

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3

4 *****
5 VENTURA SUBDIVISION
6 560 BOGHT ROAD
7 APPLICATION FOR CONCEPT ACCEPTANCE
8 *****

9 THE STENOGRAPHIC MINUTES of the above entitled
10 public hearing BY NANCY STRANG-VANDEBOGART, a
11 Shorthand Reporter, commencing on
12 March 27, 2012 at 7:54 p.m. at the Public
13 Operations Center 347 Old Niskayuna Road,
14 Latham, New York 12110

15 BOARD MEMBERS:

- 16 PETER STUTO, CHAIRMAN
- 17 MICHAEL SULLIVAN
- 18 LOUIS MION
- 19 KATHLEEN DALTON
- 20 TIMOTHY LANE
- 21 BRIAN AUSTIN
- 22 BRIAN HAAK

23 Also present:

- 24 Michael Tengeler, Planning and Economic Development
- 25 Lynn Sipperly, PE, Sipperly and Associates
- Joe Grasso, Clough Harbour and Associates
- Fred Pettingill, Latham Fire Department

26
27
28
29
30
31
32
33
34
35

1 CHAIRIMAN STUTO: Next on the agenda is
2 Ventura Subdivision, 560 Boght Road, site plan
3 update, 30 lot residential subdivision. This
4 is presented on behalf of the applicant by
5 Sipperly and Associates and reviewed by CHA,
6 the Town Designated Engineer.

7 I guess that's enough of an introduction.

8 MR. SIPPERLY: Thank you, Mr. Chairman.
9 We were last before this Board on January 24th
10 of this year. We received comments as to what
11 the Board would like to see in the revised
12 plan. We have incorporated those comments in
13 this particular application before the Board
14 tonight.

15 What we have gone forward and done is
16 we've actually modified a subdivision to be in
17 compliance with the conservation overlay
18 requirements. The conservation overlay
19 requires that environmentally sensitive lands
20 be preserved which are constrained lands, and
21 then 40 percent of the unconstrained lands
22 also be preserved for open space and/or
23 preservation. That's what we've done here.
24 These are the actual wetlands on the site.
25 There is a wetland on the south side of the

1 site. There is a wetland in the center of the
2 site and a couple of wetland pieces on another
3 part of the site. Those are the
4 environmentally sensitive lands on the
5 property. Some of those wetlands are owned by
6 DEC also, and we have provided for a buffer
7 around the DEC wetlands. If you've taken the
8 remainder 40 percent of the unconstrained
9 lands, and we've kind of shown that, we've
10 integrated that throughout the subdivision.

11 Toward the south end of the project here
12 we have a large area. That's kind of an
13 interconnect between open space lands located
14 to the south of this particular property and
15 also open spaced lands that are on the east
16 side of the property. So, it provides for a
17 natural buffer continuation of conservation
18 buffer and also wildlife migration between the
19 properties.

20 We've also put some of the open spaced
21 area towards our neighbors to the west and
22 also toward some of the neighbors -- this is
23 the Town of Colonie soccer field on the east
24 side (Indicating). It's distributed throughout
25 the properties; some of it being in the back

1 of lots.

2 What we've also done is we've shortened
3 the length of the cul-de-sac. The cul-de-sac
4 previously is much longer, and we've shortened
5 that to 910 feet.

6 There was a concern with regard to the
7 location of this roadway to the rear of this
8 property on Renas Drive. We have moved the
9 road over to be 50 feet off the property line.
10 This really provides about 67 feet between the
11 pavement and the property line. The applicant
12 has talked with the owner here and they're all
13 on good terms. We have letters from the
14 adjacent owners indicating that they are
15 satisfied with the plan with the development
16 being 50 feet from the rear of the properties
17 and I can provide a copy of that letter to the
18 Board.

19 CHAIRMAN STUTO: Which owners are okay
20 with it? Can you show us?

21 MR. SIPPERLY: All four owners, that are
22 located here -- these four owners that are in
23 close proximity to the property are in
24 agreement that the road being 50 feet away
25 from their property is acceptable to them.

