

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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5 NORTHERN PASS PDD
6 586 OLD LOUDON ROAD AND 1226 LOUDON ROAD
7 SKETCH PLAN

8 *****

9 THE STENOGRAPHIC MINUTES of the above entitled
10 public hearing BY NANCY STRANG-VANDEBOGART, a
11 Shorthand Reporter, commencing on
12 May 22, 2012 at 7:35 p.m. at the Public Operations
13 Center 347 Old Niskayuna Road,
14 Latham, New York 12110

15 BOARD MEMBERS:

- 16 PETER STUTO, Chairman
- 17 LOUIS MION
- 18 KATHY DALTON
- 19 BRIAN AUSTIN
- 20 BRIAN HAAK
- 21 MICHAEL SULLIVAN
- 22 ELENA VAIDA, ESQ., Counsel to the Planning Board

23 Also present:

- 24 Joe LaCivita, Director, Planning and Economic
25 Development
- Joe Grasso, PE, Clough Harbour and Associates
- Lynn Sipperly, Sipperly and Associates
- Paul Rosano, Town Board Member
- Christopher Morris, Saratoga Mountain Bike
Association
- Richard Rosetti, Jr., Schermerhorn Properties

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1 CHAIRMAN STUTO: Joe, would you like to
2 do an introduction to this?

3 MR. LACIVITA: This project has been
4 before this Board for a traditional
5 subdivision back in 2010. Since then, it's
6 gone over a couple of iterations. It is now
7 again before the Board to see if the Board
8 will consider a rezoning recommendation.

9 They have been working with the TDE and
10 the various Town Departments as well.
11 Hopefully, tonight we can come with a
12 recommendation for the PDD back to the Town
13 Board.

14 CHAIRMAN STUTO: Okay, Mr. Sipperly,
15 you're here on behalf of the applicant?

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

17 Mr. Chairman and the Planning Board, I'd
18 like to present the Northern Pass Planned Unit
19 Development proposed by Schermerhorn
20 Development Corporations.

21 With me tonight is Rich Rosetti Jr., who
22 is principal of Schermerhorn.

23 What is proposed is the development of
24 50.5 acre parcel of land located on the west
25 side of Route 9. It's kind of diagonal from

1 Fonda Road, and located at this location right
2 here (Indicating).

3 The property is presently in two zones.
4 The front part of the property line is in an
5 office residential zone. The rear part of the
6 property - probably two-thirds of the property
7 lies in a single family residential zone.
8 Those zones are subject to a conservation
9 overlay restriction.

10 What is proposed is to develop 96 units
11 on the property consisting of 74 condominium
12 units, four units per building and 18
13 buildings. Also, there will be three apartment
14 buildings of 24 units; each building have
15 eight units per building.

16 Also proposed as part of the development
17 is a small 5,600 square foot office management
18 building at this location here (Indicating).

19 The site is currently undeveloped and we
20 are proposing access to a curb from Route 9 at
21 this location here (Indicating). The project
22 has had a traffic study performed. The traffic
23 study and the plans were submitted to DOT. DOT
24 concurs with the location of our proposed
25 access road. We have plenty of sight distance

1 both north and south at this location.

2 What we are also proposing is to
3 construct a secondary or an emergency
4 ingress/egress access to the site from Old
5 Loudon Road at this location here
6 (Indicating). Again, this would be a gated
7 access point, but it would be available for
8 emergency vehicles to use to go through to
9 have access to this site, should the primary
10 access be blocked for any reason.

11 CHAIRMAN STUTO: What is the distance of
12 the main entrance back towards the tennis
13 courts, approximately?

14 MR. SIPPERLY: Probably about 2,000 feet.

15 CHAIRMAN STUTO: So, they have to drive
16 in half a mile - the people that live in the
17 back?

18 MR. SIPPERLY: No, the development is
19 really proposed to curve back from Route 9.
20 Our closest building area in the rear is 500
21 feet from Route 9.

22 CHAIRMAN STUTO: No, I mean the furthest
23 ones back.

24 MR. SIPPERLY: We're proposing two
25 buildings; it would probably be about 1,500

1 feet from the main entrance from Route 9.

2 Again, the project has access to water
3 and sewer. Sewer is located in this area along
4 the Mohawk Bike Trail (Indicating). There is a
5 location there and there is also water along
6 Route 9 that would be used to service the
7 project.

8 For just some general location, our
9 northern boundary is the Mohawk Bicycle Trail
10 at this location here (Indicating). Just north
11 of that in the area where I have my hand is
12 the Colonie Town Park in this area here
13 (Indicating). To our southwest is a large
14 parcel of undeveloped land at this location
15 here (Indicating). On the east we're kind of
16 bound by properties that have frontage on
17 Route 9. Some of them would be residential and
18 some of them would be used for commercial
19 purposes.

20 What is proposed, again, is the
21 development of a mixed residential community,
22 consisting of condominiums, and apartments,
23 and an office component also. The site
24 amenities would be the tennis courts at this
25 location here (Indicating). The stormwater

1 management would be dealt with three detention
2 basins; one at this location here, this
3 location here and here (Indicating).

4 There have been studies performed on the
5 property. There is a wetland delineation
6 performed and accepted by the Army Corps of
7 Engineers. There is a total of 6.78 acres of
8 wetlands on the site. Principally, they are
9 these figures that are shown on the drawing in
10 darker pen, and along this area here which
11 would be the Route 9 side of the
12 property - this large area in here.

13 Also, an archeological study was
14 performed for the property and no cultural
15 resources were found on the property. The
16 archeological study is being submitted to the
17 Office of Parks, Recreation and Preservation
18 for their acceptance.

19 As I mentioned earlier, there was a
20 traffic study performed early on with this
21 project. Earlier plans call for more entrances
22 on Route 9 and DOT had a real concern about
23 highway access from numerous curb cut points.

