

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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VENTURA SUBDIVISION
560 BOGHT ROAD
APPLICATION FOR CONCEPT ACCEPTANCE

THE STENOGRAPHIC MINUTES of the above entitled
public hearing BY NANCY STRANG-VANDEBOGART, a
Shorthand Reporter, commencing on
January 24, 2012 at 8:57 p.m. at the Public
Operations Center 347 Old Niskayuna Road,
Latham, New York 12110

BOARD MEMBERS:

PETER STUTO, CHAIRMAN
MICHAEL SULLIVAN
LOUIS MION
KATHLEEN DALTON
TIMOTHY LANE
BRIAN AUSTIN
BRIAN HAAK

Also present:

Joe LaCivita, Director, Planning and Economic
Development

Lynn Sipperly, PE, Sipperly and Associates

Joe Grasso, Clough Harbour and Associates

Matthew Robinson

Karen Ventura

1 CHAIRIMAN STUTO: Okay, I'm going to call
2 up the Ventura Subdivision, 560 Boght Road,
3 application for concept acceptance. We've seen
4 this one time before; at least most of us
5 have. We have a couple of new Board members.

6 When was it in April that you were here
7 before?

8 MR. SIPPERLY: April 26th.

9 CHAIRMAN STUTO: Okay, so we have two
10 Board Members who haven't seen this.

11 I want to go over this concept. This is
12 something that we've gone over with Joe
13 Grasso, Joe LaCivita and our Counsel - that is
14 the fact that this is in a conservation
15 overlay.

16 In an unbiased fashion as you can, can
17 you tell us what that means for this project?
18 I think that it's important that we understand
19 it. There is a threshold - a very important
20 concept for this.

21 Are you comfortable going over that, Joe?

22 MR. GRASSO: You're asking me?

23 CHAIRMAN STUTO: Yes - what that means.
24 If you're not, I can probably do it.

25 Have the residents seen a drawing of the

1 new revised drawings? I can let you take one
2 with you, if you haven't.

3 MR. GRASSO: There is a number of
4 conservation development overlay districts
5 through the Town. This property is located
6 within one of those and there is a certain
7 processes of environmental valuations that are
8 required when projects are brought before the
9 Planning Board that are located within one of
10 these districts. The purpose of that
11 evaluation is to try to identify through the
12 planning process any important environmental
13 resources on the property. Those can be any
14 one of a number of different things including
15 viable agricultural lands, a significant
16 wildlife corridor, wetland areas that are
17 regulated by the Department of Environmental
18 Conservation, wetland areas regulated by the
19 Corps of Engineers, historic resources or
20 lands that could be connected to adjacent open
21 space lands. It could be recreational
22 resources on the site.

23 The Land Use Law has required this type
24 of evaluation where you identify any of those
25 resources and then you design your project in

1 such a way that you try to minimize impacts on
2 those resources.

3 There are also some provisions in the
4 Code that when you have these resources to
5 protect, that not only do you protect those
6 resources but that you also include additional
7 lands as open space and protect those from
8 development. One thing that would typically
9 apply to these conservation developments is
10 the requirement that 40 percent of the
11 unconstrained lands would need to be protected
12 as well.

13 CHAIRMAN STUTO: So, you go through a
14 calculation, is that correct?

15 MR. GRASSO: Yes.

16 CHAIRMAN STUTO: Can you just tell us
17 about that?

18 MR. GRASSO: There is a mathematical
19 calculation that also establishes what your
20 maximum permitted density on the project site
21 is. What you do is take your parent parcel
22 size and you subtract from that the
23 constrained lands.

24 Constrained land by definition is any
25 wetland areas or any area over 25 percent

1 sloped. I'm going to use some round numbers
2 related to this.

3 This project site is approximately 25
4 acres. There is approximately two acres of
5 wetlands. There are no areas over a 25 percent
6 slope. You take the 25 acres and you subtract
7 the two acres of constrained lands. You have
8 23 acres of unconstrained, otherwise
9 developable property.

10 The Zoning Code allows a maximum density
11 of two units per unconstrained land. So, you
12 take the two times the 23 acres and the
13 maximum development potential on this project
14 site is therefore deemed to be 46 lots. It
15 doesn't mean that they can create a layout
16 that is reasonable for the site that has 46
17 lots, but that is the mathematical maximum.

18 The other thing is when you look at the
19 environmental resources on the site, if you're
20 deemed to have these resources that are worthy
21 of protection, by having this 40 percent open
22 space provision, it forces you to cluster your
23 development in one area of the site. Thereby,
24 protecting those important environmental
25 resources, as well as other open space lands;

1 even if they are not so constrained - steep
2 slopes or wetlands. That would therefore make
3 up that 40 percent remainder.

4 CHAIRMAN STUTO: Does everybody
5 understand that?

6 MR. LANE: The constraint would be
7 included in the 40 percent.

8 MR. GRASSO: No. You would take your
9 parent parcel size and you would subtract the
10 two acres and then 40 percent of what is
11 remaining. For this site I think that we have
12 about 23 acres of unconstrained land. Forty
13 percent of that would be, mathematically,
14 about nine acres.

15 CHAIRMAN STUTO: Does everybody
16 understand that? If we determine that this is
17 going to go under the conservation analysis,
18 you have the main parcel and you take out the
19 constrained land. You can't develop that.
20 What's left is the developable unconstrained
21 land. There is an analysis that we go through
22 that has the conservation values. If you look
23 through this analysis and if we determine that
24 it does for the conservation development, then
25 40 percent of what's left has to remain open

1 space. They get to take - in this case 46
2 units and cluster them on what's left.

3 MR. GRASSO: So, the nine acres that I
4 mentioned before would be unconstrained lands
5 that would be required open space. Obviously,
6 the wetlands would be two acres. If you
7 protected those, you're up to 11 acres out of
8 25 acre project site.

9 Just to put things into context, the
10 applicant is proposing what they consider to
11 be a modified conservation development plan
12 where they are trying to protect what they
13 feel is the important environmental resources
14 on the site, and not provide the additional
15 unconstrained lands as open space -- that nine
16 acres, additional. I think that their total
17 amount of open space is approximately five
18 acres and not the 11 acres that could be
19 required to a strict application of the Code.

20 CHAIRMAN STUTO: Can you repeat that?

21 MR. GRASSO: They're asking for a waiver
22 from the Planning Board not to provide that 40
23 percent of open space. They're saying that
24 they are proposing what is considered a
25 modified conservation development plan which

1 seeks to preserve what they have deemed as the
2 important environmentally intensive resources
3 on the project site; primarily being the
4 wetlands and buffers around those wetlands.
5 The total amount of open space that they are
6 proposing is approximately five acres.

7 I know that Lynn is going to go through
8 this in more detail, but I'm just trying to
9 put things in context so that during the
10 presentation you can pay particular attention
11 to some key items that are going to factor
12 into this decision.

13 CHAIRMAN STUTO: I also think that it's
14 worthwhile to go through the section of the
15 Land Use Law and if you don't want to do it, I
16 can do it. It's the test that we have to go
17 through and the findings that we have to make
18 as to whether the conservation development
19 overlay applies - that analysis, or whether it
20 does not.

21 MR. GRASSO: I'm going to read from the
22 Code and I'm going to skip some of the
23 verbiage that relates to site plans, which
24 obviously are not related to this application.
25 It says:

1 "These regulations shall apply to
2 subdivisions within the conservation
3 development overlay unless -"

4 There are three criteria. The first
5 being:

6 "The development is a minor site plan."
7 Which it's not.

8 CHAIRMAN STUTO: That's not applicable.

9 MR. GRASSO: The second is:

10 "The development is classified as a minor
11 subdivision."

12 Which it's not. The third criteria would
13 be:

14 "The Planning Board determines, based
15 upon a conservation analysis outlined below
16 that there is no reasonable basis for
17 requiring conservation development."

18 The Planning Board needs to make that
19 determination that there is no reasonable
20 basis for required conservation development.

21 "The Board may approve a conventional
22 development of the site."

23 CHAIRMAN STUTO: Would you say that what
24 is before us is a conventional development of
25 the site, in your interpretation?

1 MR. GRASSO: Yes. It's conventional that
2 all the boat lot size requirements are met and
3 it's a rather conventional layout, except that
4 they are proposing some public open space.

