

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3

4 *****
5 THE PROPOSED PLANNED DEVELOPMENT DISTRICT KNOWN AS
6 HOFFMAN SENIOR COMPLEX, 1 ALICE AVENUE
7 REVIEW AND ACTION ON CONCEPT SUBMISSION AND
8 RECOMMENDATION TO TOWN BOARD ON PDD REZONING
9 *****

7

8 THE TAPED AND TRANSCRIBED MINUTES of the above
9 entitled proceeding BY NANCY STRANG-VANDEBOGART
10 commencing on December 14, 2010 at 7:18 p.m. at the
11 Public Operations Center 347 Old Niskayuna Road,
12 Latham, New York 12110

10

11 BOARD MEMBERS:

- 12 CHARLES J. O'ROURKE, CHAIRMAN
- 13 LOUIS MION
- 14 MICHAEL SULLIVAN
- 15 THOMAS NARDACCI
- 16 PETER GANNON
- 17 TIMOTHY LANE
- 18 PAUL ROSANO
- 19 ELENA VAIDA, Esq., Attorney for the Planning Board

17 Also present:

18 Joseph LaCivita, Director, Planning and Economic
19 Development

20 Daniel Hershberg, PE, Hershberg & Hershberg

21 Joe Grasso, PE, Clough Harbour & Associates

22 Missy Wein

23 Kathy Billfield

24

25

1 CHAIRMAN O'ROURKE: Next on the agenda
2 this evening we have the Hoffman Senior
3 Complex PDD, 1 Alice Avenue.

4 Mr. Hershberg will be presenting a
5 planned development district consisting of
6 170 senior rental apartment units, and a
7 90 unit assisted living facility along with
8 some other accessory uses. They are looking
9 for review and action on the concept
10 submission to be recommended to the Town Board
11 for PDDs only.

12 Mr. Hershberg?

13 MR. HERSHBERG: Thank you, Mr. Chairman.

14 MR. GRASSO: It's also up for the SEQRA
15 determination.

16 MR. HERSHBERG: My name is Daniel
17 Hershberg from the firm of Hershberg and
18 Hershberg. I'm here tonight representing 1
19 Alice Avenue LLC.

20 We were here on September 24th and we did
21 a PowerPoint presentation where we went over a
22 number of changes that had been made. Since
23 that time, we have met with the TDE. We have
24 reviewed a number of issues. We tried to
25 provide additional documentation requested.

1 If you may, I would just like to go over
2 some of the changes that were made since the
3 last plan and then I can fill in any other
4 questions that the Board may have.

5 First of all, this is Route 2 and this is
6 the existing Eastview Drive which is an
7 apartment project which is southeast of this
8 proposed project site (Indicating). This is a
9 National Grid high tension right of way.

10 The applicant proposes to construct a new
11 driveway going up the hill and crossing
12 National Grid right of way and construct a
13 roadway with some parking on it. The plan is
14 also to construct 170 units of senior housing,
15 199 parking spots including 16 handicapped in
16 the subterranean parking garage and 62 parking
17 spaces on the surface.

18 They also propose to construct a
19 three-story assisted living 90-bed building at
20 this point here which will have 44 total
21 garage parking and six service parking
22 (Indicating).

23 There were some changes that were made
24 since we were last here. There was a problem
25 regarding the proximity to the adjoining

1 apartment project. We talked about building a
2 60-foot high retaining wall at this location
3 here which was 25 feet off the property line
4 (Indicating). To mitigate that issue we have
5 moved it so that retaining wall is now 60 feet
6 off of the property line, it's about 11 feet
7 tall and consequently the view from this
8 apartment will be significantly less impacted.

9 Another change was made. We originally
10 had 170 parking spaces below the building. We
11 increased it to 199 and by doing that, that
12 allowed us to eliminate a line of parking that
13 was on this side of this road which made it
14 closer to the steeper part of the slope. That
15 reduced the amount of grade change; so much so
16 that the wall on the far side of this facility
17 has gone through the site at this point here
18 (Indicating). The wall on the other side is a
19 mere five feet tall rather than seven and a
20 half or eight feet tall on our original plan.

21 Some of the other changes that we made
22 had to do with a general grade of the site. We
23 have reduced the average grade of this area
24 which addressed the concerns raised by the
25 geotechnical engineer in the latest report.

1 The last review letter of November 22nd
2 indicates that this plan and the sections of
3 walls that we have provided -- I'll just show
4 you those for a moment here.

5 This is a Gabion wall coming in through
6 the entrance road. At its tallest point, it's
7 24 feet tall. It's a very significant Gabion
8 wall. The geotechnical engineer said that we
9 should design a method of being certain that
10 it was stable. We propose to use a cement
11 reinforced soil area and that's one method
12 that the geotechnical engineer said would
13 work. Obviously, we have to do some additional
14 work before we go through final design. Our
15 goal here was to show that we did have
16 solutions for these issues that met the
17 generally accepted engineering practices.

18 MR. LANE: When you say you reduced the
19 grade -

20 MR. HERSHBERG: The grade at this point
21 was actually reduced another couple of feet so
22 that we could reduce the height of the fill
23 based on this lower side. The retaining wall
24 that ran all the way around the site and
25 stopped about here and that wall was about as

1 high was 11 or 12 feet at some point is now
2 close to the five feet (Indicating). We were
3 able to reduce this grade here.

4 The garages are the key element in regard
5 to this area here. The building floor
6 elevation was about an elevation 200 which
7 makes the garage elevation at 190, which is
8 about 10 feet lower. Consequently, by not
9 having an entrance along here, we do have an
10 entrance at this end, and at this end, and an
11 entrance off of this point here (Indicating).
12 We did submit a parking layout plan which
13 should be part of the package that you have.
14 That shows how this area beneath here and
15 including an extension that runs underneath
16 this court yard area can only be used for
17 parking and it's all accessible (Indicating).
18 We do have 16 handicapped spots clustered
19 around two elevator lobbies. You do have the
20 elevator lobbies in this plan here so that
21 people going into the garage go into one of
22 the elevators and find themselves up to their
23 floor.

24 We also provided a parking demand study
25 which outlines a couple of different things.

1 It took a look at the Town of Colonie's Code.
2 That Code talks about two per parking unit,
3 which would theoretically park 340 parking
4 spaces. We thought that was excessive for the
5 senior use. We proposed to provide one and a
6 half. The study showed that essentially the
7 ITE figures said that even that would exceed
8 that level. Also, compared to some other
9 municipal codes said essentially that those
10 are some places between 1.75 and 1.3 parking
11 spaces per senior independent living unit. So,
12 I think that demonstrates that providing one
13 and one half parking spots for this facility
14 here is adequate. The Code requirement for the
15 facility here would require 37 parking spaces,
16 and we're providing approximately 50. So,
17 we've exceeded the Code requirement because
18 there is a definition of assisted living
19 that's very closely followed by the Land Use
20 Code.

21 Another issue had to do with the public
22 benefits that we're offering in regard to this
23 project. I made up a benefit analysis which is
24 a part of your package. As expected, the
25 principal public benefit actually turned out

1 to be established in the previous studies done
2 for the Town that led to the Land Use Law. We
3 think that this meets the need. The goal here
4 is to provide 170 units of housing for the
5 elderly which are people that are mobile and
6 only need limited assistance. They want the
7 accessibility to periodic visits from health
8 professionals, which we provided here. They'd
9 like to have a fitness club with either water
10 sports or a lap pool, which this will provide.

11 This may provide for common dining
12 facilities in case people don't want to eat
13 every meal in their apartment and prefer to
14 eat in a common facility. Some people don't
15 want to come down and have three meals in a
16 common facility. Although they probably could,
17 they may prefer to have dinner in their
18 apartment or have guests over a couple of
19 times a week. There will be programs here that
20 would be attractive for people to come down
21 and have dinner. There could be special menus
22 that could be offered like pizza and soda.

23 The situation here is that we think that
24 this meets a need. The primary issue that we
25 felt was in the analysis was that both of

1 these facilities - both the elderly housing
2 and the assisted living meet an established
3 need.

4 The third item talks about making a
5 significant contribution to the mitigation
6 costs. I say significant mitigation costs
7 because as we reviewed the mitigation fees,
8 there seemed to be a couple that we might be
9 entitled to a credit for. We're not insisting
10 upon it. We would make a request to the Water
11 Department - the Latham Water District.

12 The Latham Water District has a pressure
13 reducing valve here that is an old style
14 pressure reducing valve. We would request that
15 we replace it. Is it necessary for our
16 project? No, it's a general system improvement
17 that the Latham Water District wanted us to
18 do. There is a section of water main in here
19 that they wanted us to consider replacing.
20 Rather than putting something through this
21 wetland again, we would propose to run a new
22 waterline up Alice Avenue, down Alice Avenue
23 and around near our entrance building and join
24 it here (Indicating). That requires
25 construction of the water main and a new

1 pressure reducing valve, which is estimated at
2 \$72,500. Our goal here would be to request it
3 as a credit against the substantial Latham
4 Water District payment that would be due as a
5 mitigation cost. Is that necessary? No, but we
6 think that it's something that in the past
7 we've been able to discuss with departments to
8 have it.

9 Another benefit would be that we would
10 provide a public trail here that would be
11 designated through these parking spaces for
12 public use so that people can come and take
13 advantage of the view here (Indicating). It's
14 actually somewhat spectacular with the dry
15 river and then across the Hudson Valley and
16 over the mountains of Vermont. On a good day,
17 you can see all of that.

18 For people who have walked the site, it's
19 fairly wooded and you can't get a good feel
20 for the view. If you walk right up to the edge
21 of the slope, you'll see what I mean looking
22 down that slope. You have a very impressive
23 view towards the east. We think that's a
24 benefit, too.

25 There is not a lot of cost involved in

1 that. We will spend something in excess of
2 \$8,000. It's another potential credit against
3 the over \$1,300,000 for the mitigation costs,
4 if in fact, it would be granted. Again, these
5 are not necessary, but I was asked to make it
6 as reasonable as I could regarding what we
7 think we would be required to do under the
8 mitigation costs. I think that our figures
9 agree exactly with what our figures came out
10 with regard to the total. We said essentially
11 that these departments could agree to give us
12 a credit of \$80,000 as a credit amount against
13 it. It's not such a big amount as it's six
14 percent against the total amount. I'm not
15 making an argument here. It will be made at a
16 later date. It's not necessary for us to get
17 to those figures.

18 Real property tax is another benefit.
19 This will be a taxable entity. This will not
20 be sold to a not for profit. It will run as a
21 taxable entity. I made an estimate of the
22 taxes based upon the yearly 2009/2010 Colonie
23 taxes, school district taxes, and 2010 local
24 and county taxes. All of those taxes come to
25 about \$326,000 of which \$31,000 is an increase

1 for the Town of Colonie, real property tax
2 based upon 2010 rates. It's not an
3 insignificant public benefit.

4 I might just point out that in addition
5 to these changes that I point out here, we
6 also took a look at the entrances to the site
7 for emergency vehicles. I had some slides in
8 my last presentation to show you all the
9 intersections and how a vehicle could navigate
10 them. We submitted that to the fire and police
11 people and they concur that there would be no
12 problem for emergency access.

13 Let me point out that this is strictly an
14 emergency access. An emergency access will
15 only be used if there is a need to get an
16 emergency vehicle in here and for some reason
17 the main access is blocked. Just for instance
18 if there is a water main eruption, or there is
19 a block in the roadway, or there is a huge car
20 accident here and it's spread out over a large
21 area and people had to get in this direction.
22 Most of these emergency access roads are built
23 and very rarely used, if at all. They have to
24 be maintained, so we propose to maintain this
25 roadway and put a turn around here that a

1 vehicle could turn around. We propose to put a
2 gate in and a Knox Box. A Knox Box is a device
3 that allows emergency people to access that at
4 any time. Again, this is what we propose to
5 improve Alice Avenue. We originally proposed
6 to improve Alice Avenue all the way down and
7 that would be a significant requirement of
8 additional plowing and everything in front of
9 this house here (Indicating). So, we stopped
10 it at a point up here which means essentially
11 that they are able to have a free turn around
12 for a plow, or they could proceed on down and
13 turn around. Right now it's plowed over the
14 end of the street line to the end of property,
15 as a normal defense of getting rid of the
16 snow. Either way, it works.