24 We are proposing to set aside a little
25 over 35 acres, which is 71 percent of the

Legal Transcription

1 property. If you go through the calculations
2 to establish what has been the constrained
3 lands and unconstrained lands, that formula
4 requires us to set aside 25 acres. So, we're
5 really setting aside more lands than are
6 required under the conservation overlay
7 formula. As proposed as part of that is 35
8 acres we're looking at this area that is in
9 dark green (Indicating). That is an 18 acre
10 parcel. We're proposing to convey that to the
11 Town of Colonie to be an extension of the
12 Colonie Park, which is located on just the
13 other side of the Mohawk Bike Trail. The
14 Mohawk Bike trail is also owned by the Town of
15 Colonie.

16 CHAIRMAN STUTO: I'm going to interrupt
17 you on that point.

18 We have a memo in our file which is
19 relatively recent from the head of our Parks
20 Department saying that the Town does not want
21 to take title, essentially, for parks and
22 recreational proposed.

23 I had a discussion - I talked to Nia
24 Cholokis before the meeting and the
25 conversation that I had with the Town attorney

1 and he was aware of that. He suggested perhaps
2 a conservation easement could be conveyed to
3 the Town rather than a fee interest. I just
4 want to put that on the table for the
5 applicants.

6 MR. SIPPERLY: That's certainly a
7 consideration. We had proposed that this be a
8 conveyance parcel to the Town because there is
9 a network of bike trails already developed
10 within this parcel. People are using them
11 under a trespass condition because they have
12 no right of access to them. We thought that
13 would be a real meaningful addition to the
14 Town facilities.

15 CHAIRMAN STUTO: Well, an easement would
16 accommodate that, as well. The public use of
17 that could be accommodated with the easement.
18 I'm just relying on the memo and my
19 conversation with the Town Attorney.

20 MR. SIPPERLY: Hopefully that's something
21 that we could work out and is not something
22 that's going to present an obstacle at this
23 meeting, at this point.

24 We're concerned that the applicant does
25 have is the liability on private property.

1 That's a very real concern because these open
2 spaced lands will be deeded to and the
3 responsibility of the homeowners' association
4 to be set up for this development. Sometimes,
5 access to general public portions of uses
6 become uninsurable, or very expensive to
7 insure.

8 MS. DALTON: I'm sorry to interrupt.

9 Elena, I thought that part of the point
10 of these was to integrate the community to use
11 some of the recreational facilities that are
12 association operated.

13 MS. VAIDA: I believe that's part of it.
14 I think that standards, if I remember
15 correctly -

16 CHAIRMAN STUTO: I think that it calls
17 for connectivity within and also to the
18 greater community.

19 MS. VAIDA: Right.

20 MS. DALTON: Right, I thought that one of
21 the purposes of this is to allow greater
22 development in clustering in one area, so that
23 it could create public benefit space that had
24 parks and recreation areas not only for the
25 homeowners, but for the rest of the community;

1 thereby benefiting both the community at large
2 and the homeowners.

3 MR. SIPPERLY: I think that we have
4 achieved that goal. Again, if you go back and
5 look at the conservation overlay and what is
6 permitted on this property -- if we were to go
7 through the formula and you take the
8 unconstrained lands minus the 40 percent, we
9 would be allowed 104 units on the property.
10 We're proposing 96, so we're really not asking
11 for any greater density than would be allowed
12 for the property.

13 MS. DALTON: But you have the cluster.

14 MR. SIPPERLY: That's the goal for a
15 planned unit development - is the cluster
16 rather than the conventional subdivision.

17 Our conversations with the powers in the
18 Town was that this parcel -- there was
19 interest in the Town accepting the parcel for
20 addition to their Town park and in addition to
21 maintain, or to allow the mountain bike path
22 to exist there. So, it's another recreational
23 opportunity. Again, if that's not the goal of
24 the Town at this point, certainly this would
25 be a restrictive covenant around it

1 prohibiting it from development. It would be
2 part of the open spaced lands, rather than it
3 being ownership of the Town, it would be
4 ownership by the homeowners' association.

5 It's a legal point and not so much a
6 planning point. How does the homeowners'
7 association be protected against the general
8 public using that property? They're protected
9 for their own use, but for the general use of
10 the Town, there becomes a fine line between
11 the legal and the insurability of that to
12 occur.

13 CHAIRMAN STUTO: Let's hold that thought.
14 That's one of the things that we have to work
15 though. We'll listen to the overview and get
16 back there.

17 MR. SIPPERLY: The overview is that the
18 subdivision is proposing 35 acres of open
19 space; 71 percent to be partially owned Town
20 or through the homeowners' association to be
21 owned and maintained by the homeowners'
22 association. There will be restrictive
23 covenants placed on that so that no
24 development will occur.

25 There are probably several public

1 benefits that we have brought with this plan
2 to the Town. One public benefit is that we are
3 providing a driveway and a parking area at
4 this location here adjacent to Route 9, and
5 adjacent to the Mohawk Bike Path which would
6 allow residents of the Town to come on the
7 property and park and then exit the bike
8 trail. Right now all the access to the bike
9 way is really down at the Town park. It's the
10 closest access to the bike trail.

11 The second benefit is that the developer
12 is proposing for the roads to be privately
13 owned and privately maintained. They would be
14 constructed in accordance with what is
15 required for the development to Town
16 standards, but they would not be maintained by
17 the Town. That means that subsequent plowing
18 and resurfacing would not be the
19 responsibility of the Town.

20 Similarly, the stormwater management
21 system for this development would also be
22 privately owned and be the responsibility of
23 the homeowners' association. Again, we're
24 relieving the Town of the stormwater
25 management system responsibility.

1 The water and sewer facility - the
2 utilities for the development would be owned
3 by the Town of Colonie by the respective Pure
4 Waters Department. That would be under the
5 management of the Latham Water District.

6 Another benefit is that our internal
7 roadway system and our multiuse path. There is
8 development connected to our roadway system
9 that allows bicyclists and pedestrians in this
10 area to access the bike path without having
11 to -- what they apparently do now is they just
12 go along Route 9, which is a very busy and a
13 dangerous highway. They would be able to come
14 into the development and go through the
15 development and a have access to the parkway.
16 Again, it would be a significant benefit to
17 safety to the residents of the Town.