5 "In order for the Planning Board to make
6 such a determination, the applicant must
7 demonstrate at least one of the following: The
8 land contains no resources with conservation
9 value; the acreage is too small to preserve a
10 substantial amount of land with conservation
11 value -"

12 MR. LANE: Can you repeat that again,
13 please?

14 MR. GRASSO: It's right here
15 (Indicating).

16 "The acreage is too small to preserve a
17 substantial amount of land with conservation
18 value. This criterion shall not be
19 circumvented by a piece meal subdivision of
20 larger tracks."

21 This is not.

22 "The lot configuration is unique and
23 precludes preservation of a substantial amount
24 of land with conservation value."

25 In the application materials they make

1 reference to this stipulation. They feel that
2 because of the configuration of the lot and
3 that it is so long and narrow, that it is of a
4 unique configuration and does preclude the
5 preservation of a substantial amount of land
6 with conservation value.

7 I think that during Lynn's discussion, he
8 will say what kind of effect strict
9 application of this 40 percent open space
10 would have on this type of layout and this
11 project site.

12 CHAIRMAN STUTO: Do you agree with what
13 he's said so far? Is there anything that you
14 disagree with?

15 MR. SIPPERLY: No, I agree.

16 CHAIRMAN STUTO: And that's where you're
17 hanging your hat - is on that final provision.

18 MR. SIPPERLY: Exactly, with graphics we
19 can demonstrate to the Board what that 40
20 percent does to the property and how it
21 affects the configuration of the
22 property -- again, the long narrow rectangular
23 shape of the property.

24 CHAIRMAN STUTO: You're saying that the
25 lot configuration that you need precludes

1 preservation of a substantial amount of land
2 with conservation value.

3 MR. SIPPERLY: We're also saying that
4 we've identified the important conservation
5 values of the property and we are preserving
6 those. So, as Joe indicated, we're calling
7 this a modified conservation subdivision and
8 we are achieving the goals of a conservation
9 subdivision by preserving important natural
10 resources.

11 The other one - vibrant agricultural
12 land -- that is not applicable to the site.
13 So, we have identified the important
14 environmental qualities of this site that are
15 wetlands. There is also an opportunity to
16 connect an open space to the south of us and
17 an open space to the east of us which would
18 allow for a continuation of a wildlife
19 corridor in an open space.

20 CHAIRMAN STUTO: Joe, do you have
21 anything else to add?

22 MR. GRASSO: The only other thing that I
23 think may be applicable to this is the next
24 bullet or next item under D. It says:

25 "In order to make the required showing,

1 the applicant must also demonstrate that the
2 parcel does not adjoin other land that when
3 combined with open space on the parcel would
4 result in the preservation of a substantial
5 amount of land with conservation value
6 including any portion of a trail corridor,
7 regardless of whether or not the adjoining
8 parcels have been protected as open space.”

9 I think that Lynn has done a good job
10 describing what he is looking to protect on
11 this project site. It does abut other
12 adjoining open space lands on at least two
13 sides of the property.

14 MR. SIPPERLY: That's correct.

15 CHAIRMAN STUTO: Does everyone have a
16 feel for what we're examining here?

17 Joe LaCivita, we skipped your
18 introduction. Do you have any introduction
19 before we hand it over to the applicant?

20 MR. LACIVITA: No, we're all set.

21 CHAIRMAN STUTO: Please go ahead with
22 your presentation.

23 MR. SIPPERLY: Thank you, Mr. Chairman.

24 With me this evening are the Venturas,
25 the applicants, and they can answer any

1 question that the Board may have also.

2 To continue on this waiver that we
3 are requesting with regard to conservation
4 subdivision -- again, the strict application
5 of conservation subdivision is to really
6 protect what are the identified important
7 environmental qualities of the property. As
8 shown on the map, we have a wetland area here,
9 there is green area here, there is a state
10 wetland and a federal wetland at this location
11 here (Indicating). We have some more wetlands
12 which are only federal wetlands and there are
13 a few isolated pockets of wetlands in the
14 front of the property.

15 In our plan and as we look at the
16 proposed development plan for this, we are
17 preserving this wetland plus a considerable
18 area around the wetland. We're preserving this
19 wetland here plus the buffer area around that
20 area. We are preserving these two wetlands too
21 (Indicating). This wetland (Indicating), we
22 are proposing to fill in.

23 Just to go further on that, the
24 conservation subdivision then said, well after
25 you have identified your constrained lands

1 which are the green areas, then you have to
2 take 40 percent of the remaining lands. To put
3 some numbers to this - if you have 25.5 acres
4 of property, we take out 2.5 acres for
5 wetlands. That's what these wetlands amount
6 to. That brings us down to 23 acres. If you
7 take 40 percent of 23 acres, that amounts to
8 another nine acres. So, with the wetlands
9 which are constrained lands and the 40 percent
10 of unconstrained lands that would be required
11 to be not developed, we are left with 11.5
12 acres.

13 I have drawn a line on this map. Those
14 11.5 acres is everything from here back
15 (Indicating).

16 You can see that because of the unusual
17 configuration of the property -- again, the
18 property is 370 feet wide by 3,100 feet long.
19 If we needed to do all of our development, the
20 46 units or whatever we can do from this point
21 forward, would really cause a very dense and
22 crowded subdivision. What we are proposing to
23 do is to ask the Board for a waiver from the
24 use or application of a conservation
25 subdivision and also to set aside and protect

1 all the lands that are identified on this
2 property as having important environmental
3 qualities.

4 If I could just go through the
5 development plan, you can see that these areas
6 the configuration of these areas here have now
7 been expanded to a much larger area here and
8 here (Indicating). Within these green shaded
9 areas you can see the darker which is actually
10 the outline of the wetlands on this existing
11 site analysis plan. We're preserving a
12 considerable portion of land aside from that.
13 Actually, we're preserving this whole back
14 quadrant and a significant area here
15 (Indicating). What that does is preserves the
16 lands which have significant reported
17 environmental qualities. We have identified
18 that there is open space lands here and here
19 (Indicating). This provides for a corridor
20 connection between the two adjacent
21 properties. So, I feel very strongly that what
22 we have done here is we have met the goals of
23 the conservation overlay district without the
24 strict application of all of the conditions of
25 the conservation overlay district. Mainly

1 being, we're not setting aside nine more acres
2 which is identified on this map as actually
3 having actually no conservation at all and
4 just a narrow field. I think that's really our
5 one request is that the Board consider not
6 having us develop this as a strict
7 conservation overlay criteria, and to allow us
8 to design and present a subdivision which is a
9 conventional subdivision which meets all these
10 lots meet the zoning. They all have the
11 minimum frontage. So, rather than taking this
12 development and crowding all down to this
13 portion of the site or visa versa - we have a
14 much more pleasing subdivision and layout of
15 lots and homes on this property.

16 What also we have done since we were last
17 before the Planning Board - if you recall at
18 that time there was some question as to
19 whether or not DEC had any jurisdiction in
20 these wetlands to the rear here (Indicating).
21 It wasn't shown on any of their record maps.
22 We did call them out and they said that they
23 do have jurisdiction on only this portion of
24 wetland back here (Indicating).

25 The plan that we had previously also

1 showed this Boulevard as looping and
2 connecting to Sutton Court in the adjacent
3 cornerstone subdivision at this location here
4 (Indicating). Subsequently, we found out that
5 the applicant for the adjacent property had
6 put this land into a conservation easement,
7 which means that we couldn't go through there
8 and make the road connection as we had
9 originally proposed to do. So, we did go
10 forward and approach the Town Board and we got
11 permission and a license to extend Vliet
12 Street Boulevard straight to the intersection
13 of Ventura Boulevard; thereby providing our
14 second means of ingress and egress.

15 CHAIRMAN STUTO: That's going to be a
16 Town road? That's not just for emergency.

17 MR. SIPPERLY: That's going to be a Town
18 road - a full operating Town road. What we had
19 also discussed with the Town Board was that
20 presently this area here is the North Colonie
21 Sports Complex, which is really the soccer
22 fields. That only had one means of ingress and
23 egress up on Boght Road at this location here
24 (Indicating). We kind of identified that we
25 would provide another means of access for

1 emergency vehicles and for pedestrians off of
2 Vliet Street Boulevard. Plus, we extend Vliet
3 Street Boulevard forward and now we have this
4 opportunity to provide this connection. Vliet
5 Street Boulevard didn't exist, then there
6 would be no real opportunity to improve the
7 highway or the roadway.

