

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3
4 *****
5 SABLE WOODS
6 277 CONSAUL ROAD
7 APPLICATION FOR FINAL SUBDIVISION APPROVAL
8 *****
9

10 THE STENOGRAPHIC MINUTES of the above entitled
11 public hearing BY NANCY STRANG-VANDEBOGART, a
12 Shorthand Reporter, commencing on June 7, 2011 at
13 8:07 p.m. at the Public Operations Center
14 347 Old Niskayuna Road, Latham, New York 12110

15 BOARD MEMBERS:

- 16 TOM NARDACCI, ACTING CHAIRMAN
- 17 MICHAEL SULLIVAN
- 18 TOM NARDACCI
- 19 LOUIS MION
- 20 TIM LANE
- 21 PAUL ROSANO
- 22 ELENA VAIDA Esq., Attorney for the Planning Board

23 Also present:

- 24 Joseph LaCivita, Director, Planning and Economic
25 Development
- 26 Nick Costa, PE, Sipperly and Associates
- 27 Brad Grant, Barton and Loguidice
- 28 Chris Fernando
- 29 Kim Fernando
- 30 Amy Fox
- 31 Carol Danby
- 32 Fred Danby

1 ACTING CHAIRMAN NARDACCI: The next item
2 on the agenda is a public hearing for Sable
3 Woods, 277 Consaul Road.

4 Now, if there are members of the public
5 who would like to speak on this issue, we have
6 a sign up sheet. If you're interested in
7 speaking on Sable Woods, please sign that
8 sheet. It helps to keep it orderly. Thank you.

9 Joe, do you want to intro the project?

10 MR. LACIVITA: Sure. This is an 18-lot
11 subdivision located at 277 Consaul Road. It's
12 on approximately 18.5 acres of land. It abuts
13 to an existing residential neighborhood and
14 the Rod and Gun club in that area. It's been
15 through the process a few times before. We're
16 here tonight for final subdivision approval
17 and with that I can turn it over to Nick Costa
18 from Sipperly and Associates.

19 MR. COSTA: Thank you, Joe.

20 Good evening and Planning Board Members.
21 As Joe mentioned the project is Sable Woods.
22 It's located on Consaul Road and it
23 encompasses about 18.56 acres of land. It's
24 zoned as a single family residential in a
25 conservation overlay district. What we have

1 laid out here and shown on the drawings is 18
2 lots with the infrastructure coming in off of
3 Consaul Road to service the new lots with
4 domestic water and sanitary sewer and
5 stormwater infrastructure.

6 The site is generally sloping toward the
7 two tributaries of the Lisha Kill. They're
8 located on the north side and the south side
9 of the project. There is a plateau up in this
10 area. We're maintaining those drainage
11 patterns to manage the stormwater run-off from
12 the site. The project has been in front of the
13 Board previously. The last time it was in
14 front of the Board, we were requested to
15 discuss the project with the Town Designated
16 Engineer. Through the last several months we
17 have worked with the Town Designated Engineer
18 to respond to any concerns for the project.

19 There was one major change to the project
20 and that is the gravity service to the
21 project. Because of the DEC involvement, we
22 were asked to minimize the impacts to the
23 stream and we're proposing an aerial crossing
24 of that stream where previously we were piping
25 that stream.

1 MR. LANE: Can you say that one more
2 time?

3 MR. COSTA: The piping previously on the
4 original application, the gravity sewer was
5 crossing the stream and we were piping the
6 stream.

7 MR. LANE: Below the stream?

8 MR. COSTA: No. The gravity system is
9 remaining at the same location. What we're
10 doing is we're extending the existing culvert
11 across Consaul Road. We were extending it so
12 that we could get the sewer above the culvert
13 and the drainage would be picked up by the
14 culvert.

15 MR. LANE: So, you have to have your
16 separation.

17 MR. COSTA: What they have caused us to
18 do is to eliminate the installation of that
19 culvert and we're actually crossing it
20 aerially. We're building an abutment on one
21 side of the street, and another abutment on
22 the other side of the street and the gravity
23 sewer is actually exposed.