18 The construction of this development
19 requires us to extend the sewer probably about
20 1,500 feet to the development. Presently,
21 there are no sewers in this area of the Town.
22 So, bringing sewers to this development would
23 provide the opportunity that the sewer service
24 would be extended to service properties on
25 Route 9. These properties on Route 9 of the

1 west and east side are on septic systems.
2 There is no public sewer on Route 9 to service
3 this part of the Town of Colonie.

4 The other public benefit that we felt was
5 a major public benefit was the opportunity to
6 offer to the Town this parcel of land here
7 (Indicating).

8 As we said earlier, this plan has gone
9 through numerous iterations from single family
10 with some commercial out front to this
11 particular plan that we are presenting to the
12 to the Board tonight. We think that it is a
13 plan that is very compatible with the adjacent
14 land uses in the Town. It also satisfies a
15 need for the Town for mixed-use residential,
16 condominiums and apartments. We have adequate
17 parking. We have 2.5 parking spaces per
18 condominium unit and two spaces per apartment,
19 so we feel that we have met the standards of
20 the PDD with regard to parking.

21 There is a substantial amount of
22 greenspace. The development occurs a good
23 distance back from Route 9, so it's really not
24 visible to the traffic on Route 9 and to most
25 residents or businesses that live along Route

1 9 here. We would ask the Board for their
2 recommendation of this PDD to the Town Board.

3 CHAIRMAN STUTO: Before we go to Joe
4 Grasso, how are the residents - what are the
5 pedestrian accommodations, internally?

6 MR. SIPPERLY: There are sidewalks along
7 these two streets here and this street right
8 here (Indicating). This is the 20 foot wide
9 multiuse path. It's wide enough for emergency
10 vehicles to easily access the development.

11 CHAIRMAN STUTO: Again, we'll hear from
12 our Town Designated Engineer, CHA, Joe Grasso.

13 MR. GRASSO: Within the Planning Board
14 packet there are two letters from us. The
15 first is dated April 18th which went through
16 the project background and provided comments
17 on the PDD and comments related to the SEQRA
18 review, and comments to be addressed during
19 final design.

20 Also included in that letter - it's
21 actually before the letter in your
22 packet - was a draft of the PDD, findings that
23 would be required of the Board if the PDD -

24 CHAIRMAN STUTO: Is that your document,
25 or is that the applicants?

1 MR. GRASSO: No, that's our document. We
2 prepared that based on the application and the
3 information in the record, based on the
4 Planning Board's previous review of the
5 project, and those written findings which
6 include nine items that are required to be met
7 to make the project meet the Town's PDD. I can
8 come back to those.

9 Switching over to the May 10th letter that
10 we created, we included a draft negative
11 declaration pursuant to SEQRA, which if the
12 Planning Board chose to move the application
13 forward, it could declare itself lead agent
14 and issue a negative declaration. We have
15 prepared that neg dec, again, based on the
16 information in the record and in the
17 environmental assessment form, which is
18 included as part of the application. There is
19 a lot of detail to support that.

20 Also included in the packet was a draft
21 resolution for the Planning Board's
22 consideration that would potentially do three
23 things. It would declare the Planning Board
24 lead agent for SEQRA. It would issue a
25 negative declaration based on the neg dec that

1 was prepared, and it would give the project
2 the positive referral to the Town Board with
3 the recommended zone change.

4 That is a summary of our information.

5 Going back to our April 18th comment
6 letter, there are some things that I would
7 like to touch on.

8 The project background - I'm going to
9 skip over that for the sake of time. I think
10 that Lynn did an excellent job summarizing the
11 project and all of its components.

12 Our comments regarding the PDD starting
13 with comment 2:

14 "The intent of the PDD is to provide a
15 procedure to allow flexible land use and
16 design for parcels where the objectives of
17 Colonie's zoning and planning documents can be
18 achieved by creative planning and design. The
19 overall density of the project should not
20 significantly increase over that which is
21 permitted by the existing zoning as a result
22 of establishing the PDD."

23 The project narrative provides a
24 calculation of a potential site density based
25 on current zoning of 104 residential units.

1 That's a total when you add the amount of
2 density from the commercially zoned piece
3 converting it to residential and then adding
4 it into the number of units that you could
5 legally get permitted by the density to be
6 allowed in a single family residential zone.
7 You come up with 140.

8 CHAIRMAN STUTO: And they're proposing
9 less than that.

10 MR. GRASSO: Yes, and in addition to make
11 sure that the property is actually developable
12 in accordance with that density, the applicant
13 provided a sketch plan depicting a total of
14 104 units and 52 duplexes, which are allowed
15 in the underlying zoning district. So, as
16 such, we believe that the 104 units represent
17 a reasonable maximum development density based
18 upon the underlying zoning. Again, they are
19 proposing 96, so they are within that
20 threshold. We feel comfortable with the
21 density of the project.

22 According to the PDD legislation, the
23 next step in the process is for the Planning
24 Board to complete the SEQRA review and develop
25 written findings of that document, the facts

1 and information relied upon the region's
2 conclusions in rendering a recommendation of
3 the proposed PDD. The Town Board may then
4 consider the legal establishment of the PDD
5 through a zoning district map amendment. After
6 the PDD is established, the project would then
7 be subject to further Planning Board review as
8 part of a site plan subdivision review
9 process.

10 That should be included in the written
11 findings in support of the PDD for the
12 Planning Board's consideration.

13 According to the open space requirements,
14 common open space totaling not less than 35
15 percent of the PDD shall be provided in
16 perpetuity. A property owner's association or
17 similar mechanism for long-term ownership and
18 maintenance of this common open space shall be
19 provided, subject to approval of the Town
20 Planning Board and the establishment of a
21 conservation easement or other encumbrance to
22 further insure the protection of this open
23 space may be required. The proposed project
24 meets the standards since it includes 71
25 percent of the open space over five parcels.

1 In our letter, we indicated that the
2 applicant proposes to convey parcel 2
3 comprising 18.64 acres for the Town of Colonie
4 located on the northwestern portion of the
5 site adjacent to the bike path. The remaining
6 four parcels would be conveyed to the Northern
7 Pass homeowner's association and will contain
8 restricted covenants.