8 As a community benefit for the Town Board
9 considering to provide us the license to
10 construct this road, we are saying that we are
11 also going to construct an 18-foot wide
12 multiuse path from Vliet Street to the soccer
13 fields which again provide community benefit.
14 It provides a second means of emergency egress
15 ingress. It also provides for pedestrian
16 access to the soccer fields and that wasn't
17 provided in any previous plans in Cornerstone
18 Meadows or Canterbury Crossing. Just on the
19 property, we have reserved areas of important
20 ecological value together with a buffer around
21 them. These two areas here amount to about
22 seven acres in size. We're half-way there, so
23 to speak. We're also able to then really
24 layout the development that is more meaningful
25 in regard to land use and not crowding all

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1 these units into this half of the site or that
2 half of the site; the front or the back of the
3 site.

4 Also, what is unique about this parcel is
5 again, Mr. and Mrs. Ventura - they own this
6 home right here which is going to remain
7 (Indicating). That's a feature that has some
8 limitations with what we did with the front
9 part of the parcel. We can't put lots here
10 because this home is a beautiful home and it's
11 already been carved out as one large lot in
12 this area here.

13 So, I think that what we've really done
14 is our homework. We've tried to change the
15 goals of the conservation overlay, but not
16 doing a strict application or having a
17 conservation subdivision here.

18 As I understand the Land Use Code Section
19 7, the Planning Board has the right to waive
20 the use of a conservation subdivision where
21 there are extenuating circumstances. We're
22 saying that the extenuating circumstances are
23 the unique configuration of the property. That
24 doesn't give us a lot of latitude. We can
25 probably do some other things and say we

1 won't develop this half of the property, but
2 we'll develop that half of the property
3 (Indicating). That really doesn't seem to make
4 good planning sense because now we won't even
5 have the same amount of road with lots on one
6 side. It's very, very expensive to develop and
7 probably wouldn't be at all feasible to
8 develop.

9 The other components of the subdivision
10 are pretty straight forward. We do have water
11 and sewer available to us from Boght Road and
12 also here on Vliet Street.

13 We are required to do a stormwater basin
14 at this location there and a basin at this
15 location here (Indicating). Really, it's a low
16 area of the site, so that's a natural location
17 for water.

18 CHAIRMAN STUTO: Before you get into
19 those technicalities - and you may have
20 touched on it, but you gave an overall
21 description. How did you modify this since
22 last time we saw you? There were some
23 objections about impacts on the neighbors and
24 so forth.

25 MR. SIPPERLY: The big modifications are:

1 This road doesn't continue in the
2 configuration. Second, we have provided for an
3 open connection between south of us and an
4 open space parcel to the east of us.

5 CHAIRMAN STUTO: That wasn't there at the
6 last planning meeting?

7 MR. SIPPERLY: No. We had lots all along
8 this corridor (Indicating). So, that provides
9 for a natural wildlife corridor to continue
10 with our property. The Vliet Street connection
11 is a new addition to the plan. We have also
12 taken this road, Ventura Boulevard, at this
13 location here (Indicating) and we have moved
14 it away from the rear of the property on Renas
15 Drive. We had this roadway closer to the
16 property line. We have actually moved that
17 away. There is a strip of land between the
18 roadway and the property line of 30 feet and
19 between the right of way line and the actual
20 pavement of the road is 10 feet. To this rear
21 property line it's like 40 feet of open space
22 green area. We're proposing a sprawl of
23 evergreen trees there so we have a solid
24 visual buffer between traveling on this
25 roadway and the rear yards that are facing on

1 Renas Drive.

2 CHAIRMAN STUTO: Thank you. I appreciate
3 you highlighting that.

4 MR. GRASSO: That's the street to the
5 west.

6 MR. SIPPERLY: Our previous plan did not
7 show a future connection to undeveloped lands
8 located to the west. We are now showing that
9 at this location at this cul-de-sac - that
10 this street would be extended at this location
11 (Indicating).

12 CHAIRMAN STUTO: So, it touches the lawn?

13 MR. SIPPERLY: That's correct.

14 CHAIRMAN STUTO: So, there is no paper
15 street.

16 MR. SIPPERLY: No, no paper street, but
17 the actual Town right of way goes right back
18 to the property line here (Indicating).

19 CHAIRMAN STUTO: Thank you.

20 You were talking about stormwater?

21 MR. SIPPERLY: The other proposal of the
22 plan is that we have identified this outline
23 and how we're going to deal with stormwater
24 management on the site. We're providing for a
25 waterline connection to the Cornerstone,

1 Section II. The waterline will come down our
2 street, go through an easement here
3 (Indicating) and connect so we have this
4 circulation of the water system there and
5 there will be no dead end water mains.

6 That's pretty much it. It's just
7 technical, beyond that. We've addressed, in
8 concept, all the technical issues.

9 CHAIRMAN STUTO: Okay, we're going to
10 hear from our Town Designate Engineer and then
11 we'll see if any of the neighbors want to
12 talk. I'll ask the neighbors if they want to
13 speak to sign in.

14 Joe Grasso is our Town Designated
15 Engineer who is hired by us to review the
16 project on our behalf. Joe, can you tell us
17 your comments?

18 MR. GRASSO: We have a comment letter
19 dated December 5th. A lot of our comments have
20 been discussed. I'm going to go through them
21 again, just so that they are reiterated and we
22 can expand on them as needed. Our first
23 comment is:

24 "The plan has been substantially revised
25 since the last submission and addresses many

1 of the previous questions and comments.

2 Based on the conservation analysis
3 information provided, it appears that the land
4 is most worth of protection due to the
5 environmental resource value or the wetlands
6 on the south side of the site. DEC has made a
7 determination that these wetlands are
8 regulated by their agency and therefore we
9 have a 100 foot wide adjacent area, or buffer.
10 The concept plan depicts a buffer that varies
11 between 50 and 100 feet wide. It's our
12 understanding that the applicant's consultant
13 has met with DEC regarding the proposed reduce
14 buffer width and that it is generally
15 acceptable. Based on our review we also
16 believe that the reduced buffer will
17 adequately protect the integrity of the DEC
18 wetlands."

19 CHAIRMAN STUTO: Will we get a letter
20 from DEC at some point?

21 MR. GRASSO: We don't have a letter in
22 the file.

23 CHAIRMAN STUTO: Will we get one?

24 MR. SIPPERLY: Yes.

25 MR. GRASSO: Yes - that has commented on

1 the current plan and the current buffer.

2 But is that characterized correctly in
3 our letter - that you met with them?

4 MR. SIPPERLY: Yes, we have met with them
5 and we have agreed in principal with regard to
6 where the buffer line is located. We won't get
7 an approved application back from DEC until we
8 do the archeology. So, we have to do a few
9 other studies that are kind of administerial
10 for being able to issue the permit for the
11 buffer area.

12 MR. GRASSO: "In order to provide
13 additional protection of these areas, the
14 applicant has proposed to include the wetlands
15 and the buffer in conservation areas which we
16 assume are going to have deed restrictions on
17 each respective lot. This should be clarified.
18 Deed restrictions would provide a legal
19 mechanism to alert homeowners to the areas to
20 be protected.

21 The plan should also clarify that there
22 are adjacent public open space lands with the
23 proposed Canterbury Crossing and Cornerstone
24 Meadows Subdivisions such that a continuous
25 public open space corridor can be created.

1 This would provide enhanced public benefit and
2 could allow use for a future nature trail."

3 CHAIRMAN STUTO: Where would a nature
4 trail go and how do we preserve that?

5 MR. GRASSO: I don't believe that there
6 is a nature trail proposed in any of the
7 adjacent open space areas.

8 MR. SIPPERLY: That's correct. In fact,
9 this isn't public open space. This is actually
10 homeowner association protected space so the
11 public doesn't have a general right -

12 MR. GRASSO: Any time that we protect
13 significant open space area, whether it be
14 private or public, it provides the opportunity
15 that a trail could be provided at some point
16 in the future. It would seem that it could be
17 a desirable spot for a trail rather than
18 forcing everybody to travel along the
19 subdivision roads in order to access the Town
20 park.