24 MR. SULLIVAN: Will that be like a
25 trestle support?

1 MR. COSTA: That's right. It's what we
2 refer to as an aerial crossing. It's a
3 trestle.

4 MR. SULLIVAN: There was something in the
5 packet about possibly having a vehicle go over
6 it. They want to have a fence in front of it
7 to prevent people from accessing it?

8 MR. COSTA: That's correct.

9 MR. SULLIVAN: There will be gates
10 installed at both ends of the crossing. The
11 gates are for maintenance purposes.

12 MR. LANE: How big are the aerial pipes?

13 MR. COSTA: Eight inches.

14 MR. GRANT: The bridge itself or the
15 trestle would not support a vehicle. It's not
16 wide enough. It's not meant for that. It's
17 just to keep people out.

18 MR. LANE: Like a catwalk?

19 MR. COSTA: Essentially. It's about
20 10 feet at the highest point above the stream.

21 Part of the subdivision - because it is
22 in a conservation overlay, there is one lot
23 that is being preserved as open space. It
24 amounts to about 11.1 acres of land. That lot
25 was originally considered to be deeded to the

1 Town. The Town has asked us to look for some
2 other entity that would take that over. The
3 Rod and Gun Club has agreed to take that open
4 space.

5 I think that's pretty much all the
6 changes.

7 ACTING CHAIRMAN NARDACCI: Just so
8 everyone knows, this project came before us a
9 couple of years ago. It's been introduced
10 several years before that. The Board reviewed
11 it a couple of years ago and they were new. We
12 instituted a new process called the Town
13 Designated Engineers. The TDEs work for the
14 Town. They're independent consultants, Barton
15 and Loguidice and Clough Harbour and
16 Associates and they're paid for by the
17 developer. We did that so that we can get
18 professional expertise to review these major
19 projects. This is one that when it originally
20 came, was not reviewed by a TDE. We felt that
21 it was important because of the size and scope
22 that the TDE had a chance to review it. The
23 developer agreed to undergo that process. I'd
24 like to turn it over to Brad Grant. He's with
25 Barton and Loguidice and I have a comment

1 letter Brad? Do you want to run us through
2 that?

3 MR. GRANT: The comment letter was dated
4 May 31st of this year.

5 The major environmental concern - I was
6 in the audience the last time Sable Woods was
7 here at the Planning Board and there were some
8 environmental concern regarding the stream and
9 putting fill in it to accommodate both the
10 culvert and the sanitary sewer. Essentially,
11 the fill would allow it to breach the stream.

12 There were some prolonged discussions
13 with Army Corp and DEC and some meetings and
14 it was apparent that there were three options.
15 One was to install a pump station, and depend
16 on power to get under the stream with a force
17 main. The other was to do the original concept
18 of culvert and fill. The third option was the
19 aerial by a trestle which has the least amount
20 of impacts to the stream. That's the option
21 that went out. So, we've been through the
22 subdivision. We looked at the storm drainage.
23 There were a few minor comments on the SWPPP
24 and stormwater management plan. A good job was
25 done on that. Essentially, the time period has

1 been back and forth with Army Corp and we've
2 gone through the resubmitted drawings
3 regarding an aerial sewer.

4 Our comment letter is relatively short.
5 It talks about the review of the SEQRA
6 documents being consistent with the original
7 goal of the conservation easement of the large
8 undeveloped parcel in the back. We understand
9 that the Albany Rod and Gun Club is interested
10 in the transfer of the lot. I think that
11 they're getting a good deal. The comments on
12 that have been submitted to the Town
13 Attorney's Office. She is reviewing that. We
14 had a comment regarding that. There is also a
15 deed in the packet here. It's a little tough
16 to read; the declaration of restrictive
17 covenants. I would just ask that be filled
18 out.

19 ACTING CHAIRMAN NARDACCI: The
20 restrictions are going to be that it's
21 maintained conservation, no cutting and
22 clearing and things like that?