9 Obviously, we heard comments from the
10 Colonie Parks and Rec Department. They don't
11 have an interest in obtaining that for Parks
12 and Rec purposes. So, you discussed before
13 about different options which seem amendable
14 to the applicant regarding including it as a
15 homeowners privately owned open space, rather
16 than conveying it to the public. I think that
17 the critical thing is that if the Planning
18 Board feels that public use of that space is
19 important to the project, does an easement
20 that grants public rights - is that required
21 as part of the project, or is that an optional
22 discretionary type thing that the applicant
23 could just do and then maintain total control
24 over public use of that in the future if
25 problems arise in the future?

1 CHAIRMAN STUTO: I'm sure that's going to
2 be a major subject for discussion.

3 MR. GRASSO: Just to go back and explain
4 as to how we got to where we are with the
5 application: In 2009 when the application was
6 originally proposed, there were comments
7 provided from the Town's conservation advisory
8 council and it says: "Due to the environmental
9 sensitive nature of this area, the
10 conservation advisory council supports the
11 plan to transfer this 18-acre parcel to the
12 Town of Colonie to keep the area free from
13 development."

14 So, when you take that with some of the
15 language references in the PDD legislation and
16 the conservation density overlay design
17 guidelines, it supports conveyance to the Town
18 of open space. Obviously, it's something that
19 the Town has to feel comfortable taking and
20 feel that it will provide an appropriate use
21 to the public.

22 Going further down our letter, the
23 current site development plans don't appear to
24 conform to the intent of the design standards
25 for multifamily residential development

1 located in PDD zones. Pursuant to the Code:
2 visible long and unbroken rows of parked cars
3 or garage doors should not be permitted.
4 Although the garage door widths facing the
5 street do not exceed 50 percent of the width
6 of the building -- which is the maximum
7 allowed and currently 42.8 percent is
8 proposed. The garage and driveways continue to
9 face the street. In addition, according to the
10 applicant, the outside wall of the second
11 floor master bedroom is the same as the garage
12 below. The garage therefore does not extend
13 beyond that habitable area of the house as
14 restricted in the design standards.
15 Nonetheless, the garage and parked cars may
16 dominate the front elevation of the
17 condominium buildings from the street. In
18 order to fully meet this requirement,
19 consideration should be given to providing
20 side load garages in some locations, where
21 possible, or other architectural treatments.

22 If you look at the elevations with the
23 condos, there is a small short section of roof
24 that extends over the garages. There could be
25 some additional architectural statements that

1 make the garage doors less prominent on that
2 front elevation such as brackets or a
3 different style of garage doors.

4 CHAIRMAN STUTO: We'll let the applicant
5 comment on that.

6 MR. SIPPERLY: We did revise the plan,
7 but we do have opportunity -- many of the
8 units have side load garages. Wherever we have
9 sufficient space to install a side load
10 garage, we would do that to, again, comply
11 with the intent of the PDD regulations.

12 CHAIRMAN STUTO: The other point is about
13 the upstairs and the downstairs - you were
14 saying?

15 MR. GRASSO: Yes, the garages are allowed
16 to project out in front and they don't. So,
17 they meet the Code. It's just a straight wall,
18 but it is broken up and we think that it's
19 important that there is a shallow roof line
20 that exists and extends across the front of
21 that elevation, which breaks up so you're not
22 looking at one clear two story wall elevation.
23 That's where we thought that you could even
24 use some brackets underneath that shallow
25 roof, so that the garage doors are less

1 prominent along that elevation. That's a minor
2 detail and we can address it. I just wanted to
3 bring it to the Board's attention because it's
4 specifically mentioned in the Code.

5 MR. SIPPERLY: The applicant would be
6 amendable to that.

7 MR. GRASSO: Our next section of comments
8 is on the SEQRA review. We go through all the
9 different involved agencies and it's our
10 understanding that the Town Board will desire
11 that the Planning Board be lead agent. So, the
12 Planning Board would solicit lead agency
13 status, and I can go through the negative
14 declaration.

15 CHAIRMAN STUTO: When would we be doing
16 all that?

17 MR. GRASSO: Potentially tonight. If the
18 Board feels comfortable with the application,
19 you could do one combined resolution, which is
20 included in the packet; that would do three
21 things.

22 CHAIRMAN STUTO: You want to hold off on
23 SEQRA?

24 MR. GRASSO: Okay, but the three steps
25 are to accept lead agency status, issue a

1 negative declaration and then do a positive
2 referral to the Town Board regarding the zone
3 change.

4 Regarding addressing environmental
5 impacts, this project site is within the Boght
6 GEIS study area and it's subject to mitigation
7 fees. So, as part of the required mitigation,
8 "the applicant shall commit to contributing
9 their proportionate share of funds for
10 mitigation of cumulative consistent with the
11 Boght Area GEIS statement of findings which
12 computed the \$503,506.50 based upon the
13 development of 96 dwelling units on 50 acres
14 of land." The applicant has represented that
15 in his application.

16 There are some other minor comments
17 regarding the full EAF, but saw those comments
18 were more fully addressed in our subsequent
19 letter of the preparation of the negative
20 declaration, so I'm not going to go through
21 those item by item.

22 There as some minor comments that we
23 thought would be more appropriately addressed
24 during final design based on information shown
25 on the plans regarding details of retaining

1 walls and some of the notes on the plans and
2 some of the technical studies that could be
3 updated as part of the final plan preparation
4 based on the current application because the
5 application has changed significantly as
6 originally proposed.

7 I'm now going to jump to our May 10th
8 letter. That was regarding the detailed SEQRA
9 review. Actually, if you flip forward, the
10 full environmental assessment form is included
11 in the packet. Part I of the full EAF was
12 prepared by the applicant, as is required.
13 It's been revised based on our comments and
14 the Planning Board comments, numerous times.
15 We finally got to the point where we felt that
16 it accurately reflected the project and the
17 environmental setting. Then, on the Planning
18 Board's behalf, we have completed Part II and
19 Part III of the full EAF. It's a Type I
20 action, so it requires a full EAF and it
21 requires a hard look at a number of the
22 environmental and impact issues.