1 Those four owners are in favor of it.

2 Another concern that was presented by the
3 TDE and also kind of a concern of the Board
4 also was the arrangement of lots in this
5 particular area here (Indicating). We kind of
6 redesigned these lots so that there is no
7 backyard adjacent to a front yard. That
8 situation occurred on the Robinson property on
9 a previous plan. We have now obtained and made
10 these three lots face on Renas Drive, so we
11 have side yard against side yard and front
12 yard adjacent to front yard there
13 (Indicating). The plan still incorporates a
14 benefit to the Town in regard to the extension
15 of Vliet Street. The extension of Vliet Street
16 will allow for a new ingress/egress to the
17 Town of Colonie sports complex. As part of
18 this development, we would construct this
19 multiuse path which would be both for
20 pedestrian use and for emergency vehicle use
21 to the Town for the sports complex.

22 I think that what we have really done
23 here is we adjusted the plan to form and
24 satisfy the requirements of the conservation
25 overlay subdivision. We've also been able to

1 preserve a number of -- we've lost one lot
2 from the previous plan. I think that
3 ultimately the Board will see that the
4 location of the open space areas are most
5 serviceable and meaningful to adjacent
6 properties and to the conservation overlay.

7 CHAIRMAN STUTO: Thank you.

8 We'll hear from the Town Designated
9 Engineer.

10 MR. GRASSO: First, we have a comment
11 letter dated March 20, 2012. I'm going to go
12 through the letter but before I do, this
13 project is up for continuation of concept
14 review. It's not for a determination tonight
15 because not enough time was provided to allow
16 for a public posting. Because it was such a
17 substantial plan change, we thought that it
18 was appropriate to come back before the Board
19 as quickly as possible.

20 CHAIRMAN STUTO: So, we're not voting on
21 anything.

22 MR. GRASSO: There's not voting tonight.

23 The first comment is:

24 "The plan has been substantially revised
25 since the last submission with regard to the

1 conservation overlay district. The revised
2 plan depicts 40 percent of the unconstrained
3 lands to be preserved as open space. This is
4 accomplished by deed restrictions on the
5 property.

6 There is a proposal of certain open space
7 for stormwater management purposes for the
8 Town. There are some deed restrictions for the
9 protection of open spaces recently that has
10 been adopted by the Town Board and we feel
11 that the proposal meets certain regulation.

12 Pursuant to the Land Use Law, the open
13 space set aside in the conservation
14 development must have conservation value and
15 shall be determined in the course of the
16 conservation analysis. This analysis has been
17 completed and discussed during previous plan
18 reviews. Important open space resources on the
19 site have been determined to include land that
20 would provide screening and environmental
21 buffers, constrained lands such as wetlands,
22 and lands adjacent to existing potential open
23 space areas on adjacent properties such that
24 continuous open space and wildlife corridors
25 could be created. We believe that the open

1 space areas proposed satisfy those
2 requirements.

3 It's agreed to by the Planning Board that
4 they will use the information gathered during
5 previous plan reviews shown on the plan and
6 any information in this letter to draft
7 conservation findings for the Planning Board's
8 consideration prior to final.

9 We recommend an archeological
10 investigation be completed in order to
11 identify the presence of any historical or
12 archeological resources that may be worthy of
13 protection. This could affect the lot layout
14 and location of the proposed open space
15 areas."

16 Just to elaborate on that, we had made
17 this recommendation previously and the
18 applicant has expressed a desire because of
19 the time and expense associated with that and
20 the seasonal constraints to defer that until
21 they were in the preliminary final design. We
22 felt that was acceptable understanding that if
23 there were things that could not be mitigated
24 during the investigation, that it could
25 require a redesign.

Legal Transcription

1 “The proposed deed restriction language
2 should be provided for review and the
3 protection of the lands should be indicated on
4 the plan. Parcels committed to the Town should
5 also be noted.”

6 CHAIRMAN STUTO: Let’s talk about that
7 for one second because I think that it’s an
8 important thing for the Board Members to think
9 about.

10 Can you describe again, what is going to
11 the Town? Isn’t there a couple of super huge
12 lots on there?

13 MR. SIPPERLY: Yes, the parcels that are
14 being conveyed to the Town - really it’s a
15 parcel here that’s for the stormwater
16 management basin (Indicating). There is a
17 parcel here that contains the stormwater
18 management basin (Indicating). It would also
19 include that 50-foot strip of land between
20 Ventura Boulevard and the rear of the homes on
21 Renas Drive. The remaining open space
22 areas is this whole large area (Indicating). I
23 think that the smaller areas here, the cross
24 hatching, would be conservation easements on
25 the property.

