

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3 *****
4 FOREST HILLS
5 33 DENISON ROAD
6 APPLICATION FOR FINAL SUBDIVISION APPROVAL
7 *****

8 THE STENOGRAPHIC MINUTES of the above entitled
9 public hearing BY NANCY STRANG-VANDEBOGART, a
10 Shorthand Reporter, commencing on
11 December 20, 2011 at 8:58 p.m. at the Public
12 Operations Center 347 Old Niskayuna Road,
13 Latham, New York 12110

14 BOARD MEMBERS:

- 15 PETER STUTO, Chairman
- 16 MICHAEL SULLIVAN
- 17 LOUIS MION
- 18 TIM LANE
- 19 BRIAN AUSTIN
- 20 PAUL ROSANO
- 21 ELENA VAIDA, Esq., Attorney for the Planning Board

22 Also present:

- 23 Joe LaCivita, Director, Planning and Economic
24 Development
- 25 Skip Francis, CT Male and Associates
- Melissa Courier, PE, CT Male and Associates
- Ed Garrigan, CT Male and Associates
- Jeff Myers, Shelco Development
- Tom Johnson, PE, Barton and Loguidice
- Lawrence Palleschi, VP, Birchwood Neighborhood
Association

1 (cont.)
2 Jill Knapp, Director, Mohawk Hudson Land
3 Conservancy
4 Stuart Denike
5 Christopher Emr
6 Wallace Krawitzky
7 Kevin Laurilliard
8 Linda Lindstrom
9 David Nerrow
10 Shawn Palleschi
11 Ellen Pemrick
12 Susan Quine
13 John Razzano
14 Dave Rettig
15 Robert Schlieman
16 Tammy Weingarten
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1 CHAIRMAN STUTO: We obviously have a lot
2 of residents here. I have the sign in sheet.
3 If anyone else hasn't signed in, please do so.

4 We don't have a Town Designated Engineer
5 on this one as we do for the more modern
6 projects.

7 Joe, we don't have a TDE on this, so I'm
8 going to ask you to make a more detailed
9 presentation then you normally make. Then,
10 we'll turn it over to the applicant.

11 MR. LACIVITA: Do we want to read the
12 public hearing notice first?

13 CHAIRMAN STUTO: If that's a requirement,
14 then, yes.

15 MS. VAIDA: Notice is hereby given that
16 pursuant to Section 276 of Town Law, the Town
17 Planning Board of the Town of Colonie, Albany
18 New York will meet and conduct a public
19 hearing at the Public Operations Center, 347
20 Old Niskayuna Road, Latham, in the Town of
21 Colonie, County of Albany, New York on the 20th
22 day of December at 7:05 for the purpose of
23 hearing all persons upon the approval,
24 modification or disapproval of a certain
25 residential subdivision plat in the Town of

1 Colonie, County of Albany known as Forest
2 Hills subdivision consisting of approximately
3 85 acres of land located at 33 Denison Road to
4 be divided into 75 building lots.

5 CHAIRMAN STUTO: Thank you.

6 Joe, can you give us some background?

7 MR. LACIVITA: The project existed in
8 review under the Planning and Economic
9 Development Department since back in 2001 when
10 it was known as Oak Hill. As time went on,
11 this actually became a/k/a Forest Hills. It
12 received concept approval prior to the Land
13 Use Law change of 2007. So, this was a
14 grandfathering provision that has been carried
15 on through the years because the approval of
16 work back in the prior zoning block. It
17 started off with, I believe, 92 or 95
18 residential lots and it has been downsized now
19 to 75 residential lots. There have been
20 several meetings over time on the project with
21 neighborhood associations, with residents,
22 with the developer, the engineer and Planning
23 and Economic Development.

24 We're here tonight to try to come to
25 resolution on any existing or outstanding

1 issues that may be on the site so we can
2 obtain final approval on the subdivision known
3 as Forest Hills, 75 residential lots.

4 CHAIRMAN STUTO: Okay, are there any
5 major issues that existed that in your mind
6 have been resolved, or attempted to have been
7 resolved?

8 MR. LACIVITA: There were a number of
9 issues that have been discussed and asked and
10 answered over time.

11 I think that the ones that are still
12 outstanding at this point in time, Peter, is a
13 document out from the Verdoy Fire Department
14 as to access from Tamarack to Vly Road. The
15 neighborhood association would like that to be
16 considered. This was on the original plan with
17 Planning and I think that through the review
18 processes that came off the site plan. So,
19 when concept was given, there was no
20 connection to Tamarack from Vly Road. That was
21 based on site line constraints from that area.

22 CHAIRMAN STUTO: Meaning what?

23 MR. LACIVITA: There is a little bit of a
24 bend to that area which actually reduces the
25 standards of sight line. I'm not going to have

1 the actual footage needed under sight line,
2 but I think that we have 200-something feet
3 existing and I think that the standard is 300.
4 Certainly Skip or Melissa can definitely speak
5 to the actual standards. This site as it's
6 located will not be able to get those sight
7 line distances needed for that access point.
8 That was one of the issues.

9 One of the other issues existed with the
10 Comprehensive Plan as this area called out for
11 a pocket park, if you will. Mr. Myers from
12 Shelco, who is the actual developer for the
13 site, has put a seven-acre parcel in across
14 the street because he has a holding for that
15 one which is known as Ridgely Commons. He's
16 developing that one. Seven acres have been
17 determined in that site, which is probably
18 more level than any of the other areas for a
19 pocket park.

20 CHAIRMAN STUTO: Is it being proposed
21 that land be dedicated as part of this
22 approval?

23 MR. LACIVITA: It's part of the Ridgewood
24 approval that will be coming up.

25 CHAIRMAN STUTO: I was saying the other

1 development, when it's approved, that aspect
2 of the Comprehensive Plan would have been -

3 MR. LACIVITA: That will be addressed.

4 CHAIRMAN STUTO: Thank you.

5 MR. LACIVITA: The other thing - of
6 course traffic is an issue out in this area.
7 You have the narrower roads. One of the other
8 issues that was brought up in this area is
9 that some of the sites or the homes are over
10 410 feet in elevation. Certainly Skip and
11 Melissa will talk to this, as well. This
12 project also talks about a water tower that
13 will actually change the pressure and be able
14 to feed the properties - the houses that are
15 being built. A couple of the adjoining
16 properties will be able to be upgraded and
17 brought on-line once the developer constructs
18 the infrastructure needed for a water tower.

19 CHAIRMAN STUTO: So, the water tower is a
20 prerequisite to approval of this project.

21 MR. LACIVITA: That is correct. It's a
22 major component of the project.

23 CHAIRMAN STUTO: It also feeds the other
24 subdivision?

25 MR. LACIVITA: Yes.

1 CHAIRMAN STUTO: And some existing. Is
2 that the circle up near the park (Indicating)?

3 MR. LACIVITA: Skip, where is the water
4 tower sited?

5 MR. FRANCIS: The pump station is here
6 (Indicating).

7 MR. LACIVITA: The Latham Water
8 Department will be going one by one in
9 bringing houses on-line after that's
10 constructed.

11 CHAIRMAN STUTO: Are there stormwater
12 issues? Mike and I were having a brief
13 discussion and we didn't have a thorough
14 discussion on that.

15 MR. LACIVITA: There is nothing, per se.
16 There are some water issues with some abutting
17 neighbors that are going on. I know that there
18 have been historic issues that have been
19 discussed with the neighbors. Skip will
20 certainly articulate those going on. To date,
21 if you've read through the minutes, there are
22 no stormwater concerns at this point in time
23 from the review. This actually has sign-off
24 under the old DEC regulations, which have now
25 changed. We have the MS4. The SWPPP was

1 approved, I think, back in January or February
2 of this year. So, they're under the old
3 guidelines of the project under DEC law. So,
4 it seems like everything has been taken care
5 of to date for stormwater.

6 CHAIRMAN STUTO: Anything else before we
7 turn it over to the applicant?

8 MR. LACIVITA: I think that we're pretty
9 much set. I'm sure you can ask questions along
10 the way.

11 CHAIRMAN STUTO: And we'll definitely
12 hear from the public, too.

13 MR. FRANCIS: Good evening. My name is
14 Skip Francis. I'm a professional engineer with
15 CT Male Associates. I'm representing Shelco
16 Development, who is the applicant tonight.
17 With us is Jeff Myers, also the president of
18 Shelco.

19 Thank you for this opportunity to hear
20 this proposal tonight and please be patient
21 for about 15 or 20 minutes as I try to fit in
22 10 years of information. I appreciate all of
23 your time reviewing the rather thick file of
24 this subdivision. I'll try to keep it as
25 direct as I can.

1 A couple of key points: I want to make
2 sure that what we go through tonight is to
3 assure this Board that all Town Department
4 comments have been addressed to date. I'll go
5 through those a little bit more in detail. I
6 also want to assure the Board that all
7 reoccurring questions from the public and the
8 neighborhood associations have been asked and
9 addressed.

10 The other key point is that we seek final
11 action tonight on a project so that we can
12 move forward with state and federal
13 permitting, as these agencies do not review
14 applications until after the Planning Board's
15 final action.

16 Moving into a brief general description
17 of the overall features of the subdivision:
18 Joe mentioned a couple of them in his
19 introduction here. It's formerly known in your
20 files as Oak Hill. The formal name now is
21 Forest Hills. That was requested by the
22 Planning and/or Police Department due to the
23 common references of Oak in the Town. So, it
24 was changed to Forest Hills.

25 It's 85 acres, 75 single family lot

1 subdivision at 33 Denison Road. It is on the
2 east side of Denison Road. It's bounded on the
3 north by Walnut Lane and bounded on the south
4 by Vly Road.

5 CHAIRMAN STUTO: Can you trace Denison
6 Road for us?

7 MR. FRANCIS: Denison Road is going from
8 North to South from Walnut Lane south down to
9 Vly Road (Indicating).

10 CHAIRMAN STUTO: Thank you.

11 MR. FRANCIS: The subdivision has four
12 stormwater management areas; the dark green
13 areas shown on this aerial map. The SWPPP has
14 been reviewed by the Town's Stormwater
15 Management Officer in February. We have the
16 MS4 acceptance form and we have filed the
17 notice of intent with DEC, so we have permit
18 coverage at this moment.

19 There are two vehicle access points to
20 the property. One from the west on Denison
21 Road by Branchwood Way and there is one from
22 the north, Tamarack Lane. There is no
23 connection right now to Vly for reasons that
24 I'll discuss later. He touched on those
25 briefly in the introduction.

1 The project has proposed elevated water
2 tank that would provide the source of
3 municipal water for this subdivision. It is
4 interrelated to this application, but is not a
5 specific component of this application
6 tonight. The adoption and acceptance of the
7 water tank is a Town Board action reviewed and
8 the responsibility of the Division of Latham
9 Water. I'm bringing you up to speed as to why
10 it is here and how it is interrelated, but
11 it's not part of your decision tonight.

12 CHAIRMAN STUTO: But it can be a
13 condition of our approval, correct?

14 MR. FRANCIS: It already is integrated
15 into that because during the course of the
16 subdivision review by Latham Water, they
17 specifically asked to see the design drawings
18 for the tank and the pump station.

19 No low pressure lines are proposed. The
20 waste water will be discharged to the Mohawk
21 View treatment facility. All roads, sanitary
22 water infrastructure, stormwater management
23 areas ultimately will be dedicated to the
24 Town. In terms of construction sequence, the
25 underground infrastructure goes in first with

1 waterlines, the tank and pump station will be
2 constructed. Sanitary storm infrastructure
3 will go in and the second phase of
4 construction would be basically - it won't be
5 a phase. It would be the second sequence of
6 the roadways and the mass grading for the
7 building pads. Last, the homes will start to
8 pop up - all the homes and the structures,
9 themselves.

10 There are lots of questions about what is
11 going to happen first - if this was the
12 construction sequence, which was proposed.

13 As Joe mentioned in his introduction
14 about the Town Park, there is no Town Park in
15 this subdivision application. It is located on
16 the Ridgewood parcel, which is on the west
17 side of Dennison Road and it's highlighted on
18 this aerial map here (Indicating). That's
19 under a separate application of the Ridgewood
20 subdivision, and we'll discuss the park a
21 little bit later as to how it came to be over
22 there.

23 There is open space on this property,
24 approximately 15 acres; approximately 18
25 percent. These are the light green areas shown

1 on this map (Indicating). These are areas that
2 are not to be developed. They'll be preserved
3 by conservation easements. That's a condition
4 of the concept approval carried forward.

5 CHAIRMAN STUTO: Can you point that out
6 again?

7 MR. FRANCIS: These large light green
8 areas - there are two of them; one here to the
9 north and one more to the south (Indicating).

10 CHAIRMAN STUTO: What is the acreage on
11 those?

12 MR. FRANCIS: Total combined acreage is
13 about 15.9 acres.

14 CHAIRMAN STUTO: Walking paths aren't in
15 there, then?

16 MR. FRANCIS: Those are largely in Army
17 Corp Wetland areas. It's not conducive to
18 walking paths.

19 CHAIRMAN STUTO: Who is the recipient of
20 the conservation easement? The Army Corps?

21 MR. FRANCIS: Those areas with the Army
22 Corps - we'll put them in the covenants and
23 restrictions, but ultimately those areas are
24 intended to be dedicated to the Town.

25 CHAIRMAN STUTO: The Town Attorney said

1 what about that? Dedicated as a conservation
2 easement?

3 MR. FRANCIS: Correct, yes.

4 CHAIRMAN STUTO: Has the Town Attorney's
5 office spoken to that, or given the approval
6 of that?

7 MR. FRANCIS: Not at this time. That will
8 be a function of our joint permit application
9 and coordination of DEC and the Corps and the
10 wetland permitting process. It will be ironed
11 out in the covenants and restrictions at that
12 point in time. I'll address that a little bit
13 later.

14 As Joe mentioned in January 15, 2002, a
15 SEQRA negative declaration was issued and a
16 concept approval for the plan that you see
17 before you tonight was approved back then. The
18 project has been grandfathered under
19 preexisting land use regulations that were in
20 effect at the time that concept approval was
21 granted. Since then, we've undergone about six
22 design iterations to get to this point. The
23 plans have been on file with the PEDD office
24 since April of this year.

25 Ultimately, the Town's direct benefits

1 for this project would be 75 new residences
2 with a base market value at or above other
3 nearby residential properties that would be an
4 asset to a local housing market to a Town that
5 has been nationally recognized as one of the
6 best places to live, and the safest places to
7 live.

8 The new water distribution system
9 including an elevated tank - a pump station -
10 will be designed, permitted, constructed and
11 maintained by this applicant at no capital
12 cost to the Town, prior to dedicating to the
13 Town. The roadways, sanitary sewer and
14 stormwater management areas also will be
15 designed and constructed by the applicant
16 prior to dedication. So, those are the key
17 direct benefits to this project.

18 If I may, I'd like to bring the Board up
19 to speed with the summary of permits and
20 reviews of where we are - what permits we've
21 accomplished and which ones we have yet to
22 achieve. I'll touch on the three major
23 outstanding issues that Joe introduced. I'll
24 address each one of those before we return to
25 questions and the public hearing.

1 Those permits that we have received to
2 date or reviews that have been completed are
3 the following: All Town Departments have gone
4 on record and comments have been addressed, to
5 date. The Army Corps of Engineers has issued a
6 jurisdictional determination of wetlands in
7 March of 2002 for the wetlands on the
8 property.

9 The Federal Aviation Administration has
10 reviewed the water tank in July of 2011. They
11 issued a determination of no hazard to air
12 navigation.

13 The Latham Water District, as of July, in
14 a memo contained no further substantive
15 comments on this subdivision of the elevated
16 tank or the pump station. They are satisfied
17 with the design, as it is.

18 The Office of Parks and Recreation and
19 Historic Preservation issued a letter in
20 August of 2011: No impact on archeological and
21 cultural resources.

22 The Stormwater Management Office has
23 reviewed and accepted the SWPPP and the
24 stormwater design and drainage of this
25 project. In February they signed the Town MS4

1 acceptance form and subsequently later that
2 month, we filed our notice of intent for DEC
3 or general permit coverage.

4 In March, DEC issued their letter of
5 acknowledgement saying that we do have
6 coverage.

7 The DEC also, lastly, has reviewed the
8 project for threatened and endangered species
9 and in January of this year issued a letter of
10 threatened and endangered species in this
11 area.

12 A couple of permits and reviews, I'll
13 entertain questions along the way from the
14 public about reviews that are not required.
15 One is an Albany County Planning Board review.

16 This project is not located within 500 of
17 the municipal boundary and does not have
18 access to a county roadway; thus not
19 triggering any review by the Albany County
20 Planning Board.

21 The other review that is not required is
22 specifically by any school districts. The
23 project does lie within two school districts;
24 South Colonie Central and Niskayuna Central
25 School Districts. As a courtesy to those

1 School Districts, we have notified them of
2 that subdivision. In December of 2001 we
3 notified South Colonie Central and in January
4 of 2001, we notified Niskayuna. We've never
5 received any formal responses from these
6 school districts. Nonetheless, as a courtesy,
7 we have notified them.

8 The outstanding reviews and permits yet
9 to do: We propose to follow through with these
10 permits and reviews and any final action from
11 this local Board tonight. One would be payment
12 of the remaining GEIS mitigation fees. That's
13 been carried through from the PEDD reviews; a
14 joint permit application to DEC and the Army
15 Corps of Engineers for impacts to wetlands on
16 the property. They're minor, but they would,
17 nonetheless, require a joint permit
18 application.

19 In that, as the Chairman spoke to
20 earlier, part of that would be under DEC and
21 Corps coordination along with the Planning
22 Department and the Town Attorney. We would
23 work out the restrictive covenants during the
24 course of the JPA review.

25 We also have an application for a public

1 water supply for this subdivision to obtain
2 through DEC. That's related to the elevated
3 water tank and the pump station.

4 The fifth outstanding permit or issue is
5 the Albany County Department of Health. There
6 is an application for a public waste water
7 sewer extension for this subdivision. We have
8 to also record the subdivision and any
9 restricted covenants at the County Clerk's
10 office and prior to starting any construction,
11 we have to get a Town DPW engineering grading
12 permit before we can commence with any land
13 disturbance.

14 I have seven things in front of me that
15 we still have yet to do once we get final
16 approval at the local level for these state
17 and federal agencies. There is still some work
18 in front of us.

19 If I may just real quickly: The three
20 main items that Joe spoke of earlier was the
21 Town Park, the water system improvements and
22 the traffic issues. I'll highlight those real
23 quick.

24 The Town Park's Department issued a
25 statement in a memo of 2001. They had no

1 interest in a park on this particular parcel.
2 The Town Park is not part of this application.
3 Rather, it's another part of a proposed
4 development on the west side of the road owned
5 by the same applicant, but another project
6 entitled Ridgewood Subdivision. It's
7 highlighted in the southwest corner of the map
8 here (Indicating).

9 This issue of where the park is located
10 was discussed at the January 15, 2002 Planning
11 Board meeting for concept review of Forest
12 Hills and it was discussed in the December 1,
13 2009 concept approval for the Ridgewood
14 project. So, both projects in the course of
15 the Planning Board's review understood and
16 made a decision that the park is located on
17 that project and it's not part of this
18 application tonight.

19 Moving on to the water system
20 improvements - I have a separate map to give
21 you a general idea of the service area that is
22 proposed in relationship to the subdivision.
23 On this service area map, the Forest Hills
24 subdivision is the light blue area
25 (Indicating). In order to have Forest Hills

1 exist with water pressure, we would have to
2 construct an offsite water main approximately
3 one-half mile long up to the proposed location
4 for the 400,000 gallon water tank. It is
5 located somewhat in the middle of the green
6 parcel entitled Ridgewood Subdivision, but
7 that would not be built until after this tank
8 is in service. The three subdivisions that
9 this water system would serve would be Forest
10 Hills in blue, Ridgewood in Green and the
11 approved Londonderry Ridge Subdivision in the
12 magenta red color (Indicating).

