized. Why  
12 doesn't the Applicant address SEQR in the context  
13 of this project that has been happening for a long  
14 time? There is some reference in our documents  
15 that SEQR was approved at concept, a Type 1. That  
16 is our understanding, and that there were  
17 subsequently two short EAF unlisted forms  
18 submitted. Could you just walk us through the  
19 SEQR history?

20           MR. PALESCHI: Yes, Mr. Chairman. We  
21 didn't expect to be doing two phases. We always  
22 expected that Ridgefield Commons would be just one  
23 phase. And because of the city of Watervliet's  
24 drainage easement which is in the middle of that,  
25 which the town attorney decided he didn't want to

1 allow us to cross that until Watervliet was ready  
2 and, of course, Watervliet has only finished their  
3 work in '08, so we had to divide this into two  
4 phases. When we did SEQR in 2002 and 2003 we did  
5 SEQR for the entire holding, the entire piece of  
6 property, both phases. And we did an  
7 archeological study. We did a wetlands study. We  
8 did endangered species. We did all of the  
9 specialized studies that you would expect for a  
10 project of this size. But we did SEQR for the  
11 whole thing. And it was only as a result of,  
12 basically, DEC stepping in and wanting a spillway  
13 built, and we weren't able to get back here since  
14 2004 when Phase I was approved. So, it has taken  
15 all of these years to get back before the Board.  
16 And, certainly, sometimes these questions will  
17 come up given the lapse of time. But we did SEQR  
18 for everything.

19 MR. NARDACCI: In the transcribed  
20 minutes from July 8, 2009 for our last meeting, we  
21 did have discussion with regard to SEQR. And, I  
22 remember discussing that as well; that this was  
23 approved at concept. So, that's just something  
24 that needed clarification.

25 MR. PALESCHI: And, certainly, the

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 paperwork does exist here. We wouldn't have  
2 gotten the approval for Phase I in the first place  
3 unless SEQR was finished. So, I'm sure the  
4 paperwork is here and I'm sure that we have copies  
5 and will supply it to the Board.

6 MR. NARDACCI: There are copies signed  
7 off by the Chairman with regard to this in 2002  
8 with regard to the action as well.

9 MS. VAIDA: I just want to make sure the  
10 record is clear, then. You are not saying at this  
11 point that it is an unlisted action. You agree  
12 that it probably was handled as a type 1 action  
13 back in 2002?

14 MR. PALESCHI: That would be my  
15 impression. Otherwise, it wouldn't have listed  
16 that we had done all of the studies.

17 MS. VAIDA: Because it appears from the  
18 submissions in the record, and from what you said,  
19 that a full review was actually done back then and  
20 that all of the environmental concerns were  
21 addressed by the prior board.

22 MR. PALESCHI: That is my recollection.  
23 And upon good faith, I believe that to be the  
24 case.

25 MS. VAIDA: Since that time have there

1 been any changes that have happened that would  
2 affect the factfinding back in 2002 or the  
3 determination that was made then?

4 MR. PALESCHI: There have been no  
5 changes whatsoever to the site, other than Phase I  
6 being built out.

7 MS. VAIDA: Then, I assume the Board  
8 felt that there would be no significant impact?

9 MR. NARDACCI: That is correct.

10 MS. VAIDA: Okay. And, there were no  
11 mitigation requirements or any conditions  
12 attached?

13 MR. PALESCHI: No, there were not.

14 MS. VAIDA: Then, I would think, based  
15 upon that, that this Board could consider your  
16 project tonight making it conditioned upon some  
17 sort of confirmation so that we have some  
18 documentation in this project's records that SEQR  
19 was considered and acted upon.

20 MR. PALESCHI: That is agreeable to us.

21 MS. VAIDA: And, I also want to say it  
22 makes sense. Otherwise it would have been viewed  
23 as a segmented project, so it makes sense that the  
24 whole area would have been SEQR.

25 MR. PALESCHI: That is correct, yes.

1 MR. NARDACCI: Any other points?

2 JOE: I'm sorry to interrupt you, Tom,  
3 but the term "mitigation" was used based on SEQR,  
4 but there are mitigating costs applied to the  
5 project because it isn't about GIS. I'm sorry. I  
6 just want to make sure that we're --

7 MR. NARDACCI: Yes. The other thing we  
8 discussed back in 2009 was working with the city  
9 of Watervliet. And, Mark Gleason, the City  
10 Manager, was here. Could you just go through that  
11 in order to bring us up to speed on the actions  
12 you took?

13 MR. PALESCHI: I'll try to just give you  
14 the short story.

15 MR. NARDACCI: And, this is really just  
16 for C.J.'s edification, for the record.

17 MR. PALESCHI: In 1913, the city of  
18 Watervliet built some pretty incredible public  
19 works. And there is a large earthen dam just  
20 right on the edge of the map here between the end  
21 of our property and Washington Avenue, and the dam  
22 is a flood control measure for the city of  
23 Watervliet. I suppose previous to 1913, much like  
24 Albany before the Sacandaga was built, there was  
25 flooding in Watervliet. When they built that dam,

1 just in days there was a storm event where the  
2 water would come up to the top of the dam. To  
3 prevent it from going over the top, they created  
4 the spillway which is where our road is prepared  
5 to cross it. And, there was a concrete spillway  
6 built in the middle of the field. When we went  
7 out and first looked at it, it looked like  
8 something the Romans would have built; it was  
9 built very, very well. And, there has never been  
10 water in that spillway since 1913.

11           DEC, their dam safety group, has been  
12 adamant that old dams need to be addressed in New  
13 York State because of the deteriorating  
14 infrastructure. And, what really got matters  
15 going with the city of Watervliet is when the dam  
16 at Hadlock Pond in Fort Ann burst. That was  
17 pretty well known news here in the Capital  
18 District. And DEC then got very, very serious  
19 about addressing infrastructure, especially with  
20 older and deteriorating dams. So, the city of  
21 Watervliet has gone through considerable expense  
22 to improve their dam and came back here and looked  
23 at this easement. And, we have got that drawn in  
24 here. But, what they have done is to take -- and  
25 they had our cooperation, of course. We granted

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 them a temporary easement onto our property, a  
2 much larger easement. And they have now  
3 reconstructed this spillway and brought it up to  
4 standards that meet DEC's requirements in 2010.  
5 And, as Brad mentioned, in the event there is a  
6 storm like Hurricane Katrina, two times that which  
7 settles over Latham for two days, there is a  
8 possibility that that dam could fill up and water  
9 could come up through here. But it is likely that  
10 would happen only once every 800 years. If that  
11 ever happened, Watervliet wouldn't be there in the  
12 first place, or Troy, or Cohoes wouldn't be there  
13 or anything else down in the valley. But it has  
14 now been built. And, when we were meeting with  
15 the city and town in 2008, we were a participant  
16 in those discussions. Our cooperation was  
17 required. In fact, your chairman said: I want  
18 you guys to cooperate with the city of Watervliet  
19 when Mark Gleason, the City Manager was here, when  
20 we were here last July. The spillway was built  
21 and the Town recognized that we would be putting a  
22 roadway over the spillway as far as the  
23 subdivision process. In fact, I have got Bob  
24 Mitchell's correspondence dated July 27, 2009 to  
25 Kevin DeLauter which states:

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1           "Dear Kevin, we previously met several  
2 times with Jeff Budrow, Ken Frasier & Associates,  
3 the design engineer for the city of Watervliet,  
4 regarding this project. Based on our review of  
5 the designs with Mr. Budrow, we have accepted  
6 construction of a town road over a spillway  
7 acknowledging that the spillway would activate  
8 only at or above the 800-year storm. For your  
9 information, we have issued a grading permit to  
10 the city of Watervliet for this work. I hope this  
11 provides the information that you have requested."  
12 So, it was recognized all along going back two  
13 years that we would be putting a road here, but  
14 that we had to come to the Department of Planning  
15 and go through the planning process and get a  
16 permit.

17           As part of the grading -- and I am  
18 talking about CMAP. Because we have the roadway  
19 that goes through a dip, there will be water  
20 flowing to the low point and the dip on the road,  
21 and we need to basically take that water off and  
22 put it somewhere. The grading permit issued by  
23 the Town of Colonie actually has some boundary  
24 lines, some parameters. And, this is part of the  
25 -- this is actually the drawing from your permit.

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 Our proposal requires some additional regrading to  
2 basically take that water off the road and put it  
3 into this area. In fact, I have got a map here.  
4 (Indicating) Here we go. This is our regrading  
5 plan, but it is lies wholly within the parameters  
6 of the permit that has already been granted by the  
7 Town of Colonie for grading. When I had talked to  
8 the Town Attorney's office about this, I said: Do  
9 we really need a variance even if the town already  
10 granted the permit to grade in this area? And it  
11 was determined that, well, why don't you go and  
12 get it anyway so that our paperwork is together.  
13 And we agreed to do it, and we are scheduled for  
14 tomorrow night. But we are doing some regrading  
15 within the area that is already graded and staying  
16 within the parameters, once again, of the permit  
17 that has already been issued by the Town to the  
18 city of Watervliet.

19 MR. NARDACCI: Thank you. I would like  
20 to open it up to the board members if they have  
21 questions on these matters or on other topics.  
22 Mike, do you have anything?

23 MR. SULLIVAN: Yes, I have a few  
24 questions. To go through the history of the  
25 crossing at the spillway originally back in 2002,

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 wasn't there a provision for having a box culvert  
2 under the roadway so that the road would go over a  
3 culvert?

4           Mr. PALESCHI: Yes. In fact, let me  
5 bring the map up so it's easier to look at. There  
6 is a valley here and a valley here. And there is  
7 a settle. And, in fact, this is the only place we  
8 could get access to the piece. That area is a  
9 quarter acre of land and that's where the concrete  
10 spillway was. And this area is where Watervliet's  
11 original 1913 easement was. (Indicating) So, we  
12 had to cross here. For years we talked to the  
13 city of Watervliet: Will you let us build a  
14 bridge? Will you let us put some big box culverts  
15 in? What do you want us to do so that we can  
16 cross our property?

17           The original deeds from 1913 granted to  
18 the city of Watervliet an easement giving them the  
19 right to put water into this easement  
20 occasionally. Actually, it has never happened  
21 once. But, it reserved all other rights to the  
22 property owner to use the land for any lawful  
23 purpose. So we said: Look, we have the right to  
24 use our property back here, but we would like to  
25 cross the easement and put in whatever you decide

1 will pass water through there in the event there  
2 is ever a storm. Those discussions came to a  
3 quick end when the Hadlock Pond dam went out. And  
4 DEC stepped in and said: We have regulations here  
5 and we want you to bring the spillway up to 2010  
6 levels, and we will basically let you put a road  
7 in. And DEC, Watervliet, the Town, and private  
8 property owners all agreed that that was probably  
9 the best way to go thinking toward the future.  
10 So, everybody got on board with that proposal.

11 MR. SULLIVAN: We also we have a history  
12 of what would be done to Lot #23 with the grading,  
13 what would be a build zone and a no-build zone to  
14 the lots?

15 MR. PALESCHI: We did soil studies  
16 around the edge of that and -- What lot number is  
17 that?

18 MR. SULLIVAN: That's 23.

19 MR. PALESCHI: That's 2-point-something.  
20 (acres) it's a big lot, and it's very easy to --  
21 you shouldn't build a house too close to the  
22 slope. So, by avoiding the slope that's basically  
23 over here, there will be no problem. We have  
24 hired a soil testing engineer to go out and do  
25 borings to look at the slope stability. His

1 recommendation is to avoid the slopes, avoid going  
2 near the slopes, and build in it the middle of the  
3 lot.

4 MR. SULLIVAN: That will be where the  
5 build zones are?

6 MR. PALESCHI: Right.

7 MR. SULLIVAN: Okay, thank you. That's  
8 all I have.

9 MR. LANE: In relation to Lot #23, will  
10 there be a restriction on that lot as to the  
11 owner's ability to build anything back on that  
12 lot? Will there be a deed restriction for that  
13 particular lot?

14 MR. PALESCHI: It's a good thing I have  
15 an engineer with me.

16 MR. DALEY: Right on the grading plan  
17 here, there is the safe slope setback line  
18 indicated, and there is also the existing stream  
19 corridor underfoot. There is no grading within  
20 the safe slope setback other than just tying in  
21 the laterals for sewer.

22 MR. LANE: But there's nothing to  
23 actually restrict someone not knowing years down  
24 the road?

25 MR. PALESCHI: You always have the

1 setback shown on the plot plan. And those are on  
2 the filed map, so if those are included as part of  
3 the setbacks you can only build within the  
4 building envelope anyway.

5 MR. LANE: As long as they follow it.

6 MR. PALESCHI: As long as there are  
7 building permits; that's how that would be  
8 controlled.

9 MR. NARDACCI: Just reviewing the prior  
10 minutes, going back to 2002 there was a  
11 conversation with regard to rear yards on the lots  
12 located on Boght Road. Going back in the minutes,  
13 there was a discussion with regard to the rear  
14 yards of lots located along Boght Road. And one  
15 of the previous board members had asked that the  
16 lots not be cleared of trees and things like that.  
17 And, maybe the engineers had said the lots would  
18 be deed-restricted to prevent clearing. I just  
19 want to reconfirm that information.

20 MR. DALEY: You are basically talking  
21 about the areas between Phase I and Phase II;  
22 right? There is an existing stream, and the Town  
23 has the 100-foot stream corridor which is a  
24 buffer. And those areas are deed-restricted  
25 within that. And, the Town should have received

1 the proposed deed restriction. And, to answer Mr.  
2 Lane's comments as far as the setbacks, that is  
3 part of the deed restriction.