23 So, if we go through Part II, there is a
24 series of questions where it asks you
25 potential impacts regarding the project. We

1 went through all of those and answered those
2 to the best of our ability. Whenever we
3 thought that there was one of those issues
4 where there could be any impact whatsoever, we
5 checked yes and we identified whether or not
6 the impacts were small to moderate,
7 potentially large, and whether or not they
8 could be mitigated by the project change. As
9 you go through the form, you can see that
10 although we had checked that there will be
11 numerous impacts in the different areas as a
12 result of the project, none of those met the
13 thresholds to be considered potentially large,
14 but there are a number that are a small to
15 moderate impact.

16 When you get into an impact that is
17 considered potentially large in that second
18 column, the lead agent is required to provide
19 additional analysis regarding the significance
20 of that impact and how it could be mitigated.
21 Even though none of the impacts met that
22 threshold, anytime there is an impact that
23 meets even a small to moderate impact, we
24 thought that it was appropriate to provide
25 additional write up and justification as to

1 what that impact is, whether or not it's
2 significant, and how it could be mitigated by
3 project change. That's the Part III write up
4 that you see, which is actually attached to
5 the back of the neg dec. It's on page five.

6 When you see number one impact on land,
7 all of those were transferred from Part II of
8 the EAF. Then, you go and create a Part III by
9 identifying that impact and going through the
10 detailed analysis of the potential mitigation.
11 There is a lot of information in support of
12 the project and its intent to mitigate
13 potential impacts.

14 In summary, we are supportive that the
15 project is not going to result in a
16 significant impact and is worthy of a negative
17 declaration, as it currently is proposed.

18 CHAIRMAN STUTO: We have a memo and you
19 discussed it with me before the meeting from
20 Lieutenant Kenneth Pero, Highway Safety
21 Committee.

22 MR. GRASSO: There was a memo dated
23 May 18, 2012.

24 Do you mind if I just read it?

25 CHAIRMAN STUTO: No, I would appreciate

1 it.

2 MR. GRASSO: It says: "The Highway Safety
3 Committee has reviewed plans for the Northern
4 Pass PDD with the following comments:

5 The Committee has concerns with only one
6 access for residents in and out of the
7 development. There is a gated emergency access
8 road out of Old Loudon Road that is proposed
9 in the plans. The Committee recommends that
10 this exit be made into an all access road for
11 the development. With 96 residences, there
12 will be far more vehicle traffic than the
13 developer has proposed in their traffic
14 counts. It was commented by the Committee that
15 residents usually have two cars, and there
16 will be a lot of traffic going in and out onto
17 Route 9 where the speed limit is 55 miles per
18 hour. By making the second access, this allows
19 residents to come out to Old Loudon Road and
20 get onto Route 9 via the traffic signal
21 located there. This would be safer for all
22 residents."

23 That was something that was considered in
24 the review of the application. Just to qualify
25 the comment about the amount of traffic - they

1 mention 96 residences and each residence
2 having at least two cars. When you actually
3 look at the traffic being generated by this
4 type of development, a detailed traffic study
5 was done for this and reviewed by our office.
6 In the p.m. peak hour, a total of 50 trips are
7 expected to be generated during the peak hour
8 which is generally 4:30 to 5:30 in the
9 afternoon. So, it's not a significant amount
10 of traffic, given the scale of the project and
11 definitely controllable under a one signal
12 access point.

13 We do feel that there is merit to
14 providing a secondary access to the
15 development from an emergency access point.
16 That's important. There are 96 units and if
17 there was ever a blockage of that one access
18 point, they could be cut off for emergency
19 services. We think that the emergency access
20 as proposed, accommodates that secondary means
21 of access. We don't see significant benefit to
22 making that emergency access road a through
23 road to serve all development. If you come out
24 on Old Loudon Road, Old Loudon Road has two
25 accesses onto Route 9. The closest one that

1 this would come out to is the northern
2 intersection which is a rights-in and
3 rights-out intersection anyway. So, it would
4 already add some restrictions regarding
5 turning movement there and it provides no more
6 benefit to traffic than the currently proposed
7 intersection. Obviously, if traffic wanted to
8 go further down to the southerly intersection
9 of Old Loudon Road and Route 9, there is a
10 traffic signal there. Based on the distance,
11 that's going about another half mile down, we
12 wouldn't expect that access arrangement is
13 going to be used by residents into this
14 development.

15 Just again to try to see how we got to
16 where we were, I went back through the file
17 back in December of 2009 and there was a
18 similar memo provided by the Highway Safety
19 Committee when the project was initially
20 proposed. It said that the Committee cannot
21 make any comments on any parcel access onto
22 Loudon Road. Since Loudon Road is a state
23 road, DOT would decide what changes can be
24 made. DOT did have some comments regarding the
25 access arrangement with the original proposal,

1 primarily related to the two curb cuts and DOT
2 had issues. A subsequent memo stated that the
3 proposed access, as proposed now, is
4 acceptable to them. In that 2009 memo from the
5 Highway Safety Committee, they were looking to
6 see a number of changes regarding that Old
7 Loudon Road access configuration. They
8 actually wanted to see that rights-in and
9 rights-out connection to Route 9 eliminated
10 entirely, and force all the traffic down to
11 the southern section of Old Loudon Road to the
12 signal. They wanted Old Loudon Road widened so
13 that the road could handle the increased
14 traffic that would occur in the development,
15 which we were supportive of. We think that it
16 doesn't provide a necessary benefit or
17 increased safety to the residents.