13 CHAIRMAN STUTO: The water tank has to be
14 built and operational before you can have a CO
15 on any house?

16 MR. FRANCIS: Precisely. It was the
17 airport area GEIS that identified that in this
18 high ground area where these three
19 subdivisions are located. Any development in
20 that area would require an elevator bar tank.
21 Latham Water District, as Joe mentioned,
22 cannot provide water pressure above the
23 elevation of 410 feet. So, these areas, both
24 green and red are all above that elevation.

25 Latham Water District has requested to

1 review the design plans of this water tower
2 pump station, as I touched on earlier, and
3 they have reviewed those tank plans
4 concurrently with the layout of this
5 subdivision. We have prepared an engineering
6 report and that's been reviewed by them. The
7 applicant has agreed to design, permit,
8 construct and maintain this system until
9 everything is fully operational and functional
10 before turning it over to the Latham Water
11 District.

12 The Londonderry proposed subdivision has
13 been approved. I don't believe construction
14 has actually started yet, but that applicant
15 has agreed to at least contribute some portion
16 of the funds to the improvements to help with
17 the construction of the tank and the pump
18 station.

19 The overall source and operation of this
20 system is called the new Vly Denison High
21 Service Area. It will be drawing off of the
22 existing 3.4 million gallon Denison Road
23 reservoir. The pump station will be located
24 right on that property. It will pump through
25 the Forest Hills water system through an

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1 easement on the Ridgewood parcel property.

2 This is about a half-mile of off-site pipeline
3 up to the high water tank and then provide the
4 pressure for these areas, as it's developed.

5 We worked closely with the Latham Water
6 District for design of the tank and pump
7 station according to their requirements and
8 their preferences. We've added such things as
9 radio communication systems that are
10 consistent with what they use throughout the
11 Town. It has a backup generator and it will
12 also have security cameras. There is an image
13 of what the tank looks like. It's described as
14 what is called a spheroid water tank. It's a
15 round tank elevated on a pedestal.

16 Going forward, Latham Water District
17 acknowledges that some of the existing homes
18 do have low pressure, due to the elevations
19 and some of the existing residences. Not all
20 the residences are equipped to be accepted
21 into this new pressure zone when it becomes
22 operational. In the future, the Latham Water
23 District will review the nearby existing
24 residences on a case by case basis to
25 incorporate them into this high service area.

Legal Transcription

1 Those homes that are outside these
2 colored areas will still remain on their
3 current system. They'll see no changes in
4 their pressures because this would be an
5 isolated service area. It will be valved off
6 and this tank will serve these three areas. On
7 a case by case basis, it will have the
8 features to provide additional water service
9 elsewhere, but will be phased in as Latham
10 Water District will work. As you may recall,
11 John Frazer spoke at a special public Planning
12 Board meeting on March 31, 2009 to discuss the
13 development of this high ground water tank, as
14 it relates to these three proposed
15 subdivisions, including Forest Hills, tonight.

16 CHAIRMAN STUTO: You probably already
17 described this, but I'm going to ask the
18 question. When the tank initially goes
19 on-line, it's going to pressurize your
20 subdivision and other homes as well, or no?

21 MR. FRANCIS: It will just pressurize our
22 subdivision until the other subdivisions are
23 built.

24 CHAIRMAN STUTO: It's not going to affect
25 any of the existing homes in the beginning.

1 MR. FRANCIS: Any of the existing homes
2 in the beginning will not be affected;
3 correct. Outside of these colored areas
4 (Indicating), it will not be affected.

5 CHAIRMAN STUTO: So, you are your own
6 water system, although you will be turned over
7 to Latham Water.

8 MR. FRANCIS: Correct.

9 CHAIRMAN STUTO: You say it may or may
10 not be integrated with the Latham Water
11 System.

12 MR. FRANCIS: It will be over time, and
13 Latham Water District will make that decision,
14 irrespective of that application or how much
15 development is done. They will phase it in as
16 they see fit to bring certain areas on-line
17 and into the whole system. They certainly have
18 the capability to serve more than just these
19 three and provide additional pressures to some
20 of the surrounding areas. But for now, as this
21 is going in and coming on-line, it will
22 provide pressure for Forest Hills only,
23 Ridgewood -

24 CHAIRMAN STUTO: What is your water
25 source?

1 MR. FRANCIS: It will be drawing off of
2 the existing Denison Road reservoir at the
3 east side of the property.

4 CHAIRMAN STUTO: So, you're going to pull
5 water from the Town - Latham Water District's
6 system.

7 MR. FRANCIS: Yes.

8 CHAIRMAN STUTO: Thank you.

9 MR. FRANCIS: That covers the park and
10 the water and the last thing that I want to
11 cover is the traffic issues.

12 As Joe mentioned before, there have been
13 concerns and questions about why there is no
14 connection from Tamarack Lane which is
15 currently proposed as a cul-de-sac - why there
16 is no connection to Vly Road.

17 CHAIRMAN STUTO: What sheet would that be
18 on? You have a lot of sheets here.

19 MR. FRANCIS: I think that it's sheet
20 SB4.

21 Just to give you a little background on
22 this area - what I represent to you tonight is
23 a drawing that we had dated back in March of
24 2001 that was presented at the May 2001
25 Planning Board meeting. This was a preconcept

1 meeting and in that, this is where the project
2 had proposed a connection of Tamarack Lane to
3 Vly Road (Indicating). On here it gives the
4 sight distance requirements. The sight
5 distance to the east is required by AASHTO
6 Roadway design standards to have a required
7 distance of 360 feet. The sight distance that
8 was available at the time that we measured was
9 215.

10 CHAIRMAN STUTO: Which direction is east
11 on that?

12 MR. FRANCIS: This direction
13 (Indicating). At the 30 mile an hour speed
14 zone of Vly road, it should have required
15 sight distance of 360 feet. We have available
16 215. That is largely due to the existing
17 geometric features of Vly Road. It curves and
18 it also drops down as you go to the east; it
19 drops away. So, this is the basis of a map of
20 some questions and maybe some things can be
21 cleared up as to why things have changed from
22 2001 to the way that they are now. We can also
23 see, frankly, why in January of 2002 the
24 concept was approved as we see here with the
25 Tamarack cul-de-sac. The reason is that first

1 and foremost we could not meet the roadway
2 design standards that were established by
3 AASHTO - they could not be met; more
4 specifically, the sight distance. It's 40
5 percent deficient, looking to the east, if you
6 were coming out of Tamarack looking to the
7 left on Vly.

8 The second reason is the PEDD issued a
9 memo in April 20, 2001 and directed the
10 applicant to remove this connection to the
11 road to make it a cul-de-sac because sight
12 distance was a problem.

13 The third reason is the Town Fire
14 Services issued a memo in January 3, 2002 and
15 stated that Tamarack Lane cul-de-sac was
16 acceptable, as we see here.

17 The fourth - Town residents who live at
18 290 and 298 Vly Road - that is this residence
19 here and this residence here
20 (Indicating) - right between them would have
21 been the proposed connection. They both
22 produced letters that were presented in the
23 May 2001 concept Planning Board meeting. They
24 were written requests that connection be
25 removed. They had problems seeing coming out

1 of their own driveway and stated that as a
2 fact.

3 CHAIRMAN STUTO: Who owns that strip of
4 land now between the houses? It appears on the
5 map - it says parcel to be deeded to the lot
6 on the right and then the other side of the
7 lot on the left. Who owns that strip of land
8 now?

9 MR. FRANCIS: Currently, the applicant
10 owns it. Part of the proposal, as it stands
11 now, is that half of that strip - the west
12 half gets dedicated to 90 Vly Road to the
13 west. The other half gets dedicated to 296 Vly
14 Road. Either way, that parcel will be split;
15 half dedicated to one and the other. It will
16 also retain an easement because the waterline
17 runs through there and the sewer line runs
18 through there. There is a 40 foot wide
19 proposed easement right now through there. The
20 lands would be transferred to those property
21 owners. The property line owned by the
22 applicant would be ending right back here
23 (Indicating).

24 CHAIRMAN STUTO: Just so we can visualize
25 it, if there is an issue on that cul-de-sac,

1 whether it's a fire or an ambulance issue, how
2 could somebody get out of there? What are the
3 routes? What are the alternatives? We would
4 like to visualize it.

5 MR. FRANCIS: To go down Tamarack Lane
6 and exit by Branchwood.

7 CHAIRMAN STUTO: That's the first way
8 out, right?

9 MR. FRANCIS: Yes.

10 CHAIRMAN STUTO: Is there another way
11 out?

12 MR. FRANCIS: No.

13 CHAIRMAN STUTO: What if they continue
14 down?

15 MR. FRANCIS: Oh, they can go through
16 Tamarack, I'm sorry. Going all the way to the
17 north, you can access the subdivision by
18 Tamarack.

19 CHAIRMAN STUTO: How many feet is it to
20 that first one?

21 MR. FRANCIS: I'm not sure. I think in
22 the neighborhood of a quarter of a mile.

23 CHAIRMAN STUTO: Do we have the letter
24 from Verdoy?

25 MR. LACIVITA: Yes. Do you want me to

1 read it?

2 CHAIRMAN STUTO: If it's not too long.

3 MR. LACIVITA: No, not at all.

4 February 19, 2002. It's from David
5 Johnson. It's to Chief Lawrence Isabella, Town
6 of Colonie Fire Prevention regarding the Oak
7 Hill Subdivision.

8 "As you know some of the issues get put
9 aside when there is transition in a fire
10 department. Unfortunately, this was the case
11 with the review of this subdivision. This area
12 was brought back in the forefront when Wallace
13 Krawitzky of the neighborhood association in
14 this area of the development approached me.

15 Mr. K was concerned with the cul-de-sac
16 plan from the south end of the Tamarack Lane
17 extension. I informed him that it's always
18 better from a Fire Department viewpoint to
19 have access to any address from more than one
20 direction. As you know, roads are easily
21 closed due to firefighting operations,
22 apparatus placement, hoses, etcetera, during
23 an incident.

24 The access to this location is limited to
25 one direction, there is a chance that needed

1 equipment will not be able to get there or to
2 be delayed. It seems reasonable to request
3 that Tamarack Lane cul-de-sac be eliminated
4 and the road be continued through to Vly Road.
5 There is a 30 foot wide utility easement from
6 the cul-de-sac to Vly Road shown on the site
7 plan. This will prevent any building on that
8 land so that the continuation of Tamarack
9 appears to be feasible. Some reconfiguration
10 of the lots on the cul-de-sac may be required,
11 but it should be a minor revision.

12 Once again, I apologize for the lateness
13 of this response. I hope that your concerns
14 can still be relayed to the Planning Board for
15 consideration, since the suggestion appears to
16 us to be in the best interest of the potential
17 district residents."

18 That was by David Johnson, Chief of the
19 Verdoy Fire Department, February 19, 2002.

20 CHAIRMAN STUTO: Thank you. Now, I've
21 asked Tom Johnson to be here from Barton and
22 Loguidice because when I was discussing these
23 issues with this - for the Board's benefit and
24 for the public - when I was discussing these
25 issues with Joe, I really didn't feel

1 confident as a non-engineer to make a decision
2 on this without professional advice on our own
3 side. This project has been around since 2002.
4 It's been nine years. They were grandfathered
5 in - in the sense that they did not require a
6 Town Designated Engineer. However, we're
7 entitled to seek advice from professionals and
8 charge it against the developer. I am
9 interested in what Tom Johnson has to say. If
10 the rest of the Board is, I would suggest that
11 we hire him and it's got to be billed to the
12 developer. He'll help us with other aspects of
13 the project tonight. I actually think that
14 it's in the best interest of the developer as
15 well, in the sense that it will help us get
16 through issues rather than stumble on issues.

17 Does the Board have any feeling on that?

18 MR. LANE: Absolutely.

19 CHAIRMAN STUTO: Motion to hire Tom on
20 that basis?

21 MR. LANE: I'll make a motion.

22 MR. AUSTIN: Second.

23 CHAIRMAN STUTO: All in favor?

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

25 CHAIRMAN STUTO: All opposed?

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

2 CHAIRMAN STUTO: The eyes have it.

3 Tom, would you care to comment on that?

4 MR. JOHNSON: Anything in particular? I'm
5 concerned with the sight distance. There were
6 a few questions that I would have for the
7 applicant.

8 CHAIRMAN STUTO: Please guide us through
9 this.

10 MR. JOHNSON: Obviously, I have not
11 reviewed much of the information other than a
12 site plan and what you've been presented
13 tonight. The sight distance criteria - do you
14 know if that has changed to date since you
15 evaluated it? When did you evaluate that?

16 MR. FRANCIS: It was evaluated in 2001. I
17 don't believe that it has changed since then.

18 MR. JOHNSON: I know that they have
19 changed the eye height measurements. I don't
20 know if that actually changed the requirements
21 at all.

22 The sight distance that the driveway
23 would not meet - is that the intersection
24 sight distance, or would that be the stopping
25 sight distance?

1 MR. FRANCIS: I believe it's the
2 intersection of sight distance.

3 MR. JOHNSON: Does it meet the stopping
4 sight distance; do you know?

5 MR. FRANCIS: I do not have that
6 information.

7 MR. JOHNSON: Just for the Board's
8 information, the intersection sight distance
9 you would want provides more sight distance
10 coming out of a driveway or a roadway. The
11 stopping sight distance is more of a critical
12 concern if it doesn't meet that. That
13 basically tells us that a vehicle would likely
14 not be able to stop in time for a collision of
15 cars.

16 You say that it was probably the
17 intersection sight distance? You're not sure
18 about the stopping?

19 MR. FRANCIS: Correct. I didn't conduct
20 those particular calculations myself to be
21 able to answer that for you tonight. I can
22 check.

23 MR. JOHNSON: You mentioned the sight
24 distance was evaluated against the speed
25 limit; is that correct?

1 MR. FRANCIS: I believe it was evaluated
2 against the 30 mile an hour speed zone at that
3 location.

4 MR. JOHNSON: Do you know what the actual
5 operating speed it?

6 MR. FRANCIS: Probably much higher.

7 MR. JOHNSON: So, if it's much higher -

8 MR. FRANCIS: According to the public, it
9 is much higher.

10 MR. JOHNSON: If it would be higher, than
11 obviously the more distance it would require
12 for the sight distance.

13 MR. FRANCIS: But if they're traveling at
14 a higher rate of speed, they're breaking the
15 law.

16 MR. JOHNSON: I understand that.

17 The restrictions on the sight distance
18 along Vly Road - you mentioned that it's a
19 horizontal curve and part of a vertical curve?

20 MR. FRANCIS: Correct.

21 MR. JOHNSON: Are there ways to improve
22 the sight distance other than raising the road
23 or straightening the road out? Can you see
24 through or is there a way that will allow you
25 to see to meet the standards or come close to

1 the standards, anyway?

2 MR. FRANCIS: To my knowledge, and I've
3 seen it recently, there is no large trees,
4 shrubs brush out near the road that are a
5 direct obstruction. I think that it is largely
6 due to the curvature in the road and the grade
7 change as it drops down. At some point there
8 may be a tree or a shrub that comes into view,
9 but I think in general the property owner at
10 this location - he or she might be in the
11 audience tonight -- I think that their front
12 yard is relatively clear of vegetation.

13 MR. SULLIVAN: Has the possibility of an
14 emergency access been discussed using the
15 easement as a crusher run roadway there with a
16 locked gate? Has that option been discussed at
17 any point during this project?

18 MR. FRANCIS: Not specifically for
19 emergency access use and egress/ingress only.
20 No, that has not been reviewed or discussed.
21 It's never been brought up from the Town's
22 perspective at all at this point.

23 MR. SULLIVAN: Would that be something
24 that's an option here? Could that be designed
25 to work in proximity with the waterline?

1 MR. FRANCIS: It's entirely possible and
2 can be looked into, of course. We'd need to
3 talk it over with our applicant. I don't see
4 any reason why we couldn't consider designing
5 a system that could support the weight of a
6 fire access vehicle. They make those products
7 and they are available. That easement that
8 contains a waterline and a sewer line beneath
9 it could be topped with some interlocking
10 fence with grass over it. It wouldn't have to
11 be an asphalt road. That's an option. It's not
12 something that we've discussed yet, but that's
13 entirely a possibility for emergency access to
14 get to Tamarack Lane. For emergency use
15 only -- that would be safer.

16 MR. SULLIVAN: Then emergency vehicles
17 would have lights and some stopping sight
18 distance.

19 MR. FRANCIS: One thing I might add is
20 that doing something like that might require
21 some cooperation of those neighbors that would
22 have to grant that easement to the Town. In
23 the event of an emergency situation, they
24 would have an emergency vehicle pass right
25 through their personal driveway.

1 I think that both of these properties
2 have a shared driveway. They currently come in
3 and out about right where this applicant owns
4 the property now. If that easement did exist,
5 a portion of their private driveway - as it
6 gets closer in here - could be an emergency
7 vehicle access with a gate or a knock down
8 gate.

9 CHAIRMAN STUTO: Tom Johnson, do you have
10 any opinion on that?

11 MR. JOHNSON: The emergency access would
12 be something favorable to look into; yes.

13 I have one more question about the sight
14 distance. Which movements did not meet the
15 criteria? Was it just the exiting, or did you
16 evaluate left turns in to Tamarack from Vly
17 Road?

18 MR. FRANCIS: I do not know the specifics
19 of the turning analysis. I would have to look
20 into that.

21 CHAIRMAN STUTO: Okay, next topic?

22 MR. FRANCIS: Continuing on with
23 traffic - I discussed the Vly Road connection.
24 The Capital District Transportation Commission
25 was requested by the Planning Department to

1 conduct a study of the Vly/Denison
2 neighborhoods. The neighborhoods being in full
3 build-out of the Forest Hills, Ridgewood and
4 Londonderry subdivisions, they produced a
5 report dated March 1, 2009 with findings. They
6 had a special Planning Board meeting on
7 March 31, 2009 when they presented those to
8 the public and the Planning Board as a general
9 understanding of the development that was
10 proposed for these areas. Those findings were
11 presented - not at the Planning Board meeting,
12 but I think that it's summarized in a Planning
13 Department meeting with Mr. DeLaughter. In
14 their professional opinion, CDTC's
15 professional opinion concluded that under full
16 build-out conditions, the roadway
17 infrastructure for any intersection would not
18 warrant traffic improvements.

19 Lastly, existing conditions - we may hear
20 from the public tonight of claims of high
21 speed traffic, but that is a law enforcement
22 issue for the Town. It's nothing that our
23 applicant can do. They've already posted the
24 speed limit of 30 miles an hour through
25 Denison Road and Vly Road areas. The Town

1 representatives have acknowledged that the
2 speed limit cannot be lowered any more below
3 that. Beyond that, the applicant is not
4 obligated to address any existing traffic
5 conditions such as those.

6 CHAIRMAN STUTO: You're contributing to a
7 mitigation fund for traffic, correct?

8 MR. FRANCIS: Correct.

9 CHAIRMAN STUTO: Can you explain that?

10 MR. FRANCIS: Those mitigation fees are
11 set.

12 Joe, you might be able to clarify that
13 for me but the mitigation fees for GEIS for
14 traffic are generated by CDTC. Is that
15 correct?

16 MR. LACIVITA: That is correct.

17 MR. FRANCIS: As to the calculations, I
18 don't know the specifics of that. In fact,
19 that was described, I believe, in the
20 March 31, 2009 Planning Board meeting.

21 MR. LACIVITA: Do you want the breakdown
22 of the mitigation costs?

23 CHAIRMAN STUTO: Just the grand number
24 would be good. I see it right here in your
25 memo; just for our benefit and the public

1 benefit.

2 This memo says \$589,000.

3 MR. LACIVITA: That's correct; \$210,925
4 is attributed to CDTC's analysis on
5 transportation. The balance of that which is
6 \$378,864 is based on water, recreation and
7 GEIS.

8 CHAIRMAN STUTO: So, you're paying into a
9 pot of money to pay for a number of Town
10 improvements which either have been made or
11 will be made in the future, including traffic.

12 MR. FRANCIS: Correct.

13 With that, this concludes my description
14 of what we believe and what Joe touched on in
15 the beginning with the main public issues that
16 may be outstanding.