21 CHAIRMAN STUTO: Is that going to be a
22 note on the drawing to preserve that?

23 MR. GRASSO: No, I think right now it's
24 up for Planning Board discussion whether or
25 not they feel that area should be protected,

1 whether or not it should be privately owned
2 open space, something that the Town would like
3 to have or not like to have.

4 MR. SIPPERLY: Typically DEC and the
5 Corps of Engineers don't want to have trails
6 to their wetlands. They want the wetlands to
7 remain intact without public impact. So, I
8 think that if the Planning Board thought that
9 would be a good feature of the development,
10 we're probably going to see if we'll get push
11 back from the agencies - DEC and the Corps of
12 Engineers. To put a trail through wetlands
13 would cause a disturbance that they would not
14 want to approve.

15 CHAIRMAN STUTO: Understood. Who is going
16 to own that property? I will venture to say
17 that the Town doesn't care to have title to
18 it.

19 MR. SIPPERLY: No, this property here
20 (Indicating), we are preparing to put under
21 conservation easement.

22 CHAIRMAN STUTO: So, they're going to be
23 part of the lots?

24 MR. SIPPERLY: That's correct, with a
25 conservation easement.

1 This up here would be part of the
2 detention basin.

3 MR. GRASSO: "There are some additions of
4 wetland area within the site that only appear
5 to be regulated by the Corps of Engineers."

6 That's what Lynn had pointed to towards
7 the northern part of the site.

8 "But these may also be worthy of
9 protection. Only minor federal wetland impacts
10 are proposed and are generally limited to
11 wetland fingers. The plan proposed to include
12 many of the federal wetlands that remain
13 within similar conservation areas as described
14 above. In order to provide physical
15 demarcation of the wetlands, evergreens are
16 proposed along the limits of the conservation
17 easements. These are a very desirable feature
18 of the plan.

19 Ventura Boulevard is proposed in
20 relatively close proximity -"

21 Which is less than 50 feet.

22 "to the rear yards of three existing
23 residences along Renas Drive. As proposed
24 mitigation, a row of evergreens 20 feet on
25 center is proposed along the edge of the right

1 of way. It does not appear that this will
2 provide appropriate levels of mitigation of
3 the sights and sounds of passing vehicles and
4 additional mitigation and redesign appears
5 warranted."

6 Do you want to topic on that now, or do
7 you want me to keep going?

8 CHAIRMAN STUTO: No, I think that we
9 should talk about that.

10 MR. SIPPERLY: That's this area right
11 here. Again, we have pulled the roadway and a
12 right of way away further than it was
13 previously shown. We are providing a 30-foot
14 corridor here of open space for land
15 preservation and again -- the Town right of
16 way is 50 feet wide and the pavement is 28
17 feet wide - another 11 feet of lawn area
18 between the right of way and the line of the
19 pavement. Really, what we have here is about
20 41 feet of lawn or greenspace between the
21 actual pavement and the rear property line of
22 the homes on Renas Drive.

23 I think that what needs to be taken into
24 consideration there is there is not going to
25 be a lot of traffic on this road. It's not

1 going to be a super busy highway. At the
2 present time it's only serving probably about
3 maybe 22 lots from the curb. You're not going
4 to get a significant amount of traffic that
5 would really create a noise condition or a
6 visual condition to these homes on Renas
7 Drive.

8 We thought that the 30-foot buffer plus
9 the solid row of evergreen trees would provide
10 an adequate screen and buffer.

11 CHAIRMAN STUTO: Okay, in a typical
12 development, there would be houses on that
13 side if it was wide enough. Say, you have a
14 road and then a lot with a house on it and
15 then a backyard, what the neighbors would be
16 seeing is somebody else's back yard. That's
17 not the case here, so they have a road running
18 fairly close to the end of their back yard
19 line.

20 I think that Joe Grasso is suggesting
21 that you haven't gone far enough in moving
22 that road. Maybe you could be more specific.
23 He suggests that they should do more
24 mitigation or maybe reconfigure it.

25 Can you be more specific on what you

1 recommend, Joe? Pull the road down further?

2 MR. GRASSO: Either of those are options.
3 If the road is going to stay as is, I think
4 that they have enough real estate to do
5 substantial mitigation. Evergreens 20 feet on
6 center that are planted 10 feet high at the
7 time of planting doesn't provide appreciable
8 visual screening because they're going to be
9 able to see right through the trees.

10 Lynn, is there expected to be an
11 elevational difference between that back yard
12 and the road?

13 MR. SIPPERLY: The road will probably be
14 about two to three lower than the rear yard of
15 these properties, but nothing more
16 significant.

17 MR. GRASSO: You're talking about 30
18 feet, so you could possibly have a berm in
19 there. You could tighten up the spacing of the
20 evergreens. Allow more of a staggered
21 row -- when you have headlights from cars,
22 even if you move it away 50 feet -- I still
23 think that you're going to have the potential
24 for headlights.

25 The other thing to keep in mind regarding

1 the traffic is because of the roadway layout
2 and its connection to Cornerstone Meadows,
3 there could be vehicles coming off Boght and
4 through Ventura Boulevard into the Cornerstone
5 Meadows Subdivision. It may not just be the
6 traffic serving the back lots.

7 The other thing is - perhaps a fence
8 along the property line. I know that's in the
9 area proposed to be given to the Town. The
10 Town would want maintenance responsibilities
11 over a privacy fence, but it could be
12 something that could be considered along those
13 properties as well.

14 CHAIRMAN STUTO: Okay, anybody on our
15 Board want to comment?

16 Mike?

17 MR. SULLIVAN: I agree with Joe's
18 recommendation of staggering the evergreens
19 and possibly looking into putting a fence
20 there as well.

21 MS. DALTON: Can you talk about the
22 number five lot that you're interested in
23 perhaps eliminating? That's adjacent to the
24 area that we're talking about. I'm not quite
25 sure, but I see a house that's a number five.

1 Then on the other side I see five in a circle.

2 Is all of that land considered lot five?

3 Is that all part of the same lot that
4 goes along that wetland?

5 MR. SIPPERLY: This stormwater management
6 parcel is to be owned by the Town of Colonie.

7 MS. DALTON: But you had a house on five
8 right here (Indicating).

9 MR. SIPPERLY: There is a lot here that's
10 called lot five. We're showing a home facing
11 on Ventura Boulevard.

12 CHAIRMAN STUTO: There is also another
13 five on our diagram at the peak of your
14 wetland there.

15 MR. SIPPERLY: The map is in error then.
16 There is only one five.

17 MS. DALTON: So, all of the land that is
18 adjacent to that wetland that you have on your
19 drawings - all of that is part of the
20 conservation -

21 MR. SIPPERLY: That's correct. This whole
22 strip of land here (Indicating) -

23 MS. DALTON: Is there a reason why you
24 can't move the road down a little bit further
25 and make some of these lots a little smaller?

1 MR. SIPPERLY: First we wanted to
2 maintain the integrity and aesthetics of the
3 existing homeowner properties. It's quite
4 stately and we're trying to keep the road away
5 from it so that the front yard would be in
6 proportion to the scale of the home. If we
7 move the road down, what we would do is reduce
8 the size of these lots and we were trying to
9 get as a conventional subdivision, keep all
10 the plots to the 18,000 square feet.

11 MS. DALTON: It looks to me like the only
12 place where it would really make a difference
13 would be moving it down or Lot 6 and Lot 4.

14 MR. SIPPERLY: Again, we'd be looking for
15 direction from the Planning Board as to how
16 much to move it. Do we move it five more feet,
17 10 feet, 15 or 20 feet? I think that Joe
18 mentioned that we have the opportunity in this
19 30 feet to create a berm and put the trees on
20 the berm, which now provides more height and
21 much more screening to the rear of those
22 homes.

23 MR. AUSTIN: That's 30 feet on that
24 strip?

25 MR. SIPPERLY: That's correct.

1 MR. AUSTIN: I think that if you did
2 something like a berm, like Joe is suggesting
3 or incorporating more landscaping or some sort
4 of things to make the neighbors -

5 MR. SIPPERLY: As Joe also indicated,
6 there could be a fence here. Fences are
7 strange items. Sometimes the neighbors don't
8 want the fences.