23 MR. COSTA: That's correct; the standard
24 DEC and the Corp of Engineers conditions.

25 MR. GRANT: My other comment had to do

1 with fencing. This is kind of a damned if you
2 do and damned if you don't type of solution.
3 You can't put fencing down in the stream. It's
4 just going to clog immediately with the flow.

5 I was a kid once and if I wanted to get
6 on that bridge, I would. There is no fence
7 that would stop me. Essentially, the fencing
8 that is proposed on the draft plan was to
9 essentially gate off. We looked at a few
10 scenarios of other types of fencing and really
11 see them as only a boost, a step ladder, to
12 get on it easier. Short of a razor wire and
13 finding a kid on it some morning, I'm thinking
14 that the fencing that they have -- and I've
15 talked this over with Pure Waters - I think
16 that we're under the same conclusion.

17 Back to the open space - I think that one
18 of the subdivision plans is to revise it to
19 11.14 acres. That's been done already.

20 There is going to be some signage. So the
21 fencing and the signage I guess is a potential
22 condition of final approval. They have to meet
23 Pure Waters requirements.

24 The Town used to make up these signs
25 themselves. I think that they've closed the

1 sign shop.

2 There have been some proposed language
3 out there. It seems reasonable to me. There
4 are minor details to the actual wording of the
5 unauthorized personnel or keep out.

6 ACTING CHAIRMAN NARDACCI: With regards
7 to SEQRA, you've reviewed it but we have a
8 signed SEQRA in 2007. I questioned that I
9 couldn't find a record of a vote on SEQRA. It
10 was kind of lumped in together with concept.
11 The other minutes show that there are two
12 separate votes; one on SEQRA and one on
13 concept. I just want to be clear for the
14 record that no changes that are being made
15 that would alter that SEQRA.

16 MR. COSTA: That's correct. The original
17 application back in 2007 when we went through
18 the process -- all the changes that were to be
19 done and the technical comments that were
20 received and any additional traffic generated
21 or additional impacts -- so that's correct.

22 ACTING CHAIRMAN NARDACCI: Just for the
23 record, I just want to state again, a project
24 like this is exactly why we went with a Town
25 Designated Engineer program. These are complex

1 projects. Complex issues arise that this was
2 put on for final and we may not have caught or
3 understood and we had to have our own
4 engineers look at it and it's a benefit to all
5 projects.

6 I'd like to open it up to the Board now.
7 Are there Board Members that have questions?

8 MS. DALTON: I have a comment. The two
9 cul-de-sacs that you're showing, I recognize
10 that there were no objections with regard to
11 emergency vehicles transported -- sometimes we
12 get that when the length isn't so long and the
13 emergency vehicles need to get in there. I'm
14 just wondering if there was any consideration
15 to looping those in and why you chose not to
16 do that.

17 MR. COSTA: It's because of the impact
18 that would have. If we were to extend this,
19 the minimum Town radius is 250 foot radius.
20 That would really come out.

21 As far as length, these streets are not
22 very long. I think that one is 1,200 feet and
23 the other one is 750 or 780. Those cul-de-sacs
24 are built to the Town's specifications, which
25 take into account emergency vehicles. They're

1 able to make that turnaround. They're to the
2 Town standards.

3 MR. MION: I don't have anything.

4 ACTING CHAIRMAN NARDACCI: Tim?

5 MR. LANE: I don't have anything.

6 ACTING CHAIRMAN NARDACCI: Mike?

7 MR. SULLIVAN: Nothing.

8 ACTING CHAIRMAN NARDACCI: Paul?

9 MR. ROSANO: I just want to go back to
10 what we talked about one of the meetings about
11 when these people are going to go in there and
12 buy these houses, are they going to be aware
13 of the next door neighbors, the Rod and Gun
14 Club?

15 MR. COSTA: Yes, Mr. Rosano, there is a
16 note on the plan that was added because of
17 that comment. It will be noted in the deed.
18 That was also requested by the Rod and Gun
19 Club. The last thing they want is a bunch of
20 neighbors complaining that they're hearing gun
21 shots go off at 7:00 in the morning.