17 I'd like to direct your attention to a
18 letter that we prepared on behalf of the
19 applicant in December 2nd of this year in
20 response to about 76 questions by the
21 Birchwood Neighborhood Association about many
22 other issues. The largest issues were the
23 water tank, the park and traffic in this area.
24 So, there are many other issues. If there are
25 any other specific ones that you wish me to

1 address, I would be happy to do so. Beyond
2 that, I will go back to all those issues in
3 that letter - I hope to give you a thumbnail
4 sketch and definitive responses of actions and
5 dates and decisions that were made to help
6 this Board reach a decision on this project.
7 We'd like to move forward to get the other
8 permitting, the state and federal, taken care
9 of. I want to assure the Board that all the
10 Town Department comments have been addressed
11 to date, we have addressed all the public and
12 association's questions and maybe some
13 misunderstandings that they have had just to
14 make sure that we're talking about this
15 project and not any other project.

16 CHAIRMAN STUTO: When was your last
17 meeting with the residents?

18 MR. FRANCIS: September 15, of this year
19 we met at the PEDD office. We have also had
20 previous meetings with the neighborhood
21 association on October 6, 2008 and also
22 March 26, 2009. This year it was
23 September 15, 2011 and the two previous
24 meetings also involved the Ridgewood
25 Subdivision and this one. So, we may have

1 talked about different projects, but
2 essentially the same traffic issues.

3 MS. PEMRICK: It was only from the
4 Birchwood Neighborhood Association. Nobody on
5 the Vly Road side which is covered by a
6 different neighborhood group had been
7 contacted.

8 MR. FRANCIS: She's correct. These are
9 the meetings with the Birchwood Neighborhood
10 Association.

11 CHAIRMAN STUTO: Elena and Joe, you were
12 at the last one?

13 MS. VAIDA: I was.

14 MR. LACIVITA: We held a meeting here on
15 the 28th of September.

16 MR. FRANCIS: They delivered the
17 questions then and we received the questions
18 in November. We then addressed the letter.

19 CHAIRMAN STUTO: Anything else you want
20 to touch on?

21 MR. FRANCIS: Not at this time. I'll turn
22 it over to questions to review.

23 CHAIRMAN STUTO: Do you have anything,
24 Joe, that you want to add?

25 MR. LACIVITA: Nothing at this time.

1 CHAIRMAN STUTO: Do the Board Members
2 want to talk? It looks like we want to hear
3 from the public first.

4 Please go up to the microphone when your
5 name is called.

6 The first is 15 Denison, Linda Lindstrom.

7 MS. LINDSTROM: I'm the lady with the
8 garage. What I fail to see on all of the
9 documentation is the benefit to me as the
10 homeowner that currently lives there for more
11 than 20 years. I'll be putting up with more
12 traffic. I'll be putting up with additional
13 building materials coming in and out for
14 multiple years. I just don't see what the
15 benefit is.

16 CHAIRMAN STUTO: I'm going to respond to
17 that, in part. It's not his obligation for him
18 to show a benefit, per se.

19 MS. LINDSTROM: Don't you think that he
20 should be mitigating some of my discomfort?

21 CHAIRMAN STUTO: Yes, it's our job to
22 make sure that he mitigates to the reasonable
23 extent practicable - the impacts on the
24 surrounding neighborhoods. That's what this
25 process has been about. That's what the

1 environmental review is about. That's
2 hopefully what the developer has been talking
3 about so far. We are supposed to mitigate the
4 impacts on the surrounding neighbors. But he
5 is entitled to develop his property. I guess
6 that's what my response is.

7 Ellen Pemrick, 298 Vly Road.

8 MS. PEMRICK: I have a statement.

9 CHAIRMAN STUTO: I do want to mention
10 something while you're coming up here.

11 We received two booklets today - I think
12 this afternoon. It says Birchwood Neighborhood
13 Association.

14 "The Birchwood Neighborhood Association
15 requests the following documents and attached
16 exhibits be made part of the formal record of
17 the Town of Colonie Planning Board's
18 consideration of Shelco Development LLC's
19 application for final subdivision approval of
20 the Forest Hills project at 33 Denison Road."

21 We've been going through it and trying to
22 look through it as best we can. They appear to
23 be in opposition to the project, in general.

24 "We urge the Planning Board to deny this
25 application for the reasons set forth below.

1 We have included the prior correspondence to
2 the Town."

3 I'm just going to go through these
4 quickly. Concept approval for Oak Hill
5 subdivision is null and void. Town of Colonie
6 Comprehensive Plan -- I'm not sure what the
7 conclusion is and maybe I shouldn't guess, but
8 I assume that you're saying that it doesn't
9 conform to the Comprehensive Plan. There is a
10 comment on SEQRA. The Forest Hills application
11 must be rejected because there has not been
12 adequate review under the State Environmental
13 Quality Review Act.

14 The next title is - Vly Road access or
15 additional access is needed to project site.
16 We talked about that a little bit.

17 Next is Army Corps of Engineers wetlands.

18 Next is independent Town Engineer.

19 Next is water tower construction and site
20 alteration. Next title is water pressure and
21 the next title is pocket park location.

22 Ma'am I'm sorry for interrupting, but I
23 wanted to get that on the record. I'm sure
24 that we'll be hearing more about that. We're
25 doing our best to understand that as well.

1 MS. PEMRICK: I'm here to talk as a
2 long-time resident of Colonie and of Vly Road.
3 My house is actually right here on the map
4 (Indicating). I'm a member of the Vly Road
5 Neighborhood formerly of the Shaker Ridge/Vly
6 Road Neighborhood Association which is
7 currently dormant. I'm also a member of the
8 advisory committee that guided the preparation
9 of the Town's Comprehensive Plan in 2005. I
10 wanted to provide a bit of background
11 information because this Board is actually the
12 third Board to look at this project. I think
13 that you need to be made aware of some of the
14 issues that have come up in the past.

15 I first submitted comments - I guess it
16 was in a preconcept meeting in 2001. It was
17 actually a month before we closed on our house
18 but I was concerned about the development at
19 that time. In my comments I stated that
20 designing a standard residential subdivision,
21 the developer has really missed an opportunity
22 to create a subdivision that creates the
23 natural character and beauty of this parcel.
24 I'm not going to read everything in my
25 statement here, but I feel that the developer

1 could have come up with more creative approach
2 to land development, especially give the open
3 space on the property, the woodlands and some
4 of the environmental features. I provided
5 additional comments under a revised concept
6 plan in January of 2002 and I provided a copy
7 of these attached to my statement. At that
8 time I pointed out that the airport area GEIS,
9 which even then was more than 10 years old,
10 identified this property as having severe
11 environmental constraints and high potential
12 as wildlife habitat; it does today. I stated
13 my belief that a supplemental environmental
14 impact statement should be required despite
15 these and many of the other concerns expressed
16 by residents at that meeting in 2002. I've got
17 notes going back the last 10 years. The
18 Planning Board at that time voted to grant
19 concept approval and did not require the
20 applicant to comply further with SEQRA.

21 In 2004 the Town hired Saratoga
22 Associates to assist in completing a
23 Comprehensive Plan. The purpose of which was
24 to provide direction for future development. I
25 served as a member of the Comprehensive Plan

1 Advisory Committee. We met more than 20 times.
2 We held more than two dozen public meeting
3 during which we had hundreds of residents who
4 provided input. Based on the discussions that
5 took place throughout the Comprehensive Plan
6 process, an entire section of the plan was
7 devoted to open space and recreation. This was
8 an issue that was declared important to the
9 residents of the Town.

10 Considerable effort was made to identify
11 a map of parks and trails and areas of high
12 environmental sensitivity which is water
13 courses, wetlands and areas where the use of
14 conservation subdivision design should be
15 required. According to the Comprehensive Plan,
16 potential conservation areas represent
17 relatively large tracks of undeveloped land
18 that is either in the path of development or
19 could support additional development
20 recognized as the few remaining areas of open
21 space in the Town. The intent is to preserve
22 the character of these areas as open spaces
23 while allowing for development to occur.

24 I find it kind of ironic that currently
25 the open space that's proposed for Oak Hill is

1 now 15 acres. Actually in 2002 it was 24.5.
2 We're actually losing open space.

3 Among the areas of conservation interest
4 is the Ashford Glen Preserve which is owned by
5 the Mohawk Hudson Land Conservancy. I was
6 hoping that a representative from the Land
7 Conservancy would be here tonight but -- oh,
8 there is someone here; wonderful.

9 So I won't speak too much about that.

10 The open space and recreation plan map
11 included in the Comprehensive Plan also
12 identified a large area around Ashford Glen
13 including a location of the Forest Hill
14 Subdivision as a conservation area for a
15 potential for recreational development.

16 I included a map of that plan in my
17 comments.

18 So, the Comprehensive Plan was adopted in
19 2005. The following year the Town began the
20 process of updating its zoning and subdivision
21 regulations to ensure consistency with the
22 plan as required by law and to begin
23 implementing plan recommendations. The new
24 Land Use Law was approved as Local Law 1 of
25 2007. As was recommended in the Comprehensive

1 Plan, the revised zoning included a
2 conservation subdivision design requirement in
3 certain portions of the Town, including the
4 area which was noted on the open space map.
5 This was to preserve important natural
6 resources and open space while still allowing
7 for development to occur.

8 As it states in the land use regulations,
9 the overlay district is not intended to
10 prohibit development, but rather to assure
11 that the siting and design of development is
12 sensitive to environmental resources and
13 constraints.

14 This is exactly what I had in mind when I
15 commented on the original concept plan for Oak
16 Hill in May of 2001; a subdivision that
17 respects the natural character, beauty and
18 features of the property.

19 Under Local Law 1- 2007, however,
20 subdivisions had received concept approval
21 under the preexisting land use regulation in
22 effect at the time concept approval was
23 granted were grandfathered. In other words,
24 they could proceed despite the Comprehensive
25 Plan as long as the applicant filed final

1 subdivision plans by January of 2009. This
2 gave developers the opportunity to complete
3 these older projects in a reasonable period of
4 time. Otherwise, they would have to comply
5 with the new land use regulations.

6 Okay, that makes sense.

7 But then the Town Board then amended the
8 grandfathering provisions in 2008, 2009 and
9 2010 repeatedly extending the period by which
10 the applicant had to file final plans.

11 I think that this is a blatant effort to
12 circumvent the vision that was established for
13 the Town through the Comprehensive Plan. What
14 is the purpose of a Comprehensive Plan if not
15 to guide development? I have worked on these
16 plans in other communities. As I mentioned, I
17 was on the Advisory Committee and the plans
18 addressed very pointedly about this area as an
19 important area with environmental resources
20 that need protection. I question whether
21 continuing to extend these grandfathering
22 provisions by the Town Board is even legal. It
23 has been nearly five years since the new Land
24 Use Law was approved. Certainly, this is more
25 than adequate time for property owners and

1 developers to either complete their existing
2 projects or apply with the current applicable
3 regulations.

4 I think that the proposed Forest Hills
5 development should be subject to the current
6 land use regulations, including the provisions
7 of the conservation overlay district as
8 recommended in the Comprehensive Plan, as it
9 is currently proposed, the subdivision fails
10 to protect environmental sensitive areas
11 including wetlands and wildlife habitat and
12 neither preserves nor expands open space on
13 one of the last large tracks of undeveloped
14 woodlands in the Town of Colonie. I've noticed
15 over the last couple of years that there are
16 only a couple of large tracks of woodlands
17 left. Many of the older farm lands in the Town
18 are also being turned over to development.
19 What is left? We talked in the Comprehensive
20 Plan over and over again about how residents
21 want to preserve open space and farmland, but
22 then all of this land gets turned over for
23 development.

24 Lastly, I wanted to make a point of
25 clarification for the record. The letter from

1 Skip Francis of CT Male to Joe LaCivita on
2 December 2nd states that the purpose of this
3 correspondence is to assist the Planning Board
4 members in their review and preparation for
5 final action by assuring the Planning Board
6 that all BNA's questions and concerns to date
7 have been addressed by providing definitive
8 responses including dates of actions and
9 decisions. As I noted at the September 28th
10 meeting with PEDD, the Birchwood Neighborhood
11 Association does not represent residents of
12 Vly Road. We are not part of their service
13 area. The referenced special meetings that
14 were held between representatives of the BNA,
15 PEDD, the applicant and CT Male held in
16 October of 2008, March of 2009 and most
17 recently on September 15, 2011. They did not
18 include representatives of the Vly Road
19 neighborhood, nor to my knowledge were any of
20 us informed about or invited to these
21 meetings. Therefore, our concerns have not
22 been addressed by the applicant.

23 CHAIRMAN STUTO: Thank you.

24 I'm going to give the applicant to
25 respond. She raised some important issues

1 about the conservation and how it got reduced
2 in size. I understand that you want to
3 dedicate 15 acres. Do you just want to go over
4 that and clarify it to the extent that you
5 can? That might be beneficial for the Board
6 members and the public.

7 Let me ask you a question first. There is
8 15 acres. You said that it's mostly wet. Is it
9 Army Corps wetlands?

10 MR. FRANCIS: Yes.

11 CHAIRMAN STUTO: I don't know if the Town
12 would want that or not. I'm guessing that they
13 don't want it, if they have responsibility for
14 preserving that it's wet or not. It's a
15 liability. I don't want to prejudge that, but
16 there has to be a mechanism for that property
17 to be preserved and for the permit to be
18 complied with. It may or may not be the Town.

19 MR. FRANCIS: Let me clarify. At the
20 concept approval, the Town had asked for a
21 conservation easement to be put over the land.
22 I don't know that the Town is interested in
23 owning it. I might have misspoke when I said
24 that there would be dedication to the Town.
25 The Town has asked that an easement be put

1 over it so that it not be developed and it
2 remains the open space.

3 CHAIRMAN STUTO: But it's Army Corps
4 wetlands, anyway, so you're not giving
5 anything up.

6 MR. FRANCIS: Some of it has some steep
7 slopes.

8 CHAIRMAN STUTO: Anything else you want
9 to say to respond to what she said?

10 MS. PEMRICK: They're also proposing to
11 fill in one of the wetlands.

12 CHAIRMAN STUTO: Is that part of your
13 permit? Is that accurate?

14 MR. FRANCIS: Our proposed wetland
15 impacts are represented on the plan. This
16 project has a proposed impact of .043 acres to
17 the Corps wetlands. Two very minuet areas; one
18 here and one here (Indicating) where there is
19 a stormwater access road down to this basin.

20 CHAIRMAN STUTO: Is there any mitigation
21 that you have to do because of that?

22 MR. FRANCIS: No, as long as we're under
23 one-tenth of an acre. One-tenth is the
24 threshold for mitigation.

25 MS. PEMRICK: What about the wetlands

1 behind 298 Vly Road?

2 MR. FRANCIS: That is an isolated
3 wetland.

4 MS. PEMRICK: It's still a wetland.

5 MR. ROSANO: Don't be confused with the
6 word wetlands here. You have DEC wetlands and
7 you have the federal wetlands.

8 MS. PEMRICK: I've lived there for 10
9 years. I know that land back there.

10 MR. ROSANO: Yes, but you keep throwing
11 the word wetlands out there. First of all,
12 deep slopes are not federally protected
13 wetlands. It has to be flat area. If you
14 already know they are already wetlands, please
15 don't bring the same question back up if you
16 already know the answer. A lot of people want
17 to talk tonight.

18 MS. PEMRICK: I saw what was on the map
19 and I saw that it said isolated wetland to be
20 filled in and be part of a building lot. Where
21 is that water going to go? It's going to go on
22 our property. That wetland is wet all year
23 round.

24 CHAIRMAN STUTO: Do you want to address
25 that? Is there one particular spot that she's

1 talking about?

2 MR. FRANCIS: With regard to this wet
3 area that she's speaking of?

4 CHAIRMAN STUTO: Yes, the isolated
5 wetland that's going to be filled in to make a
6 lot.

7 MR. FRANCIS: It's down here at the
8 southeast corner of the property that's on
9 this lot here, which is behind her residence.

10 CHAIRMAN STUTO: Is that part of the
11 forty-three one-thousandths?

12 MR. FRANCIS: Yes, with an isolated
13 wetland by law you can fill those in. If it's
14 a DEC or Corps wetland, you must get a permit
15 for it.

16 CHAIRMAN STUTO: So, it's not a DEC or
17 Corp wetland?

18 MR. FRANCIS: No.

19 CHAIRMAN STUTO: Because it's below the
20 threshold.

21 MS. COURIER: It's how it's fed. It
22 doesn't have another source besides itself.

23 CHAIRMAN STUTO: Thank you.

24 MR. FRANCIS: With respect to the
25 existing Town Comprehensive Code and the

1 grandfathering provisions, I want to just make
2 it clear that at some point during the project
3 we had submitted our conceptual plans back in
4 2001 and it took over three years and four
5 months to get comments back from the Town. Had
6 we gotten comments back in a timely manner, we
7 might not be in this position to have to renew
8 a grandfather provision each time.

9 CHAIRMAN STUTO: Fair enough. We've heard
10 hearsay of that from the prior administration.

11 David Nerrow, 28 Denison Road.

12 MR. NERROW: Despite an earlier statement
13 that was made that three Boards reviewed this
14 project, I would submit that it's many more.
15 We are in our 19th year of discussing this
16 development area.

17 I have two principal concerns. One is
18 water and that seems to have been solved by
19 this particular arrangement. However, I'm
20 puzzled by why you would put a pumping station
21 here and run a line all the way over to here
22 when there is a tank here (Indicating). You
23 can go directly across here. That doesn't make
24 good economic sense to me. I don't know if
25 there is some sort of hydraulic sense to it.

1 These tanks are both at the same level. They
2 must be if they are connected.

3 I must add that I look forward to
4 improvement in the water pressure in my house
5 which is right here on the bend of the road
6 (Indicating). Almost all of these houses have
7 had to put in booster pumps in order to have
8 enough water to run the dishwasher and perhaps
9 your clothes washer at the same time.

10 On the subject of traffic, yes, it's a
11 law enforcement problem. They don't seem to
12 pay much attention. It's been exacerbated by
13 the fact that New Karner Road is now an easy
14 road to drive. It's going to be made worse
15 when New Karner Road becomes four lanes. That
16 whole route - New Karner Road, Vly Road,
17 Denison/Birchwood is a very easy transport
18 from Route 5 to Route 7. Many people have
19 discovered that which has increased the
20 traffic substantially. We do not see police
21 very often. They can park in my driveway every
22 day of the week, if they like.

23 The four ton load limit is exceeded
24 routinely. As I said, speed has always been a
25 problem. It strikes me that putting 75

1 additional homes in here simply exacerbates
2 that problem to a significant degree.

3 At one point, I think that it was back in
4 2009, there was some talk about putting a
5 roundabout at the Vly Road/Denison Road
6 intersection. I haven't heard any mention of
7 that today. It sounds like a decent idea.

8 CHAIRMAN STUTO: Do you know anything
9 about that, Joe?

10 MR. LACIVITA: Yes, it is talked about at
11 its full build-out. There are some mitigation
12 areas that are talked about.

13 CHAIRMAN STUTO: But they're not on the
14 drawing boards for summer or anything like
15 that.

16 MR. LACIVITA: No. There is talk about it
17 at CDTC and actually in the minutes of
18 March 31, 2009, Mr. Jukins does make reference
19 to some of the impacts that have to be
20 mitigated.

21 CHAIRMAN STUTO: And they're talking
22 about a roundabout at that intersection?

23 MR. LACIVITA: A roundabout was brought
24 up at that area, yes.

25 MR. NERROW: But no decision was made.

1 MR. LACIVITA: No decision was made.

2 MR. NERROW: Who would make such a
3 decision?

4 MR. LACIVITA: CDTC offers that type of
5 recommendation to the Town of Colonie.

6 CHAIRMAN STUTO: CDTC is an MPO, a
7 municipal planning organization. They route
8 the federal transportation dollars and the
9 state dollars. There are representatives from
10 all over the community; mostly the
11 municipalities like the Town.