1 CHAIRMAN STUTO: Deed restrictions or
2 conservation easements?

3 MR. SIPPERLY: Deed restrictions. That
4 would be a better description.

5 CHAIRMAN STUTO: Are there super sized
6 ones?

7 MR. SIPPERLY: This lot here is 280,000
8 square feet.

9 CHAIRMAN STUTO: That goes along with
10 which lot?

11 MR. SIPPERLY: This one here
12 (Indicating).

13 CHAIRMAN STUTO: The very last house?

14 MR. SIPPERLY: Yes.

15 CHAIRMAN STUTO: What do you think should
16 be in the deed restrictions? You can do
17 anything? You can't cut?

18 MR. SIPPERLY: I think it depends on what
19 particular lot -

20 CHAIRMAN STUTO: I would like to talk to
21 Joe Grasso about this. If we say that you
22 can't do anything and you can't do any
23 cutting, do we make an exception for
24 agriculture? Do you want to talk about that?

25 MR. GRASSO: As a follow-up to our

1 conversation, I got a copy of the recent Local
2 Law and there is some language in there
3 regarding the restrictions associated with
4 deed restrictions.

5 The law used to say that open space
6 either had to be a separate parcel made to a
7 not for profit agency or conservation easement
8 that could also be granted to land
9 preservation organization. There are a lot of
10 difficulties in that if they're not willing to
11 take that easement or that parcel. So, the
12 Town Board last month modified their Local Law
13 to allow a deed restriction and say:

14 "Where a perpetual easement is not
15 acceptable to the Town, deed restrictions
16 restricting development of the open space land
17 and allowing use only for agriculture,
18 forestry, passive recreation, protection and
19 natural resources or similar conservation
20 purposes will be required as a condition of
21 final approval. The easement or restriction
22 shall prohibit residential, industrial or
23 commercial use of open space land, accepting
24 connection with agriculture, forestry, passive
25 recreation and shall not be amendable to

1 permit such use. Driveways, wells, underground
2 sewage disposal facilities, local utility
3 distribution lines, stormwater management
4 facilities, trails and agricultural structures
5 shall be permitted on preserved open space
6 land with the Planning Board approval,
7 provided they do not impair the conservation
8 value of the land.”

9 Also one of the items is preserved open
10 space may be included as a portion of one or
11 more large lots or may be contained in a
12 separate open space lot. The easement or
13 restriction may allow dwellings to be
14 constructed on portions of the lots that
15 include preserved open spaced land, provided
16 that the total number of dwellings provided by
17 the easement restriction is consistent with
18 applicable limitations.”

19 CHAIRMAN STUTO: If you're going to
20 provide us with a draft -

21 MR. GRASSO: Some of those things that it
22 doesn't mention though is like the clearing or
23 the planting. We believe that unless there is
24 a reason why it should be included, we believe
25 that it should be restricted, but that's up to

1 them. We want to make sure that the Planning
2 Board and the applicant is comfortable.

3 CHAIRMAN STUTO: Would you agree with
4 that?

5 MR. GRASSO: Or at least without further
6 Planning Board review. Such as if a trail was
7 going to be built there, they could come back
8 before the Planning Board for consideration.

9 MS. DALTON: I think that if I'm
10 remembering all the conversation, we were
11 concerned about the migratory patterns of the
12 animals with Canterbury Crossing on one side
13 and the other developments around there. The
14 point is that unless there was a really good
15 reason to clear it, the whole point of that
16 was to leave it alone.

17 CHAIRMAN STUTO: Would you have any
18 objection to no clearing or grading?

19 MR. SIPPERLY: We'll probably have to do
20 some grading. In this particular area here
21 (Indicating) we are proposing a mitigation
22 area. We talked with DEC about that.

23 CHAIRMAN STUTO: Trees will eventually
24 grow.

25 MR. SIPPERLY: The thing is that open

1 meadow is not a bad idea either in the sense
2 that it provides adequate continuation of the
3 wildlife corridor. It doesn't need to be
4 wooded or brush to -- there are other ways to
5 support wildlife.