4 MR. NARDACCI: If there are no more  
5 questions from the Board, this is a public hearing  
6 and we would like to ask that if there are members  
7 of the public who would like to ask a question or  
8 make a statement, now is the time. Is there  
9 anyone interested in making a comment? State your  
10 name for the record, please.

11 MR. BLANDER: Sure. Bill Blander, up on  
12 Ridgefield Way. I have a couple of questions.  
13 When are you proposing to start the building  
14 process based on your current permits?

15 MR. PALESCHI: If, in fact, the Board  
16 votes for the final subdivision tonight, there is  
17 still an administrative process which will involve  
18 DEC, Albany County Department of Health, Latham  
19 Water District, and Pure Waters. So, there is a  
20 process that will probably take maybe four months  
21 or longer. At that point -- and we still have  
22 some conditions to satisfy. We would hope to take  
23 our maps and get them stamped in the county  
24 clerk's office. Only at that point do we have a  
25 final subdivision. And that's probably going to

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 take us through the winter, so I would guess that  
2 the earliest that you would see any activity there  
3 would be sometime next spring. Hopefully, you  
4 will see some homes by next summer.

5 MR. BLANDER: Is there any reason why  
6 you are not doing what you were told when we  
7 purchased the houses at Ridgefield in 2005 and  
8 some even prior to that, which was that nothing  
9 would be built there for a minimum of ten years?  
10 That's what myself and I know some other people  
11 were told; that nothing would be built back there  
12 for ten years. If that's not the case, we were in  
13 at least in some way defrauded when we were sold  
14 those lots.

15 MR. NARDACCI: I didn't see anything in  
16 the record with regard to that. Who said that to  
17 you?

18 MR. BLANDER: That's what the builder  
19 promised and what the salespeople who sold us the  
20 property said. They told us and told some other  
21 people there: Don't worry. There is an easement  
22 back here. Ten years or more the city of  
23 Watervliet has it and can't build for a minimum of  
24 ten years back here. Don't worry about it.  
25 That's what we were told. So, I think they should

1 be required to do what they told to myself and  
2 other people there.

3 MR. PALESCHI: I represent the property  
4 owners, and they never made such a statement.

5 MR. BLANDER: So, Rosewood is going to  
6 be building there? It's not the property owner,  
7 but it was Rosewood who made those statement when  
8 we purchased the lot.

9 MR. NARDACCI: There is nothing in our  
10 records with regard to that.

11 MR. BLANDER: I understand that.

12 MR. NARDACCI: If there is an agreement,  
13 a real estate agreement, or some contract --

14 MR. BLANDER: They didn't put that in a  
15 real estate agreement. They told us that as part  
16 of their sales process. It's probably not the  
17 only thing that myself and some other people were  
18 told that wasn't true. But I would just ask you  
19 to consider that. I am not saying don't build it.  
20 I am just asking you to consider, in granting them  
21 the right to build in this area, particularly if  
22 you are granting some variances that it should at  
23 least be taken into consideration what people were  
24 told when purchasing their homes.

25 MS. VAIDA: Was that in your contract?

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1           MR. BLANDER: Absolutely not. They  
2 would not put that in the contract. But that's  
3 what we were told when we went around and were  
4 shown the lots and chose the lots to do that. But  
5 you are correct; they didn't put it in writing.  
6 But they told us that when we did that.

7           MS. VAIDA: If that was something that  
8 was important to you, you probably should have had  
9 it included in the contract so it would be binding  
10 and you could hold them to it.

11           MR. BLANDER: I understand that. It's  
12 not something they were willing to do, as well as  
13 a number of other things. And I will give you  
14 another example. They never finished the proper  
15 grading between the new house they put up next to  
16 the property where I am. They built the house and  
17 they graded. And there's a grade like this  
18 (indicating) instead of a normal basin. They have  
19 never gone back and finished that, which they  
20 promised. They also told us they were going to  
21 put the house in a different spot that they put  
22 the house in, too. Again, I know it's not what we  
23 are here about tonight, but I'm just saying that  
24 these things should be considered when we look at  
25 what we are doing now. And if the owner doesn't

1 choose to go with Rosewood maybe it's not as big a  
2 concern. But, those are some of the things that  
3 we were told when we purchased the house, at least  
4 myself. And I know of some others who were told  
5 similar things.

6 MR. NARDACCI: Okay. Thank, you, Bill.

7 MR. BLANDER: One other quick question.  
8 When you are talking about the setbacks there in  
9 the corner at the bottom of that, how far are  
10 those actually from the slope of the hill; in  
11 other words, the houses?

12 MR. PALESCHI: This lower corner here?

13 MR. BLANDER: Yes. There is a stream,  
14 and the lots are going to be up above?

15 MR. PALESCHI: Okay. The stream is  
16 right along here, and this is the farthest lot.  
17 Southerly, there is the storm water detention  
18 area. And, here's the first house and the next  
19 closest lot.

20 MR. BLANDER: So, there is a slope you  
21 are talking about; correct?

22 MR. PALESCHI: There is a setback line  
23 which is down here, and the house is up here.

24 MR. BLANDER: So, where the slope is  
25 from the stream, it would be behind -- Ridgefield

1 as an example. I'm trying to get an idea of what  
2 they are proposing as far as my house and the  
3 other houses coming down. And there's a stream by  
4 my house and I guess some others going across the  
5 stream a little bit. What I'm asking is when they  
6 come back up the other side, right now there are  
7 trees there and trees in the back of there that do  
8 block that view to a certain degree.

9 MR. PALESCHI: Right now, from the  
10 stream there is a 100-foot buffer area there.

11 MR. BLANDER: All right. What I'm  
12 asking you is: Is that 100-foot buffer just on  
13 the slope? Is it the trees that -- because there  
14 is brush, mostly, and some small trees on the  
15 hill. But, also, there are some larger trees once  
16 you get up that would provide a buffer which would  
17 certainly be advantageous if some of the trees  
18 were left in the buffer and not cleared out, kind  
19 of like you were talking about in the other area.

20 MR. PALESCHI: Right. We are showing  
21 grading up to that 100-foot buffer area with the  
22 water retention is, so you have got 100 feet from  
23 the stream to our site undisturbed.

24 MR. NARDACCI: You are on the cul-de-sac  
25 right here, #11?

1 MR. PALESCHI: From the stream up to the  
2 back of the house it's about 250 feet. And, there  
3 is another 100 feet on the other side, too.

4 MR. BLANDER: Is this on the other side?

5 MR. PALESCHI: (Turning map over)

6 MR. BLANDER: We are down here; correct?  
7 And the stream is down here. So there is a hill.  
8 And what I'm asking is: From where the hill is,  
9 there's a whole bunch of trees going behind that,  
10 kind of going like this (indicating) and trees at  
11 the top which, if they were left there, would  
12 leave a buffer in between.

13 MR. PALESCHI: That buffer will remain.  
14 This is the 100 feet toward you, and this is the  
15 100 feet toward the stream. So, it's 100 feet  
16 both ways.

17 MR. BLANDER: It looks like in some  
18 cases it goes to the plat and in some cases it  
19 doesn't. So, in some cases the trees will be  
20 taken away. So, in other words, from where the  
21 field is now, none of the trees that are from the  
22 field portion into the tree buffer would be taken  
23 down?

24 MR. PALESCHI: Here is the existing  
25 treeline. (Indicating) And, we are grading just

1 on this lot here for the storm water detention  
2 area, and we are grading right up to the 100-foot  
3 level. So, in other words, the new tree line is  
4 going to be right along here. (Indicating)

5 MR. BLANDER: So, you are taking out the  
6 the existing treeline?

7 MR. PALESCHI: Yes, within the limit of  
8 what we are allowed to. Now, you have got a  
9 200-foot buffer of trees.

10 MR. BLANDER: But they are not mostly  
11 trees; they are mostly shrubs and things like  
12 that. So, you are saying you are going to grade  
13 down the hill which, right now, is trees. And you  
14 are going to swipe out all the trees and grade  
15 down so that there will be no buffer between the  
16 houses and the storm water and the other  
17 neighborhood?

18 MR. PALESCHI: From the stream forward  
19 is a 100-foot buffer. In your case it's 200 feet.

20 MR. BLANDER: But, basically, all of  
21 those trees are gone, then; correct?

22 MR. PALESCHI: If you are here  
23 (indicating) and here is the storm water  
24 (indicating on map) this is the storm water and  
25 you have got 200 feet here. The house is going to

1 be -- the back of the house is here. (Indicating)

2 MR. BLANDER: There's no trees in  
3 between; they will be down. There are basically  
4 shrubs. And you are saying the treeline is where,  
5 the existing treeline?

6 MR. PALESCHI: The existing treeline --  
7 This is the existing treeline now, and the new one  
8 is over here. (indicating)

9 MR. BLANDER: It doesn't seem that way  
10 to me. It sounds like they are going to grade  
11 down and take out the tree buffer between the  
12 house and the field as it exists right now.

13 MR. NARDACCI: I don't know the specific  
14 lot. Obviously, you live there. We have been  
15 pretty consistent with this, and where there is a  
16 chance to maintain trees you want to maintain them  
17 and maintain that visual buffer between the homes.  
18 And maybe we should look at planting some trees.

19 MR. PALESCHI: We would like to save as  
20 many trees as possible, because it adds value  
21 to the lots. In terms of what has to be taken  
22 down for storm water, that is a requirement from  
23 New York State and from DEC. They have storm  
24 water management and we have to comply with that  
25 and it has to be properly designed. And that's

1 what we have done here at the most logical place  
2 to put it. That is the place where it has to go.

3 MR. NARDACCI: For this line here, what  
4 does the view look like after it's all said and  
5 done?

6 MR. PALESCHI: You are still going to  
7 have a 200-foot undisturbed buffer area as of  
8 right now. An estimated distance between the back  
9 of the proposed house to his house, you are  
10 talking 400 or 500 feet, and then you have got  
11 topography changes, too. And his elevation is  
12 roughly 210, so it would be three feet higher,  
13 maybe.

14 MR. NARDACCI: I don't know the specific  
15 lot. But the clearing -- he's talking about the  
16 fact that you are going to take trees down, and  
17 then there's low brush. Is that true, or are  
18 there still going to be trees available?

19 MR. PALESCHI: Yes, there will be. As I  
20 recall, that whole area is wooded with some brush.

21 MR. BLANDER: Down the slope is mostly  
22 brush. The top of it, there are definitely trees  
23 there, maybe a couple there, but most of it is  
24 brush. How much are you taking down, because  
25 right now it's significantly higher. It sounds

1 like what you look up at now, it looks like you're  
2 going to be taking down quite a bit.

3 MR. PALESCHI: Between eight to ten  
4 feet.

5 MR. BLANDER: It seems like more, but  
6 maybe not.

7 MR. PALESCHI: It's going to be a  
8 gradual slope down from the lot.

9 MR. BLANDER: If that's the only place.  
10 But maybe then, if that is going to be the case,  
11 some more trees could be planted there to keep  
12 some buffer because, basically, there is a large  
13 treeline there now, which sounds like it's going  
14 to be, if not completely, then mostly taken down  
15 to grade. That will be graded out so that the  
16 backyards that now look into trees will look into  
17 a grade that is graded down and with watershed in  
18 the back and deposits as opposed to trees.

19 MR. PALESCHI: As Kevin Daley had  
20 mentioned earlier, if we can save the trees, the  
21 developer will be more than happy to try and save  
22 the trees. But, in this case, that is a  
23 requirement of the storm water. And these slopes  
24 are the minimum slopes required in that area. And  
25 that area that you are talking about needs to be

1 graded.

2 MR. BLANDER: For that detention area  
3 is that the only spot it could be put in?

4 MR. PALESCHI: You are talking 200 or  
5 300 feet away, and at your end you are saying you  
6 have some trees on your lot.

7 MR. BLANDER: So, I would suggest that  
8 if it can't be moved, maybe you could put some  
9 trees in as a buffer so that what people are now  
10 looking into, which is basically trees and shrubs,  
11 doesn't become the back of the water disposal or  
12 whatever you call it.

13 MR. DALEY: Storm water management.

14 MR. BLANDER: It sounds like the storm  
15 water management will go to the back of the whole  
16 area because the trees will be taken down.

17 MR. ROSANO: Luigi, where is the storm  
18 water easement area? Isn't that down in that  
19 area?

20 MR. PALESCHI: One thing about the storm  
21 water pond, it is considered, like it's big cousin  
22 across the road there, as a dam. And you don't  
23 want to have trees, particularly ones that are  
24 going to grow to mature to be in that berm area  
25 because high winds can blow them down, and all of

1 a sudden you have a hole in your dam with seepage  
2 below the elevation at the bottom of the pond.

3 MR. NARDACCI: We really can't pinpoint  
4 every tree without being on the location and say  
5 what we are going to keep. I think the point of  
6 consistency from the Board, at least from my  
7 standpoint, is that we have been consistent for a  
8 few years about buffers. And as you said, it  
9 behooves you to do it right because you want to  
10 sell the lots. And the guy that's buying that  
11 home wants to have a nice green backdrop, too.  
12 So, the point is that going forward, you know, I  
13 think you should stay engaged with the Town beyond  
14 the board, since you are going to be getting  
15 permits and they are going to be getting their  
16 building plans. And we want to provide a buffer  
17 where we can. And there are legal reasons why,  
18 like the storm water issues, but it sounds to me  
19 like you are saying it's a pretty wide slot,  
20 400-some feet. And we have dealt with things that  
21 are a lot, lot closer. But the fact is, what they  
22 have said tonight is that they want to preserve  
23 the green as well. And the question just becomes  
24 moving forward, holding them to that.