12 I work at the airport. I know that the
13 airport has a rep. The Port of Albany has a
14 rep, the City of Albany and the county. They
15 sit around a table and prioritize where the
16 money is going to go. Somebody can jump up and
17 improve their own roads at their own expense
18 but CDTC routes the Federal money and the
19 state money. So, they prioritize when those
20 things are going to happen as a group and as
21 an organization. You could lobby them to try to
22 get them to prioritize them even further.
23 Probably eventually, it will happen.

24 MR. NERROW: I have additional concerns.
25 As you already know all of this property is

1 very heavily wooded. That means that there is
2 going to be a very substantial amount of trees
3 removed from here. The land is not flat. There
4 will be, I guess, substantial movement of
5 soil. I would assume that there is some sort
6 of permit required in order to do that.
7 Because down in here, particularly in this
8 area - it's is very much lower than it is up
9 here (Indicating). You will note that while
10 this is identified as a wetland, it's
11 continuous with this wetland which is shown as
12 part of these building lots (Indicating). I
13 gather that's going to be filled in. If CT
14 Male says that this is an isolated wetland and
15 doesn't fall under the regulations, I would
16 dispute that because their map shows quite
17 differently.

18 This area in here stays wet 100 percent
19 of the year (Indicating). In the wintertime
20 you'll see ice on it. I tend to agree with the
21 previous speaker about the treatment of
22 wetlands. This one seems to be ignored.

23 CHAIRMAN STUTO: Okay, I want to
24 interrupt you for a second because there are
25 three pretty good questions that I want to get

1 addressed.

2 One is the connectivity to the tanks for
3 fresh drinking water to your tower. The other
4 is tree removal and erosion and the other is
5 the wetland issue that he's talking about.

6 Can you handle those three?

7 MR. FRANCIS: You want me to respond
8 right now?

9 CHAIRMAN STUTO: Yes.

10 MR. FRANCIS: With regard to the water
11 tank, you can see the size of the water tank
12 is a factor here. This is 3.4 million gallons.
13 This one is not big enough to provide the
14 service that this tank will need. This is much
15 higher. This is the tank that provides the
16 capacity to feed this. That's why we're
17 pumping this route. This route also follows
18 the proposed roadways within the Ridgewood
19 Subdivision. It's kind of jumpy but there is a
20 reason why it is that way. It goes in once and
21 doesn't have to get rearranged.

22 As far as wetlands, these wetlands over
23 here (Indicating) are not proposed to be
24 impacted at all. They're going to remain.

25 MR. NERROW: I'm referring to these right

1 here (Indicating).

2 MR. FRANCIS: No impacts.

3 MR. NERROW: I don't know what you mean
4 by no impacts.

5 MR. FRANCIS: We're not touching them.
6 They're not going to be disturbed all along
7 Denison Road.

8 MR. NERROW: So, those land owners are
9 going to have swampy land in the back of their
10 houses.

11 MR. FRANCIS: They will have covenants
12 and restrictions associated with each of their
13 lots, knowing that they purchased a lot with
14 Army Corps wetlands on site.

15 CHAIRMAN STUTO: He also asked about
16 erosion. Do you need a permit or what
17 mitigation measures will be taken during that
18 process?

19 MR. FRANCIS: We prepared a stormwater
20 pollution prevention plan that includes an
21 erosion control plan. Those erosion control
22 standards are in conformance with the DEC's
23 erosion control manual. Those will be
24 implemented as a function of the stormwater
25 discharge permit - the general permit, as well

1 as the grading permit that will be obtained
2 from the Town prior to land disturbance.

3 CHAIRMAN STUTO: What kind of measures
4 will be taken?

5 MR. FRANCIS: That grading permit will
6 require that erosion control measures be in
7 place at the time of land disturbance.

8 CHAIRMAN STUTO: What will those control
9 measures be?

10 MR. FRANCIS: Silk fence, the
11 construction entrance where you put down the
12 heavy stone to allow some sediment to settle
13 in and not be tracked out onto the roads. You
14 have the stone block protections around the
15 sediment from going down into inlets are being
16 constructed during the roadway paving process.

17 CHAIRMAN STUTO: So, that will be
18 permitted and all the safeguards will be put
19 into place.

20 MR. FRANCIS: That work has been reviewed
21 by the Town DPW and the Stormwater Management
22 Officer and we conform to those requirements
23 at the State and Town level.

24 MR. SULLIVAN: Will there be limits on
25 the amounts of land that you can have

1 disturbed at any one time - like acreage? You
2 can only have a certain number of acres that
3 are cleared at one time?

4 MR. FRANCIS: Yes. DEC requires that if
5 you wish to disturb any greater than five
6 acres at any one time, that you put in a
7 request to waive that disturbance and you can
8 disturb up to a preapproved amount. You have
9 to make a separate application and phasing
10 plan to show how much you're going to disturb.
11 But you can be reviewed to disturb more than
12 five acres at one time. Generally, you try and
13 do your work on less than five acres
14 increments at a time.

15 MR. SULLIVAN: Thank you.

16 MR. FRANCIS: Administratively, it's
17 allowed.

18 MR. NERROW: I think that there is one
19 more comment about traffic because of the
20 increase here. If Shop Rite goes into the old
21 auto sales lot of Route 5, that makes this
22 worse as well.

23 CHAIRMAN STUTO: That's in the Village.
24 We're not going to see that project, right,
25 Joe?

1 MR. LACIVITA: No.

2 MR. NERROW: But you'll see the traffic.

3 CHAIRMAN STUTO: We won't see that as a
4 Board. We won't see that project. That's in
5 the Village.

6 MR. NERROW: No, you won't get the chance
7 to review it but if it goes through the
8 Village, it will impact our traffic. There is
9 no question in my mind.

10 CHAIRMAN STUTO: Right.

11 MR. NERROW: Thank you for the
12 opportunity.

13 CHAIRMAN STUTO: Thank you.

14 John Razzano, 17 Raymond Street, Latham.

15 MR. RAZZANO: Hello. I'm a lifetime
16 resident of the Town of Colonie. I'm also on
17 the Board of Directors of Mohawk River
18 Community Partners and Mohawk Hudson Land
19 Conservancy.

20 The things that the previous speaker of
21 298 Vly Road - basically they said just about
22 everything that I would want to say with
23 regard to this. I would just like to concur
24 with her remarks and also just say that I feel
25 that the developer should be required to

1 adhere to the current Comprehensive Plan
2 zoning requirements. I don't think that this
3 is a good law that such things should be
4 grandfathered. Concept approval should be
5 grandfathered. When you go to the trouble of
6 creating a Comprehensive Plan, you should be
7 adhering to that plan from that point forward
8 on any development that comes through,
9 regardless of whether the concept had been
10 approved under a previous scheme.

11 In any event, I just feel that the
12 development can go forward if it is done in a
13 way which takes into consideration the natural
14 value of the area. I feel that there could be
15 a more creative type of development - a
16 clustering type of development that could be
17 designed, rather than the kind of standard
18 subdivision development which this appears to
19 be. I do also think that the fact that it's in
20 combination with two other proposed
21 developments should be taken into
22 consideration as a whole. That's where the
23 word comprehensive in Comprehensive Plan comes
24 from.

25 I would also make a remark with regard to

1 that person's comment about the traffic from
2 the Shop Rite. That's another example of how
3 you have to take into account all of these
4 collective effects when you're Planning how
5 you want the quality of life to go forward in
6 the Town in the future. Basically, that's what
7 I would like to say.

8 I know that we also have Jill Knapp who
9 is the Executive Director of the Mohawk Hudson
10 Land Conservancy and she'll be adding her
11 remarks shortly, as well. Thank you, very
12 much.

13 CHAIRMAN STUTO: Thank you.

14 Susan Quine, 83 Ash Tree Lane.

15 MS. QUINE: Good evening. My name is
16 Susan Quine and first I'd like to say that
17 I've lived at 83 Ash Tree Lane my entire life.
18 I was born in the house and I moved out
19 briefly to go to college and law school. I
20 lived in Albany, New York and got married and
21 decided to come back and raise my family at
22 83 Ash Tree Lane. Before I came back to 83 Ash
23 Tree Lane for this period of time, I'm an
24 attorney.

25 My last job was with the New York State

1 Department of Environmental Conservation where
2 I was the wetlands program attorney there up
3 until 2009.

4 I wanted to address the wetland issues
5 that have come up here this evening, as well
6 as some other issues that I have identified
7 with respect to this project.

8 The first very important thing here
9 is - and I think that this plan is very
10 misleading - what you see up here on this
11 plan. There are federally regulated wetlands
12 on this property and CT Male's representative
13 did indicate that the last time that there was
14 a jurisdictional determination by the Army
15 Corps of Engineers was in 2002. That
16 jurisdictional determination means nothing at
17 this point.

18 The Army Corps of Engineers only honors
19 the jurisdictional determination for five
20 years - a written jurisdictional
21 determination. So, any wetland boundary there
22 is shown on any map or plans that you have
23 isn't a valid boundary line. What you don't
24 see here is you don't see the wetland boundary
25 line. So, when the Army Corps of Engineers

1 looks at this project - and they have never
2 received a formal submission from this project
3 sponsor - they're going to see that there are
4 many lots here where almost all of the lots
5 contain wetlands. So, they're asking you to
6 approve a subdivision plan that has a majority
7 of the lots which contain wetlands. They'll
8 never do that - the Army Corps of Engineers.
9 They wouldn't recommend it.

10 The deed restriction is a very good
11 thing. Actually, we provided that as part of
12 our BNA submission. Those are deed
13 restrictions that the Army Corps of Engineers
14 utilizes and they would ask to be part of this
15 project approval.

16 The other thing that I wanted to point
17 out in that regard is the applicant states
18 that the Army Corp of Engineers doesn't like
19 to see projects until they have gone through
20 local approval. That's not the case at all.
21 That wasn't the case when I was a wetland
22 counsel of the New York State Department of
23 Environmental Conservation. The worst scenario
24 is for them to come to a local community, get
25 subdivision approval and then come to them and

1 say, you know what? We have all our lots
2 approved. You really can't do much because
3 these are legal lots. It should have all been
4 worked out beforehand. They should have
5 submitted these plans to the Army Corps of
6 Engineers and frankly, Dec. We don't even know
7 if these are even the actual wetland
8 boundaries on this property. So, if you vote
9 to approve this project this evening, you're
10 approving a wetlands boundary that is not a
11 valid boundary. That impacts how the layout of
12 this project is.

13 With deed restrictions you're going to
14 have a property owner, as someone pointed out
15 - this area is wet. They're not going to want
16 to have a swamp in their back yard. They're
17 going to fill that in. Who is going to be out
18 there saying don't fill this in because these
19 are wetlands? Not only are they open space,
20 but they serve a purpose. There are steep
21 slopes on this project site. All the water is
22 running into this area. It's not a coincidence
23 that wetlands that are along this roadway are
24 wetlands because they are receiving the water
25 that's coming off of the steep slopes on the

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1 property. So therefore, they are performing
2 not only open space and wildlife habitat
3 function, but they're also performing
4 stormwater control functions. I would say that
5 first off these plans that you have, before
6 you for final approval, do not have a valid
7 wetlands boundary on it.

8 The other thing that I wanted to address
9 here is that I think that we laid it out in
10 our submission. I don't believe that this
11 project is right for review for this Board
12 tonight. A lot has been said that this
13 received concept approval in 2002.

14 I've looked through the various
15 Resolutions that the Town Board has passed and
16 when the first land use regulations were
17 changed in 2007. That resolution basically
18 gave them a window of people who had received
19 concept approval. That's a grandfathering
20 provision. We're going to give you some time
21 to finish up what you've been doing. They gave
22 them to 2009. It said that the final plans had
23 to be filed and approved by 2009. They
24 weren't. Somehow another Resolution from a new
25 Town Board who came in and gave them

1 additional time. Finally, there was another
2 Resolution that gave them until January 1 of
3 this year. The wording of that resolution is
4 that if it's not done by then, it's going to
5 be null and void. No resolution came in to
6 place which would have extended that beyond
7 December 31, 2011. Their attempt this year by
8 the Town Board was to do another Resolution to
9 kind of make up for the fact that this concept
10 approval didn't work. The last time it was in
11 effect, it became null and void by its terms.
12 That is set out in our submission.

13 So, I first don't believe that there is
14 even an existing concept approval that you can
15 all move to final.

16 I also want to talk a little bit about
17 the SEQRA that's been done on this project.
18 The short form environmental assessment was
19 done in 2001 and then a neg dec by the
20 Planning Board in 2002. The neg dec is still
21 being used for this project according to the
22 response that we got from the applicant. It
23 was never really clear to us exactly when the
24 SEQRA was done for this.

25 What we have here is a neg dec in the

1 field. It has a cover sheet that was
2 rewritten, but still dated 2001 by CT Male.
3 So, I don't know how that can be put on an old
4 neg dec. Then we have the airport area final
5 GEIS that if you look at the neg dec in the
6 findings of no environmental significant
7 impact, it all relies on the airport area
8 FGEIS. If you look at the terms of the FGEIS,
9 that had a term up until 2005. Some of my
10 neighbors will go into that a little bit
11 further. Now, we're looking in 2011 to look at
12 a neg dec from 2002 that's based on an old
13 FGEIS for the airport area GEIS. That has
14 outdated information assumptions and somehow
15 this is all going to work out. So, no
16 supplement has ever been done for the airport
17 area GEIS to take into account things like
18 traffic.

19 One of my neighbors was mentioning how
20 Vly Road is being used as a thru-road instead
21 of just a local road. So, all this is just
22 outdated information. People have said well,
23 asked and answered many times - all of these
24 concerns. Well, they've never been answered
25 and that's why we keep on asking them. That's

1 why you want clarification of all of this. I
2 just really feel that for the developer to sit
3 up here and tell us that this is the wetlands
4 and just state outright that 2002 is it. It's
5 just misleading to you all. I think that we
6 deserve to see a project that complies with
7 the Comprehensive Plan because that's what the
8 Town wanted. If a Town adopts a Comprehensive
9 Plan, the State Law says you have to follow
10 our Comprehensive Plan even if you're sitting
11 around and your grandfathering it a million
12 different times. So, that's what I would ask.
13 I think that this is a very important resource
14 for the Town. It's open space and we don't
15 have a lot of it left. The whole issue of the
16 Ashford - you don't even see that on these
17 plans. It's way down here (Indicating) so you
18 don't even know that the Ashford Glen that's
19 featured on your web site is an important Town
20 resource - is even near this project. You
21 don't even know that this developer has not
22 only land here, but land on this side of the
23 road (Indicating). There are over 200 acres he
24 has by a deed from the Union College Board of
25 Trustees. So, he's segmented this project into

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1 two halves which really you don't see the big
2 picture because he's not presenting the big
3 picture to you. He's calling one side
4 Ridgewood and the other side Oak Hill or
5 Forest Hills. So, all of these things haven't
6 really been discussed.

7 You're a new Board looking at this as
8 Ms. Pemrick mentioned. I think that you have
9 to stop here and say, what is going on? As we
10 have said, an independent set of eyes - take a
11 look at this. You all look at what's in your
12 Comprehensive Plan. That's what is supposed to
13 be guiding you as a Town Planning agency. I
14 guess I'll let my neighbors fill in the rest.
15 I'm very concerns.

16 We, as residents want to see a
17 transparent process here where we can say at
18 the end of the day, the Colonie Planning Board
19 really looked at this project. They really
20 followed the regulations. They took care. It
21 wasn't just because we're adding lots to the
22 tax assessment rolls. There is a quality of
23 life issue here for the people who are going
24 to be left here with this project - even the
25 people in the project themselves. If I'm

1 living here, I want to get out of this thing
2 if there is an emergency. I want to be able to
3 drive to work.

4 I think that I've gone on long enough,
5 but I just want to tell you that it's very
6 important that you take a very careful look at
7 this and not just this evening, but table this
8 and start from fresh here. This is an old
9 project that needs to revamped for today.
10 Thank you.

11 MR. LANE: I want to ask a quick
12 question. You had mentioned that the Army
13 Corps of Engineer map is only good for five
14 years.

15 MS. QUINE: That's right. It's a written
16 jurisdictional determination and I believe and
17 I know the applicant -

18 MR. LANE: Do you have a citation or
19 anything?

20 MS. QUINE: That's the Army Corps of
21 Engineers. I think that they should be here. I
22 know that they gave a presentation to the
23 Town's Environmental Counsel.

24 MR. ROSANO: I was there.

25 MS. QUINE: I know that the applicant on

1 some other lots that he owns - that he has
2 included in this project's depiction is right
3 now a conversations with the Army Corps of
4 Engineers and DEC on two large chunks of land
5 that were formally part of this project site.
6 So, they should know the rules for the Army
7 Corps of Engineers.

8 MR. ROSANO: I was at that meeting and
9 that was five year was never mentioned at that
10 meeting.

11 MS. QUINE: If that's the case, then if
12 you'd like I'm sure you could get a letter -

13 MR. ROSANO: What I would appreciate is
14 if you're going to come to a meeting like
15 this, and you're going to make these
16 statements, at least make the effort of giving
17 us the documentation.

18 What is the inconsistency with the
19 Comprehensive Plan that you're talking about?

20 MS. QUINE: I think that if you read the
21 Comprehensive Plan -

22 MR. ROSANO: Did you bring a copy of it?
23 Can you give me a title of a section?

24 MS. QUINE: We made a very lengthy
25 presentation to the Board. I would like to

1 address that point, actually. We came to a
2 meeting in September and we presented a list
3 of questions in September and our President
4 has been asking the Town - where are the
5 responses to those questions and he did so by
6 e-mail in October and again November 22nd. No
7 response at all from the Town. We just
8 received the applicant's answers to questions
9 that not only the BNA posed, but also other
10 residents that attended that meeting on
11 December 9th. So, that made it hard for us to
12 really look through what was there and present
13 something. We did our darned best to get
14 something to you that explained all of this.
15 This is a very complicated project and we
16 could have written a lot more on this project.
17 It's not as though we waited until the last
18 minute. We only had a very short time frame
19 and frankly it's December 20th. It's five days
20 before Christmas. We're lucky that we even got
21 working on that. That's what I wanted to say
22 on that.

23 MR. AUSTIN: Can I ask a quick question?
24 Regarding the wetlands and your expertise in
25 this, you were saying that every five

1 years - - I assume that the wetlands over time
2 could possibly change. Is that true?

3 MS. QUINE: That's true. Principally the
4 reason why is the changing system and if it
5 hasn't been looked at -

6 MR. AUSTIN: So, every five years we get
7 a new map from the Army Corps of Engineers.

8 MS. QUINE: No, they're going to go out
9 and do a site inspection and see where the
10 boundaries of the wetlands are. I think what
11 you have to do is say to the applicant, you go
12 out and you get a jurisdictional determination
13 from the Army Corps of Engineers. They are the
14 experts. I'm not a biologist, botanist or soil
15 hydrologist.

16 MR. AUSTIN: I guess my point to the
17 question is: If a project like this takes more
18 than five years, then after the five years is
19 up and the Army Corps of Engineers redoes
20 their plan, then the developer has to go
21 through and potentially go through and replan
22 their entire project.

23 MS. QUINE: Sure. I think that's the
24 understanding that the applicant would have.
25 Anyone has that understanding that if you

1 don't get to it and finalize things, you run
2 the risk of having another regulatory change.
3 That may change your layout. That's a risk
4 that you run.

5 MR. AUSTIN: Thank you.

6 CHAIRMAN STUTO: Okay can the
7 applicant - Tom or Elena can chime in
8 too - two of the big issues were the Army
9 Corps letter having expired and the SEQRA in
10 some fashion be inadequate. Can you address
11 those two issues?

12 Tom, do you have anything that you want
13 to say in the meantime?

14 MR. JOHNSON: No.

15 MR. FRANCIS: I'll address the wetland
16 boundary issue. I beg to differ with the
17 opinion that they are not valid boundaries.
18 These are valid Corps boundaries that have
19 been delineated by an environmental scientist
20 in the field and surveyed by our survey staff.
21 So, they were definitive locations for them
22 and they are indeed shown on this map in this
23 cross-hatched areas shown here (Indicating).