9 MR. AUSTIN: Well, when we go to the
10 neighbors maybe we'll hear something that they
11 might want.

12 MR. GRASSO: Any more comment regarding
13 the buffering to the homes on Renas Drive?

14 MR. AUSTIN: Does that satisfy your
15 mitigation on that?

16 CHAIRMAN STUTO: To me, I would like to
17 see both - the road moved, the berm, the
18 staggering and so forth.

19 MR. GRASSO: How much could you move it,
20 Lynn?

21 MR. SIPPERLY: Ten feet.

22 MR. GRASSO: The other thing is that it
23 helps when we have a grading plan. Obviously,
24 we're not to the point where we would
25 typically require a grading plan. I would

1 think that if we have 40 feet, we'll work with
2 Lynn to figure out how high of a berm -- and
3 as long as he can get five or six feet or so
4 at the time of installation, then with some
5 dense plantings I think that it would provide
6 appreciable screening.

7 MR. AUSTIN: My other question would be
8 how far the neighbor's homes are from that
9 rectangular -

10 MR. SIPPERLY: You can see on the
11 drawing.

12 MR. AUSTIN: What's the distance then?
13 It's hard to determine those.

14 MR. SIPPERLY: I would say over 150 feet.

15 CHAIRMAN STUTO: You want to go to your
16 next comment?

17 MR. GRASSO: "We are concerned with the
18 lot orientation of lot number five as it
19 relates to the existing house on Renas Drive
20 and proposed lot number eight. Consideration
21 should be given to a reconfiguration of the
22 lots or eliminating at least one of the three
23 lots in this immediate area to provide
24 reasonable home sites and appropriate
25 privacy."

1 CHAIRMAN STUTO: So, you're referring to
2 Lots 1, 3 and 5 that are in the beginning of
3 the property?

4 MS. DALTON: No, 3, 5 and 8.

5 CHAIRMAN STUTO: Which 8?

6 MR. GRASSO: Eight is on Renas Drive.
7 It's a rather short lot. Lot 3 is on Ventura
8 Boulevard, which is a rather short lot. Five
9 is kind of slid back.

10 CHAIRMAN STUTO: So, eight is part of
11 this subdivision but it would face Renas, is
12 that correct?

13 MR. GRASSO: That's correct. There is
14 obviously other homes on Renas Drive that have
15 to be carefully considered. The siting of the
16 homes creates more of a typical - when you're
17 looking at your side yard, you're looking at
18 someone else's side yard, and the side of
19 their house. The orientation of the homes and
20 trying to deal with the existing homes there
21 needs to be carefully considered.

22 MR. SIPPERLY: Can I respond to that?

23 CHAIRMAN STUTO: Sure.

24 MR. SIPPERLY: This Lot 5 really had
25 frontage on Renas Drive and Ventura

1 Boulevard. This house could be constructed and
2 oriented off of Renas Drive. We're showing it
3 to be facing onto Ventura Boulevard. This lot
4 has the option to go either way. It's a
5 through lot. There is a street on both sides
6 of it. We show the 40-foot setback line on
7 Renas Drive. We thought that the orientation
8 of the house on Ventura Boulevard just
9 provided this area in the back yard with less
10 activity than having a house right next door.

11 CHAIRMAN STUTO: The houses on Renas that
12 are - I guess that's south of that triple lot,
13 it says Matthew and Lisa Robinson. There seems
14 to be a structure on there. Is that a house?

15 MR. SIPPERLY: Yes.

16 CHAIRMAN STUTO: And it's right along the
17 lot, isn't it?

18 MR. SIPPERLY: It's very close to the lot
19 line. Mr. Robinson says that it's about three
20 feet off the property line.

21 CHAIRMAN STUTO: Is that an older house?

22 MR. ROBINSON: Yes, it is.

23 CHAIRMAN STUTO: You're Mr. Robinson?

24 MR. ROBINSON: Yes. It's about 90 years
25 old.

1 CHAIRMAN STUTO: And the ones next to you
2 further in, are they big new houses?

3 MR. ROBINSON: Oh, yes.

4 CHAIRMAN STUTO: That's what I thought.
5 I'm just trying to get a picture there. We're
6 looking to protect you and make sure that
7 you're screened properly.

8 MR. GRASSO: So, lot 8 is overly wide.
9 That's about 126 feet wide. There is an
10 opportunity there to decrease the widths of
11 that to provide a greater width of Lot 5.

12 Lynn had mentioned that the Planning
13 Board could dictate that the home have the
14 front oriented towards Renas Drive rather than
15 Ventura Boulevard. Those are things for the
16 Planning Board's consideration.

17 CHAIRMAN STUTO: You're saying the house
18 that is on Lot 5?

19 MR. GRASSO: Correct.

20 MR. SIPPERLY: The thing that we need to
21 be careful with is that Lot 8 is only 188
22 feet. That's over what the required minimum
23 acreage is for that parcel. To reduce that
24 would put us in not conforming lots with
25 regard to zoning. We're trying to avoid that.

1 We'd like to avoid becoming a conservation
2 subdivision. A conservation subdivision would
3 allow us to have lots of varying sizes with
4 regard to the Zoning Code.

5 Why don't we hear from the neighbors and
6 what his concerns are?

7 CHAIRMAN STUTO: Okay, that's an issue
8 that we'll hold.

9 MR. GRASSO: I'm going to keep going
10 through our letter. The sixth one is a
11 technical one on the water main.

12 "The proposed water main includes a
13 connection to the water main, but Phase II of
14 Cornerstone Meadows - it should be noted that
15 a portion of the Cornerstone Meadows water
16 main will not be constructed until a
17 connection can be made to the Canterbury
18 Crossing project. Neither of these projects
19 are currently under construction and may
20 potentially not be built prior to this
21 project. As such, an analysis of the proposed
22 water system should be provided that assumes
23 that the connection that Cornerstone Meadows
24 cannot be made."

25 CHAIRMAN STUTO: Are you saying that they

1 can't get water until -

2 MR. GRASSO: What we're saying is that
3 right now they're proposing a water main
4 connection to currently proposed improvements
5 that are not built. The timing of those
6 developments - it's unknown.

7 CHAIRMAN STUTO: That's their only source
8 of water right now?

9 MR. SIPPERLY: Our source of water is off
10 Boght Road.

11 MR. GRASSO: They could also bring water
12 off of Vliet Street Extension where it
13 currently exists as opposed to where
14 Cornerstone Meadows is going to extend it to.

15 CHAIRMAN STUTO: So, you're saying that
16 he needs an alternative.

17 MR. GRASSO: Our recommendation is that
18 when Lynn looks at the design of the system,
19 his evaluation includes the different
20 scenarios that may occur regarding lack of
21 other connections that could thereby increase
22 flow and pressure. So, if he is totally
23 reliant on flow and pressure from Canterbury
24 Crossings for example, he needs to know that
25 his project could be held up until that

1 connection is made, which could be never or
2 years down the road. These are the things that
3 he needs to include on his evaluation.

4 MR. SIPPERLY: Just to update the Board:
5 Canterbury Crossing is trying to start within
6 a few months. If they start off of Boght Road,
7 it should be started in two months. The
8 roadway off of Route 9 to the firehouse will
9 probably start within a few weeks.

10 CHAIRMAN STUTO: Can you refresh us? Who
11 is the developer on that? I know that we've
12 seen it.

13 MR. SIPPERLY: Well, the developer is Eli
14 Carver and Amedore.

15 CHAIRMAN STUTO: Were you the engineer on
16 the approval?

17 MR. SIPPERLY: Yes. Joe is correct, but
18 we're well aware of how the domino effect of
19 all these projects works. We're fairly
20 confident that by the time that this gets to
21 final approval, we'll see significant
22 construction occurring and the water system
23 installed.

24 MR. GRASSO: So, it's just something that
25 we'll follow up on. It's a concern of the

1 Planning Board moving forward.

2 Comment seven is a comment regarding the
3 stormwater feasibility report and I don't
4 think that it needs comment.

5 "The cul-de-sac proposed at the end of
6 Ventura Boulevard has been designed in
7 configuration that would allow a road to be
8 extended to the property to the west. This
9 adequately addresses the previous comments
10 regarding planning for future cross access
11 connections between these developments."

12 Just so the Planning Board is aware
13 regarding that configuration, the road would
14 not be a sweeping curve into that adjacent
15 property. It would come up to the leading edge
16 of the cul-de-sac, come to a stop and take a
17 right hand turn and the proceed into the
18 property to the west. That's something that
19 we've seen done successfully in other
20 developments.