6 CHAIRMAN STUTO: Well, come back with
7 something and we'll readdress that.

8 I guess we'll start with the Board.
9 Kathy?

10 MS. DALTON: I'm much happier with this
11 plan. I think that you've done a good job with
12 the concept.

13 CHAIRMAN STUTO: I'm sorry, Joe was in
14 the middle of his letter.

15 MR. GRASSO: "In the Land Use Law there
16 is no mandatory minimum lot sizes for
17 conservation subdivisions. The proposed lot
18 sizes range from 8,450 square feet to 281,000
19 square feet. He's proposing a minimum of 30
20 foot front yard setback and 25 foot rear and
21 side yard setbacks are proposed at five feet
22 for one side or 15 feet for the two sides. In
23 general, we feel that the proposed lot sizes
24 are appropriate and represent a logical flow
25 of clustering on the site.

1 The length of the cul-de-sac has been
2 reduced from 1,050 to approximately 850 feet.
3 The Division of Fire Services previously
4 suggested that any homes beyond 750 feet of
5 the dead end road be equipped with residential
6 sprinkler system. The applicant's consultant
7 previously indicated that they would consider
8 providing homes past this length to have
9 sprinklers. This would appear to effect lots
10 28, 30 and 32 on the revised plan.

11 CHAIRMAN STUTO: Is the applicant okay
12 with this suggestion?

13 MR. SIPPERLY: Yes. The only condition
14 would be that if an application came in for
15 the adjacent property, that would remove this
16 cul-de-sac here, then we wouldn't be on a dead
17 end and the requirement for a sprinkler
18 wouldn't be necessary. I think that condition
19 could be in that also.

20 CHAIRMAN STUTO: Are you the Fire Chief
21 in that area?

22 MR. PETTINGILL: I'm a member of Latham
23 Fire Department.

24 As I suggested on the other project, if
25 you're going to bring the residential

1 sprinklers and do a few homes, do the whole
2 thing. It's good PR for the Town. It's good PR
3 for the contractor and the cost is minimal to
4 install.

5 CHAIRMAN STUTO: What would be the cost
6 per unit?

7 MR. SIPPERLY: Probably \$1,500 to \$2,000.

8 CHAIRMAN STUTO: It's not in the Town
9 Code.

10 MR. SIPPERLY: It's not in the Town Code
11 and we would leave it up to the builder. If
12 the builder wants to have that as an amenity
13 to the property, that's his option.

14 MR. GRASSO: The remaining comments are
15 minor and we would be able to address when the
16 project returned.

17 CHAIRMAN STUTO: Kathy, back to you?

18 MS. DALTON: Actually, you addressed most
19 of the things that I brought up previously.

20 MR. AUSTIN: I think that my only
21 question is maybe because I'm not as familiar
22 with the process.

23 Why couldn't some of that open space
24 requirement fill that requirement? Maybe
25 making a 50-foot buffer between each house

1 near the cluster area?

2 MR. SIPPERLY: That could be done, but
3 then we're getting away from clustering and
4 now we're going to be extending the street
5 longer. If we extended the street longer, the
6 cul-de-sac would be at the 1,200 or 1,300
7 foot. One of the real goals of clustering is
8 to reduce the length of street. That's what we
9 have done here. It allows us to do a larger
10 block of open space rather than just do
11 50-foot strips between lots. It could be
12 troublesome as far as who is going to maintain
13 them. We really tried to cluster the
14 development and reduce the amount of
15 infrastructure, which also helps the Town in
16 the long run because there is less street to
17 maintain and plow and less utilities to
18 maintain also.

19 MR. AUSTIN: Other than that, they've met
20 all the requirements. I see no problem with
21 it. It looks great.

22 MR. LANE: I think that it looks good. I
23 don't have questions.

24 MR. SULLIVAN: I like what you've done
25 with Ventura Boulevard. My only concern is the

1 houses on Renas Drive - it seems a bit out of
2 character for the first two houses there.
3 Overall, I'm very happy with what you've done.

4 MR. HAAK: Overall, I think that you've
5 done a good job and you've addressed the
6 concerns that we raised last time. I'm very
7 happy to see the street moved. I have to
8 congratulate you with the progress that you've
9 made.

10 CHAIRMAN STUTO: I think that you've made
11 a vast improvement. You've listened to what
12 we've said and I think that you've gone in
13 that direction of the law that we're required
14 to conform to.

15 I'll just mention that Elena did do a
16 great legal opinion which ended up being moot
17 because her opinion was that you didn't meet
18 the exception of the open space. You have
19 redesigned it and it does comply with the
20 code.