24 We acknowledge that the JD letter has
25 expired. We are aware of that time frame. We

1 had conversations with representatives of the
2 Corps and DEC just yesterday about this
3 project and we also understand that by
4 springtime we would be back out to refresh
5 this Corps delineated wetland. We would have
6 the Corps visit the site to refresh the
7 jurisdictional determination. It is true that
8 there are some seasonal fluxuations, but
9 largely the boundaries without changes to the
10 land and development, they generally do not
11 change appreciably too much. Our proposed
12 wetland impacts that we do have on this
13 site - as I mentioned earlier - forty three
14 thousandths of an acre - we have a threshold
15 of one-tenth of an acre before we have to
16 propose any mitigation improvements. We have a
17 little room. We have some very minor impacts.
18 Beyond that, there are no other wetland
19 impacts proposed in the area. It's a risk that
20 we take. The applicant is aware of that. We do
21 need to refresh that JD letter, but we do not
22 see that as an appreciable change to the lot
23 layout throughout this whole subdivision.

24 CHAIRMAN STUTO: So, you're suggesting
25 that should be continued -

1 MR. FRANCIS: Let me just state this: It
2 does need to be a contingency. It will need to
3 be required as a function of a joint permit
4 application that I've already discussed. We do
5 know what we need to do. The Corps will make
6 us go out and refresh that jurisdictional
7 determination outright. We can't get a JD
8 without doing it. We know that we have to
9 refresh it, but we would do that this coming
10 spring of 2012.

11 CHAIRMAN STUTO: She stated that the
12 SEQRA was somehow deficient that was done in
13 2001 or 2002. Can you address that?

14 MR. FRANCIS: We filled out the required
15 short EAF forms at the time. The lead agency
16 made their determination.

17 MS. VAIDA: I should probably point out
18 that the grandfathering clause does state that
19 the current Planning Board does have to comply
20 with the SEQRA and to make sure that it's been
21 fully compliant.

22 CHAIRMAN STUTO: We do have a neg dec in
23 the file, correct?

24 MR. FRANCIS: Correct.

25 CHAIRMAN STUTO: Okay, is that compliant?

1 MS. VAIDA: I think that we're going to
2 need to look into whether there have been any
3 changes. I don't know if we have enough.

4 MR. FRANCIS: If I may clarify, this lot
5 layout is the same layout that's the SEQRA neg
6 dec is based upon. There are 75 lots here and
7 75 lots here (Indicating); it's the same
8 layout.

9 MS. VAIDA: But that's not the only
10 consideration for SEQRA. We actually used the
11 long form now. The Town Attorney's office now
12 asks the applicants to use the long form just
13 to give us more information. I realize that no
14 one probably asked you to do that. That
15 probably would be helpful.

16 MR. FRANCIS: That's what the Planning
17 Department and the Planning Board asked us to
18 do in 2001. We've presented a plan then in
19 January 15, 2002 for their concept acceptance.
20 That's the information that they have before
21 them as a 75 lot subdivision and that's what
22 they acted upon with the information that they
23 had at the time.

24 MS. VAIDA: The short form really doesn't
25 go through very much in terms of environmental

1 impacts. It doesn't provide very much
2 information.

3 CHAIRMAN STUTO: He did environmental
4 studies.

5 Why don't you go through the studies?

6 MS. VAIDA: Although it's not signed and
7 I don't know if it was acted on but there is
8 an assessment of GEIS consistency, which I
9 thought was helpful in terms of the
10 environmental impact.

11 MR. FRANCIS: I believe that was done by
12 Mr. DeLaughter.

13 MS. VAIDA: He pointed out where there
14 might be some issues so it might be helpful to
15 just look at that document. If it's consistent
16 with the GEIS, unless there is something that
17 is not covered there, you would be okay.

18 MR. FRANCIS: I believe that all of his
19 issues that he has mentioned in his assessment
20 have either been addressed or still carrying
21 forward in all the information that we have so
22 far.

23 MS. VAIDA: That would be the only thing,
24 Peter, if we just wanted to go through that
25 quickly and have the applicant affirm that

1 these findings would be the same and nothing
2 has changed?

3 MR. GARRIGAN: Can I address the Board,
4 Mr. Chairman?

5 CHAIRMAN STUTO: Who are you?

6 MR. GARRIGAN: I'm Ed Garrigan. I'm the
7 VP of CT Male Associates.

8 CHAIRMAN STUTO: Sure.

9 MR. GARRIGAN: With regards to SEQRA,
10 SEQRA is closed. A negative declaration has
11 been issued. There has been no significant
12 changes to this plan that was utilized for
13 that SEQRA determination. So, I don't believe
14 that you can reopen SEQRA because it is closed
15 and there are no changes to the project since
16 that time.

17 MS. VAIDA: You're saying that there are
18 no changes.

19 MR. GARRIGAN: Correct. This is the lot
20 layout. Everything that you see here is what
21 was reviewed during -

22 MS. VAIDA: Changes don't necessarily
23 mean the lot layout.

24 MR. GARRIGAN: The project, as you see
25 it, received concept approval which in the

1 Town of Colonie concept is a comprehensive
2 approval. It's more than just a concept
3 layout. It's nearly final stage.

4 MR. ROSANO: I believe that this Board
5 has the ability and has in the past reopened
6 SEQRA before final.

7 MS. VAIDA: It's not even that. The
8 grandfathering clause - if you look at the
9 language of the newest grandfathering clause,
10 at the very end it says:

11 "Provided that the State Environmental
12 Quality Review Act has been fully complied
13 with, it puts upon this Board a duty to make
14 sure that there are no environmental impacts
15 and it has been complied with.

16 MR. GARRIGAN: So, we would need to
17 reevaluate the impacts?

18 MS. VAIDA: What I was suggesting was if
19 we went through the considerations and if
20 there have been no changes and everything is
21 the same, that would be one way to handle it.

22 CHAIRMAN STUTO: Right, I hear what
23 you're saying.

24 MR. GARRIGAN: So, if I understand it
25 right that we could go through and establish

1 that the project as you see it, is the same as
2 was evaluated then - there are still no
3 environmental impacts associated with this
4 project and we're still compliant with the
5 SEQRA determination that's been given.

6 CHAIRMAN STUTO: That's what she is
7 suggesting. That's a possibility.

8 MS. QUINE: I just wanted to get
9 clarification what you mean about the
10 environmental assessment - that you want him
11 to do.

12 MS. VAIDA: This falls within the generic
13 environmental -

14 MS. QUINE: Is this the airport area GEIS
15 and the findings - I think it was 1991.

16 MS. VAIDA: I don't have a date on that.
17 It does go through in quite a bit of detail
18 whether or not this project is consistent with
19 the GEIS.

20 MS. QUINE: That's not going to reflect
21 things that have changed since 2005?

22 MS. VAIDA: That's why I'm asking that.
23 We would want to establish that there hasn't
24 been a change or there has been a change; I
25 don't know.

1 MS. QUINE: In the environmental setting
2 or the environmental conditions?

3 MS. VAIDA: Whether or not it would still
4 be consistent with the GEIS. If the GEIS has
5 not changed, there is no update. The only
6 thing that was brought out was the traffic. If
7 it wasn't consistent there might need to be a
8 supplement to the GEIS regarding the traffic.
9 In fact, whenever this was done, it concluded
10 that there was not.

11 MS. QUINE: So, you would need to update
12 for 2011 or 2012?

13 CHAIRMAN STUTO: Or satisfy ourselves
14 that things are still the same.

15 MS. QUINE: So, there would be something
16 added to the record then, by the applicant?

17 CHAIRMAN STUTO: I think that she is
18 suggesting that we back through what we have
19 in our record here and see if that satisfies
20 us, or if we need to make further
21 investigation.

22 MS. VAIDA: Yes.

23 MS. QUINE: I would not concede that -

24 MR. ROSANO: Are you representing this
25 group as legal counsel?

1 MS. QUINE: No, I live in the
2 neighborhood.

3 CHAIRMAN STUTO: Okay, your comments are
4 well taken. We're going to talk more about
5 environment before we get done.

6 MR. MYERS: Mr. Chairman, can I speak?
7 I've heard several comments as to the
8 creativity of this subdivision and how simple
9 this plan may appear. My name is Jeff Myers.
10 I'm the owner of the property.

11 Back prior to our conceptual approvals,
12 prior to 2001, Peter Platt, as Planning Board
13 Chairman had visited a site and I was building
14 in the City of Saratoga Springs. It was a
15 cluster development with sidewalks, curbing,
16 antique lampposts so forth and so on. He came
17 back here and suggested that he wanted to see
18 this put on this site. To do that required a
19 zone change from the Town Board.

20 We presented that to the Town Board for a
21 zone change. We were knocked down on that. We
22 were told to come back; no clustering, no
23 change in zone and to adhere to the existing
24 zone on this.

25 I do want everyone to know that we did

1 attempt to do this prior to any of these
2 plans.

3 CHAIRMAN STUTO: Thank you, that's
4 helpful.

5 Tammy Weingarten, 14 Tulip Tree Lane.

6 MS. WEINGARTEN: We live on this end of
7 Tamarack on Tulip Tree. While I agree with
8 previous speakers about environmental impact
9 and it's a great concern of mine, my immediate
10 concern is my children and the other children
11 in the neighborhood. I can see easily that a
12 dozen children live on just this end of
13 Tamarack alone. With only Branchwood Way and
14 Walnut Lane as the so-called only entrances
15 and egresses, I'm concerned about people going
16 through Tamarack down to Tulip Tree and around
17 Oak Tree down to Route 7. I know that I've
18 read that there was a traffic study done, but
19 from what I've read the traffic study was done
20 from Tamarack down Walnut and down to Ash
21 Tree. That makes no sense at all. Why would
22 you study Ash Tree when the direct route is
23 Tamarack down to Tulip Tree? I think that in
24 itself needs to be investigated. We can't have
25 children playing on a hill with tremendously

1 blind corners.

2 When you come up Tulip Tree - the other
3 part of Tulip Tree, going onto Tamarack - at
4 sunset, it's blinding. It's a horrible blind
5 corner. Neighbors are often very worried about
6 the kids that play nearby. They're playing on
7 the sidewalk, the grass or their front lawns.
8 The ball rolls in the street and it's
9 blinding. You cannot see the kids playing.
10 It's a big concern and now we're talking about
11 how many new houses and how many more cars?
12 Double the number of cars per house, because
13 everyone has two cars now. That's a huge
14 impact on the neighborhood and this is
15 existing neighborhood over here (Indicating).
16 We can't forget about this neighborhood
17 either. I haven't heard that mentioned at all.
18 I just want to make sure that everyone is
19 aware of that. At least a dozen kids right
20 here and now we're talking Ash Tree and Oak
21 Tree and the surrounding streets, as well
22 further down.

23 As we approach Route 7, it's a whole
24 other problem when it comes to traffic impact.
25 Thank you.

1 CHAIRMAN STUTO: Thank you.

2 Karen and Stuart Denike.

3 MR. DENIKE: In this book that we
4 presented to you - on the inside front pocket
5 there are the responses that we received from
6 the September 28th meeting. I just want to
7 make it clear that meeting was not just for
8 the Birchwood Neighborhood Association. That
9 was a meeting open for the residents. We
10 finally, as was mentioned early, got the
11 responses back from that September 28th
12 meeting on December 9th. We went through it as
13 best we could. We didn't have much time, but
14 you'll see that we responded again to this in
15 red. There are a lot of issues in there that
16 would be considered either not answered at all
17 or not properly answered. I would ask you as a
18 Board to go through this and consider it.

19 Mr. Chairman, the other thing you said
20 earlier, in essence, if you're going to do it,
21 do it right. That's all we're asking. We're
22 not saying that we're necessarily against the
23 development, but we want it done right. So far
24 I think that there are way too many issues
25 that still have to be addressed. Thank you.

1 CHAIRMAN STUTO: Thank you.

2 Robert Schlieman.

3 MR. SCHLIEMAN: When did the park
4 location get moved from the FEGIS specified
5 location?

6 CHAIRMAN STUTO: Joe, are you able to
7 address that?

8 MR. LACIVITA: I know that we met with
9 Kevin DeLaughter and I think that it was Jim
10 Zambergino or Donny Myers who was head of
11 Parks and Recreation. We actually sat down
12 with the Oak Hill plan at the time and the
13 Ridgewood development. When we met with
14 Mr. Myers and Melissa, we looked for the plot
15 of land that would actually be best fit for
16 the park. That was the land that was
17 designated at that time.

18 Correct me if I'm wrong, Jeff or Melissa,
19 I think that dates back to about 2008 or early
20 2009.

21 MS. COURIER: I think it was 2008. We did
22 get a Parks and Rec letter in 2002 that they
23 didn't want it on this parcel. That's when we
24 decided to look at alternate location across
25 the street. At the conceptual approval of

1 Ridgewood - that's when we showed it there. It
2 was 2008 when we had those discussions and
3 meetings.

4 MR. SCHLIEMAN: What was the PEDD's
5 justification for moving it? Why did they not
6 want in that area where the FGEIS wanted it?

7 MR. LACIVITA: I believe that it was when
8 they talked to Parks and Recreation. They
9 looked at land that was best suitable to be
10 maintained and used as a passive park. I
11 believe that's why the recommendation was made
12 by Planning and Economic Development at that
13 time.

14 MR. SCHLIEMAN: Have you looked at the
15 land contours to get to that park?

16 MR. LACIVITA: That was a recommendation
17 made by Donny Myers at the time, who had
18 walked the site. I think it was Mr. Cunningham
19 who was Assistant Park Superintendent and they
20 made the recommendation to us.

21 MR. SCHLIEMAN: If I remember correctly,
22 the Ridgewood Subdivision was intended to be
23 cluster development for older people that
24 didn't want to maintain their properties. So,
25 if now there is children, that means that the

1 children in the neighborhoods, both the future
2 children in this project neighborhood and the
3 existing neighborhoods would have to cross
4 over the heavily traffic road and climb up a
5 steep hill to get to this park. It doesn't
6 make a lot of sense.

7 I submit that the FGEIS was valid in its
8 choice of putting it between Vly Road and
9 Denison and I would sure like to understand
10 the rationale formally that was used to select
11 this area.

12 MR. LACIVITA: Melissa, if you could?

13 MS. COURIER: Ridgewood is not a 55 and
14 older development. It was actually a single
15 family residential development. It is cluster
16 based on the 2007 conservation zone. So, there
17 is a lot of area of open space that remains.
18 The lots are smaller than what you would see
19 on this side of this parcel and they're
20 clustered together, but it isn't an age
21 restricted limited subdivision and neither is
22 Londonderry.

23 MR. SCHLIEMAN: I didn't say that it was
24 age restricted. I said that it was intended
25 for and that was the way that it was expressed

1 in public meetings that we went to way back
2 when.

3 My next comment: Did this change in the
4 FGEIS to move the park out of it at a location
5 specified go through any statutory process
6 that would be required to modify an FGEIS?

7 MR. LACIVITA: I don't have the answer to
8 that.

9 MR. SCHLIEMAN: Elena, would you comment
10 on that?

11 MS. VAIDA: No, but I'm just making notes
12 on what you're saying. You're saying that the
13 GEIS called for a park in a certain location
14 and that's not where it's being proposed.

15 MR. SCHLIEMAN: That's right.

16 What is the condition of the
17 grandfathering that, in addition to going
18 through the Planning process with the Planning
19 Board? It also had to be filed as the final
20 document had to be filed with the Albany
21 County Clerk's office.

22 CHAIRMAN STUTO: Can you repeat the
23 question?

24 MR. SCHLIEMAN: Wasn't there a condition
25 on grandfathering that in addition to the

1 Planning process by the Planning Board on the
2 concept approval and final plan approval, it
3 was required to be filed with the Albany
4 County Clerk's office?

5 MS. VAIDA: It calls for the final plan
6 to be on file. The final plan hasn't been
7 approved yet.

8 MR. FRANCIS: Or concept approval.

9 MR. SCHLIEMAN: It's not an "or"
10 statement it's an "and" statement.

11 MR. FRANCIS: It says the project or
12 subdivision plan which has been granted
13 concept approval or acceptance as of the date
14 of adoption of Local Law 1 and for which the
15 final subdivision plans are filed.

16 So, we've achieved the first part of it.

17 MR. SCHLIEMAN: But the objective there
18 says that there is a part that hasn't been
19 done yet. So, the grandfathering isn't valid;
20 at least that's the way that an ordinary
21 person might read what that and refers to.

22 You say that the length of the Tamarack
23 stub is 1,200 feet.

24 CHAIRMAN STUTO: That's was estimated;
25 yes.

1 MS. COURIER: That was an estimate of
2 1,200; yes.

3 MR. SCHLIEMAN: How many houses are there
4 on that stub?

5 MR. FRANCIS: Approximately 31.

6 MR. SCHLIEMAN: So, there is 15 or 16
7 houses that have road frontages in excess of
8 100 feet, right?

9 MR. FRANCIS: Road frontage; yes.

10 MR. SCHLIEMAN: I thought I added up once
11 and came up with 2,200 feet.

12 I submit that is excessive. Isn't there
13 some kind of a Planning requirement for the
14 maximum length of a stub?

15 MR. FRANCIS: There is no written code
16 for the maximum length of a cul-de-sac in the
17 Town of Colonie. There is a recommendation -

18 MR. SCHLIEMAN: And that is?

19 MS. COURIER: I think that it's 900 by
20 Fire Services.

21 MR. FRANCIS: But it's merely a
22 recommendation by Fire Services. There is no
23 written code that limits the length of a
24 cul-de-sac in the Town of Colonie.

25 MR. SCHLIEMAN: In any case, it exceeds

1 the recommendation by Fire Services with the
2 length of a stub.

3 When we had our meeting on September 15,
4 do you remember that at our request to look at
5 what could be done to make the Vly Road
6 entrance work, Jeff instructed you to do an
7 engineering analysis of what it would take to
8 mitigate that. Those were the words.

9 MR. FRANCIS: No, he did not.

10 MR. SCHLIEMAN: Oh he didn't?

11 MR. MYERS: And he asked if you were
12 willing to pay for an extended study and you
13 said that you weren't.

14 We said that we'd look into the variables
15 and to prove out the distance and information
16 because we didn't know about the numbers at
17 that meeting.

18 MR. SCHLIEMAN: We didn't talk about
19 distances. We said what would it take to
20 mitigate that issue? That's what we wanted.
21 Here is a case where there may be mitigation
22 possible. I know that there are several ways
23 to do it.

24 MR. LANE: You mean to open it up? We
25 actually discussed another alternative and it

1 doesn't appear that mitigation is a
2 possibility. We don't want to get into a back
3 and forth argument. You're going into a little
4 side bar.

5 MR. ROSANO: Keep addressing this Board,
6 please.

7 MR. LACIVITA: I'm looking back at my
8 notes. I was in that meeting of September 15,
9 2011 where we were all at that meeting and I
10 have 24 talking points of that meeting. Not
11 one talked about the length of a cul-de-sac or
12 the additional study.

13 MR. SCHLIEMAN: You left the meeting
14 before then.

15 MR. LACIVITA: No.

16 MR. SCHLIEMAN: I'm glad to see that
17 you've decided to have a Town Designated
18 Engineer look at these issues.

19 I've heard people say that every house
20 now a days has two cars now. Yet the CDTC
21 report was based on 1.4. That was ridiculous.

22 Thank you. I appreciate it.

23 CHAIRMAN STUTO: Lawrence Palleschi,
24 58 Denison Road.

25 MR. PALLESCHI: Larry Palleschi,

1 58 Denison Road. I'm Vice President of the
2 Birchwood Neighborhood Association.

3 Let me take two seconds and kind of
4 reshape a little bit of a picture that
5 everyone is looking at for the Board's view of
6 what's happening.