25 MR. BLANDER: I agree. But the one

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 thing to understand -- if there is another time, I  
2 would be happy to bring you pictures. But most of  
3 it is going to be the down-slope in the backyard  
4 of mine and the down-slope on the other side which  
5 sounds like it's going to be cleared for the storm  
6 water. And maybe they could do what they are  
7 saying, which is that the trees by the storm water  
8 -- there will be a requirement not to clear --

9 MR. NARDACCI: I didn't hear "clear."  
10 You are not going to clear it; right?

11 MR. PALESCHI: Here are the limits of  
12 the storm water grading which is a requirement  
13 here. The existing treeline is here, okay. In  
14 order to grade it, the treeline now is going to  
15 wrap around like this. (Indicating) There is an  
16 existing 100-foot stream corridor on both sides of  
17 the stream. So, in my opinion, you have 200 feet  
18 of buffer including the trees and vegetation and  
19 brush, and whatnot. And I don't know as well as  
20 you do, but you are saying along the top of the  
21 ridge is where the majority of the mature trees  
22 are which provide that buffer and that down along  
23 the lower slopes is the brush type trees.

24 MR. BLANDER: Right. And, I understand  
25 you are trying to preserve green. I am not saying

1 you aren't. I'm just saying that the reality is,  
2 from what you are proposing, that the buffer will  
3 be gone. It will be almost completely down the  
4 hill. And you'll leave what is basically brush,  
5 and you'll have everything taken away that is now  
6 buffer which is going to be down the hill and up  
7 the hill.

8 MR. DALEY: Is your concern that you may  
9 see someone else's house? Looking at this, in  
10 terms of the back of Lot #38 and looking at Lot  
11 #42, where there are existing trees, we are going  
12 to try to preserve those. I doubt that you will  
13 see someone else's house; maybe in the winter when  
14 all the leaves are off. There has to be at least  
15 400 or 500 feet. Down here, (indicating) coming  
16 down the slope, you will probably be able to see  
17 the storm water management area. But we have no  
18 way around it. It has to be built, and it has to  
19 be built there.

20 MR. BLANDER: Even if you do exactly  
21 what you are saying, I think it probably will be  
22 -- the buffer is there, but the buffer won't be  
23 anything that you will see. It will be down to  
24 where it is. And it sounds like -- I know you are  
25 saying it's eight to ten feet. And I didn't take

1 the measurements, but I would believe it's a lot  
2 higher than that right now. So, it sounds like  
3 it's going to be cut down from where it is.

4 MR. PALESCHI: Some areas will be more  
5 than what I am saying.

6 MR. BLANDER: Yes. My guess is that it  
7 will be 30 feet or even 20 feet. What I'm saying  
8 is that the buffer of those trees is going to be  
9 gone. So, you need the storm management and trees  
10 can't be right next to storm water management.  
11 And you are saying, which I understand, is that it  
12 has to be secure. But given the proper buffer on  
13 that, maybe there are trees planted beyond that  
14 buffer area that is safe for your water zone, safe  
15 to build but still leaves a buffer zone in there.  
16 And the person with that lot or even back to water  
17 management, has a tree zone to maintain some  
18 buffer and lets you do what you are asking to do.

19 MR. DALEY: Did you ever consider  
20 putting more trees on your lot?

21 MR. BLANDER: Most of my lot is down the  
22 hill. So, there's not lot of room to put trees on  
23 the back of the hill there because it goes down.

24 MR. NARDACCI: Let me see if there are  
25 other folks who have comments, and then we can

1 turn back to this. There are a lot of folks who  
2 signed up. I don't know if they signed up as they  
3 were coming in or if they signed up to speak. Is  
4 there anyone else that would like to speak on this  
5 issue or ask a question?

6 (No response from attendees)

7 MR. NARDACCI: Does the Board have any  
8 other comments or anything to say? I think  
9 really, as a commitment from me, I am hearing  
10 reasonableness. It's always a challenge when  
11 there is a new development when you have been  
12 there trying to find the middle ground. You know,  
13 I'm hearing that they are not saying "clearing."  
14 You know the property better than I do because you  
15 live there. But I think there is a commitment to  
16 do what they can do to preserve what they can.  
17 There's not much more that they can do.

18 MR. BLANDER: If I might maybe ask them  
19 to, based on pictures or whatever, to keep some  
20 buffer there and keep some trees there. It's easy  
21 to say. And I am not saying you are not being  
22 totally honest here, but it's not easy to  
23 maintain. If you make a commitment that you are  
24 going to have a tree buffer within there that will  
25 be a buffer, that's all you need to do. Just put

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 them in a safe area.

2 MR. DALEY: We believe that there will  
3 be planted trees right behind Lot #38, and it adds  
4 value to the home and to the lot to have trees.

5 MR. BLANDER: So, you are making a  
6 commitment that there will be a tree buffer behind  
7 there that would actually be a buffer and it's not  
8 down behind the hill on the slope?

9 MR. DALEY: Well, we know that there is  
10 a cleared area in back of that for storm water  
11 management. Then, you come down and you have 200  
12 feet of buffer that has to remain on the inside of  
13 the stream. Then, we are coming up the back of  
14 your lot. So, in terms of where you might ask us  
15 to plant trees, there really isn't anywhere to put  
16 them. But we will do our best in terms of what is  
17 reasonable in terms of preserving those trees  
18 behind Lot #38. And, that makes sense for us  
19 economically. And, if we can do it to benefit  
20 you, we will try to do that. The whole idea is  
21 that you shouldn't see their house and maybe they  
22 don't want to see your house.

23 MR. NARDACCI: This is on the record and  
24 there is transcription here. You can go on line  
25 in a week or two and get the record.

1           MR. BLANDER: That's all I'm asking. I  
2 am a small business owner in town, too. I know  
3 this is going to go forward. The Town needs the  
4 new taxes.

5           MR. DALEY: Worse things happen. And,  
6 we'll talk to the builder. And I would be happy  
7 to make an introduction regarding that.

8           MR. NARDACCI: We would appreciate that.  
9 The only item I have to ask, as Joe mentioned, the  
10 Columbia Street area -- this is in the GEIS. So,  
11 there are proportion share mitigation fees that  
12 have to be paid.

13          MR. DALEY: We have already calculated  
14 them, and we are aware of that and we know we have  
15 to do that.

16          MR. NARDACCI: It is my understanding  
17 that this will be under the Planning Board of the  
18 Town that is in the process of updating the GEIS  
19 for the Boght area. Another project, Canterbury,  
20 came forward. There are mitigation fees under the  
21 new -- Joe, correct me here. Is it under the new  
22 proposals?

23          JOE: This was calculated based on 2008  
24 calculations, Tom. This goes by dwelling unit,  
25 and this is residential. I don't believe the new

1 calculations under the study changes the -- and I  
2 don't know, Brad, if you are involved with that or  
3 not, but I don't believe the calculation changes  
4 the residential component. It changes the  
5 commercial. How's that?

6 MR. NARDACCI: That said, if there are  
7 no other questions or comments, then we want to  
8 see about entertaining a motion.

9 MS. VAIDA: I think we should just be  
10 clear, though, because I think what we did in  
11 Canterbury -- and it may not even end up applying  
12 to you. But if we do finalize the update to the  
13 Boght GEIS, you would agree that you would be  
14 bound by whatever mitigation fees end up being  
15 determined from the study. Again, I don't know  
16 how close we are to getting the amendments done,  
17 but I know there is already a draft in place and  
18 we are working on it to get it done.

19 MR. DALEY: We would agree to be bound  
20 by whatever mitigation fees are applicable at the  
21 time we get approval.

22 MS. VAIDA: Approval for what?

23 MR. DALEY: You know, to calculate them  
24 at the time of final subdivision approval, or are  
25 they calculated at the time you file a map?

1           JOE: The calculation is based on the  
2 number of units currently. And, what happens is  
3 that, as you know through doing Phase I, you have  
4 a third, a third, and a third that you have to  
5 make those payments. You take the first third and  
6 the second third, and once you pull permits -- and  
7 the final is at certificate of occupancy, so you  
8 would have to --

9           MR. DALEY: Recalculate it at that time.

10          JOE: Exactly. It has to be calculated  
11 at the time he puts in his permits.

12          MR. DALEY: Whatever the rules are, we  
13 will abide by them.

14          JOE: And, that's why I put in one of  
15 the conditions here that the mitigation fee and  
16 payments are based on the appropriate share at the  
17 time, just to make that clear.

18          MR. DALEY: Understood.

19          MR. NARDACCI: The other question here  
20 that was in the notice -- and I don't know if it  
21 addresses Lot 20 of the proposed subdivision. It  
22 says: Documentation from Joe Beane, "Lot 20 will  
23 be dedicated to the Town of Colonie for protection  
24 of water course area and maintenance of storm  
25 water." Does that still apply?

1                   MR. PALESCHI: Yes. Do you want me to  
2 bring you the map and show you?

3                   MR. NARDACCI: No. It's just a  
4 confirmation.

5                   MR. DALEY: There are several things  
6 that the Town of Colonie gets. There is an  
7 agreement between Watervliet and the property  
8 owners in terms of some land swaps and easement  
9 swaps. And there are also some parcels and some  
10 easements that go to the Town of Colonie. We have  
11 got everything color coded and marked on the map  
12 and highlighted.

13                   MR. NARDACCI: You just mentioned Lot  
14 #20 delegated to the Town of Colonie, but Lot #40  
15 is as well.

16                   MR. DALEY: It gets a little complicated  
17 in that we have 23 lots all told. 21 are building  
18 lots and two lots to go to the Town of Colonie.  
19 And Lot 20, which is the lot adjacent to the  
20 spillway, the city of Watervliet has an easement  
21 on a lot that is owned by the Town of Colonie.

22                   MR. NARDACCI: I think we should  
23 probably add that as a condition of our  
24 acceptance.

25                   JOE: In the proposed deed restrictions

1 that we just got today -- Brad just actually got  
2 his copy this afternoon -- it talks about the lots  
3 with protective water courses, which identifies  
4 Lots 20, 22, 23, 24, 26, 28, 30, 32, 34, 35, 36,  
5 37, 38 and 40 in the proposed deed restriction.  
6 Also, with the safer setback line that we talked  
7 about earlier, lots #23, 26, 28, 30, 32, 34, 36,  
8 38 and 40 have been identified.

9 MR. NARDACCI: Joe, could you just read  
10 the four conditions again? Why don't you reread  
11 that.

12 JOE: We actually increased those.  
13 Based on your packets as were sent to you last  
14 week, we were to obtain the signoff from the city  
15 of Watervliet on the proposed work within their  
16 easement which, in fact, you have; to ensure that  
17 the work is consistent with the city of  
18 Watervliet's DEC permit, obtain a signoff from DEC  
19 to modify the existing permit, acquire CMAP  
20 approvals at the October 27th meeting, which is  
21 tomorrow. We are going to get a confirmation as  
22 to the approval of the SEQR action during the 2002  
23 time frame to verify if it was a Type 1 or an  
24 unlisted action.

25 MS. VAIDA: Can you say that again?

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1           JOE: We will get confirmation as to the  
2 approval for SEQR as to the 2002 action as to  
3 whether it was a Type 1 or an unlisted action.

4           MS. VAIDA: I think what we need -- I  
5 think it's a Type 1 project.

6           JOE: Based on the information we got.

7           MS. VAIDA: Right. It appears to be  
8 what they did. We want to make that contingent  
9 upon a full Environmental Review being done that  
10 determined that the project would have no  
11 significant environmental impact. That's what we  
12 are being told happened, and there are documents  
13 in the file that indicate that did happen.

14          MR. DALEY: We think the actual  
15 documents are here somewhere. Between the  
16 Planning Department and us, either in my own files  
17 or the engineer's we will find what was done in  
18 2002 and make sure that you have got it.

19          JOE: Tom, we also added that we are  
20 going to address all of the TDE and departmental  
21 comments that are still outstanding. And, the  
22 last one we just spoke about was that the  
23 mitigation fees is the appropriate share at the  
24 time that everything is approved and signed.

25          MR. NARDACCI: Okay.

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1           MR. LANE: Were we going to say anything  
2 about the last 20 or 40?

3           MR. PALESCHI: Is it necessary to put  
4 that in there? I mean it's part of the  
5 application.

6           JOE: Those are the ones being deeded  
7 over.

8           MR. PALESCHI: Okay, fine.

9           MR. NARDACCI: So, we agree. Is there  
10 anyone on the board who would like to make a  
11 motion on final?

12          MR. LANE: I will make a motion on final  
13 with the contingencies.

14          MR. ROSANO: Second.

15          MR. NARDACCI: All in favor?

16          (Vote taken)

17          MR. NARDACCI: Opposed?

18          MR. SULLIVAN: Nay.

19          MR. NARDACCI: The motion is adopted.

20          MR. PALESCHI: Thank you, Mr. Chairman.  
21 Thank you, members of the Board. One last sort of  
22 humorous aside. Originally, in 1985 when my  
23 clients purchased this property it was planned to  
24 be zoned commercial. And the Bendix Corporation  
25 was looking at putting their headquarters there,

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 and the Town decided they wanted to change the  
2 zoning from commercial to residential. And, at  
3 that time the town supervisor assured my clients  
4 that it would be an easy subdivision process as  
5 long as you cooperate with us. So, I have been  
6 trying to find this Bill Sanford fellow to talk to  
7 him ever since, to talk to him about it. But he  
8 doesn't seem to be anywhere around where I can  
9 locate him. But, thank you very much. And I hope  
10 you appreciate my sense of humor.