21 Those are our comments. I'm just going to
22 mention a couple of comments that were
23 included in your packet. It's a Type I action
24 pursuant to SEQRA. That determination has been
25 made by the Town Attorney's office. I believe

1 that it's a Type I because it's a realty
2 subdivision.

3 Regarding the length of the
4 cul-de-sac - Chief Lattanzio from the Division
5 of Fire Service has a comment letter. In that
6 he says:

7 "I have reviewed the revised concept
8 subdivision for the above set of plans. Even
9 with the new connecting road to Vliet Street
10 Extension, I still find that there are homes
11 that extend past the recommended dead end
12 roadway length of 750 feet. I would like to
13 suggest that any proposed homes past the 750
14 foot mark, which would include Lots 28 through
15 36 and Lot 27, would be equipped with a
16 residential sprinkler system. In the event
17 that any road construction would prevent the
18 Fire Department from accessing its cul-de-sac,
19 the sprinklers would provide additional
20 protection for these homes and I would hope
21 that if any lands to the west are ever
22 developed, that a connection could be made to
23 Ventura Boulevard."

24 So, I'd like to talk a little bit about
25 this. You've now got the connection to Vliet

1 Street Extension. The length of the cul-de-sac
2 measured from there is -

3 MR. SIPPERLY: About 1,250 feet.

4 MR. GRASSO: There is no Land Use Law or
5 State Building Code that stipulates a maximum
6 cul-de-sac length. The Town does not have a
7 maximum. It has a recommended maximum of 750
8 feet. What they are currently proposing is
9 about 500 feet more than that.

10 CHAIRMAN STUTO: From the point of that
11 connector road to the end?

12 MR. SIPPERLY: That's correct.

13 MR. GRASSO: What Chief Lattanzio has
14 recommended as mitigation for that is that
15 anything past 750 feet would have a
16 residential sprinkler system. I don't know the
17 cost of the viability of that. I hear that
18 they are becoming more common, but I assume
19 that there is a cost allocation for that. I
20 don't know if that is something that the
21 applicant is willing to consider.

22 MR. SIPPERLY: I would ask that maybe at
23 final design, we could revisit that. Between
24 now and final design, this Board may see a
25 plan for this adjacent property which kind of

1 shows a continuation and another connection.
2 All the sudden this doesn't become a dead end
3 street. It becomes a continuous through
4 street.

5 MS. DALTON: Joe, in one of your
6 comments, you suggested that they do test pits
7 because of the water level. We've walked out
8 there. It's really, really marshy. So, what
9 happens if they do those test pits and they
10 come up with a water level that is
11 problematic?

12 MR. GRASSO: That's generally just going
13 to drive the type of stormwater management
14 design. There are a number of different
15 methods that they can use to provide
16 stormwater management. Most of those are
17 selected on the soil conditions and the
18 elevations of ground water. It does effect the
19 final design, the grading and the type of
20 treatment practices, but I don't think that
21 this development would be unbuildable based on
22 any soil conditions that we would expect him
23 to find.

24 MS. DALTON: Assuming that we were not to
25 grant the waiver and we asked for that 40

1 percent to be set aside, this means that all
2 this back here wouldn't be built on
3 (Indicating). It actually seems to me that you
4 could take the middle part and leave the back
5 part that is far away and wet and marshy and
6 unbuildable part here (Indicating), and just
7 concentrate everything in the middle. Do you
8 have a thought about that?

9 MR. GRASSO: I guess that it would depend
10 on the objectives that the Planning Board
11 feels it's trying to accomplish. Is it about
12 providing open space or protection of
13 environmental enriching sensitive resources?
14 Is it about trying to tie this concern in
15 regarding a maximum cul-de-sac length?

16 Obviously, if you're cutting off
17 development toward the south - if you're
18 cutting 500 feet off the road, then you're
19 meeting Chief Lattanzio's regulation of a
20 maximum 750 cul-de-sac length. I guess that's
21 a decision for the Planning Board if they feel
22 that these concerns are worthy enough to
23 modify the design accordingly.

24 MR. SIPPERLY: Can I respond?

25 MS. DALTON: Sure.

1 MR. SIPPERLY: The marshy lands that you
2 probably noticed in the field are in this area
3 that we are preserving.

4 MS. DALTON: What we found is that the
5 further back we went, the marshier it got. So,
6 I agree with you that it is the most marshy.

7 MR. SIPPERLY: That's the rear area.
8 These lots are higher and the road is higher
9 and that's how we're achieving that.

10 MS. DALTON: I'm thinking mostly about
11 the area that we walked around.

12 MR. MION: It wouldn't prohibit building.
13 They would just need to take care of the
14 water.

15 MR. SIPPERLY: As Joe also indicated, at
16 this stage we will do a grading plan once we
17 have the direction from the Board, and we're
18 allowed to proceed to that level. We also
19 don't have test pits to confirm where the
20 ground water is, whether it's high or whether
21 it's low. I think that we would provide that
22 information to the Board and if we find that
23 development is not practical, we would
24 probably come back with a drawing with fewer
25 lots.

1 MR. GRASSO: That about wraps up our
2 comments.

3 Pete, if you want to turn it over to the
4 public?

5 CHAIRMAN STUTO: Yes, I think that we're
6 going to hear from the public next, but I have
7 a couple of questions.

8 This is Type I under SEQRA. Does that
9 require an environmental impact statement?

10 MR. GRASSO: No. It requires preparation
11 of a full environmental assessment form, which
12 they have provided and we have reviewed. We
13 feel that it adequately describes the proposed
14 project and the environmental setting. It does
15 also require coordinated review with the other
16 involved agencies, which includes the
17 Department of Environmental Conservation,
18 Albany County Health Department and Albany
19 County Planning. No other agencies have any
20 intent to take lead agency status so they
21 defer to the Planning Board to be lead agent.

22 CHAIRMAN STUTO: Thank you. If there is
23 no objection, we'll go to the public.

24 Mr. Robinson, can you say your name?

25 MR. ROBINSON: Matthew Robinson. I live

1 at 14 Renas Drive.

2 The road is right next to my back yard. I
3 don't want a fence or a berm. We'd rather have
4 just a row of trees. Our houses are much
5 higher than the road is going to be, so it's
6 not an issue for us.

7 CHAIRMAN STUTO: You're opposed to a berm
8 there?

9 MR. ROBINSON: Yes. Leave it the way that
10 it is.

11 CHAIRMAN STUTO: The way that it's
12 designed, you mean?

13 MR. ROBINSON: Yes. Leave it the way it
14 is.

15 CHAIRMAN STUTO: The way that it is
16 currently?

17 MR. ROBINSON: Yes. Put the road in and
18 leave the grass and trees. I don't want a big
19 stupid mound of dirt.

20 CHAIRMAN STUTO: And you're saying that a
21 next door neighbor feels the same way?

22 MR. ROBINSON: Yes, Mr. Robillard. I
23 spoke with him last night and he told me the
24 same, also. He is working tonight, or he'd be
25 here.

1 We're happy with the trees. The trees are
2 great. Leave the woods that are there and then
3 plant a row of trees. Our houses are up high
4 enough, especially Rich's and Ernie's. They
5 have 11-foot ceilings in their basements.

6 CHAIRMAN STUTO: Do you have any reaction
7 to that, Joe? Is there anything that he is not
8 considering?

9 MR. GRASSO: Right now there is a buffer
10 there - a vegetative buffer of about 100 feet
11 or so.

12 Lynn, could you describe the type of
13 vegetation that is there, so that we can
14 understand what is going to be left after you
15 take out three-quarters of it?

16 MR. SIPPERLY: Along this property line
17 there is probably - I'll say a 30-foot buffer
18 of existing trees on our property
19 (Indicating). Most of this is open meadow.

20 MR. GRASSO: So, the vegetation there is
21 mixed? Is it coniferous? Is it deciduous?

22 MR. SIPPERLY: No, it's brush and
23 hardwood trees, mostly.

24 MR. ROBINSON: Come summer time, I can't
25 see Bill's house. In the winter time I'm not

1 outside. In the summertime - that's when I
2 care because the kids are out there playing.

3 CHAIRMAN STUTO: It's going to be thinned
4 out a lot.

5 MR. ROBINSON: It's pretty thick back
6 there.

7 MR. SIPPERLY: We would keep that along
8 your property line.

9 CHAIRMAN STUTO: Do you want to see the
10 road moved further down?

11 MR. ROBINSON: I'm fine the way that it
12 is. It's off the property line and that was
13 all of our main concerns was to get it off the
14 property line. Forty feet of trees - that's
15 more than enough room for me.