7 What you have from the Birchwood
8 Neighborhood Association today - we worked on
9 well through last night. They are comments to
10 responses that were given to us - a group of
11 questions that were presented to a meeting
12 that thankfully Joe had put on back in
13 September. Those questions were not only
14 Birchwood Neighborhood Association questions
15 but they were questions that we went out and
16 asked all of our neighbors. You may ask why
17 would you want to ask questions of your
18 neighbors regarding this subdivision. Well
19 that's one of the problems that we're looking
20 at tonight is the length of time that this has
21 been on the boards. Bear with me. This is

22 Mr. Krawitzky's house here (Indicating).
23 This is my house. From Wallace's house, a new
24 neighbor, new neighbor, new house, new house,
25 I think that's an old neighbor, new neighbor,

1 new neighbor, new neighbor, new neighbor. So,
2 it's been a long time and there are a whole
3 lot of people that don't have a lot of history
4 about this project whatsoever. That is why you
5 see in those questions things that has been
6 asked 10 years ago, maybe it was asked five
7 years ago. Maybe some of us did, but those
8 questions are representative of that
9 neighborhood. I think that the best way to
10 explain it from a movie that says I think that
11 there is a failure to communicate here because
12 unfortunately we got the answers too late to
13 really enable you to respond to anything
14 beyond that. I think that what maybe should
15 have happened was a follow up meeting to
16 explain a lot of the questions.

17 Again, CT Male assured you that all the
18 questions were answered. I can assure that all
19 of those questions were not answered. They
20 weren't answered because they weren't meant
21 for CT Male to answer. They were meant for the
22 Town to answer. If you look through a lot of
23 those questions, you'll understand why we
24 asked them. They had to do with Town
25 procedures and Town interpretations. So,

1 again, when you look at that book, please
2 realize that it's not a BNA book. BNA put it
3 together for the purpose of discussing the
4 subdivision. BNA, in no way, shape or form is
5 against development of this area. We've worked
6 with the developer on this whole other half.
7 Mr. Myers has been very cooperative with
8 everything that we've done. He's come through
9 and actually said to us that he will do
10 whatever the Town tells him to do to be able
11 to put these items together

12 One of the big problems that we're having
13 is a problem with sedimentation. That's
14 exactly what's going on with this subdivision.
15 The SEQRA process is put together so that you
16 can get a picture of the impact of the
17 entire -- it's supposed to be a project, but
18 in this case we have a situation where a
19 single owner has divided a single property
20 into two pieces, covered by two different
21 SEQRAs. Those pieces have been subdivided to
22 other pieces and they've probably been broken
23 up into five or six different areas now. In
24 addition to that, this is the kind of thing
25 that we really need to be looking at. What is

1 the effect of this? That's why the Birchwood
2 Neighborhood Association was formed in the
3 first place; to look at this. That's where the
4 issues that we have with this is that we keep
5 breaking this down and down into smaller
6 pieces when in fact the whole group of the
7 subdivisions is where the problem is. How can
8 I stand here and say that the SEQRA is wrong?
9 Well I can give you a couple of quick reasons.
10 First is the traffic.

11 There was a study done in the early
12 1990's and when the one subdivision
13 disappeared there was another traffic study
14 done specifically for that intersection where
15 we talked about the roundabout. The study that
16 was done was based on some engineering
17 documents or engineering design references
18 that recommended that generation of traffic
19 for each house was based on 1.4 cars per
20 house. That is totally ludicrous. That means
21 that two out of every three houses has one
22 car. I would ask Mr. Myers how many of these
23 houses are going to have one car garages? Not
24 one, I bet. More effective number might have
25 been two or two and a half.

1 Unfortunately Stu and I, between the two
2 of our houses, had 13 cars because of the kids
3 there. There certainly isn't 1.4.

4 Now the roundabout area described in the
5 minutes of the meetings with Mr. Jukins that
6 day said that while there is no anticipating
7 impact from the 1.4 cars per house, that it
8 probably wouldn't need a traffic controlling
9 device. In this case we talked about traffic
10 circles. If you use anything other than 1.4
11 cars, you're going to come to the conclusion
12 that yes, you do need a traffic circle.

13 There are other questions like what about
14 the traffic on Denison Road? What about other
15 traffic calming measures on Denison Road?
16 Again, it's not a question for the builder;
17 this is for the Town. How do you expect to
18 handle the traffic from all these areas? This
19 piece of Denison Road has had a bus go off the
20 road here (Indicating) and a car flip over on
21 its roof here. A certain member of a local
22 surveying company was clipped over here
23 (Indicating) when they were measuring traffic.
24 This is not an inconsequential piece of road.
25 There is a lot of traffic that comes down here

1 at a very high rate of speed and I would
2 assume that the Town would like to look into
3 traffic calming measures. To say that the
4 SEQRA - the conditions have not changed since
5 that SEQRA was written is again totally false
6 because of the traffic study that was done for
7 Breckenridge is different than the traffic
8 study that was done for Vly Road and Denison
9 Road. It's going to be different for the fact
10 that these are not one garage houses. The fact
11 that the water that's being pumped up
12 here -- all of our neighbors here have very
13 poor water pressure. Let me tell you that for
14 27 years we've been told just wait for that
15 water tower to be built and we're going to fix
16 your water pressure. Now they're telling me
17 well maybe or maybe not. It's a case by case
18 basis. That is unacceptable. Twenty seven
19 years of waiting, my neighbors and I -- you
20 can run 60 psi, 70 or 80 psi to that house, I
21 don't care. I'll use it. Right now I'm running
22 on a pump and I will gladly trade my electric
23 bill and pump for a pressure reducing valve
24 from whatever pressure you'll give me. For the
25 Latham Water District to say that they are not

1 going to service these houses is a travesty.

2 CHAIRMAN STUTO: Thank you.

3 Jill Knapp, Director of Mohawk Hudson
4 Land Conservancy.

5 MS. KNAPP: Thank you. I think that I
6 don't want to say too much. I think that it's
7 all pretty much been said. I just want to make
8 a few cases here.

9 In this plan it's acknowledged that open
10 space protection has fiscal benefits as well
11 as environmental benefits. On the open space
12 plan map there is an area that is identified
13 that should be protected and this is exactly
14 where the development is planned. It also
15 encompasses MHLC's Ashford Glen which is
16 specifically mentioned and the plan states:

17 "The Ashford Glen Preserve is already a
18 preserve area and the opportunity exists to
19 expand the open space resources here to create
20 a design of development and conservation
21 easements."

22 On page 59 it also says:

23 "Organizations such as the Albany County
24 Land Conservancy, which is now the Mohawk
25 Hudson Land Conservancy is willing to work

1 with communities to achieve meaningful open
2 space protection. I would like to reiterate
3 that we are willing to help you with this.
4 When you ask about conservation easements, if
5 you would be willing to hold them, we would be
6 more than happy to talk to you with helping
7 with some of those things.

8 To really protect space, the easements
9 must be written carefully and they must be
10 recorded. It came to my attention very
11 recently as of last week that not all
12 municipalities are doing this. To be a legal
13 conservation easement in New York State, they
14 must be filed with the DEC and many
15 municipalities are not aware that recording
16 with the County Clerk is just the first step.
17 They also must be recorded with the DEC in
18 order to be legally binding. That's under
19 Article 49 of the Conservation Law.

20 You heard about the benefits that could
21 be achieved.

22 CHAIRMAN STUTO: Who would be the logical
23 grantee of the easement?

24 MS. KNAPP: The grantee could be the
25 Mohawk Hudson Land Conservancy.

1 CHAIRMAN STUTO: Would you consider those
2 15 acres?

3 MS. KNAPP: We do have some criteria.
4 First of all they have to have a public
5 benefit and they must have conservation
6 values. Those are requirements of the IRS
7 code. We will not take easements that don't
8 meet IRS conditions. Those would be conditions
9 that we'd have to consider.

10 CHAIRMAN STUTO: At first blush you
11 wouldn't reject them, would you?

12 MS. KNAPP: I don't make those decisions.
13 They do have criteria which are relevant and
14 they do have some of the criteria we would
15 require.

16 CHAIRMAN STUTO: Can you speak to her
17 later? I'm asking the applicant. Can we
18 coordinate with this woman with respect to the
19 conservation easement?

20 MR. FRANCIS: Absolutely.

21 MS. KNAPP: Just going on with some of
22 the goals that are listed in your Comp
23 Plan - all of these can be accomplished with
24 conservation design. I was pleased to hear
25 that you were at least considering some kind

1 of conservation development on your other
2 areas.

3 Page 9 of your Comp Plan says:

4 "Environmental and open space
5 conservation goals are accomplished where
6 development is focused on these compact areas
7 rather than spread out across the landscape."

8 On page 63:

9 "It's recommended that the Town revise
10 its zoning regulations to require these
11 conservation subdivision design in
12 conservation areas as illustrated in the open
13 space recreation map."

14 That is exactly this area.

15 "Utilizing conservation subdivision will
16 allow development to occur and still provide
17 opportunities to conserve open space and
18 trails. This form of development will permit
19 flexible lot sizes, facilitate creative design
20 and harmony with the landscape. In addition to
21 the environmental and scenic benefits of
22 allowing homes to be sited in a creative way,
23 a network of conserved open lands can be
24 created in this process."

25 I have no doubt that there will be some

1 impacts to Ashford Glen.

2 When you start developing this, there is
3 likely to be tree removal, you're going to
4 have an increase in impervious surface. As
5 little as 10 percent increase in impervious
6 surface does effect run off, so you're likely
7 to find more runoff. All of that does carry
8 down into the streams. It may also increase
9 some of the wetness in your wetlands. There is
10 no question that we have concerns about the
11 impact on Ashford Glen. The Land Conservancy
12 is asking that you consider the
13 recommendations in your own Comprehensive Plan
14 and require the type of development that will
15 protect some of your last remaining open
16 space, provide a quality of life to the
17 neighbors and allow the developer a reasonable
18 use of his land.

19 CHAIRMAN STUTO: Thank you.

20 Dave Rettig, 5 Tamarack Lane.

21 MR. RETTIG: I have to say first that I
22 much prefer standing on this side of the mic
23 than where you are. You all have a very tough
24 job to do. Obviously, everybody has a right to
25 develop their property. They need to make sure

1 that they do it in a responsible manner. I
2 guess what I'm focused mostly on is the
3 traffic situation.

4 First of all I'll start with something
5 that was said earlier about CDTC and federal
6 funding and state funding. They really don't
7 control state funding. They only control the
8 federal funding. There are a couple of things
9 that I'm not sure about, actually. I'm not
10 sure that Denison Road and Vly Road are on the
11 federal aid system. So, I don't even know that
12 CDTC has any role in getting funding for these
13 particular projects. I'm not sure whether they
14 are or they're not, but I'm going to guess
15 that they're probably not. The way that the
16 federal transportation law is going, they
17 might be shrinking the federal aide system for
18 what's eligible for federal aid. So, thinking
19 that someone is going to come in on a white
20 horse and save the day with a lot of funds
21 that are not coming from the Town is probably
22 unlikely.

23 So, I did hear that there were some
24 mitigation fees here. There is some money. I'm
25 sure that the Town probably has some money.

1 But one of the things that I wanted to focus
2 on is that we're hearing a lot of things here
3 that raise questions in my mind. I don't know
4 what final approval means. There are a lot of
5 questions before you get final approval with
6 this many questions.

7 The questions that I have are to do with
8 the traffic studies that have been done. They
9 have to do with the sight distance problem on
10 Vly Road, supposedly. If they studied the
11 intersection and stopping sight distance, did
12 they look at what mitigation could be done? I
13 didn't have a lot of confidence from what I
14 heard here that there is someone in this room
15 that knows the answer to those questions. I
16 think that the study is probably done by
17 others. Whether they are valid traffic counts
18 or not, I don't know that's true, so it's kind
19 of hard for me to imagine giving final
20 approval on something where there are
21 questions like this out there.

22 I'm hoping that Tom Johnson is not there
23 for just tonight and that he's here to look at
24 something - that someone refreshes the study
25 that was done that looks at the sight distance

1 at Vly Road. Obviously, one of the things is
2 that there are new standards. What does that
3 mean? What are the other intersections on Vly
4 Road? Do they meet those standards? Does every
5 intersection in the Town meet those standards;
6 probably not. You don't want to build
7 something that is going to create a problem;
8 that's for sure. Are you directing people to
9 intersections that would be worse because they
10 can't get out onto Vly Road? You want to
11 spread out where the traffic is going to go to
12 limit the impact so it's a little bit
13 everywhere? I'm just hoping that there is a
14 little more analysis done in the traffic
15 situation before you make a final decision.

16 MR. AUSTIN: Sir, I believe that in
17 reference to Old Vly Road, we as a Board were
18 discussing about an hour and a half ago, the
19 whole emergency access. That was rather than a
20 public access.

21 MR. RETTIG: I was just talking about
22 public access.

23 MR. AUSTIN: I think that we kind of
24 addressed that earlier. I think that the
25 public access thing is going to be something

1 that we're really thinking about.

2 MR. RETTIG: I guess I'm asking why.
3 Where are you sending these people that aren't
4 going out there? Are they going by
5 intersections that are actually worse than the
6 one that you would be creating? I don't know
7 the answer to that.

8 MR. AUSTIN: They're not creating an
9 intersection. We're creating an emergency
10 access.

11 MR. RETTIG: If you did create an
12 intersection, it might have actually less of
13 an impact then where you're sending all these
14 people. I know the intersection. I know that
15 Tammy, who was the one up here with the baby,
16 worried about an intersection at the corner of
17 Tulip Tree and Tamarack. So, if these people
18 come in from the development that aren't going
19 out on Vly -- some of them go out on Denison,
20 but some of them will come down Tamarack. The
21 intersection that she is talking about at
22 Tulip Tree - I don't come that way when I come
23 home from work because I'm worried about kids
24 playing at that corner because it is blinding.
25 You come around the corner and you can't see a

1 thing. I don't even go that way anymore and
2 we're going to be sending more people through
3 that intersection. Is that an issue? I'm just
4 saying are we creating more of a safety issue
5 by not having that intersection or by having
6 it? I understand that you're saying that
7 you're not considering it, but is that a
8 reasonable place to have an intersection if
9 it's mitigated? I don't know the answer to
10 that. I don't think that anyone here knows the
11 answer to that.

12 CHAIRMAN STUTO: Wallace Krawitzky,
13 9 Walnut Lane East.

14 MR. KRAWITZKY: I'm Wallace Krawitzky and
15 I live at 9 Walnut Lane East. I'm a resident
16 of Colonie for 24 years now and I think that
17 I've seen it all. When I first moved here I
18 asked the Town tax people. I anticipated
19 development behind me. They said guaranteed
20 for the next five years they won't be
21 developing. Five years was right because five
22 year later, Breckenridge came. But you've
23 heard all of this and I will tell you that my
24 concern is traffic.

25 Every spring it rains. I have water

1 coming into my basement. I can't control that.
2 I get water in the back yard and it comes into
3 my basement. In the past with this development
4 there was talk about getting an access point
5 at Ash Tree, but they said that there was too
6 many wetland areas there. Ash Tree would be
7 over here as a stub (Indicating) and in the 24
8 years that I've lived there, this spring was
9 the first time that I saw water rushing out of
10 the storm sewer right at the stub there at Ash
11 Tree. In 24 years, I've never seen water come
12 out rushing like a river. This is before we
13 had the Hurricane issues. I don't know what's
14 going to happen when they start moving earth
15 and putting in -- I would think that with all
16 these houses they're all going to be pumping.
17 The water has to go somewhere.

18 As for Denison and the sight distance
19 problem, I remember in the very beginning of
20 these hearings when Chairman Platt would say,
21 I think that this problem started when we
22 opened up Denison. I guess at one time it was
23 never connected. There were a few houses here
24 (Indicating) and then Denison was not
25 connected to Vly. By opening it up, it allowed

1 people to go from Route 7 to Route 5.

2 In the early 90's they did a resurfacing
3 or widening of Route 7 and people realized
4 that they found this road and they said, this
5 is great, we can go straight to Route 5 and
6 from that time on, people have been using it.

7 When I looked at the developments in the
8 very beginning, in early 2000, one of the
9 problems that I had with the previous
10 predecessors -- I would say to them, you have
11 to look at the whole area because a lot of
12 time Planning Departments - not just this
13 department, but other ones would look at a
14 development by itself. Here you have a unique
15 situation where you have three developments.
16 Originally, this was one whole development but
17 you have three and I brought up that they have
18 to look at the traffic from all three at the
19 same time.

20 It's the responsibility of the Planning
21 Board to make sure that they have this. Right
22 now what you have is a situation where traffic
23 at Denison Road and Vly Road -- the only
24 control that you have is a stop sign at Vly
25 going south.

1 In talking about sight distance problems,
2 if you ever pulled up to that stop sign, it's
3 very difficult to look both ways. You can see
4 south, but you can't see north on Denison. You
5 have to inch out where I live on Walnut Lane
6 East and for me to go south on Denison, I have
7 to look both ways and the sight distance is
8 also very poor. How they could allow that?
9 Only recently they had some new houses that
10 were built here. They cleared up some of the
11 woods. Still, the sight distance problem is
12 there.

13 When I talk about going back to the Vly
14 Road and Denison intersection, again, that's a
15 situation that the Town allowed. I don't know
16 how they created it. The owner on the corner
17 recently put up a railing fencing so that you
18 can see a lot better. Still, it's very
19 difficult to go through there.

20 What's going to happen in the future with
21 these developments? I'll tell you right now
22 Peter Platt said we're not going to put a
23 traffic signal in there. It didn't warrant it.
24 There are certain warrants. I don't know how
25 many people have to die before you warrant it.

1 In 2002 the BNA met with the Town with
2 Mary Brizzell and the Chairman of the Director
3 of the Planning and Economic Development, Phil
4 Pearson. Kevin DeLaughter was there, also. We
5 talked about how we could correct the problem
6 of that intersection of Denison and Vly. I
7 asked about the roundabout. Now, this is 2002
8 and roundabouts were not popular here. They
9 heard about them in Europe and I saw them in
10 Florida and they were thinking about it.

11 Now, recently in the 2009 meeting in
12 March I think that we had a transportation
13 study and looked at all the traffic in this
14 Vly area and there was talk about the
15 roundabout. As previous speakers have said,
16 who is going to pay for it? We're not going to
17 ask the developer to pay for it. There are
18 usually mitigation fees collected for
19 developments. Who knows how much money is
20 used? We've read the paper in the past that
21 money has been used for other things other
22 than what it was supposed to be used for. I
23 live here and the reason that we wanted the
24 access from Tamarack to Vly is because you
25 have so many houses here with the number of

1 cars. You've only given these people two ways
2 of going anywhere. If you want to go north,
3 you can come out Branchway which is your main
4 driveway. You turn right.

5 I don't know if you're familiar with this
6 road or if you've been through it in the past.
7 First of all, it's very heavily traveled. You
8 can see the patchwork that the Town recently
9 put down. I've seen over the years parts of
10 Vly Road, south of Denison, resurfaced several
11 times. This road - I don't remember the last
12 time they really did a resurfacing.

13 When you have two access points, the main
14 road here (Indicating) and Tamarack, as the
15 woman Tammy said, Tamarack Lane north of this
16 intersection is a small lane and there is at
17 least a dozen or more families with young
18 children that play in the streets. I have
19 walked my dog and a lot of people walk their
20 dogs. There are kids on bicycles. There is a
21 basketball hoop on the street or on a curb and
22 the sight distance is poor. I can tell you
23 right now that in the winter time, that part
24 of Tamarack gets icy and school buses use that
25 road.

1 Two ways of getting in is not enough. If
2 these people want to go east on Route 7 to
3 Latham, they're going to go through Tamarack
4 or they're going to go through Denison.
5 Denison Road becomes Birchwood Lane in the
6 Town of Niskayuna. Birchwood School is located
7 there and there is a restricted speed of 20
8 miles an hour from 7 a.m. to 5 p.m. What
9 people learn eventually is that they can turn
10 right onto Walnut Lane and then turn left onto
11 Ash Tree. From that point on there is no
12 traffic control. They can go straight to Route
13 7. The reason why we wanted to open up
14 Tamarack is because now the people that live
15 here will have a way of bypassing this
16 intersection, the one that's heavily congested
17 now, by going out this road here (Indicating)
18 instead of going north. For the most part, the
19 people that are going through this point are
20 only the people that live in here.