11 MR. NARDACCI: Thank you.

12 Before we move on to the next agenda  
13 item, there is a student here tonight; is that  
14 correct? And, sir, where are you from and what  
15 are you studying?

16 STUDENT OBSERVER: Hudson Valley  
17 Community College. I am studying to be an  
18 engineer. One of my classes is going a mock  
19 building that is going to be a factory/storefront  
20 that we could adopt to the plan. So, we are  
21 looking at the Town as a resource.

22 MR. NARDACCI: Great. We hope we don't  
23 disappoint you. Thanks for coming.

24 The next item on the agenda is the  
25 O'Connor Open Development, Old Niskayuna Road, a

1 recommendation to the Town Board on establishment  
2 of an open development area.

3 Joe, do you want to give us a brief  
4 summary?

5 JOE: Sure. Is there anyone here from  
6 O'Connor Open Development? Okay, gentlemen. This  
7 was referred to us by the Town Board, a request  
8 from Mr. O'Connor, Resolution 569 for 2010, and  
9 the Board recommends we review this for Open  
10 Development and the fact that they are looking to  
11 make a 1.4 acre parcel from the current land. The  
12 land doesn't have direct access to a town highway,  
13 a dedicated town highway. So, under 280(a) of the  
14 Town law, New York State Law permits open  
15 development; that you can develop and have access  
16 through the process. We have to develop a  
17 findings statement and make recommendations back  
18 to the Town Board for them to turn this into an  
19 open development. And I will turn it over to  
20 whomever would like to speak, Mr. O'Connor or to  
21 Mr. Schauffert.

22 MR. SCHAUFFERT: Andrew Schauffert. I  
23 didn't know that we were going to make a  
24 presentation.

25 JOE: Everyone at the Town Board has a

1 map with the parcel.

2 MR. SCHAUFFERT: Okay, let's see. Mr.  
3 O'Connor owns 7.6 acres on Old Niskayuna Road.  
4 The proposal is to cut out a 1.4 acre lot for new  
5 residential construction, high-rise. The existing  
6 lot has 101 feet of road, so there is not enough  
7 under the current zoning regulations to have  
8 adequate frontage for both lots. So, we went to  
9 the Planning Board on June 3rd for a variance for  
10 the lack of road frontage on that lot. The new  
11 lot would be serviced by municipal sewer and  
12 water; there is already an existing sewer line  
13 that comes through the lot. It is currently  
14 private, but we are looking to have part of it  
15 turned over to the Town as an addition to the  
16 municipal sewer system. And, there is already a  
17 Town waterline going through the property, both  
18 lots. And that will provide water service to  
19 these two lots.

20 MR. NARDACCI: Okay. Joe, could you  
21 just talk briefly about open development? We have  
22 done this in the past.

23 JOE: Yes. There have been a few open  
24 developments. Mr. O'Connor made a letter  
25 recommendation to the Supervisor's office. The

1 town attorney then put it on the Town Board agenda  
2 to refer it to the Planning Board to be reviewed  
3 for consistency. Under the 280(a) documents, we  
4 have to make a finding and send it back to the  
5 Town Board to act. And, at that time SEQR will be  
6 acted upon at that point. We don't do SEQR at the  
7 Planning Board level. We have not done SEQR on  
8 any other open development actions. SEQR  
9 recommendation is made and developed at the Town  
10 Board level because they are changing it to an  
11 open development zone. We have done this probably  
12 about four different times. And, again, it's  
13 because there is no direct access to a main or a  
14 dedicated highway. Essentially, it's a private  
15 road.

16 MR. NARDACCI: There is a list of  
17 abutting property owners. You have been in  
18 contact with them and they have all been notified?

19 MR. SCHAUFFERT: They have all been  
20 mailed.

21 MR. NARDACCI: They have been mailed,  
22 but have you had any conversations with the people  
23 that are affected?

24 MR O'CONNOR: I have with the ones  
25 closest to me, with anybody who would see it.

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 Actually, no one would see it.

2 MR. NARDACCI: And the numbering is in  
3 line with what is recommended by Highway, an Old  
4 Niskayuna address?

5 MR. SCHAUFFERT: We have got the numbers  
6 from the town.

7 MR. NARDACCI: There is a question in  
8 here about plowing the driveway throughout the  
9 year. It's a long driveway; right?

10 MR. SCHAUFFERT: It's a long driveway.  
11 We have a maintenance agreement established for  
12 the driveway.

13 MR. NARDACCI: Is it part of the town  
14 maintenance agreement, or is it something else?

15 MR. SCHAUFFERT: Not necessarily. The  
16 Town doesn't want to be bothered with it.

17 MR. NARDACCI: There any questions on  
18 this, Paul?

19 MR. ROSANO: No.

20 MR. LANE: I have a question. Now, is  
21 the Town running water -- should you get this  
22 cost, or are you running out to the Town line? Is  
23 that at your cost or --

24 MR. SCHAUFFERT: Mr. O'Connor or the  
25 buyer, whoever builds the house.

1 MR. LANE: So, they are constructing it.

2 So, it's not a Town cost to construct that line?

3 MR. SCHAUFFERT: No.

4 MR. LANE: In addition, I'm wondering  
5 how far does it have to go from the house? What  
6 would be the distance from the house to the line?

7 MR. SCHAUFFERT: The waterline actually  
8 goes through the lot right there, and it tells me  
9 about it on the computer.

10 MR. LANE: And, what about the sewer  
11 line? The sewer line seems to be farther.

12 MR. SCHAUFFERT: There is a complication  
13 with that starting with Pure Waters this morning.  
14 There is a sewer line right next to where the  
15 proposed house would go. The new house wouldn't  
16 be able to tie into that sewer because it's only a  
17 six-inch diameter. Once you get a second hookup  
18 -- and the sewer line has to be a public sewer, so  
19 I guess it has to be an eight-inch.

20 MR. LANE: So, you have to go all the  
21 way out to the road?

22 MR. SCHAUFFERT: It may be a parallel  
23 line going out or just maybe upgrading the  
24 six-inch to an eight-inch.

25 MR. LANE: Why don't we accept it with

1 that consideration.

2 MR. SCHAUFFERT: That actually doesn't  
3 have to be addressed until later.

4 MR. LANE: So, for this access, the  
5 buyer has to say: This is a cost I am going to  
6 take on?

7 MR. O'CONNOR: Um-hmm.

8 MR. LANE: There was a request on a  
9 couple of memos from the departments that they  
10 wanted to see the addresses displayed out on the  
11 road for 911 purposes since this property -- there  
12 is a house built back there and it won't be seen,  
13 so the number should be out front.

14 MR. O'CONNOR: There are two mailboxes  
15 there now, so we would add on a third.

16 MR. LANE: Where is the nearest hydrant?

17 MR. SCHAUFFERT: Because the waterline  
18 goes through, there is a hydrant right over here.  
19 It's actually right here.

20 MR. LANE: I was trying to locate it.

21 MR. O'CONNOR: (Indicating)

22 MR. LANE: Okay, very good. Thank you.

23 MR. O'CONNOR: Thank you.

24 MR. SULLIVAN: The filing is the only  
25 concern I had. And you have already answered my

1 question on emergency vehicles, so that has all  
2 been addressed. Thank you.

3 MR. NARDACCI: That will be addressed in  
4 the deed, you said?

5 MR. SCHAUFFERT: Yes.

6 MR. NARDACCI: Let me just open it up to  
7 anyone else who might have a comment. Are there  
8 any members of the public that would like to ask a  
9 question or make a comment with regard to this  
10 application?

11 (None noted)

12 MR. NARDACCI: There being none, the  
13 Chair will entertain a motion. There is a  
14 recommendation to the Town Board on establishment  
15 of an Open Development area. And because it's an  
16 action -- it's advice, not action for approval,  
17 and there's no SEQR required on this. Is there a  
18 motion?

19 MR. ROSANO: I so move.

20 MR. MION: Second.

21 MR. NARDACCI: All those in favor?

22 (Vote taken)

23 MR. NARDACCI: Opposed?

24 (Vote taken)

25 MR. SCHAUFFERT: The resolution is to

1 recommend to the Town Board that --

2 MR. NARDACCI: The next step is back to  
3 the Town Board, and the town board will make the  
4 open development district.

5 JOE: We will develop the  
6 recommendations to the Town Board, and we will  
7 send it over the Town Attorney's office to be put  
8 on the Town Board agenda. They will then hold a  
9 public hearing, and they will hear it and at that  
10 point it will be adopted.

11 MR. O'CONNOR: Thank you.

12 MR. NARDACCI: We will take a  
13 five-minute break before we go into the next few  
14 topics.

15 (Recess: 8:36 p.m. - 8:47 p.m.)

16 MR. NARDACCI: The next item on the  
17 agenda is DiBella's, 2 Wade Road, 10,350 square  
18 foot multi-tenant building, review and action on  
19 SEQR and to modify prior final approval. And it's  
20 presented by Stantec Engineering.

21 Joe, do you want to give us a synopsis?

22 JOE: Sure. Since DiBella's is back  
23 before us tonight, we asked them to look at this a  
24 couple of weeks back. On the September 28th  
25 Planning Board meeting, we asked them to

1 reposition the building, if they could look at  
2 refacing the building that faces Wade Road and  
3 come back to us and explain why they did what they  
4 did. So, Bruce?

5 MR. GLENN: Bruce Glenn; thank you very  
6 much, Mr. Chairman.

7 MR. SECOR: And, Louis Secor, Stantec  
8 Engineering. At the September 28th meeting the  
9 Board gave us some comments and asked us to do  
10 things, and I am back to present three things.  
11 The first is to present our case and tell you why  
12 we think this is a minor modification to the  
13 approval we already have and ask for an amendment  
14 to that approval. The second thing is with regard  
15 to how the doors are facing, and I will get into  
16 that. And, the third thing is to be responsive to  
17 the board's comments from the 28th and go through  
18 the elevations and the changes to the architecture  
19 to try to mitigate some of the proposals we are  
20 doing. So, just real quickly, this is the corner  
21 of Route 7 and Wade Road. (Indicating map) There  
22 used to be a medical office building on the  
23 corner. We went through this last time, and we  
24 will go through a lot of that again. When we were  
25 here last time one of the things we had talked

1 about is what changes we are making to the  
2 approved plan. The plan that was approved  
3 previously showed a Chipotle's Restaurant and what  
4 was supposed to be TGI Friday's which never got  
5 built, so we ended up with a vacant site. That  
6 was labeled as Phase II on the approved plan. It  
7 included accesses to Wade Road, landscaping, and  
8 grading plans, storm water management. And,  
9 basically, all of the improvements included in  
10 this approval have been constructed. Chipotle's  
11 is up and working and the grading of the site  
12 except for the site pad itself. Parking is in and  
13 storm water management is in.

14           What we are proposing in this new plan,  
15 basically, is to replace what was a single  
16 building for TGI Friday's with a single building  
17 here which is going to have two tenants. One of  
18 the things we wanted to talk about is what changes  
19 have been made to the plans. We have actually  
20 reduced the number of parking spaces, increased  
21 the green space by about 412 feet. There are no  
22 changes to storm water management, no changes to  
23 site utilities, no changes to the orientation or  
24 accesses to Wade Road. So, our presentation to  
25 the Board is that we have made a minimum of

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 changes that we can add to the approved plan and  
2 are basically working within the existing site  
3 plan and increasing the green space.

4           The second part of the thing that we had  
5 talked to the Board about is relief from the  
6 requirement that the doors all have to face toward  
7 Wade Road. The original plan proposed shows  
8 Friday's and Chipotle's located -- and actually  
9 the door to Friday's did face to Route 7. Now  
10 that we are proposing having two tenants, we  
11 looked at the possibility of rotating the building  
12 90 degrees and having both doors face to Wade  
13 Road. And we presented a list of arguments in our  
14 seminal application to the Board as to why it  
15 wouldn't work. The basic thing is because our  
16 access is limited to Wade Road, there is about a  
17 ten-foot elevation difference between the access  
18 to Wade Road and the elevation to Route 7 and our  
19 parking area. Wade Road falls off to the south.  
20 Our only full access point is at the southerly end  
21 of the property, so this driveway coming in at the  
22 southern end of the building has to take all the  
23 ingress and takes a good portion of the egress  
24 because this other driveway going out to Wade Road  
25 is right on -- So, in our original layout, one of

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 the primary design considerations we always have  
2 are convenience and safety. These parking spaces  
3 located along this driveway were looked at as low  
4 turnover parking, employee parking, overflow  
5 parking. And, the primary parking field would be  
6 in the businesses. And, we actually prepared a  
7 plan showing the rotation of the building 90  
8 degrees and looked at what that would do to the  
9 economic viability of the site, what would happen  
10 is if DiBella's was here and we had a tenant space  
11 on this side. They wouldn't have access to  
12 parking, and any persons parking here would have  
13 to walk across this main traffic area to get in.  
14 So, that cuts down on our safety feature. Also,  
15 on this parcel there is not a lot of pedestrian  
16 traffic along Wade Road to really support  
17 business. And they would lose the visibility from  
18 the main traffic flow which is on Route 7. Greg  
19 Barcomb is here from the owners standpoint. And  
20 as the operator of many of these sites, I  
21 presented a whole series of arguments at our  
22 presentation as to why this was not economically  
23 viable and ask that the Board take this into  
24 consideration and grant us the relief of turning  
25 the building so that the doors would face in the

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 same orientation as the original approval,  
2 basically, to Route 7. But, in doing that, we are  
3 not just saying to the Board: We are not  
4 listening to you. So, the other thing we did is  
5 we went back to the architect and changed the  
6 elevation drawings. I have the two, and these  
7 were presented in your package. In the original  
8 facade this would be the Wade Road facade. And  
9 there was a door facing to Wade Road and three  
10 windows. And there wasn't a lot of architectural  
11 interest or interest in the building on that side,  
12 so we have gone back and we changed the facade,  
13 moved the door down and changed it so that the  
14 windows are on both sides of the door. We have  
15 also added some additional windows and an awning  
16 treatment along the building. So, the Wade Road  
17 facade has a door and does have visual  
18 architectural interest to the roadway. It still  
19 preserves the basic visibility of the site to  
20 Route 7 which is the heavier traffic area. And,  
21 we feel that will provide a more economically  
22 viable package and also a space that the owner can  
23 rent. No one wants to see a vacant storefront.  
24 So, we are trying to provide a package that would  
25 be something that we can rent, and we also want it

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 to be a successful business in the Town.