21 MS. DALTON: There is a lot more room
22 around the houses on Renas. So, putting three
23 houses in that space look a little close. If
24 the neighbors were concerned about it and the
25 look of that street -

1 MR. SIPPERLY: These lots are the same
2 that you'd see down at the Lake Ridge
3 subdivision. Just to give an idea -

4 MS. DALTON: But they're not in Lake
5 Ridge, there on Renas Drive.

6 MR. SIPPERLY: That's correct.

7 MS. DALTON: So, we're only concerned
8 with in regards to -- I mean I understand that
9 you can do that based on the Code. I think
10 that it's correct if you're going to change
11 the face of Renas, then it's not consistent
12 with the rest of Renas. That said, you've got
13 neighbors saying that they're okay with it. It
14 might be something that you want to consider
15 in putting bigger houses on there and making
16 your profit on three houses when you could
17 make your profit on two and have it look
18 consistent.

19 CHAIRMAN STUTO: Okay, any final words,
20 Joe?

21 MR. GRASSO: Lynn, do you want to respond
22 or do you just want to defer that until later?

23 MR. SIPPERLY: As far as the three lots?

24 MR. GRASSO: Yes.

25 MR. SIPPERLY: We would like the three

1 lots. If the builder wanted to come in and do
2 two houses there, he could consolidate the
3 three into two. I think that you'll find that
4 the builder can be very creative in putting
5 houses on these lots that would be very in
6 character with Renas Drive. To take them out
7 right now might be a hardship for the
8 applicant.

9 CHAIRMAN STUTO: I drive through some
10 neighborhoods and you see a cluster of one
11 thing and then a cluster of another and it's
12 not attractive. We have spoken. We're not
13 taking a vote.

14 MR. SIPPERLY: On Renas Drive there are
15 smaller homes. I don't think that we're
16 inconsistent with Renas Drive. Renas Drive is
17 one of the older communities in the Town. It
18 does have smaller homes. We did take that into
19 consideration.

20 CHAIRMAN STUTO: We have spoken. We're
21 not taking a vote tonight.

22 MR. SIPPERLY: We were anxious to proceed
23 forward though. I know that the Board can't
24 vote this evening but -

25 CHAIRMAN STUTO: I know we talked about

1 timing.

2 MS. VAIDA: I don't know if it's a
3 concern, but I noted in my memo about
4 the -- and Joe mentioned it, too, about the
5 New York State Parks and Recreation and
6 Historic Preservation letter raising an issue
7 regarding the archeological sensitivity of the
8 area, which hasn't been addressed yet. My only
9 concern is I don't know if that's a real
10 concern or not, but if it is and it turns out
11 that there is some significant issues there,
12 that's before you spend a lot of money on a
13 design, it seems like we should have an answer
14 to that.

15 MR. SIPPERLY: Our plan would be, once we
16 receive concept acceptance, would be to
17 perform the archeological survey before we got
18 into zoning. The archeological survey really
19 needs to have a plan in order to proceed
20 forward with that. What an archeological
21 survey does is it tests in an area that's
22 proposed for development and doesn't test in
23 the areas proposed for disturbance. Once we
24 have a plan, we can then direct the
25 archeological people where to test for

1 cultural resources, rather than test the whole
2 site. Testing the whole site is a lot more
3 expensive than just say testing three-quarters
4 of the site.

5 CHAIRMAN STUTO: So, you'd be agreeable
6 to do that between concept and final?

7 MR. SIPPERLY: Yes.

8 MR. GRASSO: It doesn't appear that there
9 is any required plan changes other than the
10 consideration of the lots on Renas Drive. So,
11 it will be scheduled for April 24th, the
12 regular scheduled Planning Board meeting. And
13 there won't be any resubmission of any
14 information provided.

15 CHAIRMAN STUTO: You have a little bit of
16 work to do. We'd like to see the deed
17 restriction language and think about any other
18 comments that were made. Please get them into
19 Joe. I'm sure that they'll be minimal and
20 we'll get you back on for the 24th.

21 MR. SIPPERLY: We appreciate it very
22 much. Thank you.

23 ***(Whereas the proceeding concerning the***
24 ***above entitled matter was adjourned***
25 ***at 7:32 p.m.)***