21 The developer said that this map has not
22 changed from the beginning of 2002 when it had
23 conceptual approval. That's not really true
24 because there are two parcels of land that
25 were moved from this plan that are not on this

1 thing. There is a parcel that's off Tulip Tree
2 and that's 15.5 acres. So, things have
3 changed. If you're going to be specific - you
4 moved two pieces of land from a plan, so you
5 can't say that nothing has changed. Things
6 have changed.

7 I apologize that all the members have not
8 gotten copies of the booklet. We worked last
9 night feverously. We sent some by e-mail and
10 we made copies. There is a lot of stuff there.
11 We tried to get it to you guys by this
12 morning. Again, I apologize. We do have the
13 material and a lot of it is on our website, if
14 you want to check it out. It's at bnaonline.us
15 So, it's for everyone to see. I don't know if
16 all the attachments are part of it. I know
17 that they will be.

18 CHAIRMAN STUTO: Obviously, you did a lot
19 of work.

20 MR. KRAWITZKY: I've worked with Joe.
21 He's been very good. He arranged this meeting
22 on the 28th to have everyone come and talk and
23 it was open to everybody. It was just
24 surprising that all of the sudden we got the
25 results back so fast. I saw the pink notices

1 and the pink notices means that there is a
2 public hearing scheduled. So, we worked to get
3 this together and if we had more time, you all
4 would have a copy and more time to read it.
5 Thanks very much.

6 CHAIRMAN STUTO: Thank you.
7 Shawn Palleschi.

8 MS. PALLESCHI: I have a quick question
9 and a couple of comments.

10 The question that I have is: Do all of
11 these areas have to be developed before the
12 Town will be taken over and then they can get
13 our water pressure?

14 CHAIRMAN STUTO: I'm not sure that I
15 understand your question.

16 MS. PALLESCHI: We were told that when
17 this area is -

18 CHAIRMAN STUTO: When are the other
19 houses going to get their water pressure?

20 MS. PALLESCHI: Well, yes, I just want a
21 clarification. Does that mean that all of
22 those houses have to be built?

23 CHAIRMAN STUTO: I'll let the applicant
24 address that to the extent that they can.

25 MS. PALLESCHI: This is Branchwood. Isn't

1 that awfully close to Birchwood? You were
2 worried about the Oak Hill and all these other
3 oak things. That's an awfully close name to
4 Birchwood.

5 CHAIRMAN STUTO: That can probably be
6 worked out.

7 MS. PALLESCHI: Also the traffic - I know
8 that everyone has talked about that. I have to
9 back my car in so I can get out in the
10 morning. If I'm lucky enough to get there when
11 the school bus - they stop traffic so I can
12 get out. One morning I was delighted because
13 there was like six people in the neighborhood
14 and we all came out at the same time. I felt
15 like it was Leave it to Beaver. We're all
16 leaving. It was nice, but it's very difficult
17 to get out of the neighborhood. The developer
18 said that it's not his problem. That's
19 paraphrasing, but it's not his problem. It's
20 the Town's problem. Now it's your problem. I'd
21 appreciate it if you thought about that, too.
22 Thank you.

23 CHAIRMAN STUTO: Thank you.

24 Can the applicant answer whether all of
25 the developments have to be built-out before

1 Latham Water comes in?

2 MR. FRANCIS: I was going to say no.

3 CHAIRMAN STUTO: Can you explain a little
4 bit? You're saying no that they don't have to
5 develop all of that?

6 MS. COURIER: No, not all of the houses.

7 CHAIRMAN STUTO: What is the most likely
8 scenario of what's going to happen?

9 MS. COURIER: I'm Melissa Courier of CT
10 Male Associates. The water tank has to go in
11 first before any houses can be built. I think
12 that you all understand that. It's not
13 required that all of the homes and all the
14 homes in these three phases of development
15 have to be serviced prior to any existing
16 homes going in. However, there is no
17 indication on the timeline of when the
18 existing homes would be brought in. Latham
19 Water is going to make that decision on a case
20 by case basis.

21 As the neighbors have said, it's a very
22 rough terrain all along these roads and these
23 areas. So, that's why they have to do it that
24 way. Some homes wouldn't be able to handle it
25 while some homes would benefit from it.

1 CHAIRMAN STUTO: Would they have to do a
2 significant engineering study?

3 MS. COURIER: I'm not sure how they would
4 do it. They would have to approach homeowners
5 on an individual basis and do that study.

6 MR. LACIVITA: It's a calculation. There
7 are issues based on grade.

8 CHAIRMAN STUTO: They would have to put a
9 valve or something -

10 MS. COURIER: A pressure reducing valve.

11 CHAIRMAN STUTO: They would have to tie
12 in somewhere and that would affect a certain
13 number of houses, right?

14 MS. COURIER: Absolutely. The way that
15 this has been set, it would be phased the way
16 that it's designed.

17 CHAIRMAN STUTO: Phased for your
18 development.

19 MS. COURIER: Phased for everybody.

20 CHAIRMAN STUTO: What are the likely
21 scenarios?

22 MS. COURIER: They don't all have to be
23 built before the existing residences can be
24 brought in. I think that was her direct
25 question.

1 CHAIRMAN STUTO: That's about as specific
2 as we can get, I guess. Thank you.

3 Christopher Emr.

4 MR. EMR: I live over at 44 Oak Tree down
5 in this neck of the woods here (Indicating).
6 I'm not quite sure where to begin; I have so
7 many issues with this whole project. There
8 have been so many good comments that came up
9 tonight. It's given me lots of things to think
10 about.

11 One of the things that I'd like to point
12 out as far as the grandfathering goes, I think
13 that there is a little bit of sympathy that I
14 have for the developer considering all of
15 these grandfathering provisions that we've
16 granted over the years. I think that largely
17 it's due to the fact that we have pressured so
18 hard to make changes to accommodate all of us
19 over and over again. However, my sympathy is
20 very limited because I think that he's put
21 himself in this situation by driving these
22 projects to the absolutely limit of what the
23 neighbors will tolerate as far as building and
24 development. By doing that, he's very
25 gradually scaling back little bit by little

1 bit to just barely meet the accommodations of
2 the neighbors and that's why this thing drags
3 on and on and on.

4 The trouble is that this was granted
5 provisional approval in 2001 and this is 2011
6 and we are living in a very, very different
7 world today than we were in 2001. It seems
8 very surreal to me to sit here and discuss
9 things like traffic and water pressure when we
10 have the worst housing crisis that we've ever
11 had in the country. We have one of the worst
12 economic downturns that we've ever seen and we
13 have 300 houses sitting in front of us for
14 approval. We're talking about water pressure
15 and things like that.

16 If you look at the census data, the
17 population of the capital region hasn't
18 changed. We just barely surpassed our
19 mid-century high water mark as of the last
20 census we are just barely coming back to where
21 we were in the middle of the 20th century. And
22 yet look at all the development that we've had
23 over the last 50 years. We've build houses, we
24 build town house complexes, we build
25 apartments and we build out of our shoes.

1 We've had no new residents in support of all
2 that development.

3 I just saw a statistic. I went back and
4 looked the other day. We have the dubious
5 distinction of now being the top 15 in the
6 country as far as vacancy rates in this area.
7 That's not really a good position to be in.
8 We're looking at approving a 75 unit
9 subdivision, which if it's given approval,
10 basically tell me that there is no objection
11 to doing all the other ones. I don't think
12 that you can look at this without looking at
13 all three together. I think that the Planning
14 Board has to take a real serious look at the
15 current demographic economic housing situation
16 that we're in now and rethink dinosaurs like
17 this. This is business as usual. This is the
18 way that we've always done things. We got
19 slapped in the face over the last five years.
20 We got kicked in the butt over things like
21 this; speculation, overbuilding and now we're
22 bound to approve 75 new houses to be built.
23 You're going to approve that in the worst
24 housing market that we've ever had.

25 What's our builder's incentive to build

1 quality homes here? Why is he not going to go
2 out and cut as much cost out of these homes as
3 he can; between the siding and the drywall and
4 build basically garbage homes to unload on
5 people. They're going to have to deal with the
6 consequences of that 10 or 20 years down the
7 road. I live in a quality home. A luxury home
8 built by Amedore at the end of the 80's and I
9 have about \$10,000 into that house trying to
10 fix all the areas that he short-cutted when he
11 built that house. It's a piece of garbage and
12 that's when the housing market was good. So,
13 what's going to happen when we allow them to
14 build 75 houses here and he has to cut every
15 penny out of these houses to be competitive
16 with a market that is going to take decades to
17 rebuild? This whole project doesn't jive with
18 our Comprehensive Town Plan. It's not
19 creative.

20 Somebody else said here that we are not
21 opposed to the project. We just want to make
22 sure that it's done right. I don't think
23 that's a fair assessment of sediment for all
24 of the residents of this area. I certainly
25 don't agree with this at all and most of my

1 neighbors don't agree with any kind of
2 development going on here. I'm really
3 disappointed that they don't show up to these
4 meetings because I talk to them all the time.
5 There is no discussion about if we want it or
6 don't want it. The discussion is whether we
7 don't care or we don't want it. Nobody wants
8 it. There is nobody that wants this program.

9 CHAIRMAN STUTO: You understand that we
10 have no power to tell somebody that they can't
11 develop their property.

12 MR. EMR: I understand completely. So,
13 I'm not totally unreasonable. But I think that
14 there is an opportunity here to do something a
15 little more creative. I'm sure that in 2001 if
16 they came with a plan to put five houses along
17 Denison, this would be signed, sealed and
18 delivered 10 years ago. There would be no
19 issue. But we're talking about 300 houses and
20 that's the problem here.

21 If the developer came back tomorrow and
22 said, I've changed this. I'm going to put a
23 few houses along here and that's the end of
24 it. He'd make his money back, he'd have the
25 houses, the approval and we'd all be good. But

1 there is an opportunity with this being a
2 conservation overlay to insist on some kind of
3 green building practices. There are so many
4 agencies out there that certify homes to the
5 green standards; zero energy homes, net zero
6 homes. There are a lot of new things going on
7 out there.

8 You can insist that we scale back the
9 number of homes in here. You could insist that
10 every home have a south facing exposure so
11 that the residents could put solar panels on
12 their roofs eventually if they wanted to. You
13 could insist that as you built this thing,
14 that they put geothermal in the ground, which
15 is cheap to do at the beginning of a
16 development, but expensive to do after the
17 fact. You could insist on following or
18 certifying to some kind of best practices
19 standard instead of just building to the state
20 building code, which is what most people do.
21 There are a lot of creative ways. I would buy
22 into a project like that in a heartbeat if we
23 had some kind of different way of going about
24 it.

25 My issue is business as usual. We can't

1 do business as usual anymore. What have we
2 learned from the last couple of years in the
3 economy that we've seen? How are we going to
4 apply that? Approving this certainly isn't
5 showing that we've learned from it. If you
6 approve this, you're approving everything
7 really. Besides that, I can't think of one
8 benefit to the Town for these programs. I
9 think that you mentioned three.

10 CHAIRMAN STUTO: I'm sure increased taxes
11 are one of them.

12 MR. EMR: These are a net loss for the
13 Town.

14 CHAIRMAN STUTO: You don't have to answer
15 that right now, Skip.

16 Please finish your presentation and we'll
17 ask the questions as it's appropriate.

18 MR. EMR: I believe that the first one
19 was that he claimed that building 75 houses
20 would be a benefit to our house values - that
21 we'd all benefit. I don't understand how in a
22 market where we've got more supply than we
23 know what to do with, where we have a building
24 that's totally out of line with the population
25 growth - why putting 75 more units of

1 inventory on the market would benefit anybody.
2 As far as I'm concerned, my house value has
3 gone down and down since I moved into the
4 neighborhood and this is just going to
5 continue to depress it. I'm very, very
6 concerned about that. I think that you guys
7 can help protect us from that kind of
8 irresponsible development as part of the
9 Planning Board.

10 I think that you mentioned tax revenue as
11 one of the benefits.

12 MR. FRANCIS: I did not.

13 MR. EMR: The second one was the water
14 tower?

15 CHAIRMAN STUTO: You have to address the
16 Board, sir.

17 MR. EMR: The second one was the water
18 tower issues. I know a lot of people suffer
19 from water pressure issues around here, but
20 the first thing that they stated was that we
21 are building this to service these three
22 units. That's essentially it. This is closed
23 system. Then Latham Water, at their
24 discretion, if they follow through with it,
25 can hook up individuals. They stated clearly

1 that the water tower is a benefit to the
2 community and I don't really see that. It's
3 not a benefit that they are necessarily
4 providing. I think that if there is an issue
5 with water pressure - there's seriously an
6 issue with people getting the proper water
7 flow and pressure, we shouldn't have to agree
8 to a 300 unit development in order to get that
9 problem fixed. That's something that should
10 have been addressed by the Latham Water
11 District to the residents of the Town. It
12 shouldn't be a quid pro quo between agreeing
13 to this to get your water pressure to where it
14 should be.

15 Honestly, I can't remember what the third
16 benefit was, but the bottom line is that I see
17 a laundry list of negatives to the Town. I
18 feel that it's not exactly fair to approve
19 something that benefits one person and has a
20 detrimental effect on everybody that lives
21 around it, has a detrimental effect to the
22 Town.

23 You're adding all this infrastructure
24 that needs to be maintained by the Town down
25 the road. We can't keep up with our paving

1 plan now. We don't have enough money to
2 maintain the infrastructure that we have now.
3 We have trouble keeping up with all these
4 things. So, we're just agreeing to add more
5 infrastructure that we have to maintain that
6 we're going to take over the cost of owning
7 and that's going to come out of your taxes.

8 There is an issue with school districts
9 as well. The Planning Board has no obligation
10 or responsibility to manage the growth of the
11 school districts. It's not what you guys do,
12 as far as I understand. At the same time, I
13 also understand that the school districts
14 don't look at plans like this or plans from
15 Towns until they have something more concrete
16 from a Board, or until they get some kind of
17 permit approval for development like this,
18 they don't address the issue of increased
19 students and increased class sizes. So, there
20 is like a big gap where nobody is really
21 driving the growth of our schools. We're just
22 kind of letting people migrate out of the
23 inner city to the suburbs and taking it on the
24 chin when it comes to increased class sizes
25 and increased populations of the schools. I

1 don't see anybody stepping up and saying what
2 can we actually support? You've got 300 houses
3 here. How many kids is that between the school
4 districts? We're talking about adding 300 more
5 kids to the school districts? I can't believe
6 that's not a bigger issue compared to things
7 like water pressure.

8 I just have tons and tons of problems
9 with this program. If you came back and said
10 we're not putting in any infrastructure, we're
11 not putting in any roads, we're just building
12 along here, I can get on Board with that. It's
13 up for you guys to decide. I just hope that
14 it's not business as usual when it comes to
15 this kind of stuff. Thank you.

16 CHAIRMAN STUTO: Thank you.

17 MR. LACIVITA: Peter, may I just comment
18 on something here? I've been sitting here now
19 for three hours and what really kind of got me
20 tonight was just hearing this gentleman speak
21 about responsible development and the business
22 practices of the Town of Colonie and what some
23 of the benefits may not do. Being the
24 Executive Director of this department since
25 2008 when this administration changed, I take

1 exception to that comment. This Board and the
2 members that have rotated through this Board
3 have been very responsible with what we have
4 done. Our department has been very responsible
5 with what we have done.

6 This project probably should have been
7 built back in 2001 when it took three and a
8 half years for the Planning Department to get
9 comments back to this gentleman. We have taken
10 him through the wringer time and time again.
11 How many times have we been in a meeting
12 asking for information so that the developer
13 could answer those questions? I waited months
14 and months from the neighborhood association
15 to get questions. I get the questions that
16 afternoon and I have a meeting that night. So,
17 we really have to talk about being responsible
18 here. This Board has been responsible. We've
19 been trying to address all the questions,
20 concerns and comments over time. I think that
21 when you look at what this development has
22 done, it has changed to the betterment of the
23 project. We have done that time and time
24 again. I think that we're at a point where
25 this gentleman has asked answered and done

1 everything that the neighborhood associations
2 have been asking. There's no irresponsibility
3 here in any way, shape or form. Maybe the
4 prior administration and the way that they
5 acted was. Three and a half years is
6 unacceptable under my watch. Now we're at a
7 point where the Planning Board has the
8 information that they need. I've spent a great
9 amount of time with these neighborhood
10 association people. We've asked and answered
11 the same questions that we're hearing again.
12 Three hours of our time has been talking about
13 the same questions that we did in October
14 2008.

15 It's about time that the Planning Board
16 gets to hear this and decide what they want to
17 do; seven members to vote on it.

18 CHAIRMAN STUTO: Kevin Laurilliard,
19 83 Ash Tree Lane.

20 MR. LAURILLIARD: Hi. I'd like to just
21 say that I very strongly agree with what all
22 my neighbors have said and all the points and
23 concerns that they have. I'd like to say that
24 there is no way that I believe that this
25 Planning Board tonight can make a fully

1 informed decision. Ten years is a long time.
2 You're talking 2001. You're talking 10 years.
3 The facts were a lot different 10 years ago.
4 As one person has already pointed out, there
5 is a number of new houses that have been built
6 on Denison Road. That's one fact. There are a
7 lot of other facts. We know that the time has
8 changed over 10 years. The facts have changed.
9 For this Board to make a fully informed
10 decision has to look at the current facts and
11 not the facts as they existed in 2001. Not
12 only the facts changed, but the law has
13 changed. There is a Comprehensive Plan that
14 has been implemented by this Board and I think
15 that all this grandfathering is unlawful.
16 That's a different issue and hopefully that
17 doesn't have to get resolved in Article 78
18 proceeding. Hopefully this Board is going to
19 do the right thing. Hopefully this Board is
20 going to step back -

21 CHAIRMAN STUTO: Where do you practice
22 law? You're obviously an attorney.

23 MR. LAURILLIARD: I don't have to answer
24 that. I'm just saying that as a neighbor and
25 all the facts that exist today, look at the

1 laws that exist today and I think that it's
2 great that you have gotten an independent
3 professional to help you evaluate this. I
4 think that's great. What I would ask this
5 Board to do is use that independent
6 professional and make an informed decision
7 based on the facts of 2011 - the law of 2011
8 and not 2001 and look at it based upon all of
9 the three developments and not let them pick
10 it apart that way. You have to make a fully
11 informed decision or all of the facts. That's
12 what I think that you should do using your
13 independent professional, read the books that
14 have been given to you and to say that they
15 were late is offensive. I was here on
16 September 28th.

17 If you want to talk about due process, I
18 have a concern about not even knowing that
19 there was a meeting tonight. I would say that
20 this Board should do the right thing and make
21 sure that they do due process, look at all the
22 current facts, the current state of the law
23 and use their professional and make a decision
24 after they have evaluated everything;
25 including the books that were given to them

1 today. I appreciate the Board taking the time
2 to do that. Thank you.

3 One other thing. I would like to point
4 out that the previous speaker made a very good
5 point. I'm not sure how the development is
6 going to proceed, but I did recently represent
7 a lender who loaned about five or six million
8 dollars on a development that went belly up
9 after about two or three houses were built.
10 So, my question is: What about knowing the
11 financial certainty about this development? In
12 other words, if there is a water tower or some
13 kind of water project here, I think that many
14 years ago its projected cost was \$750,000. I
15 don't know what the cost is now. What is the
16 Board doing to ensure that doesn't become a
17 financial burden on the Town. In other words
18 what kind of bond would be required -

19 CHAIRMAN STUTO: The Water District would
20 require a bond.

21 MR. LAURILLIARD: So, there would be a
22 bond -

23 CHAIRMAN STUTO: Yes.

24 MS. QUINE: As was pointed out in our
25 submission, there was a representation by the

1 applicant that they were going to be selling
2 lots for this project and my concern here and
3 I think the Board's concern should be if the
4 water tower is never built, how can the
5 developer sell lots before a water tower is
6 approved and constructed? How are those
7 individuals -- you're saying that they can but
8 there is no representation at all in this
9 record as to -

10 CHAIRMAN STUTO: It's getting late and I
11 have an idea of what the question and the
12 answer is. I will let the applicant answer
13 that question.