2 So, with that, I would be happy to  
3 answer any questions the Board has and, hopefully,  
4 we can be responsive to your requests.

5 MR. NARDACCI: Mike, do you have any  
6 questions?

7 MR. SULLIVAN: I just have one question.  
8 That is, do you have any examples of what type of  
9 retail would be desired for that location?

10 MR. SCHAUFFERT: I would ask Mr. Barcomb  
11 to answer that.

12 MR. BARCOMB: I am the operator for the  
13 sub shop. Let me tell you what we had in mind; a  
14 furniture/mattress store, you know, low impact  
15 parking type uses so that we balance the  
16 restaurant between Foley and DiBella's with  
17 something, because we can certainly hurt ourselves  
18 by putting something in there that is going to eat  
19 our parking spots.

20 MR. SULLIVAN: Thank you. That's all I  
21 have.

22 MR. LANE: I don't have any questions.  
23 I like the improvements, and I especially like the  
24 parking. I think this is a good idea. It gives a  
25 little more face on the Wade Road side. I think

1 that makes a lot of sense.

2 MR. NARDACCI: Just to follow up on  
3 that, on Wade Road is there is going to be signage  
4 there?

5 MR. BARCOMB: Not a sign on Wade Road;  
6 there is a sign up at the corner. The proposal we  
7 will make would be a front sign facing Route 7 for  
8 DiBella's and then a second sign on the parking  
9 lot side.

10 MR. LANE: Does that have to go to SEQR  
11 review?

12 MR. BARCOMB: Yes. We will make that  
13 application.

14 MR. NARDACCI: I'm very happy to see you  
15 went back and took our considerations. I think  
16 the redevelopment of that parcel is going to be a  
17 success, and it finishes that project off.

18 At this point, I am going to open it up  
19 to the public if there is anyone here that would  
20 like to ask a question or make a comment. If you  
21 would just state your name for the record, sir.

22 CHIEF TERRY: I am from the Fire  
23 Department. If there is a setback to Wade Road  
24 for that all the way to the left there, is that  
25 going to be fire only, or is that going to be a

1 main entrance?

2 MR. BARCOMB: A fire exit only.

3 MR. TERRY: The Wade Road door --

4 MR. BARCOMB: That will be an exit. But  
5 the main entrance to the store will be facing  
6 Route 7.

7 MR. TERRY: Is there a setback from Wade  
8 Road?

9 MR. BARCOMB: The ordinance requires  
10 zero setback. There is a setback within a foot or  
11 two of the property line is the requirement.

12 MR. NARDACCI: Anyone else? Just  
13 quickly, you mentioned a green space. There is an  
14 increase in the green space, and what is the  
15 percentage?

16 MR. SCHAUFFERT: It's 412 feet, which  
17 goes from 31.4 to 31.7. We are still not at 35,  
18 but it was already granted in the original  
19 application.

20 MR. NARDACCI: If there are no other  
21 comments or questions, our action tonight would be  
22 -- we have it here: Review action on SEQOR prior  
23 to final approval.

24 JOE: I think that might have been an  
25 error because we did that at the original.

1 MR. NARDACCI: We did SEQR during  
2 Chipotle.

3 JOE: Yes. My error on that one.

4 MR. NARDACCI: I recall when we did  
5 Chipotle. It was like three years ago that we did  
6 do that.

7 JOE: It was approved here during the  
8 course of that action in June of that year. I  
9 have the SEQR.

10 MR. NARDACCI: So, our action tonight is  
11 a modification of a prior final approval; correct?

12 JOE: Correct.

13 MR. NARDACCI: Does the Chair want to  
14 entertain a motion?

15 MR. LANE: I so move.

16 MR. SULLIVAN: Second.

17 (Vote taken)

18 MR. NARDACCI: So, the motion is  
19 granted. Thank you.

20 MR. NARDACCI: The next item on the  
21 agenda is First Columbia Office Plaza at 3  
22 Autopark Drive, three multi-story office buildings  
23 totaling 390,541 square feet and a two-story  
24 parking structure. Tonight, we are looking to  
25 review and action on Parking Waiver and Concept

1 Acceptance.

2 Joe, do you want to give us a synopsis?

3 JOE: You pretty much summed that one up  
4 there, Tom.

5 MR. NARDACCI: Is anyone here from the  
6 applicant?

7 MR. BETTE: I am Chris Bette with First  
8 Columbia. With me is our attorney, Peter Lynch,  
9 and my brother Kevin is in the audience. We are  
10 here tonight to request this Board's consideration  
11 for concept approval on the finalizing of the  
12 development plans for the parcel along Plaza Drive  
13 in Colonie. Plaza Drive is the location where the  
14 Angio building is currently today. Approval and  
15 construction of that happened last year. Our plan  
16 includes the addition of about 335,000 square feet  
17 of commercial office on the balance of the parcel  
18 which is 18 acres in total. On site parking is  
19 provided and, as the Chairman mentioned, we are  
20 looking for a waiver of that parking requirement.  
21 What we have demonstrated in the existing office  
22 buildings that we own just north of this site is  
23 that roughly thirty percent of our spots are  
24 vacant every day. So, we have asked this Board to  
25 consider a reduction that more accurately reflects

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 our utilization.

2           In addition, we are looking for a minor  
3 setback for parking along the Autopark Drive. The  
4 plans here have about a five-foot setback, and the  
5 requirement of the Town is a 15-foot setback. We  
6 think it's a minor issue; it impacts about ten  
7 spaces. So we would like to see if we could  
8 entertain a setback request there. The buildings  
9 are all served by utilities that are currently in  
10 place: Water, sewer, telephone, electric, gas.  
11 Everything is in Autopark Drive and/or Plaza  
12 Drive, and all the connections to the buildings  
13 would be just service laterals for those  
14 buildings. Parking lot lights are typical to what  
15 we have been doing, standard shoebox style town  
16 lighting. The building architecture, I have got  
17 just a generic rendering of the building here.  
18 It's just consistent with what we have been doing  
19 on Century Hill Drive with multiple tenants. Our  
20 goal is to continue to do what we have been doing  
21 north of this project, attracting Fortune 100  
22 companies, bringing more jobs to the area. And we  
23 think we can do that in a nice corporate business  
24 park environment. And, with the addition of this  
25 335,000 square feet we will be in a good position

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 to attract those users.

2 I will entertain any questions.

3 MR. NARDACCI: First, I just want to  
4 address the issue of the dedication of Autopark  
5 Drive as a public street. We have a resolution  
6 that was given to us in our packets. The Town  
7 Board did that, and I just wanted to convey that  
8 on the record that this was a Town Board motion  
9 that was adopted and was finalized. Has the town  
10 engineer reviewed this? Do you want to review  
11 your comment letter, or are there any other  
12 issues?

13 MR. VOSS: Charles A. Voss, Barton &  
14 Loguidice. Thank you Mr. Chairman. I believe the  
15 Board has a copy of our letter dated September  
16 22nd. And, as the Chairman pointed out, our  
17 letter was written prior to the Town Board  
18 adopting Autopark Drive as a newly designated town  
19 road, so some of our comments are going to be moot  
20 at this point. In our letter, we had early  
21 concerns about access coming in and out of the  
22 site if Autopark Drive wasn't the primary access  
23 point. But, most of those comments have pretty  
24 much dissolved given the action by the Town Board  
25 last week, I believe it was. So, let me just run

1 through quickly just some general comments. As  
2 Mr. Bette kind of pointed out, we reviewed the  
3 project from the conceptual requirements that are  
4 in the code. In general, the office park as  
5 proposed is in conformance with the commercial  
6 office zoning district which it's in. And it is  
7 in support of, and in agreement with, the Town's  
8 comprehensive plan.

9           Adjacent existing uses on or nearby the  
10 site are consistent with what is proposed.

11           The Planning Board has recently approved  
12 the construction of AngioDynamics building which  
13 is very similar to the proposed building being put  
14 forth here. Of import, prior to the designation  
15 of Autopark Drive was the open development area  
16 designation that the applicant received from the  
17 Town Board allowing them access to these sites.  
18 However, that issue is basically moot now with  
19 Autopark Drive being designated a town road.

20           We discussed the waiver issue for  
21 parking. And, given the fact that the applicants  
22 have demonstrated, at least on a conceptual level,  
23 that they have more than adequate adjacent parking  
24 and that they can supply a large amount of parking  
25 on site, the waiver for parking would be warranted

**Alliance Reporting Service, LLC**  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 if the Board felt so.

2           We talked about the SEQR action which I  
3 believe is the resolution tonight to take action  
4 on that as a Type 1 action. It appears that the  
5 minor changes that we had to some of the SEQR  
6 forms will be addressed in that resolution. So  
7 that should be fine.

8           Miscellaneous comments: Most of them  
9 were setback-related, which I believe now that  
10 Autopark Drive has been designated, the Board can  
11 entertain those. And we feel the setback waivers  
12 would be warranted now at this point.

13           The only other thing we had are just  
14 some minor issues regarding some information on  
15 the plans that I believe the applicants can  
16 address fairly easily as they move forward with  
17 the final submission after concept. I will just  
18 double-check, but I think that's it. We will  
19 probably have some additional traffic comments as  
20 the application moves forward. But, at this time  
21 it's not warranted, so that's it.

22           MR. NARDACCI: Could you just explain a  
23 little more in depth the request for the parking  
24 waiver? Based on the buildings that you are  
25 proposing, the size, the number of employees, you

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 said approximately 35 percent of your current  
2 spaces are vacant. Could you walk us through that  
3 in a little more detail?

4 MR. BETTE: There are a couple of  
5 issues. The AngioDynamics building, as you know,  
6 is a lead silver building. Going through that  
7 process, Lead tries to get you to develop your  
8 site with a less impervious area. We looked at  
9 all the impervious area that we have with the five  
10 existing buildings we have, and we looked at the  
11 parking lots and noticed that regularly they are  
12 empty. So, we surveyed our parking lots for a  
13 week just under a year ago and we recognized that  
14 30 percent of the spaces each day aren't utilized.  
15 And that is, in fact, translating to a more  
16 impervious area, more storm water runoff, and all  
17 of these other things. And with the economy you  
18 have, that flies in the face of Lead. So, we are  
19 asking for a reduction. We feel that -- and the  
20 reduction we are asking for is about 300 spaces.  
21 And we think we can go even more than that, but we  
22 have asked for 300. We feel that with the ability  
23 to give cross-easements -- Owning the entire  
24 parcel and all of the buildings, we can give each  
25 other cross-easements to park on that would allow

1 for any rare occurring day with heavier traffic or  
2 heavier volume to use another building's parking  
3 lot. So, we don't feel there is a concern that  
4 there will not be enough parking. It's really  
5 just, A, reduce impervious area and, B, meet the  
6 requirements of Lead, and frankly make each  
7 building look -- because all of our buildings are  
8 about 99 percent leased. So, each building should  
9 look like it is occupied to its fullest extent.

10 MR. NARDACCI: So, the total spaces  
11 require about 1,496?

12 MR. BETTE: Correct.

13 MR. NARDACCI: So, we are looking for a  
14 300-space reduction. That would be 1,195. And in  
15 those buildings how many employees do you expect?

16 MR. BETTE: We are finding that with the  
17 type of tenant we attract there is not a heavy  
18 employee count. The building code would tell you  
19 to determine your number of employees based on  
20 square footage based on 200 square feet per  
21 employee. And, that grossly overestimates the  
22 number of employees. We are falling -- I don't  
23 know the number. But, basically, what we have  
24 determined is if the Town Code were one space per  
25 350 square feet, that would be adequate for the

1 demands we have for each building.

2 MR. NARDACCI: In the past, we have done  
3 other waivers and parking, you know, and there are  
4 a lot of empty parking lots in town. That's  
5 something that has to be addressed in the code  
6 and in the Land Use Law overall. One of the  
7 waiver requirements in the Land Use Law is that it  
8 doesn't exceed fifty percent, and this clearly  
9 doesn't. It's 300 out of 1,400, so I just want to  
10 make that clear. Some other questions? We'll  
11 start with Paul.

12 MR. ROSANO: No, no questions.

13 MR. MION: No questions.

14 MS. VAIDA: Peter, are you going to make  
15 a presentation regarding the SEQR application  
16 portion of this?

17 MR. LYNCH: Sure, I'm sorry.

18 MS. VAIDA: So, we are not talking about  
19 just parking?

20 MR. LANE: I guess that's somewhat in  
21 relation to the -- I'm looking at the April 2010.  
22 And, this may have already been addressed, but the  
23 easement for NiMo, can you explain that a little  
24 bit?