16 CHAIRMAN STUTO: I wouldn't mind hearing
17 directly from the other fellow.

18 MR. GRASSO: So, if it was 30 feet, we'd
19 preserve the vegetation within that 30-foot
20 band and we could possibly plant evergreens
21 right on the right of way line. Obviously,
22 there doesn't sound like there is going to be
23 during the winter months substantial growth.
24 Thirty feet of vegetation doesn't provide that
25 appreciable buffer, but obviously it's

1 acceptable to them; the adjoining owner.

2 MR. AUSTIN: If it does get weeded out or
3 cleared out, fill it back in.

4 MR. SIPPERLY: That vegetation extends
5 onto the rear of the properties.

6 CHAIRMAN STUTO: I would still favor
7 moving the road. I haven't heard from the
8 other neighbors. We're only hearing from one
9 person. It's only concept now, and we still
10 have that other threshold issue to get through
11 as to whether there is a conservation area or
12 not.

13 We appreciate your comments.

14 Anybody else from the neighbors want to
15 speak?

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

17 CHAIRMAN STUTO: Okay, anyone from the
18 Board?

19 MR. MION: By moving the road, I think
20 that it would solve a lot of issues. If you
21 move it more, that's fine. After being out
22 there and walking out there, I agree with you.

23 MR. AUSTIN: Just regarding the sprinkler
24 system: I think that residential sprinklers
25 are actually a good selling point in homes and

1 if it's required, it will be a nice add on for
2 the homes. I would like to see it offered to
3 the rest of the homeowners as an upgrade to
4 their homes, too. It wouldn't hurt.
5 Residential sprinklers should be in every
6 house. It would save a lot of folks.

7 MR. SIPPERLY: That's fine. I think that
8 the builder could do that.

9 MS. VENTURA: We have a picture of the
10 tree line to your house and Matt's. It's very
11 thick.

12 CHAIRMAN STUTO: Tim?

13 MR. LANE: Going by Pete Lattanzio's
14 comments, I would prefer to see this not go
15 beyond the 750 feet beyond the Vliet Extension
16 and stay as close to the 40 percent as
17 possible.

18 CHAIRMAN STUTO: Mike?

19 MR. SULLIVAN: I would like to go back to
20 comment number five in the TDE's memo about
21 possibly reconfiguring or removing one of the
22 lots at Lots 8, 5 and 3. I'd like to see if
23 you could do something with that. Perhaps
24 absorb Lot 5 into Lot 3 and 8. I think that it
25 would provide a better transition in scale and

1 the size of the lots because you have a huge
2 lot and I realize that it's an existing home,
3 but I think that it would be a better
4 transition both with the existing lots on
5 Renas and also with Lot 4, if Lot 5 was
6 absorbed into 3 and 8 and you could change the
7 back property line of 3. I think it would be a
8 smoother transition in lot size from existing
9 lots to the other lots that would be farther
10 down the road.

11 MR. SIPPERLY: Nobody ever likes to lose
12 a lot.

13 MR. SULLIVAN: I know that, but we are
14 putting a lot of lots in there; whereas if we
15 went with the 40 percent, you'd have a hard
16 time getting those lots in there without
17 clustering them.

18 MR. SIPPERLY: That neighbor is here
19 tonight. Mr. Robinson's concern, as he said
20 earlier, was that if someone put a fence in on
21 a property line three feet from his house,
22 he'd be upset with that - having a fence so
23 close. We kind of talked about that there
24 could be a possibility of a restriction and
25 that there would not be any fence within 10

1 feet of his house. That would be a restriction
2 on his lot so long as Mr. Robinson owned that
3 property, or it could be perpetual.

4 MS. DALTON: I would like to agree with
5 Michael. I think that three lots on that piece
6 of property - while technically there is
7 enough space, because of the configuration of
8 it, that Lot 5 is very long and very narrow.
9 I don't think that it's consistent with the
10 rest of the lots and the way that the rest of
11 the houses look. It appears narrow, but it
12 meets the Zoning Code. I don't mean to argue
13 with you, but I think we've kind of shown
14 homes on here. These are all nicely sized
15 lots.

16 MS. DALTON: I think that was my point in
17 that it was consistent with the rest of the
18 neighborhood - while you're meeting the Code,
19 that winds up being aesthetically problematic
20 because the other lots are larger and will
21 accommodate more homes. That was Joe's point.

22 CHAIRMAN STUTO: Anything else, Mike?

23 MR. SULLIVAN: That's the only comment
24 that I had. Thank you.

25 CHAIRMAN STUTO: Brian?

1 MR. HAAK: I think that we should
2 definitely adopt the Chief's recommendation
3 about the sprinklers, and I would like to see
4 the road moved 10 feet. I understand what the
5 current neighboring homeowners are saying, but
6 I'd rather see more of a buffer there.

7 MR. SIPPERLY: Ten feet is fine. If
8 that's acceptable to the Board, we'll move the
9 road out 10 feet. It would provide a much
10 larger buffer area.

11 MR. SULLIVAN: It would essentially be a
12 50-foot buffer if you had the additional space
13 from the right of way to the actual side of
14 the roadway. That's where you were providing
15 41 before, so now you'd have about 51. I would
16 agree with that as well.

17 CHAIRMAN STUTO: Okay, those comments are
18 well taken.

19 We have a major threshold to go over
20 which we started at the beginning of this
21 thing. It's getting later, so it's harder to
22 articulate and it's also hard to think about.
23 If we're going to determine that we're not
24 going to apply the conservation overlay
25 district requirements, we're going to have to

1 make a finding. I want everybody to listen.

2 "The lot configuration is unique and
3 precludes -"

4 And I'll just say that precludes is a
5 strong word.

6 "preservation of a substantial amount of
7 land with conservation value."

8 I reviewed this before the meeting with
9 Joe Grasso and Elena so we focused a little
10 bit more on this. Brian is an attorney and I
11 can show him the language as well.

12 We have to find that the lot
13 configuration is unique and somewhat
14 different. Unique is a special word.
15 Precludes, which I would argue is a strong
16 word - preservation of a substantial amount of
17 land with conservation value. What is
18 conservation value?

19 The applicant pointed to such things as
20 wetlands, which you say is preserving with the
21 current plan. Historic, archeological,
22 ecological, agricultural - he's saying that
23 those things don't exist.

24 Water resource - this is listed in the Land
25 Use Law as well in part of the conservation

1 analysis. They also list constrained land as
2 conservation value, open space and
3 recreational resources. So, open space is
4 arguable and seems to be in the Land Use Law a
5 conservation value that could be reserved. In
6 the finding that we have to make says that:

7 "preservation of a substantial amount of
8 land with conservation values precluded."

9 I'll read the next section:

10 "Constrained value, open space and
11 recreational sources, buffer areas, defined to
12 include screening and environmental buffers,
13 land exhibiting present or potential
14 recreational, historic, archeological,
15 ecological, agricultural, water resource,
16 scenic or other natural resource values."

17 Tim has indicated - and I'm not trying to
18 steer this in any direction. This is an open
19 question as far as I'm concerned. I want to
20 make sure that we consider the right standard
21 as we go forward in making the right decision.
22 Tim has indicated that he wants the 41 percent
23 preservation. So, I think that indicates that
24 he thinks that it should be analyzed under the
25 conservation development overlay analysis.

1 What that would mean is that it wouldn't be a
2 conventional subdivision like this. They would
3 have to preserve the constrained land and what
4 was remaining of unconstrained, we'd have to
5 preserve 40 percent and he would be permitted
6 to try to put as many - the number of
7 permitted units on the remaining piece which
8 would look like a cluster development. They
9 would be smaller lot sizes and so forth.

10 MR. SIPPERLY: Mr. Chairman, is that in
11 the best interest of the Town and Planning
12 Board to take these homes and really crush
13 them together? Those would be small lots
14 rather than the lots that are in accordance
15 with the Zoning. We have met the goal of the
16 conservation overlay district in a sense that
17 we would have it preserved all the lands that
18 on that part -- if we preserve 40 percent,
19 you're preserving land that has no
20 conservation value as far as what is there on
21 the property now. It's just meadow that we are
22 preserving. We don't know what's going to
23 happen on this parcel here (Indicating).