17 We read over the letter by the TDE. We
18 concur with those statements in there. We know
19 for a fact that there is always concern about
20 mitigation fees. I think that these are real.
21 They are based upon a mitigation table and the
22 way that it exists today. They are primarily
23 based on units of housing, or area of the
24 site; neither would change at this point.

25 The other transmittal that we have is a

1 letter from Norbert Quenzer of Bagdon
2 Environmental - that he walked the wetlands
3 with Andrew Dangler from the Army Corp of
4 Engineers and there were no changes made. We
5 made a submission for a jurisdictional letter.
6 As you're well aware, the Army Corp of
7 Engineers is a little slow granting those, but
8 we don't think that it would change at all.
9 Thus we can construct this entire site while
10 disturbing less than one-tenth of an acre with
11 the wetland. That was the goal in here. We do
12 have some federal wetlands. We do have about
13 .086 acres. Again, we did make every effort to
14 leave the wetlands in place. What does that do
15 for us? It means essentially that these are
16 wooded wetlands, which means from the back of
17 the Eastern Avenue homes we have a very large
18 distance before we come to any area of
19 development (Indicating). We're leaving these
20 woods and wetlands totally undisturbed. The
21 first disturbance will be this access road and
22 the first building will be either this edge of
23 the independent living facility, or this edge
24 on the assisted living.

25 We have prepared a few view scapes that

1 we've shown before. We have shown how they fit
2 into the model. Here is a home on Eastern
3 Avenue. Here are the trees in place here
4 (Indicating). Essentially, here is the
5 assisted living which is quite a ways down
6 here. The first grading of the road is here.
7 These are the towers of the National Grid
8 right of way, and those are drawn
9 approximately to scale.

10 This is a section drawn through this end
11 of this site here. It shows essentially the
12 roadway at this point is depressed so even
13 cars driving by here would not be visible from
14 Eastern Avenue. The major thing that they
15 would see would be these towers and the
16 National Grid right of way. Over that is the
17 parking area and here is the independent
18 living. As these views are looked at, this
19 building will be screened by leaving natural
20 vegetation in place and a natural conservation
21 area.

22 We did provide another element. I think
23 that I said before I thought that it was
24 premature to prepare the full SWPPP based upon
25 comments received from the City of Watervliet.

1 They have major concerns about the drainage
2 that will be tributary to the dry river. We
3 prepared this preliminary SWPPP document. I
4 didn't make enough copies for everyone on the
5 Board. I did quote most of the findings in
6 there. We do have adequate space detailed in
7 these SWPPP basins to store and retain
8 everything up to a 100-year storm. Actually,
9 it exceeds that because the discharge on this
10 site today looks like we're at 39 cubic feet
11 per second during a 100 year storm before
12 development. Basically the build out will
13 knock it down to 16 cubic feet per second. We
14 can review that defining excess storage and
15 reducing the size of the outflow. This will go
16 all the way down this slope and discharge into
17 the dry river. There was concern there about
18 the stability of the slopes. We don't have any
19 discharge to the top of them and we don't
20 intend to do that. So, we'll have two
21 discharges that will run to the dry river from
22 the detention basins.

23 This other basin will discharge into the
24 existing federal wetland and this one here
25 (Indicating) will discharge into the New York

1 State System. That's the only approval that
2 New York State DOT will have to give is a
3 permit to allow us to drain into this system.
4 There is no highway permit required and we do
5 not intend to change the curb cut. I included
6 in the documents the letter from Region 1
7 telling us essentially that they don't have
8 any approval rights here. All they want to
9 take a look at is any drainage that goes down
10 into the roadway.

11 We think that this plan has come a long
12 way since we first brought it to this Board.
13 We made a number of changes regarding issues
14 that we heard from this Board. We changed the
15 grade of this here and you might note that all
16 the fill under this building is now removed.
17 That fill that sits in this area here was
18 placed a number of years ago. Even though it's
19 fairly well consolidated, we decided to remove
20 it all so that we do not have to contend with
21 any adverse foundation conditions for our
22 buildings.

23 I think that completes my presentation
24 and I'm prepared to answer any questions that
25 the Board may have.

1 CHAIRMAN O'ROURKE: The SWPPP regulations
2 will be next year's new SWPPP?

3 MR. HERSHBERG: Actually I've already
4 complied with 010-01 and even though the New
5 York State Storm Water Design Manual was
6 approved in August and it doesn't take effect
7 until February, I designed this based upon the
8 New York State Storm Water Design. It includes
9 the five step process which is a key element
10 of the new SWPPP requirement.

11 CHAIRMAN O'ROURKE: Joe?

12 MR. GRASSO: Our office did the review of
13 the project. We issued a sketch plan review
14 and SEQRA information letter dated
15 December 1st.

16 Some of the things that we've reviewed
17 most recently - the revised site plan, the
18 full EAF narrative description, the site
19 analysis plan, the geotechnical review letter,
20 the floor plan, the parking lot, the
21 subterranean parking under the independent
22 housing building, some of correspondence to
23 and from the Army Corps of Engineers, the
24 public benefit analysis that Dan spoke about,
25 the preliminary retaining wall design, and the

1 preliminary SWPP that Dan most recently talked
2 about.

3 I'm not going to go through a description
4 of the project. Dan covered that.

5 Number 2 on our letter, according to the
6 Colonie Land Use Law - I'm paraphrasing
7 regarding PDD's. The next step in the process
8 is for the Planning Board to complete the
9 SEQRA review and develop written findings and
10 document the facts and information relied upon
11 to reach its conclusions and rendering a
12 decision. The Town Board may then consider the
13 Planning Board's recommendations and the legal
14 establishment of a PDD through a zoning
15 district map amendment. After the PDD, if it's
16 established by the Town Board, the project
17 would come back before the Planning Board for
18 review of the final site plan.

19 I'll read through the required findings
20 of the Planning Board that's taken from the
21 PDD regulations.

22 "One: That the PDD is consistent with the
23 purpose and intent of the PDD regulations,
24 including the design standards.

25 Two: That the PDD is compatible with

1 surrounding neighborhood context and character
2 and is in conformance with the Comp Plan.

3 Three: That the requirements of SEQRA
4 have been fulfilled and the mitigated and
5 adverse impacts have been mitigated to the
6 maximum extent practicable.

7 Four: That the PDD is going to add to the
8 long term assets of the community.

9 Five: That the open space and rec areas
10 and facilities provided are commensurate with
11 the level of development proposed.

12 Six: That the provisions to protect open
13 space resources are sufficiently secured.

14 Seven: That the proposal is conceptually
15 sound and that it meets local and area wide
16 needs and conforms to acceptable design
17 principals in the proposed functional roadway
18 and pedestrian system, land use configuration,
19 open space system, drainage system and scale
20 of elements, both absolutely and to one
21 another.

22 Eight: That there are adequate
23 facilities, services and utilities available
24 or proposed to be made available to support
25 the use.

1 Nine: That the traffic will not have an
2 adverse effect on the adjoining transportation
3 system.

4 Regarding SEQRA, the proposed project is
5 going to result in the level of uses for over
6 25 acres in a zoning district and therefore,
7 it's a Type 1 action pursuant to SEQRA, and as
8 such a coordinated review is required which
9 has been initiated by the Planning Department.

10 It's our understanding that the Planning
11 Department already distributed copies of the
12 project documents to the other involved
13 agencies and there have been no objections to
14 the Town of Colonie Planning Board accepting
15 lead agency status.

16 Based upon this review and the proposed
17 mitigation measures, it appears that the
18 project will have no adverse effects on the
19 environment. Therefore, we recommend that the
20 Planning Board accept lead agency designation
21 and considering so that a negative declaration
22 pursuant to SEQRA be issued. We have completed
23 Part II and Part III of the environmental
24 assessment form, which is attached to the
25 letter and prepared a draft negative

1 declaration for the Planning Board's
2 consideration.

3 The project is subject to mitigation of
4 cumulative impacts in accordance with the
5 Boght Road/Columbia Street area GEIS statement
6 of findings. There should be a contribution of
7 a proportionate share of payments to mitigate
8 impacts on schools, water, recreation, and
9 park protection. The total mitigation cost for
10 the 216 dwelling units is 1.35 million
11 dollars. The applicant's consultant has
12 requested a water credit of \$72,500 for
13 replacement of the water main and a park
14 credit of \$8,330 for construction of some park
15 improvements. If the Planning Board accepts
16 the proposed credits, the total net mitigation
17 cost would be approximately 1.27 million
18 dollars. We concur with those.

19 The proposed project will cause a change
20 in the density of land use. According to the
21 full EAF the maximum potential development of
22 the site that's permitted by the present
23 zoning, there are 60 residential units. The
24 proposed project consists of a total of 260
25 senior housing dwelling units. The applicant

1 justifies the proposed increase in the level
2 of density by the following public benefits.”

3 I’m not going to go into them, as Dan has
4 talked about them.

5 There are a few more comments that are a
6 little more technical in nature.

7 “The following comments should also be
8 addressed in future plan submissions.

9 The City of Watervliet site concerns over
10 storm water discharges from the project to the
11 dry river due to the history of flooding in a
12 letter from the General Manger of the City of
13 Watervliet, addressed to Mike Lyons, Senior
14 Planner of the Town. The City has requested to
15 review the storm water analysis report plans
16 and details. At that request and our request
17 as well, the applicant submitted a preliminary
18 SWPPP and storm water management showing that
19 they have complied with the state storm water
20 regulation requirements regarding storm water
21 discharge. We recommend that the applicant
22 work closely with the Town of Colonie’s storm
23 water management officer, our office, and the
24 City of Watervliet during the site plan and
25 going forward.

1 The CDTA recommends bicycle and
2 pedestrian accommodations including
3 installation of sidewalks, crosswalks, and
4 bicycle storage areas.

5 That was addressed to Mike Lyons, Senior
6 Planner at the Town, and should be considered
7 as the plans are advanced. An egress and
8 ingress easement will be required for the use
9 of the proposed shared access drive with the
10 Highland Club Apartments via New York State
11 Route 2.

12 And finally, review and approval from
13 National Grid will be required for those
14 proposed improvements over the right of way.”

15 Attached to our review letter is the full
16 environmental assessment form. I would just
17 like to clarify that Part I of the form was
18 prepared by Dan Hershberg for the applicant.
19 We have reviewed that and recommended some
20 modifications so that it would more accurately
21 reflect the project which Dan has done. We now
22 support Part I of the full EAF as prepared for
23 consideration by the Planning Board. We
24 completed Part II, which basically goes
25 through a list of potential environmental

1 impacts and tries to identify potential
2 impacts that may occur as a result of the
3 project and the site's environmental siting.
4 Anything in that column two where there is a
5 potential large impact of the project gets
6 explained in further detail in Part III of the
7 full EAF which we also prepared. If you flip
8 to Part 3, you'll see that we identified what
9 the potential impact is, and what the resource
10 is. Then we describe the mitigation measures
11 that are currently included in the project
12 that we believe will adequately address those
13 impacts so that we no longer deem them to be
14 significant. That's what we currently have
15 before the Planning Board for consideration.
16 Those are the few things.

17 There is a recommendation of the PDD to
18 the Town Board and a SEQRA determination. The
19 first formal action on the project is a PDD
20 approval by the Town Board. SEQRA needs to be
21 done before that. We assume that the Town
22 Board is wishing that the Planning Board
23 accept lead agency status. They haven't
24 indicated otherwise. The 30 days is up and
25 therefore it's up to the Planning Board to

1 accept lead agency status, and if they feel
2 ready, make a SEQRA determination.