25 MR. BETTE: It's actually a lease. The

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 former owners of the parcel, Otto, acquired a  
2 lease to utilize the National Grid land for  
3 parking purposes. By us purchasing this land,  
4 that lease was then assigned to us, so we have a  
5 lease to utilize their land for parking.

6 MR. LANE: That's why you disagree with  
7 the setback?

8 MR. BETTE: The setback issue was more  
9 related to what we consider a driveway. The  
10 Building Department refers to that as a street.  
11 The new code suggests that a street -- any street,  
12 public or private -- that the yards would be  
13 associated with that. But because we are on a  
14 corner lot, with the way the Building Department  
15 interprets that, we don't have a rear yard. So,  
16 our initial setback for the parking structure, we  
17 consider this a rear yard setback. And that is,  
18 in fact, a side yard.

19 MR. LANE: There is a statement here  
20 that says you consider the Northway as --

21 MR. BETTE: Yes. The issue became  
22 apparent after we submitted these plans. The  
23 plans are correct. The initial submission in  
24 April had a comment letter that was prior to  
25 fixing that.

1                   MR. LANE: You are going to retract  
2 that?

3                   MR. BETTE: Correct. We fixed the plan  
4 and we are now consistent with the Town  
5 requirement for no less than twenty feet and more  
6 than fifty for two sides. So, that is our plan.

7                   MR. SULLIVAN: Actually, I have  
8 questions on parking. You mentioned that the  
9 reason for requesting the reduction in parking was  
10 to limit the impervious area. Yet, on the plan it  
11 seems that you are providing near minimum green  
12 space, like 37 percent. So, the remainder of your  
13 parcel is largely rooftops, parking lots. So, it  
14 seems like you are not really providing additional  
15 green space. And, in looking at the parcel I'm  
16 wondering that, hypothetically, if the parking  
17 waiver is denied how would you provide the 300  
18 spots needed to meet town standards based on this  
19 layout?

20                   MR. BETTE: Well, you're right. The  
21 reduction in parking is actually translated to  
22 increase building size. And part of our  
23 discussions with the Town over the period of time  
24 is the loss of buildable area during the first six  
25 buildings we built with thirty percent vacant

1 spaces, really, in terms of -- We could have built  
2 bigger buildings and attracted more users. This  
3 plan is meeting the green space requirement. It  
4 does maximize the density on buildable square  
5 footage. We are not going to be looking at vacant  
6 parking spots.

7           MR. SULLIVAN: The problem I have is how  
8 would you provide those 300 spaces? And, based on  
9 that layout, I can see that you basically  
10 maximized the footage of your buildings. It's  
11 probably more economical to build your square  
12 footage that way, but it seems to me that the only  
13 way you can get the 300 spaces is to add levels to  
14 your parking garage which would be costly.

15           MR. BETTE: We can do that.

16           MR. SULLIVAN: The reason I'm making  
17 this point is that recently, we had another  
18 applicant -- and I would say probably six months  
19 ago. They had an office park that was 294,000  
20 square feet, and they are meeting town standards.  
21 They are providing 1,370 parking spaces. So, in  
22 your case, you have the remaining square footages  
23 above that. You have 40,000 square foot above  
24 that. You are at 335, I believe.

25           MR. BETTE: Correct.

1           MR. SULLIVAN: And they are at 294 and  
2 provided 1,307 spaces and you are going to provide  
3 1,195. So, you are roughly 100 spaces less than  
4 they are, but you are gaining 40,000 square feet,  
5 and all due to the parking waiver request. So, in  
6 my mind, that doesn't create a level playing field  
7 because they have met the Town requirements. They  
8 are providing parking according to Town standards.  
9 And, because of that, they cannot provide as much  
10 square footage for office space. And, when they  
11 were here before the board I asked them  
12 specifically about the parking. And the gentleman  
13 for that developer stated that in the absence of  
14 any town standards, they usually provide five  
15 spaces for every 1,000 square feet of building  
16 space, which is one for every 200 square feet,  
17 which is above and beyond the Town standard. So,  
18 I understand that in your situation, you said you  
19 have fewer employees based on the type of  
20 companies you have there. But, in my mind it's a  
21 matter of creating a level playing field and  
22 treating all applicants equally, such that I  
23 believe that the parking waiver would give you a  
24 competitive advantage because they are paying to  
25 put in all of the parking spaces and, in turn,

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 that limits the amount of building they can  
2 provide.

3 MR. BETTE: I disagree with you. We  
4 don't know the types of tenants they are  
5 attracting. They could be attracting insurance,  
6 call centers, heavy duty employee-driven  
7 facilities. And we are not giving that. We have  
8 all Fortune 100 companies which do not cram people  
9 in 80 square foot cubicles. They have nice size  
10 offices. We also do the five per thousand when  
11 doing medical. So, when we are doing medical  
12 users, you are going to want that type of parking.  
13 We are not attracting the insurance companies. We  
14 have a lot of financial companies throughout the  
15 thing. We have Time Warner. We have school  
16 boards.

17 In addition, too, these buildings that  
18 we have built that have less employees, we have  
19 excess parking there so it's not like we have not  
20 already built the parking. We have places for  
21 people to park if, in fact, the demand for a  
22 building on a particular day exceeds typical  
23 usage. So, we have already done that up here  
24 where we are looking at 30 percent of our spaces  
25 vacant. And, we can demonstrate the types of

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 tenants we are attracting to this location are  
2 different from potentially what is going to what  
3 you were just talking about.

4 MR. SULLIVAN: I understand your  
5 explanation. And I do commend you on the  
6 companies that you attract and the appearance of  
7 your buildings and the occupancy rate. However,  
8 in my mind, I see my responsibility as treating  
9 everyone fairly. And I see that the standards are  
10 the mechanism for doing that, treating all  
11 applicants uniformly. I personally have a problem  
12 with the parking waiver. And I can't speak for  
13 the board, but I do commend you. AngioDynamics is  
14 a wonderful building. And I understand what you  
15 are saying as far having surplus parking over  
16 there. But as far as granting a waiver of this  
17 magnitude, this scale, it puts the Board in an  
18 awkward position moving forward because what then  
19 do we do as far as what is the standard for  
20 parking either with you on future projects or with  
21 other applicants? They might say: Well, First  
22 Columbia was able to get a waiver to one space for  
23 285 square feet. So, I don't want to get into  
24 that situation. If the parking standards of the  
25 town are excessive, I think it's up to the Town to

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 make revisions. Nevertheless, I understand you  
2 are saying there are different types of businesses  
3 and they have different requirements for parking.  
4 But, from my standpoint I am more concerned with  
5 treating all applicants fairly.

6 MR. KEVIN BETTE: Mike, can I just say  
7 something for a second?

8 MR. SULLIVAN: Yes.

9 MR. K. BETTE: I agree with that. What  
10 we are really trying to do is build the next  
11 generation of office park, and you can't go back  
12 and redo it once you build it. We are really  
13 trying to build all of our buildings to be Lead  
14 certified. What you said is correct, except what  
15 Lead tries to do is eliminate sprawl. And that's  
16 in direct conflict with your current codes. Your  
17 codes have not been updated in years. We're  
18 trying to reduce sprawl. In this location and  
19 with the transportation access we have, eventually  
20 we are going to get public transportation and  
21 eventually get hyperintensity buildings here.  
22 Twenty years from now we don't want to come back  
23 to the Board and say: Well, we have these empty  
24 parking lots and we want to put more product here.  
25 And what it tries to do is to take valuable

1 property and put density on there where the  
2 infrastructure is already in place, so you don't  
3 encourage sprawl on Route 9 or to other parts of  
4 the Town. We are trying to put more money into  
5 the town there because they are Lead certified.  
6 And maybe there should be something that the board  
7 adopts so that with Lead, we get some credit. We  
8 have more roof area because we have more building,  
9 and those are going to be green roofs. We are  
10 building things that are going to be more  
11 sustainable and better product for the marketplace  
12 and for the community. We were trying to make  
13 Century Hill Plaza into a showcase of what  
14 commercial property will be for the next twenty  
15 years. We are not trying to look back at the code  
16 and do what was planned in the '60s. That's kind  
17 of the push-and-pull. And I believe the Board has  
18 been very flexible in interpreting that, and  
19 that's what we're asking for really. We know we  
20 don't need that many parking spaces. We look out  
21 the window every day and I am disgusted that we  
22 have all of those empty spaces because we are  
23 trying to meet the intent of the letter of the law  
24 as to something that was decided a long time ago.  
25 If we have a customer that has higher parking

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 demands, we have 500 empty parking spaces on our  
2 current parcel. And we already have an existing  
3 park that we are adding on to, so it's a different  
4 situation from someone coming in brand new where  
5 you don't know who the customers are. We are just  
6 trying to be smart here about how we are  
7 developing the property. There are very limited  
8 parcels left in the Town and we want to be  
9 selective about the type of companies that want to  
10 come here. We are looking for quality  
11 development. The companies we are talking to --  
12 Right now, I'm talking to a major biotech company  
13 that is going to make AngioDynamics look like  
14 small potatoes. They are looking at a lot of  
15 different sites. They want to go someplace that  
16 is progressive with a Lead-certified building,  
17 into a good location with good neighborhoods and  
18 good shopping and good services. And we are  
19 working really hard for the last ten years to  
20 create a Century Hill. So, what we're trying to  
21 do here is develop a park to meet those customers'  
22 needs. And that's sometimes in conflict with  
23 going back to your code.

24 I understand when you read it and want  
25 to enforce the letter of the code, but we need to

**Alliance Reporting Service, LLC**  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 move forward with all of our products. And green  
2 buildings didn't exist five years ago. And, we  
3 need to move that forward. And I would encourage  
4 the Town to adopt a lot of those regulations in  
5 their code. We have got to go faster. The  
6 problem we have is that we have to come in and  
7 anticipate what a customer is going to want so  
8 that we are ready when they come. That's what we  
9 are trying to do here today. We are trying to get  
10 a lot of really neat companies. There's a lot  
11 going on in the whole nanotechnology sector. We  
12 are talking to a lot of people now about this  
13 property, and I need to produce a product that  
14 meets their needs. That is really what we are  
15 trying do.

16 MR. NARDACCI: Mike, to your point, I  
17 agree with consistency. We have talked about  
18 being consistent. There have been times -- and  
19 the Land Use Law is what it is, but there is also  
20 a mechanism to request waivers. And if an  
21 applicant can show that the regulation is overly  
22 stringent, there are conditions that the Planning  
23 Board can look at. We have granted other parking  
24 waivers in other instances. And, that other  
25 developer you mentioned could have come in and

1 said: You know what? This is why I think this is  
2 overly stringent for this situation.

3 MR. SULLIVAN: He wasn't stating that.  
4 He actually said that in the absence of standards  
5 that he would provide more. But I understand what  
6 Mr. Bette is saying; that this is a different type  
7 of company. But, from our position we need to be  
8 fair to everyone. And it does tend to give you a  
9 competitive advantage in spending less on parking  
10 garages. If you were meeting town standards, you  
11 would have to add two levels of parking garage,  
12 and that is a considerable expense.

13 MR. K. BETTE: We are not competitive  
14 with many other places. Corporate Woods for sure  
15 is a great park, but there aren't many places  
16 within the town that are really competitive with  
17 the type of product we are trying to do here.

18 MR. NARDACCI: To your point, there have  
19 been -- we have seen them since we have been on  
20 the board, instances where we have reduced.  
21 Looking at things fairly in my mind means looking  
22 at each project as they are, looking at each  
23 project and not trying to fit a square peg into a  
24 round hole and saying: Here is the narrative  
25 which the applicant provided and here is what

1 exists. For me, this is just something to think  
2 about. They mentioned they have other areas of  
3 parking around that are available and can be used.  
4 That is something they are providing that the  
5 other applicant couldn't provide.

6 MR. SULLIVAN: Just moving forward for  
7 future applicants, you have to have standards for  
8 a reason. And I am opposed to a mechanism where  
9 the applicant determines the Town standards are  
10 excessive and then prescribes his own ultimate  
11 standards.

12 MR. NARDACCI: That's why we review  
13 waivers on a case-by-case basis.

14 MR. SULLIVAN: I am all for waivers.  
15 But to me, the scale of this waiver is beyond  
16 anything we have ever done. And, normally -- it's  
17 like a convenience store on Route 9 that is three  
18 quarters of a acre and they need 30 spaces. This  
19 is a much different scale. I understand why Mr.  
20 Bette is asking for it, and I definitely commend  
21 him on the quality of the companies and the  
22 appearance of the buildings. My only concern is  
23 treating all applicants fairly when they come  
24 before the Board. And, also, moving forward,  
25 should another developer nearby decide to build --

1                   MR. NARDACCI: My information would be  
2 -- I have looked at this law for the last three  
3 years and there is a waiver mechanism in there.  
4 And if someone comes in with a reasonable  
5 application and makes a case that is legitimate,  
6 then I would be inclined to grant them a waiver as  
7 well. I think that's the way to review a waiver  
8 request, to say: How does this fit in terms of  
9 what is presented? And, for me, my opinion from  
10 reviewing this project and from reviewing other  
11 projects on the parcel and understanding the other  
12 developments around and hearing in this case that  
13 there are 30 percent unoccupied spaces, it's not  
14 unreasonable.