22 MR. ROSANO: Thank you.

23 ACTING CHAIRMAN NARDACCI: Any other
24 comments or concerns from the Board?

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

1 ACTING CHAIRMAN NARDACCI: Are there any
2 members of the public that would like to
3 address this project?

4 Please come up to the microphone and
5 state your name for the stenographer.

6 MS. DANBY: Thank you. My name is Carol
7 Danby and I actually live across the street
8 from this development. One of my concerns is
9 the fence around the sewer system and that
10 it's very secure. One of the neighbor's two
11 houses down from where you're developing is a
12 9-year old kid with autism who does not speak.
13 He does escape from the house every once in
14 awhile. I know this because he has run into my
15 house before. Just two weeks ago, he escaped
16 again and they had the police out looking for
17 him. He will run, climb and it has to be safe.
18 Because if anybody can climb it, he will.
19 Needless to say, if he's hurt, you know what
20 will happen. The parents do have safety locks
21 on the doors, but he manages to get out.

22 Another thing that I'm concerned about is
23 traffic. Eighteen houses might not seem like a
24 lot, but you figure each house has at least
25 two cars. So, that's double and maybe some

1 company at night. Consaul Road is a very busy
2 road. To get on and off that road is hell.
3 There are no lights. That's something that
4 needs to be considered. We have a development
5 that's going in on the other end of Consaul
6 Road. It's going to make traffic even harder.

7 MR. MION: I'd like to address something
8 there. I think that I saw in the package that
9 they're going to be putting money into escrow
10 so if the traffic gets to a point where they
11 need to put a light in, there will be a light
12 put in.

13 MS. DANBY: Good.

14 ACTING CHAIRMAN NARDACCI: The developer
15 undertook a traffic study. Do you want to talk
16 to that?

17 MR. COSTA: We projected that there would
18 be 15 cars in the am peak and 18 or 19 in the
19 pm peak.

20 MS. DANBY: Heading home from work at
21 5:00, it can take me at least 5 to 10 minutes
22 sitting at the stop sign at the end of Consaul
23 Road trying to get on.

24 ACTING CHAIRMAN NARDACCI: Thank you,
25 ma'am.

1 MR. DANBY: My name is Fred Danby. I want
2 to know with the traffic - you can't tell me
3 that's not going to have an impact on traffic.

4 MR. COSTA: We're not saying that there
5 isn't an impact on traffic. We're making a
6 contribution to the improvement that will
7 eventually be made, which I think is a light
8 at the intersection. That is a burden that's
9 going to be shared by this development and
10 other developments that are involved in the
11 GEIS study.

12 ACTING CHAIRMAN NARDACCI: Do you have a
13 bottom-line dollar amount? Do you know what
14 your portion is?

15 MR. COSTA: I have no idea.

16 MR. DANBY: I just want to know that I've
17 been noticing tractor trailers more and more
18 in the last two years. I found out that they
19 made that a commercial feeder. Do you know
20 when that went into effect?

21 ACTING CHAIRMAN NARDACCI: I don't know
22 that, actually.

23 MR. DANBY: It's a commercial feeder. A
24 tractor trailer tanker goes down that road
25 now. This is more and more traffic.

1 ACTING CHAIRMAN NARDACCI: In that area,
2 the traffic is certainly a concern there. We
3 have looked at other projects in that area and
4 that's why we're requiring that a traffic
5 study be included as part of this package so
6 that we can try to mitigate some of those
7 things. Some of those things are enforcement
8 issues, too. I noticed that even in the
9 documents there were some really high speeds
10 in that area.

11 MR. DANBY: I see it more and more
12 people. I don't have a radar gun, but you know
13 that they're not going 30 miles an hour. It
14 just keeps adding up and this is another thing
15 that is just going to add to this problem. It
16 doesn't stop.