3 CHAIRMAN O'ROURKE: Joe, the update on
4 the GEIS in the Boght will lower the figure by
5 how much?

6 MR. GRASSO: We don't know exactly how
7 much it would go down, but the only thing that
8 could go down would be the traffic fee. The
9 transportation fee for this project that's
10 currently assessed is \$328,000. So, it's about
11 20 or 25 percent of the total mitigation fee.
12 That \$328,000 I could see being cut in half.
13 If the Town does move to a different
14 mitigation fee calculation, we still feel that
15 it's an equitable way to assess mitigation
16 fees for this type of project.

17 CHAIRMAN O'ROURKE: And if this were to
18 go forward, Mr. Hershberg, would your client
19 be okay on the backside of that, depending on
20 when the GEIS were to be done?

21 MR. HERSHBERG: Would we have the current
22 rates?

23 CHAIRMAN O'ROURKE: No. What I'm saying
24 is that if the rates were to change after you
25 have paid the first third on the

1 backside - like we did with Canterbury -

2 MR. HERSHBERG: We have no complaints. We
3 concur with Joe's assessment. The only one
4 that would significantly be changed would be
5 the traffic one. We have paid one-third of it
6 and we're probably only talking about
7 10 percent of the total mitigation fee that
8 would be subject to alteration after that.

9 CHAIRMAN O'ROURKE: I just want to add
10 one other thing in regard to some of the
11 reasoning that you're looking for us to grant
12 a PDD status. You can't say that we're going
13 to allow the public benefit and then ask the
14 taxpayers to pay for your fence. I think that
15 the other end is something that the Town,
16 going forward, would work with you on. Tell
17 your client, though, that \$8,000 on the
18 fence - he's going to have to eat that.

19 MR. HERSHBERG: \$8,330 - we can certainly
20 afford.

21 CHAIRMAN O'ROURKE: Tom, do you have
22 questions?

23 MR. NARDACCI: Actually, I have a laundry
24 list of items that I want to talk about. I'll
25 be a gentleman. Why don't you start on the

1 other end and see if some of my questions will
2 get asked?

3 CHAIRMAN O'ROURKE: Okay.
4 Peter?

5 MR. GANNON: For starters, I heard a lot
6 of the questions that I and my colleagues
7 raised the last time that we were here and
8 they were addressed today pretty thoroughly. I
9 still have some.

10 Far be it for me to second guess the
11 Police Department, but I'm still very uneasy
12 about that turning in and out along that
13 Route 7 and crossing all those lanes of
14 traffic. Maybe it's a personal thing for me
15 being a little bit scared, but I think that's
16 something that is worth a second look.

17 Another thing on the emergency services
18 end of things that I'm concerned about is -- I
19 know that this has been sent to EMS and they
20 gave a thumbs up, but my assumption is that
21 they probably look at this on an individual
22 basis. Sure, EMS can handle the volume of the
23 project, but what's happening in this part of
24 the Town is that it appears to me that there
25 is becoming a high density area here. I don't

1 have any analysis to back it up, but there are
2 a high density of these types of facilities
3 that are serving the older population in the
4 Town of Colonie. I just think that it may be
5 worth it along the line as we're doing the
6 project on Delatour and 155 - there are
7 existing senior facilities there and now there
8 is your project. I think that it's worth EMS
9 taking a more comprehensive look to make sure
10 that service levels are going to be adequate
11 and maintained, and that that they have to
12 service the Town the way as it is now. That's
13 just something to have on the record. That may
14 be for Joe LaCivita's follow through in the
15 future. It was a little unclear to me.

16 There has been some back and forth with
17 Watervliet, but I remember from my time in
18 Town Hall that this is a great area of concern
19 for the City. While they are not ambiguous or
20 shy about pointing the finger at the Town of
21 Colonie for flooding them out in the city and
22 presenting the position of being at the bottom
23 of the hill, I think that anything in terms of
24 good will that we can do, we should. There's
25 not much that we can do to direct you, but

1 maybe to direct the Town Designated Engineer
2 to establish as much of a comfort level as you
3 can with the folks in the City to be good
4 neighbors. I think that is helpful.

5 There is continual talk that we've had
6 with several projects this past year where we
7 talk about the need for senior housing. At
8 concept I don't disagree with it, but I've
9 never seen the analysis or anything that
10 justifies the need for it. I guess you kind of
11 make the claim as part of the public benefit
12 for the creation of the PDD that there is a
13 need for senior housing. I guess it's like
14 anything else that I've been told my entire
15 life. I believe it once I've heard it enough
16 times.

17 I'm just curious what analysis you used
18 or what justification there is to sit there
19 and say one of the reasons that we should be
20 granted a PDD and this is a public benefit is
21 because there is a need. Is that just that is
22 the popular opinion, or is there something to
23 support that?

24 MR. HERSHBERG: We actually submitted a
25 market analysis about a year and a half ago

1 that was made at the time. It showed
2 essentially that the market penetration for
3 this kind of housing in this area is less than
4 10 percent. That means that this is a prime
5 market for this area. We had them limit
6 themselves to the immediate geographic area
7 around the Town of Colonie, the City of
8 Watervliet, and the southern part of the Town
9 of Saratoga County. Sometimes you do these
10 market analyses and you cast a fairly wide
11 area. In our case we had a very tight radius
12 around the building and it seems like the
13 market analysis held up. We did it based on
14 financial capability to afford, the market
15 rate, as well as by age and housing needs. I
16 can get you another copy of it.

17 MR. GANNON: Okay for 2010, but what's
18 the outlook in 2020? Does it grow? Better yet,
19 in 2030 are we going to be sitting around with
20 a half-filled complex that is deteriorating
21 and is not worth investing in? That's more my
22 concern. There is no doubt that you can fill
23 it in the next five years, but what's the
24 outlook after the return on investments are
25 made?

1 MR. HERSHBERG: The market shows the
2 growing need for senior housing up to the year
3 2050 - I think that's generally been shown
4 based on the aging population. After 2050
5 based on the reduction in birth rate in the
6 United States -- it would be somewhat
7 dependent upon people immigrating to areas or
8 people emigrating from the area. The major
9 concern here regarding filling a facility like
10 this would be if everybody decides to pick up
11 and move to another state. That's more of a
12 concern than the figures that have shown that
13 the population would support it. We actually
14 have, I think, an estimate through 2040
15 including in our market analysis and I think
16 that it was done in 2008. I think that we did
17 take a comprehensive look forward to make
18 certain that this was not a flash in the pan.
19 He's not going to be here today and gone
20 tomorrow. The need for senior housing will
21 continue to exist. The senior market housing
22 will continue to exist.

23 The question was: At a certain point will
24 the market cause people to go to a less
25 expensive solution - a subsidized housing or

1 Section 8 housing? In our case here, we think
2 that we did a proof to show that the market
3 will be there for market rate housing, which
4 is what this is.

5 CHAIRMAN O'ROURKE: And the assisted
6 living, actually, if my memory serves me was
7 even higher.

8 MR. HERSHBERG: Yes, that has a huge
9 demand.

10 CHAIRMAN O'ROURKE: It was like
11 two percent.

12 MR. HERSHBERG: There has been very
13 little penetration in the market in the Town
14 of Colonie.

15 CHAIRMAN O'ROURKE: I'm pretty familiar
16 with these types of housing; not in this
17 state, but in the State of Florida. A lot of
18 the 55 and older end up becoming assisted
19 living.

20 MR. HERSHBERG: The goal here is that
21 it's somewhat a continuation of care. Some are
22 living right here and they could maybe live by
23 themselves, but then move to assisted living.

24 We originally had an Alzheimer's piece in
25 here because that is sometimes material on

1 some of these.

2 MR. GANNON: My last question was just
3 about the view scape, or the path, or whatever
4 it's going to be. I guess I'm trying to figure
5 out what it's going to look like. Is this the
6 type of thing that someone who is confined to
7 a wheelchair can get out there and be escorted
8 by an aide to take advantage of it? Is it
9 walkable? What is the idea behind that?

10 MR. HERSHBERG: The grade on this walk is
11 kept at five percent, so it's a one on 20
12 soil. It wasn't meant to be handicapped
13 accessible. Someone with a walker could
14 certainly manage. The total walk to the end
15 here is a total of about 900 feet.

16 MR. GANNON: Is that going to be paved?

17 MR. HERSHBERG: No, we intend to do it
18 with chipped mulch to make it look more
19 natural so we wouldn't have additional
20 pavement there.

21 MR. GANNON: That might be tough with a
22 walker.

23 MR. HERSHBERG: Actually, if you take a
24 look at the Hudson Preserve, that has that
25 exact path around it and people do use it with

1 walkers or wheelchairs. I've seen people on
2 that path. That goes all the way around the
3 pond where they have a birdhouse.

4 MR. GANNON: I lived there. I know the
5 facility well.

6 That's all I have, C.J.

7 MR. HERSHBERG: I wanted to go back
8 briefly on the question about Watervliet.

9 When we did the Hudson Preserve, we over
10 retained water there. We retained more water
11 than we had to, according to the Town
12 standards. I think that essentially they do an
13 engineering review of our SWPPP and they'll
14 see that.

15 MR. GANNON: Thanks, Mr. Hershberg.

16 CHAIRMAN O'ROURKE: Mike?

17 MR. SULLIVAN: Actually Mr. Hershberg,
18 that was one of my questions. Have you heard
19 back from the City of Watervliet on the SWPPP
20 report?

21 MR. HERSHBERG: No, we haven't. I think
22 that in many ways they made their position
23 well known by that letter that said
24 essentially that there have been too many
25 years that Colonie had been dumping water. I

1 think that a technical report will show the
2 results of that. Normally you would say that
3 you would normally comply with 010-01 and that
4 requires the 100 year, and that's the end of
5 it. In our case, we took a step further and
6 we're over retaining the waters. When you take
7 a look at the SWPPP report, our sedimentation
8 basins are ten times what they would
9 theoretically have to be.

10 I always put large sedimentations basins
11 in because the best way to clean the water is
12 to have it settle out in your sedimentation
13 basin. So, these basins are over designed
14 according to the code. And I think that
15 essentially the quality of the water discharge
16 to the dry river will be superior to what's
17 coming off of the slope today. There is some
18 erosion taking place when you look at the side
19 slope. We are going to contain a lot of the
20 water and not let it go down there.

21 MR. SULLIVAN: I had a couple of other
22 questions. One is on the parking demand study.
23 I saw that you made one in response to some
24 comments from Michael Lyons where they were
25 requesting 390 spaces. The parking study

1 proposes 311. I saw that you submitted that on
2 November 19th. Did you receive any response
3 from Michael Lyons? I agree with the support
4 of the parking study that you wouldn't have
5 the demand, especially in the assisted living
6 portion.

7 MR. HERSHBERG: I think that Mike's
8 comment was based upon the Code. We would
9 require 340 for the 170 and I think that it
10 was 37 or 38 for the assisted living. So, it
11 was about 380 parking spaces. It was clear
12 that the need wasn't there and I think that
13 the goal was there - I think that the question
14 there was: Can we justify that? That's the
15 purpose for us doing less than the code would
16 require. I think that it's non-environmentally
17 sensitive to build another 100 parking spaces
18 on the site just to satisfy that parking code
19 demand.

20 MR. SULLIVAN: The last question that I
21 had was on the relocated retaining walls. You
22 said you had a permit or design which will
23 work for that shorter wall. Will there still
24 be a protective fence above that at the main
25 roadway coming in?

1 MR. HERSHBERG: Yes, on this one here we
2 will have to put a fence on there. Any drop
3 more than 30 inches, we do have to put fall
4 protection on. All of these walls will have
5 the fall protection on top. There will
6 probably be a four-foot chain link fence or
7 something similar.