24 CHAIRMAN STUTO: Open space is a
25 conservation value, buffer areas are

1 conservation values, land presenting present
2 or potential recreational -

3 MR. SIPPERLY: But they should be
4 meaningful to the community and not just the
5 interpretation of the regulation as far as
6 just reading it verbatim. There should be some
7 real value to the community as opposed to
8 saying it has a conservation overlay and that
9 requires 40 percent open space.

10 CHAIRMAN STUTO: And I appreciate your
11 argument.

12 MR. SIPPERLY: I don't mean to argue with
13 you, but I just think that we have really
14 looked hard at that regulation. We have come
15 to this point to request the waiver because we
16 truly feel in our minds that we have met the
17 goals of a conservation subdivision, but also
18 a lot of the layout with regards to a lot
19 subdivision. The Town is really getting both
20 in this plan that we're proposing.

21 MR. AUSTIN: I don't think that the Town
22 is looking for cluster homes either. Cluster
23 developments are not very appealing. If
24 anything - there are a lot of homes on this
25 track. I would go with bigger homes and bigger

1 lots. That's sometimes more appealing
2 sometimes, too. I'm not sure how big the lots
3 are and the homes are. Nonetheless, I think
4 that it fits well with the design that you
5 have.

6 MR. SIPPERLY: We can come back with lots
7 65 feet wide with patio and carriage homes
8 which are probably 30 foot wide and 68 feet
9 deep. It's a whole different community feel
10 than what we were proposing here. This is
11 Colonie. This is very much in harmony with
12 what is around it like Canterbury that would
13 exist along Renas Drive. That is as opposed to
14 coming in with smaller homes which are new to
15 this particular area of Town.

16 CHAIRMAN STUTO: I hear what you're
17 saying. I don't know if we want cluster homes.

18 MS. DALTON: So, we have to decide this
19 tonight?

20 CHAIRMAN STUTO: The way that I see it is
21 if we get the concept, I don't think that we
22 can make that finding tonight because we
23 haven't completed SEQRA and so forth. It would
24 definitely point them in the direction. In the
25 future we might be inclined to say that this

1 doesn't meet the conservation overlay criteria
2 because the lot configuration is unique. It
3 precludes preservation of a substantial amount
4 of land with conservation value. We didn't
5 write it. This is the standard that we have to
6 go by.

7 MS. DALTON: I have a problem with the
8 word "precludes". It's not precluded. Clearly
9 you could retain that land and just put fewer
10 houses on it. I think that the way that it's
11 laid out, it looks fine. The language there, I
12 find pretty restrictive.

13 CHAIRMAN STUTO: Another approach - and
14 I'm somewhat reluctant to do this - this is
15 actually the first time that we've been
16 confronted with dealing with this language and
17 making a decision on it.

18 Most of the conservation overlay decision
19 that we made has been in the Pine Bush. As far
20 as I can recall, we have adhered to the 40
21 percent conservation in every case.

22 MR. LANE: It's a big departure.

23 MR. SIPPERLY: That's a different
24 analogy. The Pine Bush has a whole different
25 environmental consideration; the butterfly and

1 so forth. We don't have that here.

2 Is there anything that I can provide to
3 the Board to help make this decision? We can
4 put a cluster type together. We're allowed 46
5 lots. The owner has to get a yield out of this
6 property in order to afford to put the streets
7 in and get a return on his investment here.
8 We're not going to come back with 15 lots.
9 We're probably going to come back with 30 to
10 35 lots and they'll all be compressed. They
11 will be 65 foot lots. It's going to be the
12 cluster concept that you mentioned a moment
13 ago. It does exist elsewhere. Is that the best
14 use for this property, since we are preserving
15 the wetland areas?

16 MR. SULLIVAN: Mr. Sipperly, what would
17 you be at if you extended it out 750 feet from
18 the intersection? You would lose lots? I'm
19 just saying hypothetically, what would you be
20 at?

21 MR. SIPPERLY: We probably would lose
22 about eight lots.

23 MR. SULLIVAN: But where would that put
24 you with the 40 percent if you included the
25 other areas that you're already protecting?

1 MR. SIPPERLY: It would be hardly worth
2 it.

3 MR. LANE: You'd lose maybe 10.

4 MR. SIPPERLY: The Fire Marshall had a
5 proposal that we put sprinklers in those
6 homes. That's still on the table. We haven't
7 said no to that.

8 MR. SULLIVAN: I'm also trying to see if
9 we can meet the 40 percent and still have
10 homes that you would want to build with the
11 frontage that you want.

12 MR. SIPPERLY: I think what happens is
13 that if the Board tells us to go conservation
14 subdivision overlay design, then we have the
15 right and the option to build the smaller ones
16 and we would probably do that. In my opinion,
17 that would not create the most attractive
18 subdivision or the typical homes that are in
19 the Town of Colonie.

20 CHAIRMAN STUTO: What I just discussed
21 with Kathy is getting an opinion from counsel
22 as to whether the record would support a
23 finding that the conservation development
24 overlay would not need to apply and get an
25 interpretation on that. What do you guys

1 think; without you spending more money and
2 trying to get that turned around quick.

3 MR. LANE: Yes.

4 CHAIRMAN STUTO: Okay, then we'll try to
5 turn that around quickly. That would give us a
6 couple of weeks to sleep on it.

7 Is the Board in agreement with that?

8 ***(All Board Members agreed.)***

9 MR. GRASSO: Can we set a time frame?

10 MR. LACIVITA: I don't know if it goes by
11 Planning Board drive. I think that it's when
12 counsel can give a determination is when we
13 can actually start the timer. I hate to say
14 yes, February 7th, and then counsel hasn't
15 decided. We've already had that happen on some
16 other projects where we get an opinion of the
17 attorney's office.

18 CHAIRMAN STUTO: When do we set our
19 agenda for February 7th? We can request an
20 opinion from counsel by a certain date so we
21 can get it back on the agenda.

22 MR. LACIVITA: We can try to. February 7th
23 is already booked, Peter. I'm booking February
24 28th.

25 CHAIRMAN STUTO: So, we'll request an

1 option by February 15th or something like
2 that.

3 MR. LACIVITA: Sure; to try to meet the
4 February 28th date?

5 CHAIRMAN STUTO: Yes. That's the best
6 that we can do.

7 MR. SIPPERLY: That's fair.

8 CHAIRMAN STUTO: I think that we have a
9 consensus on that and we'll try to get an
10 opinion of counsel. We'll adjourn for the
11 evening if there is no further business.

12 MR. GRASSO: Just so we come back ready
13 to make decisions, there is nothing else that
14 is needed to be done by the applicant or us
15 before then before we provide comment relative
16 to the attorney's opinion?

17 CHAIRMAN STUTO: I don't think so. I
18 don't think that we want him to draw a plan
19 up.

20 MR. LANE: Can we find out if we weren't
21 going to do this and the 750 for the
22 cul-de-sac?

23 CHAIRMAN STUTO: Well the Lattanzio thing
24 is a different thing.

25 MR. LANE: It is, but I have a feeling

1 that it's going to fall close to this.

2 CHAIRMAN STUTO: Lynn can mark up your
3 map if you want.

4 MR. AUSTIN: Refresh my memory and tell
5 me how many acres presently are set aside?

6 MR. SIPPERLY: Seven acres.

7 MR. LACIVITA: There has been three
8 revolving talking points throughout the night;
9 the sprinklering of the homes of over 750, the
10 absorption of Lot 5 into 3 and 8 and moving
11 the road 10 feet by those homes by Renas. Is
12 that still something that is standing or is
13 that a talking point at the February 28th
14 meeting?

15 CHAIRMAN STUTO: I think that we'll keep
16 it open until February 28th. Once we know its
17 direction, we can tell him how we feel about
18 those issues.

19 MR. AUSTIN: Maybe Mr. Robillard could be
20 here?

21 MS. DALTON: If he can't, maybe he could
22 send in a letter telling us how he feels or an
23 e-mail.

24 MR. SULLIVAN: One about the berm and
25 two, if he wants the road moved.

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*(Whereas the proceeding concerning the
above entitled matter was adjourned
at 10:32 p.m.)*

CERTIFICATION

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

11
12
13
14 _____
 NANCY STRANG-VANDEBOGART

15
16
17 *Dated February 8, 2012*