17 ACTING CHAIRMAN NARDACCI: It's a very
18 valid concern.

19 MR. DANBY: That creek, in the last 20 or
20 25 years is scouring out, now. It's getting
21 wider and deeper. I'm losing part of my
22 property because the creek washing out the
23 banks. It's washing out the other banks. You
24 should take a look all the way down the
25 slopes. The trees are falling over because

1 it's washing them all out. This is just going
2 to keep adding on. This new development is
3 going to have the same impact on this creek.
4 It just keeps going.

5 ACTING CHAIRMAN NARDACCI: Brad, do you
6 want to talk to the stormwater management?

7 MR. GRANT: The stormwater management
8 features here are designed to attenuate those
9 peak flows that you've seen from previous
10 development up stream, which were probably
11 before those standards. I suspect that the
12 development of the soccer fields has increased
13 some run-off too. This site was reviewed and
14 is in compliance with the DEC standards
15 through stormwater management. As you said,
16 those properties up stream of this and there
17 is also -- I wouldn't call it a force where
18 the soccer fields are now, but it wasn't level
19 grass playing fields as it is now.

20 ACTING CHAIRMAN NARDACCI: The newer
21 updated DEC stormwater guidelines are to
22 ensure that no access to stormwater leaves the
23 property. They are maintained and managed on
24 site.

25 MR. DANBY: It's being contained?

1 ACTING CHAIRMAN NARDACCI: Can you speak
2 to that?

3 MR. COSTA: Sure. What we have done is
4 designed these stormwater management areas to
5 be in compliance with the New York State DEC
6 stormwater design manuals, which require the
7 attenuation, as Brad mentioned, of a variety
8 of storm events; the two year, the 10 year,
9 the 100-year storm. So what will be leaving
10 the site will not be in excess of what was
11 leaving the site in its previous state. There
12 are openings that are sized to only release a
13 certain volume of run-off.

14 MR. DANBY: Still, it affects the creek.
15 Nobody is looking at that. I know that it
16 doesn't have anything to do with you, but with
17 all the development, it's getting worse.

18 That traffic, again, when they let out of
19 the soccer fields, you can't even go through
20 there. This is going to add to it. I would
21 just like to know when there is going to be
22 one piece of land that's not going to be
23 developed. Ten years ago this thing wouldn't
24 have been built on. It just keeps going. Every
25 piece of land is going to be developed.

1 ACTING CHAIRMAN NARDACCI: I think that
2 this property, being in a conservation overlay
3 district, will never be developed. You want to
4 preserve as much open space as possible.
5 People with private property have a right to
6 develop them as long as they're within the
7 guidelines. But preserving this 11 acres is
8 not insignificant. I mean, 11 out of 18 acres
9 is being preserved for conservation.

10 MR. DANBY: Is that the wetland part of
11 it?

12 MR. COSTA: No. These pieces right here
13 shown in white is unconstrained land
14 (Indicating). The rest of it is wetlands.

15 MR. DANBY: This entrance coming out,
16 when there was two feet of snow, I bet you
17 won't be able to see up the road here
18 (Inaudible). I have a tough time getting into
19 my driveway because of a bank being that high
20 with cars coming from Schenectady. I bet
21 they're not going to be able to see with two
22 feet of snow there. They're not going to see
23 cars coming through there. You might look at
24 that, too.

25 I have to find out some way when that

1 became a commercial feeder. It wasn't always
2 like that. It seems like nobody knows and I
3 keep getting the run around; go to this person
4 or this person. I found out that it was a
5 commercial feeder. This has been going on for
6 two years like this.

7 ACTING CHAIRMAN NARDACCI: Thank you.

8 MR. LACIVITA: Nick, you were talking
9 about the open space; the 11 acres of the 18.
10 Has the Rod and Gun Club entered into any
11 agreement yet with Mr. Weiss as to the
12 purchase?

13 MR. COSTA: They have agreed to take over
14 the land, but that actual conveyance can't
15 happen until there is an approved subdivision.
16 When this is approved, there will be a
17 conveyance of those lands to the Rod and Gun
18 Club.