8 MR. GRASSO: I'd just to clarify the
9 issue with the retaining walls.

10 What he was initially proposing wasn't
11 exactly consistent with the recommendations of
12 the geo report. We asked him to modify the
13 design and we also got a follow-up letter from
14 the geotechnical engineer to make sure that
15 the geoengineer also supported the current
16 plan.

17 MR. LANE: That was the October 5th
18 letter? What he presented tonight was in
19 response to October 5th from Dante.

20 MR. GRASSO: That's right.

21 MR. SULLIVAN: The top of the slope is
22 farther away from the wetlands.

23 MR. LANE: That was a fairly critical
24 report, and it was interesting that the
25 repairs and the fixes for these things are

1 quite expensive items.

2 MR. SULLIVAN: Thank you. That's all I
3 had.

4 CHAIRMAN O'ROURKE: Thanks, Mike.
5 Tim?

6 MR. LANE: Okay, we don't have to talk
7 about the October 5th letter then.

8 I do want to talk about one of the
9 primary public accesses and that people would
10 have the access to see the view shed, but it
11 states: Does the present site include a scenic
12 view that would be important to the community?
13 The answer is no.

14 MR. HERSHBERG: That's because nobody is
15 up there. That normally means that essentially
16 you do have a place like Thatcher Park that
17 has a use for the whole community. Quite
18 honestly the goal here is that you cannot see
19 anything now until we were to clear the site
20 and put in this roadway.

21 CHAIRMAN O'ROURKE: No, you can now with
22 no leaves on the trees.

23 MR. HERSHBERG: Again, it's not a view
24 scape that anybody takes advantage of now.
25 Nobody goes up there to view it.

1 MR. LANE: Number 20 - has the site ever
2 been use for disposable solid or hazardous
3 waste? My recollection had been that it had
4 been a fill site, but the answer was no.

5 MR. HERSHBERG: The fill site was done
6 and an environmental site assessment was done
7 to determine that it was general construction
8 debris. If you go in there, you see pieces of
9 asphalt and concrete. I think that it was
10 probably a construction job either in
11 conjunction with something in these apartments
12 or somewhere nearby.

13 MR. LANE: I'm not necessarily saying
14 that it's hazardous waste, but I don't know if
15 the question is necessarily that it has to be
16 hazardous. It says solid or hazardous.

17 MR. HERSHBERG: If you're disposing of
18 what's called construction debris, it's not
19 considered solid waste or hazardous. Again,
20 especially in this year, there was only this
21 area of the site that had fill (Indicating).

22 MR. LANE: Yes, actually going back to
23 the letter of the geotechnical - don't you
24 have to go down 20 feet into that fill to do
25 the parking garage? Isn't a lot of that going

1 to have to be removed? If you have 12 tons of
2 material being moved -

3 MR. HERSHBERG: What that says is here is
4 the profile underneath the independent living.
5 Here is the finished grade. The bottom of the
6 fill is a line about six feet below it at this
7 point here (Indicating) and the grade of the
8 basement goes below the bottom of that fill.
9 Not only will the fill come out, but material
10 below the fill will have to be removed. It
11 will be transported from the site. Can we
12 reuse this material on site? The fill material
13 is recommended only to be used in landscaping
14 berms and not use it underneath buildings. The
15 rest of the material here could probably be
16 compacted and used as general fill on the
17 site. I call it select fill in areas on the
18 site here because underneath the pavement will
19 be gravel and normal subbase material.

20 MR. LANE: So you have a better compacted
21 material under that. You believe that you can
22 use the 12 tons on site?

23 MR. HERSHBERG: Did I say 12 tons?

24 MR. LANE: Will the project generate
25 solid waste? The answer is yes.

1 MR. HERSHBERG: That's different
2 material. The 12 tons of solid waste - how
3 much trash will come out of these buildings?

4 CHAIRMAN O'ROURKE: I hope more than
5 one-third of the dump truck.

6 MR. HERSHBERG: Actually, the figure
7 that's here is five pounds per unit, per day.
8 That's 150 pounds times 170. It's reasonably
9 close.

10 MR. LANE: Clough touched on that. The
11 fill that is going to be left onsite will be
12 kept on that -

13 MR. HERSHBERG: Again, we have excess
14 material that doesn't have to be hauled off. I
15 think that the answer to the other section is
16 how much excess material has to be hauled off
17 site.

18 CHAIRMAN O'ROURKE: But you really don't
19 know until you start excavating.

20 MR. HERSHBERG: I fixed an estimate based
21 upon about the quantity of excess material
22 that I'll have. We've done an approximate for
23 the site. A lot of that material will either
24 be the fill or generated when we excavate that
25 roadway into the site.

1 MR. LANE: Is this rule to reduce that
2 sloping? Building on top of the fill is less
3 stable and to mitigate these issues of
4 stability, etcetera -

5 MR. HERSHBERG: Primarily, when you work
6 with a slope, anything you can do to lessen
7 the grade at the top and improve your slope
8 stability - the stability of the site was
9 never really a significant problem. By
10 reducing a grade here and by pushing this, we
11 reduce the grade at the top of the slope which
12 makes it more stable.

13 MR. LANE: Thank you.

14 CHAIRMAN O'ROURKE: Thanks, Tim.

15 Lou?

16 MR. MION: I don't have any questions,
17 but I'd like to complement you on how you've
18 taken care of that water situation in
19 Watervliet.

20 MR. HERSHBERG: I think that when we did
21 Hudson Preserve, the same issue was raised. I
22 know that those basins do fill up after a
23 storm and I have the water out slowly rather
24 than sliding down the hills. We also changed
25 the dam at the major pond here (Indicating).

1 We changed the release rate from that
2 significantly and reduced the flow going
3 downstream to Watervliet.

4 CHAIRMAN O'ROURKE: Paul?

5 MR. ROSANO: Dan, I have a couple of
6 letters here from the Town of Colonie that I
7 wanted to comment on because they seem to
8 conflict with each other.

9 October 13th letter from Peter Lattanzio
10 in a quote "I spoke to the Deputy Chief Peter
11 Berry and -"

12 At least he says he talked to him.

13 He says "We agree that a secondary
14 emergency access off of Alice Avenue and the
15 current roadway configuration would provide
16 sufficient access."

17 Now fast forward to a letter of
18 November 24th from the Highway Safety
19 Committee, which Ken Pero is the head of, and
20 it says here:

21 "The Committee would like to make sure
22 that Alice Avenue is widened as shown on the
23 plans to allow emergency vehicles access to
24 the site."

25 They seem conflicted with those two

1 letters.

2 MR. HERSHBERG: One portion that we
3 proposed to do is Alice Avenue. The turning
4 radius wouldn't work there. If you came up
5 there with an ambulance or a fire truck, you
6 couldn't make it. You propose to widen Alice
7 Avenue with about a 24-foot wide pavement from
8 Alice Avenue to this point here (Indicating).

9 That was the area that I think Ken Pero
10 was talking about requiring that increased
11 access.

12 We sent them the turn models showing how
13 a truck could turn all those other radiuses
14 coming in. We also pointed out the fact that a
15 question was raised by the grade of this road.
16 This roadway is currently the 5.75 percent
17 grade. We pointed out that Eastern Avenue is -
18 in excess of nine percent now for that first
19 250 feet. So, if trucks were able to make it
20 up there, they can obviously make it into our
21 site to get into our site. I can say a
22 7.75 percent grade is less than the Town
23 standards for a normal Town highway.

24 MR. ROSANO: Who is going to widen the
25 road at that point in time? The two letters

1 are only a month and a half apart.

2 MR. HERSHBERG: I don't think that he was
3 talking about either Eastern or Western
4 Avenue, or the other intersection.

5 MR. GRASSO: Yes, it was only Alice
6 Avenue.

7 CHAIRMAN O'ROURKE: That's how I read it.

8 MR. HERSHBERG: When I first appeared in
9 front of this Board, I thought that if it was
10 necessary, the applicant would be willing to
11 do that. After we ran the turn model around
12 those curves, we did show that essentially
13 coming up Western, across Lillian, and Eastern
14 to Alice - the only movement that they could
15 make would be into Alice. So, we proposed to
16 widen Alice Avenue.

17 MR. ROSANO: Thank you, Dan.

18 CHAIRMAN O'ROURKE: Tom?

19 MR. NARDACCI: With regards to
20 Watervliet - who will provide the City of
21 Watervliet with the SWPPP; the Town or the
22 applicant?

23 MR. HERSHBERG: We would normally provide
24 them with what we call a courtesy copy. But in
25 this case, it's not clear. They may actually

1 be the MS4 agency that we have to get the
2 approval from. We're tributary directly to
3 them. If we're in the Town of Colonie, we
4 normally go in that Town of Colonie. Since our
5 pipes are going directly to that stream course
6 over which the City of Watervliet does have
7 flood control dams in, my question is that
8 maybe we have to submit to both MS4 and get
9 their opinion on both.

10 MR. GRASSO: I think that the Town of
11 Colonie is going to issue a notice of intent,
12 but obviously there will be a review.

13 MR. HERSHBERG: I would normally not
14 anticipate that we would request an MS4
15 acceptance from the Town until we have
16 complete acceptance from the city of
17 Watervliet.

18 MR. NARDACCI: I agree with that. I think
19 that they've been involved and I think that
20 Fraser was here -

21 MR. HERSHBERG: Fraser changed their name
22 now. I don't know what it is.

23 MR. NARDACCI: The letter says that they
24 want to see the documents so that they can
25 review it, too. We just want to continue the

1 courtesy that's already been provided. We
2 dealt with this issue on another project, as
3 well. I just want to make sure that they get
4 the documents and they have the chance to
5 fully review them.

6 CHAIRMAN O'ROURKE: And we worked with
7 them.

8 MR. NARDACCI: The narrative that they
9 provided indicates that Watervliet has the MS4
10 sign-off.

11 MR. HERSHBERG: Again, I'm not certain
12 whether it is. There is a question there.

13 CHAIRMAN O'ROURKE: Joe, it would have to
14 be the Town of Colonie.

15 MR. GRASSO: Yes, I've never seen it -

16 CHAIRMAN O'ROURKE: This is the tax base.
17 Obviously our MS4 isn't going to sign-off and
18 have Watervliet deny.

19 MR. HERSHBERG: I ran into the exact
20 opposite opinion from New York State DEC.
21 We're doing a project in the City of Albany
22 which is tributary to Albany County and not a
23 tradition MS4. They requested that we submit
24 it to the nontraditional MS4 and get their
25 sign-off on it even though it was in the City

1 of Albany. It was heavily tributary to Albany
2 County. In any case, it's a non-issue because
3 we'll submit it to the Town of Colonie and if
4 they're the correct body, they should issue
5 the MS4 and we're good with that.

6 MR. GRASSO: Just to clarify, MS4 is
7 defined by municipal boundaries and not
8 drainage increase. If you ask me, it's the
9 Town of Colonie.

10 MR. NARDACCI: Can we just have that
11 clarified before the next step? I think that
12 it will.

13 MR. HERSHBERG: I think that we were the
14 people that contacted Watervliet first. I
15 contacted Watervliet because in fact, this new
16 dam is built partially on my client's
17 property. The question is that they want to do
18 work on his property and we contacted the City
19 of Watervliet and said there is no objection
20 to repairing the dam, but could you just
21 provide us with an insurance certificate? Your
22 people are working on our property and they
23 complied. We had a good exchange of letters at
24 that point and they asked to be informed. We
25 really established a lot of communication,

1 even absent the letter.