14 How can we ensure that the infrastructure
15 is done, including the water, if she heard a
16 rumor or heard somewhere that you're going to
17 sell individual lots? How can you sell
18 individual lots when there is no insurance -

19 MR. FRANCIS: You can't.

20 MS. QUINE: I think that in response to
21 our questions they said that they're able to
22 sell lots before the water tower is approved.

23 MR. FRANCIS: We can't sell lots before
24 infrastructure is in place. The tower has to
25 be up and the infrastructure has got to be in

1 the ground and then you can build a home. You
2 can't get a CO.

3 MS. QUINE: I think that there was
4 another response to one of our questions that
5 you can alter the site for infrastructure
6 before a house is built. So, you're altering
7 the site, moving earth around for some type of
8 road in order to have -- what is going to
9 happen here?

10 MR. FRANCIS: You have to build a road.
11 You have to put in the stormwater, the
12 waterline and the sewer line all before you
13 put the house on the lot.

14 MS. QUINE: That all has to be done
15 before the water tower is approved.

16 MR. FRANCIS: The water tower has
17 essentially been approved. Latham Water
18 District has agreed with everything that we
19 have designed so far and all the features that
20 go along with it. The only thing that remains
21 is the state permitting associated with that.
22 The infrastructure has to be in place before
23 any house can occupy a lot.

24 MR. LAURILLIARD: Just to finish my
25 thought. That's what happened with the

1 development that I was just referring to. What
2 happened is in order to put the infrastructure
3 in, all the trees were cleared, this huge lot
4 of land was cleared and everything was taken
5 out and destroyed and there were two houses
6 and I think that there were supposed to be 50
7 or 60 houses built. Two or three were built.
8 Sales weren't good and the economy was bad.
9 That's probably the reason that for the last
10 10 years this development hasn't been built
11 was because the economy. Everything was
12 cleared out and three houses were built.
13 Everything is baron up there and there is no
14 development. So, I just have that concern with
15 this as well.

16 As I said, I hope that we look at all the
17 facts and we don't look at 1.4 cars because
18 that's not what people have now and what the
19 law is. It's got to be based on present data.

20 CHAIRMAN STUTO: Any other members of the
21 public that would like to speak.

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

23 CHAIRMAN STUTO: Do we have a motion to
24 close the public hearing?

25 MR. MION: I'll make a motion.

1 MR. AUSTIN: Second.

2 CHAIRMAN STUTO: All those in favor?

3 **(Ayes were recited.)**

4 CHAIRMAN STUTO: All those opposed?

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

6 CHAIRMAN STUTO: The ayes have it.

7 We can discuss it among the Board.

8 Elena, do you think that we need to do
9 more and discuss the environmental impact
10 more?

11 MS. VAIDA: Yes I do.

12 CHAIRMAN STUTO: Can you help guide us
13 through that?

14 MS. VAIDA: Did you want to use this long
15 form?

16 CHAIRMAN STUTO: We can discuss the
17 various environmental factors and discuss it
18 with the applicant.

19 MS. VAIDA: How do you want to do that,
20 Peter? We talked about maybe using and going
21 through the current long form with the
22 applicant.

23 CHAIRMAN STUTO: I think that's a good
24 way to do it.

25 MS. VAIDA: Do we want the applicant to

1 have a copy of that?

2 CHAIRMAN STUTO: Sure.

3 Do you have a copy of the EAF long form?

4 MR. FRANCIS: No.

5 MR. LACIVITA: He can have this one.

6 MS. VAIDA: Do you want to go through it

7 line by line?

8 CHAIRMAN STUTO: You have the form in

9 front of your right?

10 MS. VAIDA: Yes.

11 CHAIRMAN STUTO: We have a neg dec that's

12 in the record. I want to discuss what has

13 changed with respect to impact on land, impact

14 on water, impact on the air, impact on plants

15 and animals, impact on agricultural land

16 resources, etcetera, since the neg dec. Do you

17 think that we can do that? I'm asking the

18 applicant?

19 MR. FRANCIS: We can certainly give it a

20 try.

21 CHAIRMAN STUTO: With respect to impact

22 on land, can you describe the project then and

23 now and what changes in the impact on land

24 that there may have been, and in particular

25 point out anything that might be significant?

1 I know that it's hard at this hour, but I
2 think that we should do it.

3 MR. FRANCIS: Generally, it has not
4 changed since 2002. The same lot count is
5 there. The stormwater management features have
6 changed some of the lay of the land because we
7 have endured now three or four changes to
8 stormwater management regulations over the
9 course of concept approval. We have stayed
10 current with each of them as we have gone
11 through our revisions and so forth.

12 CHAIRMAN STUTO: Would you say that those
13 changes would have been to the detriment to
14 the environmental impact or an improvement?

15 MR. FRANCIS: They've definitely
16 improved. It enhances the quality of the water
17 run-off and the treatment. The previous
18 stormwater regulations did not require
19 treatment, and they now do.

20 CHAIRMAN STUTO: That question also
21 answers impact on water to some extent.

22 Are there any physical bodies of water?
23 There are wetlands?

24 MR. FRANCIS: The wetlands have been
25 delineated. The Army Corps rendered its

1 jurisdictional determination in 2002 and those
2 still exist. Those will need to be refreshed
3 before we are issued a joint permit
4 application. That is a known requirement.

5 CHAIRMAN STUTO: No other significant
6 changes with respect to impact on water?

7 MR. FRANCIS: No significant changes to
8 water.

9 CHAIRMAN STUTO: Impact on the air?

10 MR. FRANCIS: No change. No changes to
11 the impacts.

12 CHAIRMAN STUTO: What impacts on air
13 would normally be discussed?

14 MS. VAIDA: I know that from reading the
15 other form that they talk about -- figuring
16 out if there is going to be any change in the
17 traffic because traffic could impact the air.
18 So, you may want to talk about the traffic
19 before you talk about the air impact.

20 MR. FRANCIS: With respect to traffic,
21 and the same number of houses, the same number
22 of vehicles for this particular project has
23 not changed. If there is any correlation to
24 air with respect to vehicles, the vehicle
25 count has not changed.

1 MS. VAIDA: Regarding the traffic, I
2 spoke with the TDE who did review the traffic
3 study that is in our packages that was done in
4 2009 and it appears that we could safely rely
5 on those numbers for conclusions in that
6 traffic impact study that those are still
7 valid as of today.

8 Is that accurate Tom?

9 MR. JOHNSON: From what I was able to
10 look at so far, yes.

11 MS. VAIDA: Did you want to look at it
12 further?

13 MR. JOHNSON: No, I believe that it's
14 accurate.

15 CHAIRMAN STUTO: So, the impact on air is
16 unchanged because the traffic essentially
17 didn't change.

18 Impact on plants and animals; any comment
19 in whether that has changed?

20 MR. FRANCIS: No change. We received a
21 letter from DEC about threatened and
22 endangered species dated January 6, 2011. The
23 PEDD has a copy of this. They have no records
24 of significance, or the significant natural
25 communities, or other significant habitats on

1 or in the immediate vicinity of this site.

2 CHAIRMAN STUTO: Impact on agricultural
3 and land resources. Any farms impacted here?

4 MR. FRANCIS: No farms impacted.

5 CHAIRMAN STUTO: Impact on aesthetic
6 resources? Any change in the aesthetics from
7 the original?

8 MR. FRANCIS: No, no changes in
9 aesthetics.

10 CHAIRMAN STUTO: Impact on historical and
11 archeological resources? I note that we have a
12 Phase I cultural resource investigation on
13 file.

14 MR. FRANCIS: Correct, and there is also
15 a Phase IB that was done and we have a letter
16 from OPRHD dated August 26, 2011 where OPRHD
17 has no further concerns regarding these sites.

18 There was an addendum to the Phase IB
19 that was performed that encompassed the
20 stormwater management areas that were due to
21 stormwater regulation changes. We were outside
22 the study area and previous archeological
23 studies. We updated that study to include the
24 new stormwater basin areas and SHPPO responded
25 with this letter that they have no further

1 concerns. That letter is dated August 26. So
2 there are no impacts to archeological or
3 cultural resources.

4 CHAIRMAN STUTO: Are there any changes in
5 the impact on open space and recreation since
6 the negative declaration?

7 MR. FRANCIS: No.

8 CHAIRMAN STUTO: Any impact on critical
9 environmental areas?

10 MR. FRANCIS: No.

11 CHAIRMAN STUTO: Any impact on
12 transportation? We talked about traffic
13 already. You answer is?

14 MR. FRANCIS: Our answer to that is based
15 on CDTC's study where they say that there is
16 no impact to the full build-out of this
17 development.

18 CHAIRMAN STUTO: Impact on energy, is
19 there any impact on energy since the neg dec?

20 MR. FRANCIS: No.

21 CHAIRMAN STUTO: No odor impacts? Any
22 change since the neg dec?

23 MR. FRANCIS: No.

24 CHAIRMAN STUTO: Impact on public health?
25 Any change on that since the negative

1 declaration?

2 MR. FRANCIS: No.

3 CHAIRMAN STUTO: No risk of explosion or
4 release of hazardous substances.

5 MR. FRANCIS: No.

6 CHAIRMAN STUTO: Impact on growth and
7 character of the community or neighborhood;
8 any change in that since the negative
9 declaration?

10 MR. FRANCIS: No.

11 CHAIRMAN STUTO: So, we haven't
12 identified any important impacts that weren't
13 identified back in the negative declaration.

14 MR. FRANCIS: Correct.

15 CHAIRMAN STUTO: Elena, we have a
16 document with respect to assessment of GEIS
17 consistency in the packet. It concludes that
18 the proposed development is consistent with
19 the pace of development projected in the GEIS
20 study. The development is consistent with a
21 policy of concurrence between development
22 within the study area and implementation of
23 necessary infrastructure improvements and the
24 proposed action is in conformance with the
25 conditions of the threshold established in the

1 statement of findings.

2 MS. VAIDA: Yes. I think that was in our
3 original package. So, I assume that all the
4 members have it. We didn't have enough time to
5 look at that. I don't know if the applicant
6 can state for the record whether first of all
7 do you have that document - the Oak Hill
8 Subdivision assessment of GEIS consistency?
9 Could you can just take a look and see if
10 there is anything in there that would be a
11 different conclusion based upon any change in
12 circumstances?

13 MR. FRANCIS: Do you have a date on that
14 document? Is that the Mr. [SIC] Guillard
15 document?

16 MS. VAIDA: Yes.

17 MR. FRANCIS: I've seen it. I don't have
18 it with me. I know which one that you are
19 referring to.

20 CHAIRMAN STUTO: Our staff has concluded
21 that this is consistent with the GEIS. Do you
22 have any reason to believe that's different?

23 MR. FRANCIS: I have no reason to believe
24 that it's different.

25 CHAIRMAN STUTO: Do you have anything

1 else on the environment, Elena?

2 MS. VAIDA: No, I don't think so. Did we
3 finish discussing the traffic? Is everyone
4 satisfied that it's not going to have a
5 significant traffic impact, or if it is, it's
6 going to be mitigated through the GEIS
7 mitigation fees? I assume that's going to
8 happen. There are going to be improvements
9 required as part of the GEIS. I know that you
10 have to contribute fees. The growth, I
11 believe, was anticipated in the GEIS, even
12 though it's old. I think that we found that
13 the development Colonie has been actually slow
14 compared to what was projected.

15 CHAIRMAN STUTO: I have no reason to say
16 anything other than that.

17 MR. JOHNSON: The only other issue would
18 be about the access points. There was an issue
19 brought up about the sight distance at the
20 other intersections. Whether or not the sight
21 distances were evaluated for those locations -

22 MR. FRANCIS: They were. The other
23 locations - yes, they were.

24 MR. JOHNSON: The intersection with
25 Denison and then the intersection into the

1 existing development.

2 MR. FRANCIS: Down here at Tamarack and
3 Walnut and at Branchwood and Denison
4 (Indicating), yes.

5 MR. JOHNSON: What are the results?

6 MR. FRANCIS: I don't have them on this
7 plan here tonight. They were acceptable. There
8 were sight distance restrictions and they were
9 discussed at the concept meeting January 15,
10 2002.

11 MS. VAIDA: Was that submitted to the
12 Planning Department?

13 MS. COURIER: At concept they were.

14 MR. FRANCIS: I believe at concept they
15 were at 2001 or 2002.

16 It's quite possible that they were on the
17 plans themselves, too.

18 CHAIRMAN STUTO: If we were to vote on
19 this, we can make it contingent upon
20 verification that they're within those
21 engineering standards that we discussed. We'll
22 have our engineer look at it independently to
23 verify that they conform to the
24 current -- what is the resource book you guys
25 have?

1 MR. FRANCIS: It would be AASTO.

2 CHAIRMAN STUTO: You think that's a good
3 idea, Tom, in order to go forward?

4 MR. JOHNSON: I would like to do that,
5 yes.

6 CHAIRMAN STUTO: That would be a
7 safeguard, right?

8 MR. FRANCIS: We would be willing to
9 revisit that and present those findings and
10 coordinate it with the TDE and Planning
11 Department with those results just to be
12 refreshed.

13 CHAIRMAN STUTO: If we were going to go
14 forward, I think that the motion that I would
15 support would include access to Vly road
16 through that emergency lock box and
17 satisfaction of our Town Departments and our
18 TDE.

19 MR. FRANCIS: Coordinating departmental
20 review for emergency access connection from
21 Tamarack to Vly?

22 CHAIRMAN STUTO: Correct.

23 MR. FRANCIS: With the TDE and the Town
24 DPW Department and Planning - limited to that?

25 CHAIRMAN STUTO: Yes. We want it and it

1 just has to be in conformance with their
2 approval.

3 The conservation easement is another
4 condition. It sounds like the Mohawk Hudson
5 Land Conservancy may be a better option than
6 having the Town, if they're willing to do it.

7 MR. FRANCIS: Jill left us a business
8 card this evening, so we will be coordinating
9 some dialogue with her.

10 CHAIRMAN STUTO: Contingent upon the Army
11 Corps issuing a letter - or refreshing a
12 letter and -

13 MR. FRANCIS: Refreshing the
14 jurisdictional determination by the Army Corps
15 of Engineers.

16 CHAIRMAN STUTO: Anybody have anything
17 else?

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

19 CHAIRMAN STUTO: Are we ready to go
20 forward with this?

21 MS. PEMRICK: Are you just going to
22 ignore everybody's comments and testimony?

23 CHAIRMAN STUTO: I'm not inclined to do
24 that. I don't know if anybody else on the
25 Board is.

1 MS. VAIDA: What was her request?

2 CHAIRMAN STUTO: She wants to go more
3 into everybody else's testimony.

4 MS. PEMRICK: I said are you going to
5 ignore everybody's comments and testimony?

6 CHAIRMAN STUTO: No. I'm sorry. I didn't
7 hear your question. No, I've heard all of the
8 testimony.

9 MS. PEMRICK: Did you read all of the
10 documents?

11 CHAIRMAN STUTO: I looked through the
12 thing that was handed in today and I went
13 through all the other documents, yes.

14 MS. VAIDA: All the Members have been
15 provided with the booklet.

16 MS. PEMRICK: That was the booklet. There
17 were also comments -- I haven't heard
18 responses to my satisfaction. I don't know
19 about other people.

20 CHAIRMAN STUTO: The hearing is over. I
21 looked through all the materials.

22 Anybody want to give their thinking on
23 this?

24 Paul?

25 MR. ROSANO: I think that this project

1 has gone far enough. There is no end in sight
2 if we continue down this road. I think that
3 we've covered everything. I apologize to the
4 developer for what you've gone through in this
5 Town. I've been here longer than most of these
6 people in this room and it's a travesty what
7 you went through. This should have been done
8 years ago. Maybe it's not perfect. No one is
9 saying that it is. I will tell you that you've
10 done due diligence. I've heard a lot tonight
11 and I've written my notes and I take
12 everything seriously. We can continue on with
13 this for another five ears at the rate we're
14 going, but it's going to stop now.

15 MS. PEMRICK: It should have stopped with
16 the grandfathering provision.

17 MR. ROSANO: There are a lot of things
18 that should have happened. We have done our
19 due diligence. We had our meeting and our
20 public hearings. We listened to everyone and
21 we've taken notes. We filled out all the
22 papers. I don't know how much more you want us
23 to do, or how much longer you want this to go.
24 I don't think that there is any end in sight
25 for you.

1 I make the motion that we go forward with
2 this with all the conditions that we
3 discussed.

4 CHAIRMAN STUTO: I'll repeat the
5 conditions and we'll have more discussions if
6 the Board wants to say anything.

7 The sight distance conditions would be
8 that the sight distances be revived, that
9 they are in conformance with engineering
10 standards to the satisfaction of our Town
11 Designated Engineer and Planning Department
12 and any other relevant Town departments; that
13 there be an emergency connection to Vly Road
14 and Tamarack with a lock box or whatever
15 appropriate mechanism for emergencies as
16 approved by our Town Departments. It's not
17 really a contingency. It's part of the plan,
18 but you have to get approval for the
19 conservation easement in a form satisfactory
20 to the Town and maybe explore that with the
21 Hudson Mohawk Land Conservancy in the first
22 instance - if you think that they would be a
23 likely grantee for that conservation easement.
24 That has to be to the satisfaction of the Town
25 Attorney's office. And contingent upon the

1 Army Corps refreshing their jurisdictional
2 letter of determination.

3 Those are the four contingencies.

4 MS. VAIDA: And I think that all comments
5 by all the various departments -

6 CHAIRMAN STUTO: And all outstanding
7 comments by the Town Departments.

8 MR. FRANCIS: No, that's one thing that
9 we can state. We have addressed all the Town
10 comments to date.

11 CHAIRMAN STUTO: If we find any other
12 outstanding ones, it will be contingent upon
13 you addressing those.

14 MR. LACIVITA: That could be verified
15 through the last submission. We'll go through
16 the last letter and verify that.

17 CHAIRMAN STUTO: So, those are five
18 contingencies.

19 If nobody else wants to say
20 anything -- I appreciate the members of the
21 public coming out. I know that there is some
22 frustration. We wish that this land would
23 never be developed.

24 MS. PEMRICK: That's not at all what we
25 were saying.

1 CHAIRMAN STUTO: Okay, well the hearing
2 is closed. Some people wanted a cluster
3 development. The applicant said he already
4 went through this. This project is in
5 conformance with the Town Law. We don't write
6 the Town Law, but we have to apply it the best
7 we can and we're doing the best we can with
8 that. Is there a traffic impact, yes, but the
9 mechanism that's in place is to do the best
10 that we can with the layout, collect the
11 mitigation fees, and then the Town will make
12 the improvements as they can. We try to
13 mitigate the impacts as much as we can.

14 I can't take any more public comment.
15 We're never going to be done.

16 MS. VAIDA: We Should also add that the
17 applicant is also going to obviously pay
18 whatever the mitigation fees are. I don't know
19 if we have a total.

20 MR. LACIVITA: We have a total as of
21 December 15, 2010 of \$589,789. Those fees will
22 be revivified by CDTC and made sure that they
23 are still current.

24 MS. VAIDA: Peter, we also want to make a
25 finding on SEQRA -- first of all I think that

1 the Board has shown that we have complied with
2 SEQRA and I think that the record should show
3 whether or not there is a change.

4 MR. LANE: Can we just put on record that
5 there has been no significant changes?

6 MS. VAIDA: Yes, and I think that has
7 been established.

8 CHAIRMAN STUTO: That's part of this
9 discussion as we continue here. I agree with
10 that statement that no significant changes
11 have been brought to light that I think would
12 require revisiting SEQRA. That's my opinion.
13 If anyone disagrees, please speak up.

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

15 CHAIRMAN STUTO: Anyone else want to
16 speak before we vote?

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

18 CHAIRMAN STUTO: Tim has made the motion.

19 MR. MION: I'll second.

20 CHAIRMAN STUTO: All those in favor?

21 ***(Ayes were recited.)***

22 CHAIRMAN STUTO: All those opposed?

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

24 CHAIRMAN STUTO: The ayes have it.

25 Thank you.

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*(Whereas the proceeding concerning the above
entitled matter was concluded
at 12:31 a.m)*