18 CHAIRMAN STUTO: Any members of the
19 public like to speak on this?

20 Christopher Morris; did you come here on
21 this project?

22 MR. MORRIS: Yes, I did.

23 CHAIRMAN STUTO: Anything that you want
24 to say? On the sheet it says Saratoga Mountain
25 Bike Association.

1 MR. MORRIS: Our organization was
2 contacted. There was the possibility of the
3 conveyance of the 18 acres of the northeastern
4 section there potentially going to the Town
5 for park use. We were contacted because we
6 maintain trails in Saratoga and had some
7 support from the trail network in Schenectady.
8 If the trails were open to public use and part
9 of the Town, we would be in support of it. We
10 would be willing to maintain trails and that
11 is all. Thank you.

12 CHAIRMAN STUTO: Thank you.

13 Board Members?

14 MR. HAAK: Mr. Sipperly, I was looking at
15 the drawing. What is the overall topography in
16 the area?

17 MR. SIPPLERY: The topography is really
18 rolling. As you come up Route 9, we come into
19 a shallow ravine area here, which is all the
20 wetlands. This is also a drainage channel.

21 Then we come up to a knoll where we have
22 a large fairly general sloping area in this
23 location here (Indicating). If you go further
24 west, probably where this dark green occurs,
25 the property starts to get steeper up in slope

1 downward towards the bike path at this
2 location here (Indicating).

3 MR. HAAK: Earlier you were talking about
4 it's probably not going to be seen from Route
5 9. Is that because of the topography, or
6 vegetation, or a combination of both?

7 MR. SIPPERLY: It's a combination of
8 both. The vegetation would be maintained in
9 this area to the greatest extent possible.
10 Naturally, we can't impact the wetlands. So,
11 that vegetation would remain and it's
12 substantial in this area here (Indicating). It
13 creates a good visual buffer for the
14 development.

15 MR. HAAK: The emergency access road in
16 the wintertime, that will be plowed and
17 maintained?

18 MR. SIPPERLY: Exactly. That's all
19 private and done by the homeowners'
20 association by their contractor.

21 MR. HAAK: I would just echo the TDE's
22 comments about the location of the garages, as
23 we go forward.

24 The other issue was, I guess, just
25 resolving the transfer or the easement of the

1 land. That's all I had. Thank you.

2 MR. SULLIVAN: It's not really a
3 question. My question is what will be done
4 with the 18 acres and the bike path? That's
5 all I had.

6 MR. AUSTIN: I would say that my comments
7 would be on the access. The comments of the
8 Highway Safety Committee and the TDE -- I like
9 the idea of having that second access point
10 out to Boght Road. It's another way to access
11 and enter the development. The office space is
12 over in that general area, too. I see that you
13 have an office space there; is that correct?

14 MR. SIPPERLY: That's correct.

15 MR. AUSTIN: So, if there is almost a way
16 of entry into the development potentially for
17 the apartments -- I understand the access and
18 just leaving it for emergency access only, but
19 I kind of like the idea of also having that
20 second egress/ingress route from Old Loudon
21 Road.

22 MR. SIPPERLY: What that would do is it
23 takes away the exclusivity of the pedestrian
24 bicycle use on this and vehicles not entering
25 into that same corridor.

1 Then Joe mentioned that we also have a
2 long area of Old Loudon Road that traverses
3 down -- and whether or not people would use
4 that especially if they're going north. If
5 they're going south, they may use it, but I
6 don't know if they would use it in this
7 location. We might need to discuss the traffic
8 study did support that.

9 MR. AUSTIN: That was my only comment.

10 With the side load garage issue and some
11 of the architectural components on the
12 side -- in looking at some of the sketch plan,
13 based on those early plans, it's not looking
14 as architecturally pleasing in many ways.

15 MR. SIPPERLY: We have plenty of
16 opportunity, hopefully before this Board to
17 resolve that. Certainly, the side load garages
18 are available for many units here.

19 MR. AUSTIN: I would say to look at that
20 option. That's all I had.

21 MR. MION: My biggest concern would be
22 the 18 acres and what we can do with the rest
23 of it and if we can open it to the public
24 because obviously you have to be concerned
25 about liability, and I think that needs to be

1 looked into. Is there an easement that we can
2 do to absolve some of the liability?

3 MR. ROSETTI: I'd like to comment on
4 that, if I could. I understand that the Town
5 is not interested in taking parcels randomly
6 throughout the Town. In this situation, with
7 the proximity to the Town park and the bike
8 path, this is a unique opportunity for the
9 Town to expand the park area. There are trails
10 there that are already being used. It's not
11 some piece of land that is only going to be
12 used by the residents within that community.

13 Insurance is an issue for the association
14 to go forward and to try to have that open to
15 the public and to be able to get insurance for
16 it. For the Town, it would just be a simple
17 expansion of the part that they already have,
18 which they have insurance for already. I've
19 done projects before where we have done
20 associations. We've had parcels that the
21 association has owned, but it's been within
22 the community which we built. Yes, some people
23 have used it and so forth, but here we have
24 access from the Town bike path which gets a
25 lot of traffic that would be using that; more

1 so than just a regular park. I think that it's
2 a unique opportunity for the Town.

3 I met with Mike Magguilli. I do have
4 e-mail from Mike Magguilli who was initially
5 in support of it. I understand that might be
6 different and I think that it's something that
7 we can discuss and try to resolve. There is
8 someway we can achieve the objective of having
9 people be able to use that in the Town and not
10 have the association have the liability of the
11 ownership of that.

12 As far as the homes that you see on the
13 cover, there - every house that I've built in
14 the Town of Colonie has been a substantial
15 house like that. We have not gone and done
16 full plans yet because we're not at that point
17 yet. We put this plan together and typically
18 the house that you see on the cover there
19 would typically have two, three or four
20 different elevations or multiple options that
21 you can get for elevations on those, so it
22 doesn't look like the same house. You may have
23 the same layout and you would build it over
24 and over again, but the elevations would be
25 different so that it looks different.

1 The side loads, we would require the
2 resident not only to pay the premium, but the
3 side access to the garage is an additional
4 cost. Once again, it's enhancing the
5 neighborhood.

6 I don't know if you have any other
7 questions on that.

8 MR. AUSTIN: I understand with the
9 architectural treatments, but start to think a
10 little bit about that because in looking at
11 some of the drawings, it looks like an
12 apartment complex. I don't really want to see
13 any apartment complex.