2 MR. NARDACCI: Just as a follow up,
3 Gleason's letter - just make sure that they
4 get the SWPPP requirements.

5 CHAIRMAN O'ROURKE: Joe, can we make sure
6 that they get that?

7 MR. GRASSO: Absolutely. It won't be a
8 courtesy review. The Town will provide it.

9 MR. NARDACCI: Perfect. That's a good
10 answer.

11 This is for you Joe Grasso.

12 At what point do the mitigation fees
13 become final? Is that before we do final
14 acceptance? We're talking about 1.3 million
15 dollars worth of mitigation fees. This has
16 come up before in even smaller ones where it
17 wasn't clear. I'd like to have it clear and
18 not just on Boght and the update, but just the
19 fees themselves. What's presented here? It's
20 1.3 million and going to the next step and
21 making sure that's clearly defined.

22 MR. GRASSO: The mitigation fees get
23 established at the time of the SEQRA
24 determination. So, that's why we go through
25 the current mitigation fees. If the mitigation

1 fees change in the future, they should address
2 how projects that have already received a neg
3 dec based on previous mitigation fees will be
4 handled in the future, based on if partial
5 payments been made and where is the project in
6 that review process. Tonight if the Board
7 makes a determination, it should be based on
8 the fees that are presented and that's what
9 this SEQRA determination will be based on. You
10 can always go back and amend the SEQRA
11 determination and change the structure at any
12 point in the future.

13 CHAIRMAN O'ROURKE: Tom, that's why I
14 brought up earlier about the mitigating fess
15 and knowing that at some point we're going to
16 address the Boght GEIS. That's why I asked if
17 his client has any issue going forward with
18 SEQRA at final. They would be liable before
19 they got a permit for the first third. On the
20 back third, like we did with Canterbury, we
21 would then credit the difference, if those
22 fees were to be reduced. We would want to do
23 it on the front end. We'll do it on the back
24 end and he says that his client would be okay
25 with that.

1 MR. NARDACCI: What is outlined here
2 tonight is what you understand those to be?

3 MR. HERSHBERG: I shared those with my
4 client for the first time that I did the
5 calculations. It's an eye-opener when you have
6 a \$300,000 expense for your client, but I
7 e-mailed him that finding as soon as I found
8 it. I presented to this Board in September. As
9 a couple of people said, is that really
10 correct? It has been proved to be correct and
11 I wasn't trying to raise the ante. That's what
12 we're required to pay if this project is
13 approved for the 260 units.

14 MR. NARDACCI: I think that it's
15 important to make that perfectly clear so that
16 everyone understands it.

17 This leads into my next question in
18 regard to SEQRA determination. This has been
19 something that I understand that before we
20 pass along a recommendation on a PDD to the
21 Town Board that we would need to take up SEQRA
22 determination. In the past, the Board has held
23 off on SEQRA determination until final on
24 projects. That's something that's come into
25 question. So the question that I have is: Is

1 this SEQRA determination tonight just because
2 it's a PDD, or is it because the Board should
3 be taking up SEQRA at concept and preliminary?

4 MR. GRASSO: It's a great question and if
5 it didn't need a PDD approval by the Town
6 Board, we may say, look, continue on with the
7 SEQRA review and there is no need to make a
8 determination now. We're going to have other
9 public meetings and a chance to gain more
10 public comment. The project could change.
11 There is no advantage to doing it now.
12 However, we've asked Dan to provide a lot of
13 very, very detailed information in support of
14 the project in order to feel comfortable
15 making a SEQRA determination. So, he's done a
16 lot of engineering and planning and analysis
17 that typically wouldn't be required until a
18 project got past concept and into the
19 preliminary final. There is plenty of
20 information here to feel comfortable making
21 the SEQRA determination, from our perspective.

22 MR. NARDACCI: In reading your memo and
23 reading through the full EAF, I don't have a
24 problem with SEQRA. I'm just curious about
25 process.

1 MR. GRASSO: The SEQRA, moving forward,
2 like I said, if the Town Board didn't have to
3 take the first official action, we'd probably
4 discuss with the applicant, look, do you mind
5 us holding off on SEQRA until we have more
6 meetings and see if things change?

7 CHAIRMAN O'ROURKE: Of course, seeing the
8 difficulty for SEQRA, of course they're going
9 to mind because if they're borrowing any
10 money -

11 Mr. Hershberg, who is going to loan you
12 money if you don't have SEQRA determination?

13 MR. HERSHBERG: I say that with tongue in
14 cheek because everybody knows as lead agency,
15 you can revisit your SEQRA determination
16 anytime you chose to. If in fact, you feel
17 that I misrepresented something, something
18 changed in regard to mitigation -- even if the
19 mitigation fees change by \$100,000 that might
20 bet enough for you to come back and say, our
21 SEQRA determination is based on 1.3 million
22 and you're only giving us 1.2 million now.

23 This Board has lead agency and can
24 revisit SEQRA determination virtually at will
25 and has been proven an awful lot of times that

1 even though applicants tear their hair out,
2 they have to go back and revisit it. You have
3 to go through the PDD determination by a PDD
4 reference to the Town Board. The Town Board is
5 going to consider that they would have to get
6 the PDD approval and come back here and go
7 through all the steps for site plan approval.

8 MR. NARDACCI: I do have a few more
9 points. Just bear with me. Just to reiterate
10 what we talked about last time. I appreciate
11 the inclusion of correspondence with the Army
12 Corp. That was something that we had talked
13 about last time. It was lacking. You were
14 tracking that back and forth and it's pretty
15 clear where that's headed. You've requested
16 the jurisdiction.

17 With regards to the complex overall, and
18 just to reiterate what I said the last time, I
19 do agree that this is a product that's needed
20 in Town. It's outlined in the Comprehensive
21 Plan. The market study proved it. I think that
22 of the senior complexes that have come before
23 us that are progressing well, I think that
24 this is a project that also will progress
25 well.

1 The requirements of the PDD - one of the
2 main requirements of the PDD is something that
3 we've talked in great deal, and that's public
4 amenities. I'm not talking about just the
5 public benefit being the taxes and the
6 requirements of the Comprehensive Plan
7 regarding open space. Could you just expand in
8 detail a little bit on how someone from the
9 public could enjoy the view? What is the setup
10 going to be?

11 MR. HERSHBERG: First of all on the final
12 analysis, over 85 percent of our site is
13 green. Only 14.85 percent is building, or
14 roadways, or parking. The first bullet in the
15 New York State Storm Water Design Manual under
16 the five step analysis is conserve natural
17 areas. That's what they want you to try to do
18 more than anything else. I think that this
19 project goes a long way towards doing that. I
20 think that the review says that even if
21 they're not meant to be totally accessible to
22 the public by preserving those areas, you
23 certainly will preserve the situation
24 regarding adjoiners. You can certainly
25 preserve the area by having conservation areas

1 that are subject to conservation easements.

2 The Corp of Engineers - they only require
3 one-tenth of an acre and they're pretty much
4 going to want us to take that entire wetland
5 area and do it with a permit easement with the
6 Board. My goal here would be to have an
7 approval that says all of the green areas on
8 the site have to remain green in perpetuity.
9 We don't mind that as a condition of final
10 approval. This is not a step for additional
11 building on the site. This is it. This is the
12 total build-out level. We think that
13 essentially based upon market, we might start
14 half of these buildings first and there might
15 be some phasing going on. My guess is that
16 you're going to find through the
17 infrastructure costs here that this entire
18 area is probably going to be built first and
19 the assisted living as a second element.

20 MR. NARDACCI: The overlook and the
21 nature walk - just walk me through that. What
22 is the nature walk? How many feet is it? Eight
23 parking spaces - do you think that's a good
24 amount for the public? Is there going to be
25 signage on the roads to let people know that

1 there is a view shed there?

2 MR. HERSHBERG: We can certainly put that
3 here. I don't know whether or not DOT would
4 like one out on Route 2.

5 CHAIRMAN O'ROURKE: Can we put it on the
6 Town website?

7 MR. HERSHBERG: Certainly, yes. We meant
8 it to be for public accessibility. The
9 question is that if someone comes here and
10 they walk down there and suppose someone says
11 gee, I want to take a walk around the site?
12 These are private sidewalks in this area.

13 Would my client object to publically
14 walking a round there? We also set up exercise
15 areas around here for seniors to try
16 stretching, etcetera. My guess is that my
17 client would have no objection to that.

18 MR. NARDACCI: There are other PDDs that
19 we've gone through. Not just creating a public
20 area, but actually having an area that people
21 in the public could and would go to. One was
22 the Mohawk River. That was an issue that we
23 discussed. Shaker Pointe is another one that
24 created a senior center that not only is
25 accessible to their community but also to the

1 seniors that live across the street. These are
2 real public accesses. So, I live in the Town
3 of Colonie. I think that's great that we can
4 post it on our website. How is someone going
5 to know that they can get down there and there
6 is a public space to take a look?

7 MR. HERSHBERG: We can certainly put
8 signs -- whatever you decide to call this
9 overlook, the Daniel Hershberg Memorial
10 Overlook - by the time we get this project
11 through that's what they're going to name it.
12 In any event, we can put the signs up to
13 direct people to it.

14 MR. NARDACCI: Dan, it's not just you.
15 There are spots like this throughout the Town
16 that we're now making available to the public.
17 There's a view here of the Berkshires, the
18 Hudson River Valley, and the Green Mountains.
19 That's terrific. We should capture that and
20 open that up to the public.

21 MR. HERSHBERG: We're good with it. The
22 question is: First of all these parking spots
23 are in an area that they be least used by the
24 residents. These are the least convenient that
25 are going to fill up 199 spots and they're

1 going to park convenient to the entrances. In
2 addition to whatever we designate for public
3 use, there would probably be additional vacant
4 parking spots based upon our parking analysis
5 and we think that would be big.

6 The other question that you said about
7 green space - there will be common spaces in
8 this building. There will be meeting rooms and
9 there will be card rooms, etcetera. My guess
10 is that the applicant can certainly work with
11 the Senior Citizens Center here in the Town to
12 make people know that they are available. The
13 daughters of Sarah have young people come in
14 and use their facilities so that they can mix
15 with the elderly patients there. But in many
16 ways, if in fact you want us to make these
17 available for public meetings, etcetera, we
18 can certainly make that a condition of
19 approval. We're not trying to isolate
20 ourselves in the community. We want to be part
21 of the community.

22 MR. NARDACCI: On that point, just a
23 couple of other things. I saw a letter to the
24 school district, but with no reply back.

25 Also, a follow up on EMS. We talked about

1 having an analysis of where we're looking at
2 with EMS, and I think that this goes to what
3 Peter was getting at with bigger facilities
4 going in this end of Town. In reviewing the
5 comments and the transcripts from the last
6 time, you said you would provide us with some
7 sort of projection of EMS calls. It's not in
8 here, so I'd like to see that.

9 MR. HERSHBERG: We do intend to provide
10 oversized elevators for stretcher capability.
11 We do intend to provide hand railings on
12 sidewalls. We do intend to provide call
13 facilities which will adequately try to find
14 where the call is from, rather than just say
15 general call. You know, number 17 has a
16 problem. So essentially, it would be a direct
17 response to the correct location.

18 CHAIRMAN O'ROURKE: Also, we can't lose
19 site of the fact that your client is going to
20 have to pay 1.3 million dollars in mitigating
21 fees that are supposed to take care of
22 infrastructure. Now, a senior center like this
23 won't have the school aged children to take up
24 the tax base infrastructure, but the trade-off
25 on that is that there may be more EMS calls.

1 MR. NARDACCI: As I requested in the last
2 meeting, you said that you would provide us
3 the information based on another senior
4 complex on Delatour - I'd just like to have
5 the information.

6 MR. HERSHBERG: For elderly housing, I
7 don't know whether or not there are real
8 numbers of calls. Assisted living and nursing
9 home requirements - I'm sure that I can give
10 you that data.

11 MR. NARDACCI: Let's talk real numbers.
12 Let's talk dollar to dollar and not
13 generalities because we talked about it last
14 time.