19 ACTING CHAIRMAN NARDACCI: The Town
20 Attorney's Office has this. That will be
21 conditioned on moving forward.

22 MR. FERNANDO: Good evening. My name is
23 Chris Fernando. This project and this
24 development will be in our backyard. We're
25 over at 5 Oakmont Terrace. I guess I just had

1 a couple of questions and I'll try to be
2 brief.

3 When we purchased the home we were told
4 that this area was forever wild and the Corp
5 of Engineers was supervising. I'm just
6 wondering, I'm concerned about what's stopping
7 the rest of this area from being developed.
8 I'm wondering if you would comment on that?

9 MR. COSTA: As the Chairman mentioned,
10 one of the conditions of the approval that is
11 going to happen is that it will be preserved
12 in its current state, so there will not be any
13 development on it. Also, it kind of becomes
14 landlocked because this street right here
15 (Indicating) has no way of getting further
16 extended and this cannot be further extended.
17 As a neighbor in Oakmont Terrace, I would feel
18 really good that I get to have this much
19 buffer between a residential area.

20 ACTING CHAIRMAN NARDACCI: As far as the
21 legal goes, there will be changes to the deed,
22 correct? So when the deed changes hands to the
23 Rod and Gun Club - because they'll take it
24 over - there will be a deal hinge. It will
25 actually say on the deed that it's

1 conservation.

2 MR. COSTA: The restricted covenants that
3 are part of the DEC and Army Corp will be in
4 addition to be part of that.

5 MR. FERNANDO: So, if the Rod and Gun
6 Club owns that land and it's their property,
7 they can't then petition later on and say, we
8 want to sell this to some other developer who
9 is planning to put more homes there?

10 MR. COSTA: Once the restricted covenants
11 are placed on the parcel - we have had
12 experience with the Army Corp of Engineers
13 where there are those 36-inch high pressure
14 gas lines. They wouldn't give us a permit.
15 It's pretty stringent.

16 ACTING CHAIRMAN NARDACCI: I know the
17 term forever wild gets thrown around, but
18 really that's as close and as legal as you can
19 get to the term. I don't know if there is a
20 legal term forever wild, but that's it.
21 Conservation through the deed - not for
22 development.

23 MR. FERNANDO: I thought that's what they
24 said this whole area was when we moved in. I
25 may have misunderstood.

1 MR. COSTA: This is privately owned.

2 ACTING CHAIRMAN NARDACCI: You definitely
3 were not informed properly.

4 MR. FERNANDO: But this whole area here
5 is considered a conservation area.

6 ACTING CHAIRMAN NARDACCI: That whole
7 area is delineated back to that line
8 (Indicating). That's all included in that
9 conservation area. It's required for them - in
10 order for them to develop the other
11 acreages -- because the zoning is called
12 conservation overlay, they are required to
13 preserve a certain amount of space. They had
14 talked initially about having the Town take it
15 over and the Town didn't have a desire for it.
16 The next best thing was for the Rod and Gun
17 Club to take it over.

18 MR. FERNANDO: I have two other quick
19 questions.

20 Can you refresh my memory about what is
21 the distance between the green lines and the
22 creek?

23 MR. COSTA: Between the creek and this
24 line right here (Indicating) - that brown
25 line - it's a 100-foot buffer on each side of

1 that stream. That stream is identified from
2 the Town's streams and it always has 100 feet
3 of buffer.

4 MR. FERNANDO: From this side as well as
5 this side?

6 MR. COSTA: That's correct.

7 ACTING CHAIRMAN NARDACCI: Why don't you
8 show him where your home is and then get a
9 sense of the exact distance?

10 MR. COSTA: There is at least 250 feet
11 from the rear of this lot, and where that
12 house is going to go in is close to 300 feet
13 from the rear of this property (Indicating).

14 ACTING CHAIRMAN NARDACCI: And if that
15 wasn't a conservation area - just so you
16 know - the Town Law requires 50 feet.