14 We were looking at another redevelopment
15 coming potentially on Route 9 near Hoffman's,
16 and they gave us a sketch plan very early on
17 and they were absolutely gorgeous.

18 MR. ROSETTI: It will look like a
19 Rosewood community.

20 MR. MION: So, the biggest thing that I
21 have right now is, again, like I said, the
22 shift of the property

23 MR. ROSETTI: I think that again, that
24 might not just be a planning issue. It might
25 be a legal issue. We have met with Mike

1 Magguilli and Paula Mahan and have been in
2 communication with them about this. This isn't
3 the first time that we've talked about this.
4 We've actually had meetings about it to try to
5 somehow, some way get that resolved so that we
6 can accomplish that.

7 MR. AUSTIN: One thing that Mr. Sipperly
8 brought up just in passing and I caught it
9 kind of quickly -- he mentioned the trespass.
10 This is private land that's presently being
11 potentially used?

12 MR. SIPPERLY: Trespass, yes. There are
13 no rights for anybody to go on the property.

14 MR. AUSTIN: But the trails are being
15 maintained? I know that they are maintained,
16 as a matter of fact.

17 MR. ROSETTI: I would invite the members
18 of the Board to go out there and see how nice
19 they are.

20 MR. AUSTIN: I know that they are nice.

21 MR. ROSETTI: One of the things that we
22 talked about -- some of the associations here.
23 There is a gal that lives in the neighborhood
24 close by that uses the trails and they're
25 willing to use their own time to maintain

1 those, we're also willing to put some dollars
2 towards helping them, so that they can buy
3 some materials to actually improve the trails.
4 Somewhere we can work it out, but you have to
5 understand our situation. If I build a project
6 and I can't get insurance on it, it doesn't do
7 me any good because you're not going to be
8 able to ultimately use the trails anyway. So,
9 we have to somehow work that out and I think
10 that we will. We have been having meetings
11 with Mike Magguilli about it and trying to get
12 it resolved.

13 MR. AUSTIN: You own the land where the
14 trails are right now.

15 MR. ROSETTI: That's correct.

16 MR. AUSTIN: So, you're stating to us
17 that there is really no issue with the public
18 using the trails.

19 MR. ROSETTI: I'm not a lawyer, but there
20 is something in the law that allows that if
21 someone trespassed on your property and they
22 get hurt, it's one thing. But if you're making
23 a park and somebody gets hurt, it's a totally
24 different issue. It's not exactly the same.

25 CHAIRMAN STUTO: We'll talk about it, if

1 we take a Resolution.

2 MR. ROSETTI: I would also like to point
3 out that there is a lot of public benefits to
4 this project in addition to just this. The
5 fact that we're going to own and maintain the
6 roads is more of an expense than the Town
7 would have for maintaining any park on a
8 long-term basis. Just blacktopping that road
9 once, or snow piling it for a season would
10 cost well more than what it would cost to
11 maintain that park for years to come.

12 MS. VAIDA: Have you had any projects
13 where you've seen that the homeowners'
14 association pays the yearly fee to a Town and
15 a municipality to help the cost of maintaining
16 the trail situation?

17 MR. ROSETTI: We do every year in taxes.

18 MS. DALTON: With regard to taking
19 ownership and your conversations with Mr.
20 Magguilli - I guess my hesitation with regard
21 to that is -- Mr. Rosano is here as is
22 Mr. Stuto and they were here for the project
23 previously. We get a lot of people who come
24 before us who want to convey property to us
25 for one use or another. This particular

1 proposal is far more practical than most of
2 the swampland - and I do mean swampland - that
3 we are offered. It becomes very difficult to
4 try to establish criteria around when it's a
5 good idea for this conveyance to take place,
6 or it's not a good idea for it to take place.
7 In general during the time that I've been on
8 the Board, I think that our position has
9 mostly been that it's better not to take that
10 land. It would better for the homeowners'
11 association, particularly when you have them
12 take ownership.

13 That said, in this particular case, your
14 argument is well taken. I don't want this
15 decision to be made in a vacuum without
16 considering that I think that this Board
17 really does need better guidance than on a
18 case by case basis where we'd just say, we'll
19 just take that land.

20 MR. ROSETTI: I agree with that. Most
21 developers love to give you property. I'd love
22 to give you property that I have in other
23 developments that I have that is useless and
24 we don't want to take care of, and so forth.
25 Quite honestly, I was surprised because this

1 is such a unique opportunity for the Town to
2 expand a part that's already being used as
3 adjacent to not only one, but two great things
4 in the Town; the bike path, which I use
5 myself, and the Town park. If you had property
6 next to it, the Town should be looking to buy
7 that property and here I want to give it to
8 you for free.

9 MS. DALTON: Your point is well taken and
10 all I'm saying is that I would encourage Mr.
11 Magguilli and whoever else is going to be
12 involved in discussions to put parameters
13 around. If you have a good argument and I
14 think that you probably do, that becomes part
15 of the criteria of how you decide the next
16 project that comes before you.

17 I have a couple of other questions.

18 We asked a while ago about prices and I
19 don't know that you could give us an exact
20 amount -

21 MR. ROSETTI: The first thing is that if
22 you asked me that question on the last project
23 that got approved, it was 11 years ago and it
24 would be about \$110,000.

25 The elevations that you see there is our

1 Morning View Farms subdivision and that was a
2 higher end community. They were large single
3 family lots and the price was of course a lot
4 higher. All the projects that I've done in the
5 Town, no matter what price point it was, I
6 always made sure that the appearance of the
7 house on the outside was nice. We always
8 included landscaped packages, driveways and
9 put the lawns in to make sure that the
10 neighborhoods -- you wouldn't want to drive in
11 and a guy is putting the lawn in two years
12 later. The price point here - I'm not 100
13 percent sure because we're at the beginning
14 stages. I don't know what the infrastructure
15 costs are going to be. I don't know if I'm
16 going to get any approvals yet and so forth.
17 We're probably going to be somewhere in the
18 200's for the condos. The nicer ones might go
19 upwards toward the 300 range and there might
20 be some that are less options and the ones
21 that are not as nice lots would be at the
22 lower price point. So, it gives a wide variety
23 of price there. Then, we offer different
24 options and we have different buildings that
25 we might do different things like upgrade the

1 stone or brick or different garage doors. Side
2 load would be more money also.