15 What about sidewalks around the facility?
16 Can you just describe those?

17 MR. HERSHBERG: We have a sidewalk
18 running completely around this facility
19 connecting into every entrance. We have a
20 sidewalk starting at Route 2 and coming up
21 this side here, crossing here and tying into
22 the system (Indicating). We have a sidewalk
23 continuing up here to the assisted living,
24 coming down here and crossing over another
25 sidewalk on this side of the road here. The

1 goal here is to make this internally walkable
2 so that people can walk wherever they want.
3 This walk - we intend to do probably with sand
4 concrete, or something a little bit nicer. We
5 also intend to have exercise stations, bocce
6 ball courts, shuffleboard, or other items on
7 here. We have shown some areas in here that
8 would be available for a courtyard area.

9 MR. NARDACCI: Also, they will be
10 privately maintained by 1 Alice Avenue?

11 MR. HERSHBERG: Yes.

12 MR. NARDACCI: I think it's great. I'm
13 glad to see the sidewalks go all the way out
14 to Route 2.

15 Could you just describe the buffering and
16 screening between the residents? You show us a
17 site line but the green area there - what is
18 currently there and what's going to stay?

19 MR. HERSHBERG: From the back of the
20 house to the nearest point on the roadway is
21 200 feet. From the back of the house to the
22 nearest point on the building is approximately
23 700 feet. The first 300 feet of that is going
24 to be the existing vegetation that is going to
25 remain. If you're looking from Eastern Avenue,

1 there is fairly dense vegetation. A lot of it
2 is deciduous, but there are actually some
3 evergreens in there too. We think that it
4 provides adequate screening. We will,
5 obviously, when we put this roadway in, we'll
6 put some street trees or something like that.
7 We don't think that screening is really
8 necessary. We think that this natural area has
9 all the required screening that we will need.

10 MR. NARDACCI: What is the requirement in
11 the Land Use Law just so we have a clear
12 understanding as to setbacks?

13 MR. HERSHBERG: I think that from this
14 area it's about 30 feet from the front.

15 CHAIRMAN O'ROURKE: Single-family, is 30.

16 MR. HERSHEBERG: We have 200 feet for
17 this here and almost 700 for this one here
18 from the sideline (Indicating). The closest
19 point to the property line is this one down
20 here which is about 105 feet to the sideline
21 of those apartments to this building right
22 here.

23 MR. NARDACCI: And that's Hudson
24 Preserve, there.

25 MR. HERSHBERG: No, this is Highland

1 Club.

2 MR. NARDACCI: What is the landscaping
3 plan as it gets to final anyway?

4 MR. HERSHBERG: We want to landscape this
5 area here (Indicating). We're going to clear
6 in here because we're going to put in a
7 subterranean garage. We're going to have to
8 landscape these courtyard areas. We plan on
9 landscaping up along the roadway with the
10 street trees and around all the buildings with
11 the obvious typical foundation plantings,
12 etcetera.

13 MR. NARDACCI: Let me just preface my
14 last comment by saying this - I think that the
15 day that we saw this to where we are today,
16 you've done a tremendous amount of work. We've
17 come a long way. You've taken a lot of input
18 that the Board has given. You've really made
19 some good changes. As I was preparing for the
20 meeting, I had to go back and read the
21 transcripts from the last meeting and
22 literally, you and I had three pages worth of
23 dialogue with regards to architectural in the
24 sketch plan. The benefit of sketch plan is
25 that we can give suggestions and we can prod,

1 but the downside of sketch plan is that
2 sometime you do a lot of talking and you get
3 no results. I'm really disappointed that we
4 don't have any new architectural on this. It's
5 something that I really try to make clear that
6 it was very important. I think that there were
7 points made earlier - look, what happens in 20
8 years? We build big facilities that are going
9 to have regular siding on them that maybe
10 aren't as great. We have a little community
11 here. You're kind of your own isolated
12 community, but you can do something really
13 nice architecturally to make it really
14 interesting. I just am not really going to be
15 in favor of something that comes back with the
16 same old same old kind of look and feel.

17 CHAIRMAN O'ROURKE: But again, this
18 doesn't have anything to do with site plan. I
19 don't disagree with you.

20 MR. NARDACCI: We spent a lot of time
21 during sketch plan talking about this. So, the
22 question is: Coming forward to the next phase
23 when we talk about site plan, are we going to
24 see new architectural?

25 MR. HERSHBERG: Yes, we will. The

1 question really was: Was it the proper time to
2 go back and revisit those architectural and
3 we still don't have a feel for whether or not
4 we were going to be referred to the Town Board
5 for PDD approval. We thought that it was
6 premature.

7 MR. NARDACCI: I think that it was valid
8 question.

9 CHAIRMAN O'ROURKE: I don't dispute that,
10 Tom, but for his client, he's spent a ton of
11 money on engineering. Now we're going to say
12 you should have spent another \$100,000 in
13 architectural engineering. I mean if it was
14 your 401K money -- we have to be reasonable.

15 MR. NARDACCI: I'm reasonable. I think
16 that a reasonable question in going forward in
17 the next phase is: Will we see new
18 architectural?

19 MR. HERSHBERG: You will. You'll see new
20 renderings. Again, I'm not certain whether or
21 not we propose to do that at the time that we
22 go in front of the Town Board for the PDD. It
23 says that we should meet with standards and
24 the standards do talk about architectural
25 treatments.

1 MR. NARDACCI: I would like to see what
2 the residents are going to look at. I think
3 that's part of this equation. It's something
4 that we had a sketch plan talk about. Now is
5 not the appropriate time, but I think that I
6 have a right in bringing it up because if I
7 didn't bring it up, then we would have come
8 back the next time and we would have the same
9 renderings that we had last time. It's my
10 criticism. Take it for what it's worth and I
11 hope that you take it seriously.

12 MR. HERSHBERG: I will.

13 MR. NARDACCI: We've had some fantastic
14 projects come forward that have had great
15 architecturals. We've also had some clunkers.
16 I think that this is a chance to really do
17 something really good. I know that there is a
18 lot of money invested in this. I work in
19 economic development. I know what I'm talking
20 about. I know what it's all about.

21 MR. HERSHBERG: The only question that I
22 have is that is it somewhat premature to get
23 back at those renderings, being that we had
24 all the other shopping list of things to
25 address. It did require SWPPP plans and

1 geotechnical work; all of which led to this
2 engineering budget. I'm not crying poverty
3 here.

4 MR. NARDACCI: It's fair, Dan.

5 MR. HERSHBERG: But I think that
6 essentially, architecturalals will be addressed.
7 My only question is: Is it worthwhile for us
8 to give you a new fancy view of it right now,
9 or is it better for us to sit down and give a
10 hard look at it and see what we can really do?
11 The Shaker look of the one on Delatour Road is
12 not necessarily applicable. We'd like to come
13 up with something using stone and brick. We
14 gave you something that was brick on the first
15 floor and it didn't turn anybody on. My guess
16 is that we have to go back at it and take
17 another look at it. An awful lot of that is
18 substance. Gain, you can't just do it by
19 taking a broad brush stroke; you have to look
20 at how it fits in. It may require that we take
21 a harder look at a floor plan and
22 architectural use to show to this Board to
23 demonstrate what it could finally look like.
24 The first time around was our first attempt
25 and we certainly weren't married to it.

1 MR. NARDACCI: I prefaced my comments by
2 saying that you've done a great amount of
3 work. I can appreciate the packet that we
4 received, the geotechnical, the SWPPP, the
5 full EAF and everything that we get
6 into - that's a priority. I wanted to make
7 sure that I made that clear tonight. We talked
8 on the Shaker item last time. It doesn't work.
9 The Shaker Society is sensitive to not
10 replicating that other place, but there are
11 other things that you can do that really could
12 make this a really nice item. It's something
13 I'd like to see. Thank you.

14 CHAIRMAN O'ROURKE: Thanks, Tom.

15 First, I'm glad that you talked about the
16 land and perpetuity. I think that would be
17 certainly a condition that I would like to put
18 on this project because again, if we do allow
19 this density, we certainly want to protect the
20 neighbors, the neighborhood, the City of
21 Watervliet, and anybody involved. Again,
22 whether it was zoned property or not as
23 single-family, that's certainly the density
24 that we're going to allow you if this were to
25 move forward. We'd want to ensure that land

1 does stay in perpetuity and never be touched
2 beyond that. I was glad to hear that your
3 client would be in favor of that.

4 My second comment is that I think that
5 this is truly what planning is supposed to do
6 in any municipality. To take a piece of
7 property and have somebody invest their money
8 because after all, it is America - and come to
9 us with a project that we saw, as Tom stated
10 so eloquently that wouldn't pass muster, and
11 then get to a point -- and unfortunately it
12 does take time and money to get to a point
13 where the engineering and everything works to
14 satisfy both the Town Designated Engineer and
15 from what I gather from the rest of the Board.
16 And from there you can get to a position where
17 we can take some action. I really think that
18 you've done great work on this project above
19 and beyond the call from the ADA level all the
20 way through the project. I'd like to commend
21 you. Unfortunately, this is government and it
22 took two years. I think that the government is
23 happy that it's not their 401K money and it
24 was your client's engineering budget that was
25 spent. Again, those were my comments in regard

1 to the project. So again, those are my
2 comments in regard to the project. I'm fully
3 in support of it and I'd like to open it up to
4 people in the public that sat patiently
5 through our dissertation tonight.

6 Does anybody have anything in regard to
7 this project?

8 MS. WEIN: My name is Missy Wein. I
9 border this property on Eastern Avenue. I'm
10 curious, I'm not understanding how you're
11 wanting to get into this property.

12 CHAIRMAN O'ROURKE: The actual entrance
13 will be the same entrance as the Highland Club
14 and then it will bear off to the left.

15 MR. HERSHBERG: You know when you look
16 into the roadway at Highland, and you see that
17 big lawn area? Our roadway is going to cut
18 into that lawn area and go straight up that
19 hill.

20 MS. WEIN: Isn't there a cemetery around
21 there?

22 MR. HERSHBERG: We did a full
23 archeological review of the site and it did
24 not come up with any cemeteries.

25 MS. WEIN: We had bones in our homes in

1 the back.

2 MR. HERSHBERG: We actually dug 435 test
3 pits on the site and they found none.

4 MS. WEIN: Our kids brought them home to
5 us. I've been there for 55 years and these
6 people have been there longer than that.

7 MR. HERSHBERG: This area here, that's
8 not a natural area (Indicating). It has taken
9 some dirt from there and filled a portion of
10 that Highland area that was graded there. I
11 think that's how this access got on the site.

12 CHAIRMAN O'ROURKE: Ma'am, if they were
13 to in the course of this project, run into
14 something like that -- Joe, they would have to
15 go back to the archeological -

16 MR. GRASSO: Yes, they would have to
17 notify -

18 CHAIRMAN O'ROURKE: There would have to
19 be notifications.

20 MR. GRASSO: There is just a screening
21 done. This one was pretty exhaustive because
22 the site has a higher probability that
23 historic artifacts could be present, so we
24 required a pretty exhaustive study. Like you
25 said, 435 shovel tests that were done on the

1 site. It's just a screening of the property
2 and if something is found during construction,
3 then the Town gets brought into it.

4 CHAIRMAN O'ROURKE: As we talked about
5 before, the whole SEQRA process then would be
6 reopened by this body as lead agency. So,
7 again, if that were to happen, there would be
8 ways to remedy.

9 MR. WEIN: We've seen people come in and
10 out of Western Avenue heading towards
11 Watervliet. With this Highland Club and
12 Fennimore Trace, it's quite a minugia getting
13 out of Western Avenue. We just don't go out
14 there. We have to stay in that turning lane
15 where people are coming in and out of that
16 turning lane all day. That's an issue. It
17 isn't safe.

18 I'd like to know about the 250 or
19 300 feet -- how much green am I going to see?

20 MR. HERSHBERG: This is your house here
21 (indicating). The distance from here to the
22 road is almost 300 feet back there. I would
23 say essentially, that you're not going to see
24 anything. The roadway at this point is going
25 to be lower than the ground. I don't know how

1 much of the National Grid right of way that
2 you can see out of the back of your hose. I
3 would offer to put balloons to see what you
4 can see there. A good test would be standing
5 at the back of your house. Can you see the
6 National Grid towers? If you can see those
7 through the woods, that would be the same
8 amount of view that you would have of the
9 buildings.