17 MR. COSTA: There is none. This is a
18 single family residential. There is no line.
19 You have just your setback.

20 ACTING CHAIRMAN NARDACCI: There is a
21 30-foot rear yard setback.

22 MR. GRANT: That's part of the
23 300 feet - that's the vegetation.

24 MR. FERNANDO: Can you tell me where the
25 fence is going and also how the stream will be

1 impacted?

2 MR. COSTA: It won't impact any of the
3 streams.

4 MR. LANE: Where will the sewer line is -

5 MR. COSTA: That's right over there
6 (Indicating). But there won't be any impact to
7 the stream; even when they construct that.

8 MR. FERNANDO: Where is the fencing?

9 MR. COSTA: The fencing would be going
10 over on this side and this side (Indicating).

11 ACTING CHAIRMAN NARDACCI: Thank you,
12 very much.

13 Is there anyone else from the public who
14 would like to ask a question in regards to
15 Sable Woods and this project?

16 MS. FOX: Good evening. I'm Amy Fox;
17 59 Patroon Place in Loudonville. I just want
18 to raise a question that may offer the
19 residents even more clarification about the
20 restrictive covenant on the deed. It may give
21 them more peace of mind.

22 I would note that there is a residential
23 property and that the restrictive covenant in
24 the deed is an example in another section of
25 Town. They had a covenant on the deed that

1 said it was for residential use only. In that
2 instance, the deed was changed.

3 There was nothing about conservation or
4 wetlands or protected areas on that property.
5 That deed change occurred because according to
6 my understanding, legally, the only entity
7 that can change a restrictive covenant on a
8 deed is the original owner to the property. So
9 in that example across Town, the current owner
10 had to go to the original owner entity to get
11 a restrictive covenant change and alter as
12 they sought to do. It might offer the
13 residents more peace of mind just to know
14 that.

15 I guess the question that I'm asking is
16 it the conservation aspects and the Army Corps
17 of Engineers and others involved that make the
18 nature of this covenant in this project more
19 protected from its ability to be changed in
20 the future? Is it because it's a SEQRA
21 characteristic?

22 MS. VAIDA: I actually have another
23 question that has to do with this.

24 MR. COSTA: Not the uplands, but the
25 wetlands are in the jurisdiction of the Corp

1 of Engineers. So, they would have to go back
2 to the Corp of Engineers to request and make a
3 change in the restriction. I mentioned that
4 example. It would be impossible to see the
5 need here. Even the uplands are going to have
6 that restrictive covenant.

7 MS. FOX: So, it sounds like the Army
8 Corp of Engineers' language is a requirement
9 in the deed and that its presence in the deed
10 creates more of that insulating factor that
11 perhaps you're looking for. Thank you.

12 ACTING CHAIRMAN NARDACCI: Thank you,
13 very much.

14 Elena, do you have a follow up to that?

15 MS. VAIDA: The parcel that is designated
16 open space, that will remain on the
17 subdivision map; correct?

18 MR. COSTA: Yes.

19 MS. VAIDA: The final subdivision map
20 will be marked that parcel is open space.

21 MR. COSTA: That's correct.

22 MS. VAIDA: So, it would probably be a
23 good idea to put in the future in the deed a
24 reference to this subdivision map that this is
25 open space and it's part of the whatever this

1 development is called.

2 MR. COSTA: I thought we had that in
3 there - a legal description of the boundaries
4 of that parcel. Nobody referenced this map,
5 but we certainly can do that.

6 MS. VAIDA: Right, because otherwise a
7 future purchaser - how would they know to look
8 for that restriction when it's going to be
9 owned by somebody else? That's really just
10 going to give the residents the protection
11 that they're looking for and a notice to the
12 whole world that it's open space.

13 MR. COSTA: Right, it will become part of
14 the record.

15 ACTING CHAIRMAN NARDACCI: Right in the
16 packet there is a memo which is a description
17 of open space to be conveyed to the West
18 Albany Rod and Gun Club. It has a description
19 from the applicant and then an attachment A
20 with the restricted covenants.