15                   MR. SULLIVAN: No offense to Mr. Bette,  
16 but the determination of parking requirements is  
17 done by the applicant for the applicant's project.  
18 I am all for it if it's a different type of land  
19 use. If it's a different company, perhaps rewrite  
20 the standards such that it's a different  
21 requirement. Perhaps it is.

22                   MR. NARDACCI: I couldn't agree more. I  
23 think that our Land Use Law -- that's the  
24 frustration. This isn't the first time we have  
25 come up against this. We have come up against

1 this parking thing on a number of occasions. And  
2 at some point, someone is going to stand up and  
3 say: You know what? I'm going to be the person  
4 rewriting the Land Use Law. And we need that  
5 leadership because I believe it is necessary. And  
6 it's unfortunate that this is the law that we have  
7 to deal with. And we try to make -- I try to make  
8 reasonable determinations that if there is a  
9 chance to -- if there is a waiver request, to look  
10 at it. But absent that change in the law we are  
11 going to continue to be faced with that. If this  
12 was a different use, a retail proposal --

13 MR. LANE: Mike makes a really good  
14 point, but Mr. Bette's point is that he is not  
15 competing with the particular office building that  
16 you were speaking of. So, therefore, I don't so  
17 much feel the awkwardness. If there was a direct  
18 competitor that came to us a few months ago, a  
19 direct competitor to this particular project, I  
20 could see that, and that would be extremely  
21 awkward.

22 MR. NARDACCI: And the use, you know.  
23 If it was mixed use, if it was retail. But I  
24 think this is a totally different circumstance.

25 MR. SULLIVAN: I had no problem with the

1 banked parking at AngioDynamics. You increase the  
2 green space. And if the use of the building  
3 changes in the future, then you have a provision  
4 for adding parking. But I'm not comfortable with  
5 -- basically, they are at minimum green space and  
6 a lot of impervious area. And I just have a  
7 problem with it. Again, I have taken up enough  
8 time and I think we understand each other.

9 MR. NARDACCI: It's an important  
10 dialogue to have. Has the applicant considered --  
11 you have, like Mike said, they are maximized at 30  
12 percent green space. Is there a thought about not  
13 having such large buildings, 100,000 square foot?  
14 What is the process behind it?

15 MR. K. BETTE: We need to create a mix  
16 of footprints in the park to accommodate different  
17 sized tenants. The building to the right there  
18 (indicating map) is a larger building that would  
19 accommodate a larger user. But we can certainly  
20 bank parking by throwing out a level on the deck.

21 MR. C. BETTE: It's about 3,500 each.

22 MR. SULLIVAN: I would prefer to see the  
23 banked parking. I imagine that would also have  
24 the added benefit of increased green space.

25 MR. NARDACCI: Okay. Any other thoughts

1 on the parking? Any questions? Paul?

2 MR. ROSANO: No.

3 MR. NARDACCI: Okay. Any other thoughts  
4 on the parking? Well, maybe if anyone has other  
5 thoughts we can come back to that. But the next  
6 portion before the board is: You are going to  
7 have to determine SEQR and you have to claim Lead  
8 Agency status.

9 MS. VAIDA: Are there any other waivers?  
10 Because I saw in some of the papers you are  
11 looking for setbacks.

12 MR. C. BETTE: There is a setback  
13 requirement for asphalt. We are asking the Board  
14 for a minor setback waiver for about ten spaces.  
15 The code requires 15. And we are 5, up to 15,  
16 over those ten spaces.

17 MR. LANE: Is that just because of the  
18 curve of the road?

19 MR. BETTE: Just the way the site lends  
20 itself, right.

21 MR. NARDACCI: Bring us up to speed on  
22 SEQR.

23 MR. LYNCH: Yes. Clearly, the Planning  
24 Board is the appropriate lead agency to make a  
25 SEQR declaration. And the most important thing

1 about doing a SEQR declaration here, a  
2 determination of significance, is to recognize  
3 that this office park falls squarely within an  
4 area identified for office park development in the  
5 1989 GEIS area. So 617.10 of the Regulations  
6 dealing with SEQR addresses: Well, what do you do  
7 with a project that was already contemplated in a  
8 generic Environmental Impact Statement as it is  
9 here to determine what is your next step. You  
10 could literally take the position that, well, this  
11 is an office park and the office park is within  
12 the GEIS and we don't have to do anything with  
13 SEQR. But in this particular case, a long form  
14 EAF was prepared and submitted to the Board  
15 because on its face it's a Type 1 action and you  
16 are required to have a long form EAF to consider.  
17 But the reality is that from our vantage point  
18 that because this park was contemplated in the  
19 GEIS, the question before you is: Is there a  
20 significant adverse environmental impact that  
21 wasn't previously identified and addressed in the  
22 GEIS that would necessitate the developer to now  
23 prepare either a supplemental GEIS or an EIS. We  
24 submit not. You know, if we came in with a  
25 project that was not contemplated by the GEIS,

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 then it would be a completely different ball game.  
2 But our EAF, the project is consistent with the  
3 plan and consistent with the GEIS. From our  
4 viewpoint none of the impacts arising out of this  
5 project are any different from the impacts  
6 associated with the GEIS study. So, we are  
7 proposing that because of that, that based upon  
8 the GEIS which encompassed this site and this type  
9 of use at this site together with the  
10 site-specific EAF, it is an appropriate action to  
11 issue a negative declaration under SEQR. The  
12 negative declaration under SEQR is simply that  
13 based upon the fact that all of these impacts have  
14 previously been identified in the GEIS and the  
15 site-specific EAF, there is really no significant  
16 adverse environmental impact different from what  
17 has already been identified that would necessitate  
18 a further EIS. And, because of that, we are  
19 coming to this Board to, one, designate yourself  
20 as Lead Agency under SEQR and, two, to issue a  
21 negative declaration of environmental significance  
22 based upon both the GEIS and the site-specific  
23 EAF. I would be happy to answer any questions.

24 MS. VAIDA: Yes. It might be helpful to  
25 just explain to the Board that after we declare

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 ourselves as lead agency and determine it's a Type  
2 1 action, which I believe everyone agrees it's  
3 type 1, to just explain to the Board what the  
4 factors are that they should consider and the  
5 documents you submitted for their consideration so  
6 they understand the process.

7           MR. LYNCH: In the proposed resolution  
8 and the notice of negative declaration listing the  
9 various factors to consider, frankly all of the  
10 factors otherwise identified in Part 2 of the EAF  
11 are laid out. So, what you are looking at here is  
12 a resolution that really comports with Part 2 of  
13 the EAF that we had previously submitted. The  
14 impacts themselves are not significant. One of  
15 the comments that Chuck had in his comment letter  
16 was that there was one part of Part 2 of the EAF  
17 indicating that because you are going to be having  
18 parking for more than one thousand cars with a  
19 construction period of more than one year, Part 2  
20 of the EAF listed it as a potential large impact.  
21 And, Chuck's comment was that, well, that may  
22 trigger doing Part 3 of the EAF. And I would  
23 agree with that if we were coming in here with a  
24 long form EAF on this project and starting from  
25 scratch. Whereas here, you have already had this

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 type of project contemplated by the GEIS. The  
2 proposed resolution accounts for the fact that it  
3 was included within the GEIS, and there is really  
4 no necessity to do any further EIS or additional  
5 Part 3 of the EAF. Part 3 is simply an  
6 explanation that the impact has been considered  
7 and it has been in the GEIS.

8           Now, the other aspect of the proposed  
9 resolution, Chuck pointed out some ministerial  
10 errors in the EAF that we accounted for in the  
11 proposed resolution. For example, the name of the  
12 project was Flower Hill Residential Subdivision.  
13 Clearly, that was probably a carryover and someone  
14 probably pulled the form off the computer when  
15 starting it.

16           There was another comment that there was  
17 one part of the EAF saying that was a 330,000  
18 square foot park, and it's really 390,000. It's  
19 just the difference between AngioDynamics as  
20 opposed to the new portion, the new portion being  
21 the 330,000. Just ministerial items like that,  
22 and we accounted for each one of them in the  
23 proposed resolution. At the end of the day the  
24 proposed resolution recognizes that this is  
25 exactly the type of project that was fully

1 addressed in the GEIS: It's an office park. And,  
2 in fact, the GEIS included an analysis of what we  
3 call Part 1 in the map of the EIS that had this  
4 corridor between our current site running between  
5 Century Hill. And, the contemplated office park  
6 development in the GEIS was 990,000 to one million  
7 square feet of office park, so we really do fall  
8 within the parameters of the GEIS. And, the  
9 resolution reflects that everything about this  
10 project is not significant insofar as an adverse  
11 environmental impact that has not been previously  
12 identified because it has. That's why we are  
13 suggesting that the appropriate resolution here is  
14 not to require the developer to go and do a new  
15 EIS for this project because it has already been  
16 done.

17 MS. VAIDA: I think I was hoping that  
18 you would go through the actual form. I guess the  
19 members have that and it has been reviewed.

20 MR. NARDACCI: One of the issues we have  
21 discussed internally is taking action on SEQR at  
22 concept or at final. And in 2009, we started  
23 taking action on SEQR at final. And, you know,  
24 action and final determination on how to handle  
25 this, I would suggest that we continue to not act

1 on SEQR until final, because that has been what  
2 this board has done over the last year and a half.  
3 So, tonight it's not on the agenda to take action  
4 on SEQR. And, it would be my inclination to wait  
5 and take action on SEQR at final.

6 MR. LYNCH: There are two schools of  
7 thought on that, because clearly the concept plan  
8 -- concept approval is not the final approval.  
9 And one could easily argue that, well, it's part  
10 of a planning process, it's part of a sketch plan  
11 approval and you don't need to do SEQR. There's  
12 another school of thought assuming a  
13 belt-and-suspenders approach, if you will; that  
14 concept approval the way it's written in the  
15 regulations is essentially charting a course  
16 toward final approval. And, if one were to take  
17 that view of concept approval, well, then the  
18 appropriate step would be to make a SEQR  
19 determination before the concept approval is  
20 granted. The reality is the difference between  
21 the concept plan and the ultimate plan. Final  
22 approval of the plan is really going to deal with  
23 the nuts and the bolts of the site details and the  
24 like. But, the overall project is going to be the  
25 same. So, consequently, it's our desire that you

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 make the SEQR determination at this time in  
2 advance of concept approval because you know that  
3 this is the project and this is what was  
4 contemplated by the GEIS. There is really nothing  
5 novel about it insofar as land use. So, we would  
6 ask that you consider, notwithstanding the past  
7 practices, that because of the language in the  
8 ordinance -- and I have discussed this with your  
9 counsel extensively -- that we would prefer that a  
10 negative declaration be issued at this time.

11 MR. NARDACCI: In the short time I have  
12 been on this Board, projects like this aren't the  
13 norm. We see finals fifteen years after concept.  
14 And we have come up against situations where the  
15 projects have changed dramatically and the impacts  
16 have changed. So, I think that the Board as a  
17 whole -- and I forget the exact date, but it made  
18 a determination that we really need to get SEQR in  
19 order here. And, perhaps past practices weren't  
20 the best in granting, and the determination was  
21 made to start granting SEQR at final.

22 Now, that said, there are discussions,  
23 the issue being researched as far as when does  
24 SEQR have to happen. But, absent a formal memo  
25 from our lawyer saying that you have to do it a

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 certain way, I just don't think we are prepared  
2 tonight to act on that.

3 MR. LYNCH: Mr. Chairman, if I can just  
4 address one point to you, a particular point. I  
5 just said: This is our concept plan and this is  
6 what the project is going to be at final. If you  
7 issue a negative declaration under SEQR for a  
8 project and in the course of the project design  
9 there is a substantive change in the project, you  
10 can vacate or cancel out that negative declaration  
11 and reopen the SEQR review. So, we are not asking  
12 for a negative declaration so that we can then go  
13 down the road and do whatever we want and change  
14 things because, obviously, we wouldn't be able to  
15 do that. We are just being very conservative in  
16 our approach because we recognize that SEQR  
17 requires a determination before the Board takes  
18 any action. And, granted, there is debate whether  
19 that action needs to be final action or whether or  
20 not it's a course of action leading to a final  
21 action. But, to put that issue to bed, the  
22 conservative approach would be to make a SEQR  
23 determination at this time. And I don't think  
24 that from what you know about this project and  
25 what you know the project is going to be at final,

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 that there is really going to be any substantive  
2 change. I would concur that if we didn't have a  
3 GEIS where this office park concept was fully  
4 vetted out, then it would be really hard-pressed  
5 to issue a negative declaration based on an EAF.  
6 I think that is self-evident. But when you have a  
7 GEIS and the purpose of the GEIS and SEQR is  
8 simply to provide the planning tool to enable you  
9 to evaluate the project impacts, I think that  
10 here, it is fundamentally clear that the issuance  
11 of a negative declaration is appropriate because  
12 this project is exactly what was contemplated in  
13 the GEIS that was done. So, obviously, I can't  
14 argue the point any further.

15 MR. NARDACCI: I appreciate the clarity.  
16 And sometimes the Board -- we have had discussions  
17 about it in the past, particularly with older  
18 projects that have come forward that have had  
19 changes and there has been confusion about whether  
20 SEQR should be readopted. And, I think it's  
21 something we are trying to establish and maintain  
22 the proper processes. That said, I ran through  
23 what I thought was our history. And I would like  
24 to know if other Board members have questions or  
25 comments on SEQR. I would like to ask around

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 whether there are questions or comments on SEQR.

2 MR. SULLIVAN: No. I have no questions.

3 MR. LANE: No. That's everything.

4 MR. NARDACCI: How about on the  
5 determination on concept? I think the Board just  
6 in general -- we are not prepared to adopt a  
7 negative declaration tonight.