10 MR. WEIN: We love the vegetation.

11 MR. HERSHBERG: So do we. We're leaving
12 200 feet of it.

13 MR. WEIN: We don't care for blacktop and
14 cement.

15 MR. HERSHBERG: That's why our site
16 remains 85 percent green. The goal here is
17 that we condensed it, and we put parking
18 underneath the building. One way to reduce the
19 footprint of the site is to take the parking
20 and put it underneath the building rather than
21 doing more parking lots. We had a plan that
22 had twice as much parking outside. Based upon
23 comments from this group saying that they were
24 concerned about the grades with the slope and
25 everything else, we got rid of that. We did

1 make an effort to reduce the footprint. I hate
2 to say carbon footprint because that's not
3 what we're talking about here, but we reduced
4 the scale of the building. We used to have
5 81 percent green and we're now 85 percent
6 green. That's about as green as we can make
7 the site without not developing it at all.

8 CHAIRMAN O'ROURKE: Anyone else?

9 Yes, ma'am.

10 FROM THE FLOOR: I don't know how these
11 people are going to maneuver up and down that
12 hill. That is going to kill someone.

13 CHAIRMAN O'ROURKE: It's actually half as
14 steep as Western Avenue. How do you get in? I'm
15 not trying to be funny, but Western Avenue was
16 over nine percent.

17 MR. HERSHBERG: We're 5.75 percent.

18 CHAIRMAN O'ROURKE: It's almost half as
19 steep. Do you have difficulty getting into the
20 road?

21 FROM THE FLOOR: No, I never did. But
22 I've lived there all my life. It usually works
23 with the grade that's there now. As Mrs. Wein
24 said, they start and they get in the middle
25 lane at Western or up above because I have

1 come down and they have started before Western
2 Avenue and rode that middle lane all the way
3 down to the entrance. That's ridiculous.
4 They're afraid to drive it. I can't imagine
5 what older people are going to do.

6 MS. WEIN: It's a short run between
7 Western and Highland Club. It's a very short
8 run, and they start very early getting into
9 that middle lane.

10 CHAIRMAN O'ROURKE: Anyone else?

11 Yes, ma'am.

12 MS. BILLFIELD: Kathy Billfield. I have a
13 general comment about this project. I am
14 concerned about completing the project and
15 time that it takes to complete it.

16 There is a project that I assume that our
17 Planning Board approved that is in disarray.
18 It's on the corner of Osborne and Schuyler
19 Road.

20 CHAIRMAN O'ROURKE: Yes, Stonehenge.

21 MS. BILLFIELD: Yes, nothing seems to be
22 going forward with it. It seems to be
23 abandoned. I don't want to see that kind of
24 thing happen.

25 CHAIRMAN O'ROURKE: Nor do I, ma'am. That

1 was not this Board.

2 MS. BILLFIELD: I was wondering, are
3 there any kind of regulations that we have in
4 place to prevent this from occurring? Can we
5 require the developers to take out a bond, for
6 example, to ensure that the project completes?
7 Also, I am assuming that this other project is
8 in disarray because perhaps they couldn't get
9 anyone to pay \$500,000 a condo. I don't know.

10 CHAIRMAN O'ROURKE: Those are all great
11 ideas, but we have no provision in the Land
12 Use Law as it's written right now. I agree
13 that if we, as taxpayers, called our
14 representatives and said, look, if we're going
15 to issue PDDs, there should be some bonding. I
16 agree with you that if there was bonding, that
17 Stonehenge would be built. It wouldn't be
18 sitting there. Honestly, I'm not sure that
19 it's buildable now that the concrete has been
20 exposed for years.

21 In terms of this project, there is just
22 no remedy right now for the taxpayers in the
23 Land Use Law, once we do allow a PDD to go
24 forward. It does allow a separate zoning
25 entity for this particular project. So, I

1 don't know if that's the answer that you were
2 looking for, but certainly there is merit to
3 what you brought up.

4 MS. BILLFIELD: I think that there should
5 be responsibility. You can't just come in and
6 rape the land, do what you will, and then
7 expect the taxpayers to have eye sores and
8 unreasonable dates of completion.

9 CHAIRMAN O'ROURKE: I wholeheartedly
10 agree. Right now, this Board is held by the
11 Land Use Law.

12 MS. BILLFIELD: We need to call the
13 representatives, right?

14 CHAIRMAN O'ROURKE: Yes you do, ma'am.
15 They will hear you at the Town Board because
16 in my entire three year tenure here, I have
17 continually pounded on the 2007 rewrite of the
18 Land Use Law. It's not worth the paper that
19 it's written on and it's very difficult for me
20 to sit in front of the public - those that pay
21 their taxes as we do, and have that kind of
22 answer for you. It's difficult to sit here and
23 tell you that.

24 FROM THE FLOOR: Before you had talked
25 about the entrance for emergency vehicles,

1 correct?

2 MR. HERSHBERG: Correct.

3 FROM THE FLOOR: You said initially,
4 people were suggesting maybe expanding, but at
5 this point you're not going to do that. Is
6 that something that is definite, or is
7 possible that it could change and you may need
8 to expand it?

9 MR. HERSHBERG: You have to understand
10 that this is not an entrance that my client
11 needs. It's strictly to provide a second
12 emergency way to get vehicles in and out.
13 There won't be vehicles coming from our site
14 at all down Alice Avenue or Eastern Avenue. We
15 took a look at if a vehicle could make a turn
16 from Western onto Lillian, and Lillian onto
17 Eastern, and Eastern onto Alice Avenue. We ran
18 what was called a model. We had a model of a
19 truck and we ran it around and we did a
20 program called Autoturn which defines the
21 turning radiuses and everything worked. The
22 car can stay on the pavement all the way
23 around. That does not mean that if you have
24 cars parked at the intersections that there
25 might not be interference, but from a normal

1 routine, you can get in there. Again, Rose was
2 a little bit harder and Lillian was a little
3 bit easier to get through. But again, even
4 Rose - we could theoretically get an ambulance
5 in and out of there and a fire truck.

6 Now everybody thinks that a hook and
7 ladder is the toughest one to drive in, but a
8 hook and ladder is easier to drive in because
9 a hook and ladder is more articulated. A fire
10 truck that is the most difficult is the one
11 that is a 45-foot wheelbase. It's called a
12 pumper or a service vehicle. We made certain
13 that we could get in and out. That was just to
14 satisfy the emergency. We don't intend to use
15 it at all. But in order to satisfy them that
16 we could do it, we do have to improve Alice
17 Avenue.

18 If your question is: Do we plan on
19 widening Eastern Avenue? Essentially, we would
20 have to widen virtually the entire run of
21 Eastern Avenue to have any impact on it. I
22 understand that you can make up worst case
23 scenarios. If somebody has a party and people
24 are parked illegally all over the
25 streets - that's true, there are some parking

1 restrictions at those intersections, too. If
2 people follow those, those intersections will
3 be clear.

4 FROM THE FLOOR: How far down Alice
5 Avenue is the entrance going to be?

6 MR. HERSHBERG: About 40 feet. It's just
7 about to the property line. We're going to
8 stop it at this point here and we're going to
9 back our gate into our driveway 20 feet
10 (Indicating). That will leave room for a plow
11 truck to turn around in that driveway and go
12 back out. Right now they come in and plow and
13 they probably have to back all the way out to
14 Eastern. We gave them a place to turn around.

15 We originally had a plan to come all the
16 way down here and turn around down here and we
17 thought that was a little obtrusive just to
18 get emergency vehicles in and out.

19 CHAIRMAN O'ROURKE: Counsel has a
20 question for you, Mr. Hershberg.

21 MS. VAIDA: It's actually in relation to
22 Tom's question.

23 When I was looking over the required
24 findings that the Board has to make to make a
25 recommendation to the Town Board for the PDD,

1 the very first one says:

2 The PDD is consistent with the purpose
3 and intent of this chapter including the
4 design standards.

5 I am aware obviously that you're going to
6 have to come back before us for site plan
7 approval in the future and that's usually when
8 we get more into design standards and
9 specifics. However, when I looked over this, I
10 see that this is mentioned as number one so I
11 guess my question to you is: In the documents
12 that you provided, even though they might not
13 be exactly what the Board is looking for,
14 would you say that the design that you
15 proposed is consistent with the design
16 standards?

17 MR. HERSHBERG: A lot of the design
18 standards talk about material construction. We
19 chose something with brick, limestone, and
20 hearty plank walls. Those are all materials
21 that under the design standards are approved.
22 Is that the actual design method? It won't be.
23 We did show that design primarily for the
24 matching of the building.

25 Quite often when you start out with an

1 architectural design, you first figure out how
2 big is it and what it looks like and that was
3 the purpose of those renderings.

4 We also made up a floor plan to show
5 people how we'd be able to fit in the common
6 areas and the rooms on each floor, and how we
7 could fit 170 units. That was not intended to
8 be the built plan. I think that our goal here
9 would be to get a sense of this Board that the
10 plan meets the requirements, and the fact that
11 we have demonstrated that we could build the
12 building in accordance with the design
13 standards. Again, with the full understanding
14 that we would be back in front of this Board
15 with revised elevation units.

16 MS. VAIDA: So would it be fair to say
17 that whatever the end product is, it will be
18 consistent with the design standards? You're
19 not going to need any waivers or anything?

20 MR. HERSHBERG: No, we don't want to use
21 vinyl siding. We try not to use cheap
22 materials. The goal here would be to build an
23 upper scale apartment complex. We're talking
24 about rentals above the \$1.30 a square foot
25 level, which means on a small apartment it

1 might be \$1,400 or \$1,500 a month. It doesn't
2 mean that we won't have some 900 square feet
3 long or \$1,100 or \$1,200 dollars, but that's
4 going to include the use of the fitness center
5 and things like that. It won't include any
6 meals, but meals can be made available. When
7 you're talking about those sorts of rentals,
8 you have to give something that looks nicer.

9 MS. VAIDA: And then as far as the open
10 space areas here, should there be or are you
11 proposing some sort of -- how do we make that
12 in perpetuity? Do we need some sort of
13 easement or right of way?

14 MR. HERSHBERG: Quite honestly, you can
15 either do it with a broadly worded
16 conservation easement because all of those
17 areas shown as to remain green will remain
18 green. We'll certainly sign that. It can
19 either be that, or during site plan approval
20 has right on it that no further construction
21 can take place of impervious areas.

22 CHAIRMAN O'ROURKE: I think that
23 conservation easement is the way to go.

24 MR. GRASSO: Again, I think that her
25 concern is to get it established as part of

1 the PDD legislation now rather than later.

2 MR. HERSHBERG: What we're saying
3 essentially is that the applicant will protect
4 those green areas finally arrived at in the
5 site plan review and keep them forever green
6 through the conservation easement. I'd be
7 comfortable with the being a condition of this
8 Board's action.

9 MS. VAIDA: Good. Thank you.

10 CHAIRMAN O'ROURKE: Anyone else in the
11 audience?

12 FROM THE FLOOR: When you say that you
13 did a study of the need for senior housing in
14 Colonie, did you take into account what's
15 currently being built on Delatour and the one
16 off of Sand Creek Road? You didn't mention
17 that one. Also, Hearthstone - that one is
18 huge. Is that all filled?

19 My mother is not going to move to a place
20 like this. She said that she's going to die in
21 her house. Whatever it takes, she's staying
22 home. A lot of people feel that way that they
23 want to grow old in their homes. My question
24 is: Have you done a study of considering all
25 the senior housing that is currently being

1 built all through the Town? Also, are you
2 going to be bringing in people from California
3 or something to live in these places?