21 MS. VAIDA: I'm sorry, I didn't see that.
22 That's perfect.

23 ACTING CHAIRMAN NARDACCI: Any other
24 comments from the public?

25 MS. FERNANDO: I'm Kim Fernando, Chris'

1 wife.

2 If this project is approved, how long -

3 MR. COSTA: Will it take to build out?

4 MS. FERNANDO: Yes.

5 MR. COSTA: with the way that the market
6 is currently, it could be three to five years
7 before it's over and done.

8 ACTING CHAIRMAN NARDACCI: Thank you.

9 Is there any other public comments?

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

11 ACTING CHAIRMAN NARDACCI: Okay, being
12 none then tonight this is an application for
13 final approval.

14 Are there conditions on that?

15 MS. VAIDA: Yes. I think that there has
16 to be a condition that as our TDE pointed out,
17 unless it's already been done, that the
18 subdivision plan is marked that that parcel is
19 open space. That transfer hasn't been done
20 yet. It has to be conditioned on the transfer
21 of the property to the Rod and Gun Club. Our
22 TDE also mentioned the additional features
23 with the fencing. Item number four on his
24 report. That should be a condition. I don't
25 know about three.

1 MR. GRANT: I would think that the
2 general comments of the letter should be
3 considered. Three is more of a statement.

4 MR. COSTA: We don't see that as a
5 problem.

6 MS. VAIDA: In your earlier letter from
7 October, those comments are all addressed?

8 MR. COSTA: Yes.

9 MR. GRANT: I would just add one
10 condition; that the Town Attorney approve the
11 declaration of restricted covenants.

12 MR. COSTA: She has it.

13 ACTING CHAIRMAN NARDACCI: Do you
14 understand those?

15 MR. COSTA: Yes.

16 ACTING CHAIRMAN NARDACCI: Joe, do you
17 have them?

18 MR. LACIVITA: Yes.

19 MR. ROSANO: I want to go back to the
20 fence. What's the height?

21 MR. COSTA: Six feet.

22 MR. ROSANO: Type?

23 MR. COSTA: Chain link.

24 MR. ROSANO: Can we put slats or
25 something in it to slow that child down if he

1 decided to climb that fence?

2 MR. COSTA: We can. Sometimes it adds
3 curiosity because they don't know what's on
4 the other side. Like Brad says -

5 MR. GRANT: It's an attractive nuisance.

6 MR. COSTA: We can certainly make it to
7 the division of pure waters conditions. If
8 they would like the slats, we can do the
9 slats. If they don't want the slats, we won't
10 do them.

11 MR. ROSANO: I was thinking to do as much
12 as we can do.

13 MR. COSTA: I understand. Brad and I have
14 had our aches over this.

15 MR. GRANT: In some cases if you leave it
16 without a top rail, it's a little less
17 enticing to climb because those top barbs may
18 do a job on your jeans, but then again, having
19 a top rail just makes it a booster to get up
20 on the ridge.

21 I think that the signage is important.
22 It's really unauthorized personnel to stay out
23 of there.

24 ACTING CHAIRMAN NARDACCI: I'd like to
25 entertain a motion for final subdivision

1 approval contingent upon the conditions as
2 described?

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

4 ACTING CHAIRMAN NARDACCI: A motion has
5 been made. Is there a second?

6 MS. DALTON: Second.

7 ACTING CHAIRMAN NARDACCI: All those in
8 favor?

9 **(Ayes were recited.)**

10 ACTING CHAIRMAN NARDACCI: All those
11 opposed?

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

13 ACTING CHAIRMAN NARDACCI: The motion is
14 adopted. Thank you very much.

15 MR. COSTA: Thank you, Mr. Chairman.

16

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19 **(Whereas the proceeding concerning the**
20 **above entitled matter was adjourned at**

21 **8:20 p.m.)**

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CERTIFICATION

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

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13
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15 **NANCY STRANG-VANDEBOGART**

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18 **Dated August 2, 2011**

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