8 MR. LANE: It's not on the agenda.

9 MS. VAIDA: It was discussed with Joe  
10 and I thought he did agree that we would be doing  
11 SEQR tonight. So --

12 JOE: We didn't have a resolution or  
13 anything else for it. I didn't have anything to  
14 change the agenda or anything. No conversations  
15 were had. I never had anything to put in the  
16 package or anything on it.

17 MR. NARDACCI: I think -- go ahead.

18 MR. K. BETTE: I don't think we really  
19 have a problem with that. We just don't want to  
20 get to the final and then have someone say that  
21 you should do a whole GEIS. I guess I would like  
22 to have the board's interpretation of Peter's  
23 statement; that the existing GEIS covered all the  
24 things we have been studying.

25 MR. NARDACCI: On that point, I do

1 agree. I think that's how -- it's similar to how  
2 Angio was approved. I think by trying to get the  
3 negative dec. tonight it throws a monkey wrench  
4 into the process.

5 MR. K. BETTE: I don't have a problem;  
6 that's how we have been doing things. Our  
7 attorney is trying to be correct and I appreciate  
8 that. But, we just don't want to get to the  
9 eleventh hour and all of a sudden we have to go  
10 back and study something. We want to know if  
11 we're okay with the way we are looking at it now  
12 with the existing GEIS.

13 MS. VAIDA: I think because it was this  
14 specific type of use and the size of the project  
15 was specifically contemplated and talked about in  
16 the older GEIS that you probably find the concept  
17 as long as you understand that by -- if everyone  
18 agrees on the concept, which we haven't even  
19 gotten to that yet -- that doesn't bind the board  
20 to grant final site plan approval. It's just that  
21 we would be telling you what we think about your  
22 project and the concept. We wouldn't be able to  
23 vote on any waivers. That would be taking an  
24 action. But we can certainly discuss them.

25 MR. LYNCH: As long as the

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 interpretations of the Board of your own ordinance  
2 -- and I take it, Mr. Chairman, is that concept  
3 approval is not charting a course for final  
4 approval and it's not granting final approval.  
5 So, it's not an action under SEQR that would  
6 trigger the necessity for a SEQR determination of  
7 significance. If that is the interpretation of  
8 the Board of its own ordinance, then we will abide  
9 by that. I do think -- and you certainly are  
10 indicating to me, at least my understanding of  
11 what you are saying, is that we are giving you  
12 concept approval; that is, if you vote for concept  
13 approval, but we can't take it to the bank. It's  
14 not a final approval and we are not telling you  
15 it's final approval. We still have to review  
16 SEQR. And SEQR determination would be made not at  
17 this time, but rather in advance of final  
18 approval.

19 MR. NARDACCI: That is my understanding  
20 and consistent with what we have done in the past.  
21 Projects can change between concept and final.  
22 You know, final is final. That's what I  
23 understand.

24 JOE: So, as to the waiver, we have done  
25 waivers at the concept level.

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1           MR. NARDACCI: I think we have to vote  
2 on the waiver tonight. That's my understanding.  
3 In order to proceed to final drawings and final --  
4 proceed to final, we have to understand the  
5 parking situation.

6           MR. LYNCH: The problem with that --  
7 and Elena just pointed that out. The problem with  
8 that is that if you take an action granting a  
9 waiver, you have actually taken an action. And,  
10 under SEQR you cannot take an action on a project  
11 until you have made your --

12           MR. LANE: But the GEIS has been done.

13           MR. LYNCH: That's true. And that  
14 nuance is --

15           MR. NARDACCI: We can wait and do the  
16 parking waiver at final. That's fine, if that's  
17 your interpretation. I am going to have to get  
18 some more specific information from our own  
19 attorneys. We have been basically -- now you are  
20 saying we have been granting certain waivers and  
21 things in error. If you are saying that, this is  
22 new information to me. So, that said, tonight we  
23 won't take up -- if we have to do them both, we  
24 will wait and do them both at final.

25           MR. LYNCH: We would like you to vote on

1 the concept tonight based on your interpretation  
2 that it's nonbinding on you, but on the waivers.

3 MS. VAIDA: Our town attorney is here.

4 MR. MAGGUILLI: By granting conceptual  
5 approval we are not actually granting the waiver  
6 itself. But what you are doing is part of the  
7 concept approval -- or acceptance; we shouldn't  
8 really be calling it approval -- that included in  
9 that is the concept of parking places. And I  
10 agree with Peter about the GEIS. That does apply.  
11 But I don't think that you are actually granting  
12 the waiver. What you are doing is, you are  
13 presenting a concept which includes that necessary  
14 waivers will be granted at final. So, you can  
15 take that action. Because otherwise, how can you  
16 go forward without knowing whether the waivers  
17 will be granted or not?

18 MS. VAIDA: We are not granting them.

19 The concept doesn't --

20 MR. MAGGUILLI: I disagree with what  
21 Peter said about this is "charting a course,"  
22 because accepting a final -- concept application  
23 isn't charting a course. And there is certainly  
24 no necessity to make any kind of SEQOR finding at  
25 that point. No offense, Peter.

1 MR. LYNCH: No offense taken.

2 MR. NARDACCI: We want to do the right  
3 thing and we want to do it right. And, I think we  
4 have got a pretty good sense as far as the board  
5 is concerned. Is there discussion with reference  
6 to the parking itself? And the item on tonight's  
7 agenda is: Review an action on parking waiver and  
8 concept acceptance. So, the waiver itself, that  
9 will be voted on as final and tonight is concept  
10 acceptance.

11 Let's just go through the board and ask  
12 general questions or specific questions as far as  
13 other aspects of the project. Paul, do you have  
14 anything you want to ask?

15 MR. ROSANO: No.

16 MR. MION: No.

17 MR. NARDACCI: Mike, do you have any  
18 other issues?

19 MR. SULLIVAN: No. The first question I  
20 had was originally the project was listed as  
21 425,000 square feet including AngioDynamics. Now,  
22 it's down to 390,000. Now, can you explain where  
23 the reduction was? Was AngioDynamics constructed  
24 smaller than originally planned, or how did that  
25 come to be?

1           MR. C. BETTE: When we presented the  
2 425,000, that was actually in our sketch plan. We  
3 laid out everything to see how it fit. And, when  
4 actually laying it out, it was downsized to  
5 390,000.

6           MR. SULLIVAN: The last question I had  
7 is on the trip generation information on the  
8 project narrative on page three. It is listing  
9 1,680 employees in the office park, and you are  
10 providing 1,195 parking spaces. Do the town  
11 standards require 1,493, yet the peak hour traffic  
12 is only 516 vehicle trips? That seems very low to  
13 me based on the number of employees and based on  
14 the fact that it's an office park. I am wondering  
15 how that number that was figured.

16           MR. BETTE: Well, as I said earlier, the  
17 employee count is a building code calculation.  
18 That is very conservative. But we use that as a  
19 standard because we have no other standard to  
20 follow, so the 1,600 is excessive. We don't see  
21 that type of employment anyplace. The peak hour  
22 trips are a formula. ITE has a formula for number  
23 of square footage of building generates so-many  
24 trips. We just followed that formula.

25           MR. SULLIVAN: That came from the ITE?

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1           MR. BETTE: Based on use and size of the  
2 uses, you will find the formula in the ITE manual.

3           MR. SULLIVAN: It seemed very low. I  
4 should ask the TDE to confirm that number, please.

5           The other information I would like to  
6 see is trip generation confirmed and also trip  
7 distribution. Are you planning on using Century  
8 Hill Drive as well as Autopark Drive? Will  
9 traffic be going across Plaza Drive to access the  
10 light at Century Hill?

11          MR. BETTE: Sure. I would expect  
12 traffic today from the business park going north  
13 will traditionally go to the Century Hill Drive  
14 intersection. People going southbound on Route 9  
15 will probably be going right on Autopark.

16          MR. SULLIVAN: I would like to see some  
17 distribution on that. Thank you. That's all I  
18 have.

19          MR. NARDACCI: As part of one of the  
20 comments from the TDE and staff with regard to the  
21 adherence to the plan and landscaping in the  
22 parking lot, in this parking lot area is there any  
23 green in the islands or anything like that? I  
24 mean I see green on the map.

25          MR. K. BETTE: That represents the

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 islands, correct. You have driven through our  
2 park and you see the level of detail we applied to  
3 the landscaping. We focus on the building facade.  
4 We have quite a good sized green buffer along the  
5 road which will take advantage of street trees.  
6 Our islands are typically planted with trees and  
7 low shrubs, and we do pay attention to that. And  
8 we are going to start paying more attention to the  
9 different mechanisms for watering, and we are  
10 going to be using and capturing rainwater for the  
11 irrigation of the land, being consistent with Lead  
12 requirements, much like we did for the  
13 AngioDynamics building.

14 MR. NARDACCI: I don't have any  
15 questions. Does anyone else have any? Paul?

16 MR. ROSANO: One last thing. I wouldn't  
17 be on the Planning Board if I didn't ask you this  
18 question. Access will be provided to/from each  
19 building. Am I correct on that?

20 MR. BETTE: Ha, ha. Yes, you are. That  
21 is a Lead point as well.

22 MR. ROSANO: Thank you. Now I can go  
23 home.

24 MR. BETTE: The answer is yes, indeed.

25 MR. NARDACCI: At this point I am going

1 to open it up to the public to see if anyone has a  
2 question or a comment. Is there anyone from the  
3 public that would like to make a comment or ask a  
4 question?

5 MR. PARENTE: My name is Clemente  
6 Parente. I think you have seen me before speaking  
7 about other issues in this area of the town. And  
8 I represent the adjoining landowner, Walfred  
9 Associates. My point is really a generic point  
10 which has been somewhat addressed already, and I  
11 will try to be very brief. We are not opposed to  
12 our neighbor developing his site in accordance  
13 with town zoning regulations and Town Planning  
14 Board rules and regulations. We are not opposed  
15 to that at all. What we would like to see happen  
16 is some consistency and uniformity in application  
17 of your rules and how you go about your process.  
18 This is a very big development. This is a very  
19 big project, regardless of what was intended in  
20 the generic EIS. I don't know if this is exactly  
21 the scope that was contemplated years ago when  
22 that was done. So, I would urge you, as did your  
23 fellow board member here, to be consistent with  
24 how you apply the Planning Board regulations, how  
25 it has been applied to my client just across the

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 road here with respect to waivers, and be  
2 consistent in applying it to this project, too.  
3 Having said that, we have no quarrel with a  
4 developer being within his rights to develop his  
5 property so long as everyone has a fair playing  
6 field and there is consistency in application  
7 here. In that regard, I was somewhat stunned to  
8 see that in a project with nearly 400,000 square  
9 feet and is going to generate, beyond a doubt,  
10 massive amounts of morning peak traffic, afternoon  
11 peak traffic, that there isn't anyone here in the  
12 public to come and make any comments. There is  
13 very little being done to discuss what the traffic  
14 impact will be here. There has been no discussion  
15 whatsoever about the storm water impact. And I  
16 think these are issues that you would want to  
17 address. And I'm sure that there are issues  
18 generically addressed in the Generic EIS. But,  
19 now, we are getting down to details and I would  
20 suggest that you spend some time on that. Having  
21 said that, those are my final comments. Thank  
22 you.

23 MR. NARDACCI: Thank you. Is there  
24 anyone else who would like to make a comment or  
25 ask a question?

Alliance Reporting Service, LLC  
P.O. Box 12459  
Albany, NY 12212-2459  
(518) 861-3600

1 (No response by the attendees)

2 MR. NARDACCI: Okay. Being none, at  
3 this point I would like to entertain a motion to  
4 accept concept acceptance on this project. I  
5 would say that since I have been on the board we  
6 have always taken a vote on concept acceptance,  
7 and that is something I intend to do until it is  
8 determined otherwise.

9 Is there a motion on the concept of this  
10 project?

11 MR. ROSANO: I will make a motion.

12 MR. NARDACCI: Is there a second?

13 MR. LANE: Second.

14 MR. NARDACCI: All those in favor say  
15 aye.

16 (Vote taken)

17 MR. NARDACCI: Opposed?

18 MR. SULLIVAN: Nay.

19 MR. NARDACCI: So, the concept is  
20 accepted. And we will see you in the next round.

21 (The proceedings were adjourned at  
22 approximately 10:05 p.m.)

23 ~~~~~

24

25

1 STATE OF NEW YORK )  
 ) SS:  
2 COUNTY OF ALBANY )

3

4 I, BETH S. GOLDMAN, Certified  
5 Shorthand Reporter, Registered Professional  
6 Reporter and Notary Public in and for the  
7 County of Albany and the State of New York,  
8 hereby certify that the proceedings recorded  
9 hereinabove were recorded stenographically  
10 by me and reduced to computer-generated  
11 transcription.

8

9 I FURTHER CERTIFY that the foregoing  
10 transcript of said proceedings is a true and  
11 correct transcript stenographically recorded at  
12 the time and place specified hereinbefore.

11

12 I FURTHER CERTIFY that I am not a  
13 relative or employee, attorney or counsel  
14 of any of the parties, nor a relative or  
15 employee of such attorney or counsel, or  
16 financially interested either directly or  
17 indirectly in this action.

15

16 IN WITNESS WHEREOF, I have  
17 hereunto set my hand.

17

18

19

20 BETH S. GOLDMAN  
21 Certified Shorthand Reporter  
22 Registered Professional Reporter  
23 Notary Public

22

23

24

25