4 MR. HERSHBERG: I think that I made it
5 clear before. We asked the people that did the
6 market study - they are a nationally known
7 company. We asked them to first, figure out
8 the impact area which we told them was the
9 Town of Colonie, the City of Watervliet, and
10 southern Saratoga County within 10 miles of
11 the site and portions of the Town of
12 Guilderland. I think essentially that was the
13 Pine Bush area of the County of Albany. That
14 was their target area. People have lived very
15 proximate to the site. We told them
16 essentially that we intended to be in a \$1,200
17 to \$1,600 range for apartments and for
18 assisted living we'd be at the \$3,000 range a
19 month. That \$3,000 and \$3,500 a month for
20 assisted living is slightly lower than the
21 going rate on a lot of units right now.

22 CHAIRMAN O'ROURKE: That's cheap.

23 MR. HERSHBERG: We told them to use those
24 figures and figure out -- they took into
25 consideration, first, the number of people

1 that would qualify - 55 years old would
2 qualify. The number of people in this target
3 area that could afford to do it, and then they
4 did tell us what is called the penetration of
5 the market. At the time, the only site that
6 was under consideration was Delatour. I don't
7 know, there might have been one other one. We
8 told them to consider not only the ones that
9 were currently built, but those sites that
10 were currently planned. So, if there were
11 sites that we got the information or were
12 currently planned, those are included. I would
13 say that the amazing part about it is that it
14 showed how deep this market really was.
15 Whereas my client does not want to invest in a
16 project that's going to fail, he's going to
17 have to put up in today's day market probably
18 10 percent to 20 percent of the cost. The bank
19 is no longer going to lend you 105 percent of
20 the value like they did during the days of
21 people flying high. A bank is going to lend
22 you 80 percent of the cost here; 20 percent is
23 going to be my client's money. I can assure
24 you that the bank is not going to lend them
25 until they satisfy the market study and

1 second, my client won't go forward with the
2 project and not be successful. This project is
3 not going to sit there vacant because it's not
4 something that's for sale. You don't have to
5 find 50 people to buy condominiums. You don't
6 have to find 90 to buy single-family houses.
7 This is for rent. Once you commit to build the
8 building, the building will be built.

9 The way that they do it is we determine
10 that we need 12 million dollars to start our
11 project. The bank finds the 12 million dollar
12 loan and they start to loan the money as you
13 come through development. That's the way that
14 it all works. First of all, in today's day and
15 age the bank is not going to loan it until
16 they're satisfied that it has a high chance of
17 success and our client is not going to go
18 forward unless it is. If in fact, something
19 miraculous should happen and everybody over 55
20 years of age who is out of the Town of Colonie
21 moves out and moves down to Florida and there
22 is no market left, my client is not going to
23 build this facility. However it's clear that
24 the reason that the demand is here is that an
25 awful lot of people want to stay in the Town

1 of Colonie, even if people don't want to stay
2 in their existing house. People that are used
3 to this area - they like it here and they want
4 to stay here, and that's what makes this
5 market so deep. This was done not only by
6 professionals, but it was done in a very
7 professional manner.

8 We considered proprietary information. I
9 can give additional copies to the Board. I
10 cannot give it to the public because my client
11 paid \$14,000 or \$15,000 to do this study. He
12 doesn't want to make it available so that his
13 competition can use it. This Board is entitled
14 to have that information and I did make a copy
15 available to the office. It's in your file
16 now. I can give additional copies to the
17 Board. It's clear that the market is here.
18 Quite honesty, if you had this meeting again
19 once it's under construction, my guess some
20 people in this room would be making rental
21 agreements. You say no now, but I'll tell you
22 that when you see the quality of the
23 construction, you'll feel differently.

24 CHAIRMAN O'ROURKE: I'm a little
25 confused. My experience is that senior living

1 with food additionally -- the \$3,500 is very
2 low.

3 MR. HERSHBERG: These 90 units here are
4 assisted living (Indicating). They will have
5 three meals day, nursing health, people to
6 help you get dressed in the morning and help
7 the person take a shower, help the person with
8 their oxygen, and help a person with all their
9 needs. That's how assisted living works. This
10 is a full assisted living facility for the
11 90 units here.

12 This is 170 for the elderly. People who
13 are well enough to get around, like to drive,
14 don't like to be house-bound, like to get out
15 and do things; the typical seniors. We do
16 intend to provide a food facility here because
17 even though a lot of people are still
18 comfortable making their meals in their homes
19 and their apartments, a lot of people like the
20 capability of taking a lunch or dinner onsite.
21 We will probably offer three meals a day in
22 there, but not for everybody. Anybody who
23 lives in their apartment who wants to make
24 their own breakfast or lunch, might want to
25 come down for dinner.

1 My mother in law is 90 and we put her in
2 a facility and it's exactly like this facility
3 here. She takes her breakfast and lunch in her
4 room, and she goes down to dinner. She likes
5 to socialize with other people at dinner
6 rather than eat by herself in her room. There
7 are a lot of people like that so it's a good
8 capability for us providing that facility. We
9 think that this is a well thought out mixture
10 of units here and matches what we think is the
11 market.

12 CHAIRMAN O'ROURKE: You've already spoken
13 ma'am. Do you have one more important thing
14 for us?

15 FROM THE FLOOR: I was just wondering if
16 Colonie is going to be the primary fire
17 department and ambulance for this.

18 CHAIRMAN O'ROURKE: Yes, it's within the
19 Town, ma'am. It would have to be serviced.

20 FROM THE FLOOR: The one building
21 there - I don't see an exit. There is no
22 pavement to it.

23 MR. HERSHBERG: This is the main
24 entrance. There is a second. This is an
25 entrance here for pedestrians (Indicating).

1 FROM THE FLOOR: You don't show the
2 pavement going into the back of that building.

3 MR. HERSHBERG: This is actually a
4 courtyard area. This is a driveway going
5 underneath the building. This is a sidewalk
6 coming in (Indicating).

7 FROM THE FLOOR: People are going to live
8 there?

9 MR. HERSHBERG: Yes, these are
10 three-stories of apartments over a one-story
11 garage.

12 FROM THE FLOOR: What if someone lives in
13 the back and they have an emergency? Is there
14 any access for an emergency vehicle?

15 MR. HERSHBERG: First of all, emergency
16 vehicles would stay out on this roadway and
17 come in the entrance. They are served by
18 elevators. The primary evacuation plan that
19 EMS would do is come in through the garage and
20 park by the appropriate elevator, and use that
21 elevator to get up to the proper floor. That
22 would be a much better way to do it. They
23 would have direct access to an elevator. That
24 would be the preferred method. We haven't
25 discussed with EMS if they want to serve from

1 here. There is a walkway here, a driveway
2 here, and a set of steps. By the way, we have
3 a detail of all the methods of egress and
4 ingress, but in building multifamily housing,
5 you will have to have multiple methods of
6 ingress and egress. What we have here is a
7 main entrance here just to show you how people
8 get to here to the drop off area. Here is
9 another drop off area here on the side of this
10 roadway (Indicating). A car can pull up and
11 drop people off and let them walk in.

12 CHAIRMAN O'ROURKE: Is that all from the
13 audience?

14 ***(There was no response.)***

15 CHAIRMAN O'ROURKE: Okay, so
16 Mr. Hershberg is looking for - actually we
17 have to establish ourselves as lead agency. Do
18 I have a motion from the Board to establish
19 ourselves as lead agency?

20 MR. MION: I'll make that motion.

21 CHAIRMAN O'ROURKE: Do I have a second?

22 MR. GANNON: I'll second it.

23 CHAIRMAN O'ROURKE: All those in favor?

24 ***(Ayes were recited.)***

25 CHAIRMAN O'ROURKE: Okay, we have

1 established ourselves as lead agency for SEQRA
2 determination.

3 The lead agency has reviewed the
4 application, site plan, project description,
5 full EAF, supporting documentation and
6 conducted further investigation of the project
7 and its environmental effects as deemed
8 appropriate. Based upon this review and the
9 lead agency's knowledge of the area
10 surrounding the project, the lead agency has
11 determined that the action will have no
12 significant effects on the environment.

13 I'm looking for a SEQRA determination as
14 a neg dec. Do I have that motion?

15 Again, I'm reading off of the Part III
16 that was established by the Town Designated
17 Engineer. Notice of determination of no
18 significant effect on the environment pursuant
19 to 6NYCRR part 617.12B.

20 MR. GRASSO: C.J., the only change that I
21 have to our SEQRA determination is the change
22 in the fee to strike the \$8,330.00 credit.

23 CHAIRMAN O'ROURKE: That's correct.

24 MR. GRASSO: I have a new amount of
25 \$1,278,241. That will be referenced in the

1 final mitigation fee.

2 CHAIRMAN O'ROURKE: Right. Also, added to
3 the SEQRA is the land perpetuity as a
4 conservation easement - if we can add that in
5 which, will again come up when you do the
6 written findings, Joe.

7 MR. GRASSO: Yes.

8 CHAIRMAN O'ROURKE: And you'll provide
9 those back to the Board.

10 MR. GRASSO: Yes.

11 CHAIRMAN O'ROURKE: Acting as lead
12 agency, the Town of Colonie Planning Board has
13 completed a careful review of the reasonably
14 anticipated areas of environmental concern
15 raised by the project. Based upon the review,
16 the criteria for determining significance
17 contained in the SEQRA regulations, and the
18 role of reasonableness, the Planning Board
19 issues its negative declaration concluding
20 that the facts and circumstances of this
21 project will not result in a significant
22 adverse environmental impact. An environmental
23 impact statement therefore will not be
24 required.

25 Do I have a motion to accept that?

1 MR. ROSANO: Motion.

2 CHAIRMAN O'ROURKE: Second?

3 MR. MION: Second.

4 CHAIRMAN O'ROURKE: All those in favor?

5 **(Ayes were recited.)**

6 CHAIRMAN O'ROURKE: Opposed?

7 **(There were none opposed.)**

8 CHAIRMAN O'ROURKE: You have a neg dec on
9 your SEQRA determination, Mr. Hershberg.

10 Now, we are looking for a recommendation
11 to the Town of Colonie Town Board with a
12 positive recommendation to establish a PDD in
13 this area.

14 Do I have a motion to the Board?

15 MR. LANE: Does that recommendation also
16 have to include the conservation easement or
17 the land in perpetuity?

18 CHAIRMAN O'ROURKE: Yes, the language
19 will be part of the written findings that will
20 go to the Town Board.

21 MR. NARDACCI: I'll make that motion.

22 CHAIRMAN O'ROURKE: Do I have a second?

23 MR. GANNON: I'll second it.

24 CHAIRMAN O'ROURKE: All those in favor?

25 **(Ayes were recited.)**

1 CHAIRMAN O'ROURKE: Opposed?

2 ***(There were none opposed.)***

3 MR. NARDACCI: Just so we know, next is
4 the Town Board and then they'll come back
5 here.

6 CHAIRMAN O'ROURKE: Correct.

7 MR. HERSHBERG: You will see me again,
8 hopefully.

9 MR. NARDACCI: I just want to let the
10 public know that they have another
11 opportunity. Thank you.

12 CHAIRMAN O'ROURKE: Thank you.

13

14

15

16 ***(Whereas the proceeding concerning the above***
17 ***entitled matter was adjourned at 9:20 p.m.)***

18

19

20

21

22

23

24

25

CERTIFICATION

1
2
3
4 *I, NANCY STRANG-VANDEBOGART, New York*
5 *State Approved Transcriber and Notary Public*
6 *in and for the State of New York, hereby*
7 *CERTIFY that the record taped and transcribed*
8 *by me at the time and place noted in the*
9 *heading hereof is a true and accurate*
10 *transcript of same, to the best of my ability*
11 *and belief.*

12
13
14
15 -----
16 NANCY STRANG-VANDEBOGART

17
18
19 Dated January 5, 2011