3 MS. DALTON: Could you summarize the
4 major differences in this proposal and the
5 proposal that you were here with last time?

6 MR. ROSETTI: I think that the last
7 proposal that we had was going to be all
8 condos; four unit buildings. I think that what
9 we did is we went back because there would be
10 zoning -- what we're asking for it was
11 mixed-use, apartments and condos. We did; we
12 broke that mix up and we have 24 apartments,
13 and we have the office building which we'll
14 use part of the square footage for office for
15 the homeowners' association, but we'll rent
16 out the other space. It's a mixed-use. It's
17 dramatically different.

18 The roads and infrastructure remain the
19 same, but we configured what the buildings
20 were going to be.

21 MS. DALTON: One of the components of a
22 PDD is to offer services and I was just
23 wondering if you had thought about whether or
24 not there were appropriate service providers
25 that might go into that building.

1 MR. ROSETTI: What we thought about - and
2 we've done this at other buildings - is
3 created an area where someone could go in and
4 rent an individual room, but they would have a
5 common reception area. You may have someone
6 that's actually a resident there that needs an
7 office, or somebody that wants to come in
8 could be a masseuse, or a doctor, or whatever
9 to see patients without having the expense of
10 having a whole office. I don't see a major
11 triple A rated corporation renting space.
12 Let's face it, they're going to go to an
13 office park and so forth. It will be for the
14 most of the people that live in the community.

15 CHAIRMAN STUTO: Thank you.

16 I have a couple of comments and a couple
17 of questions.

18 First of all, this type of drawing is
19 excellent; even more so than some of the
20 detailed plans. I think that you guys agree.
21 We appreciate that.

22 There is a detail on the north side - the
23 right hand side - it's sort of a gray -- I'm
24 not sure if it's a path. Can you tell me what
25 that's all about?

1 MR. SIPPERLY: This is an area that's
2 been proposed for our sewer pump station. The
3 gray area indicates roadway coming into the
4 pump station. Also, the roadway around the
5 detention basin.

6 CHAIRMAN STUTO: That's not for
7 pedestrians, or bikes.

8 MR. SIPPERLY: Well, it is. It's for
9 both. It could be a dual use.

10 CHAIRMAN STUTO: And that's how you
11 connect to the bike path on that side?

12 MR. SIPPERLY: That's correct.

13 CHAIRMAN STUTO: I think that the project
14 has evolved a lot. I think that it's a really,
15 really good project. Maybe there's one detail
16 that has to be worked out. I think that the
17 amenities that you propose -- I'll just repeat
18 them because I jotted them down; parking on
19 the north ends for access to the bike path; I
20 think that's good. The private roads I think
21 are a benefit for the Town, expense wise. The
22 stormwater is being maintained by the HOA.
23 That's a great benefit to the Town. There is
24 an enhancement of water and sewer, so that
25 perhaps somebody on the Route 9 side will have

1 access to that sooner than they might have.
2 The bike connectivity is good. Having listened
3 to the arguments, on the connectivity and the
4 road on the southern end - I would agree with
5 the way that it's drawn now. That's my
6 opinion.

7 First of all the traffic, our TDE said
8 that the study does not support that being
9 opened up. So, on one level, that's good
10 enough for me. I think that to enhance the
11 biking and pedestrian experience, I think
12 having that enclosed is better. That's my
13 humble opinion on that.

14 With respect to the big detail - that's
15 17 or 18 acres?

16 MR. SIPPERLY: That's 18 acres.

17 CHAIRMAN STUTO: Whether that gets
18 conveyed or is a conservation easement, I do
19 know that there is a memo in the file from
20 parks. I do know that the conversation that I
21 had with the Town Attorney was that he would
22 prefer an easement. I'm not sure if he's
23 spoken to the Town Board.

24 Paul, I don't know if you have any
25 particular opinion.

1 MR. ROSANO: Not tonight.

2 CHAIRMAN STUTO: I don't know if we can
3 refer this out in the alterative that it
4 either be a conservation easement, or the
5 conveyance to the Town.

6 Do we have to make that decision tonight?

7 MR. GRASSO: I think that it's important
8 for the Planning Board to think of the worse
9 case. The trails are there today. They're on
10 private property and they're used. If no other
11 legal mechanism other than the deed
12 restriction protects development of the entire
13 open space, is that a viable project that's
14 worthy of a PDD legislation? If it is, then I
15 see no reason why we can't move the
16 application on. We can create verbiage about
17 either or alterative, if those various
18 alternatives are acceptable to the Planning
19 Board. If there is a preferred alternative I
20 think that it would be incumbent for us to
21 state it in the record that there is a
22 preferred alterative that the Town Board
23 should take under consideration. It's
24 ultimately going to be the Town Board's
25 decision, and I think that it's appropriate

1 for the applicant to make the same
2 presentation that he made to the Planning
3 Board tonight to the Town Board. That's who
4 they have to convince. They're the only ones
5 that can take the property. I don't know if
6 it's right for the Planning Board to get hung
7 up on it, unless they think that it's so
8 critical. I'm not sure if that should
9 jeopardize moving the project forward.

10 CHAIRMAN STUTO: Based upon what I know,
11 my preferred alternative is the conservation
12 easement conveyed to the Town, maintaining the
13 bike paths, and second, it would be a fee
14 conveyance to the Town, maintaining the bike
15 paths.

16 I'm willing to listen obviously to the
17 rest of the Board. We can save that also for
18 when we do the final motion.

19 MR. AUSTIN: I would like to see the bike
20 paths maintained and even expanded. It would
21 be nice to see something like that opened up
22 to the Saratoga Mountain Bike Association and
23 to different biking associations; have them
24 come and use our facility, so to say. I guess
25 I'm getting kind of hung up on who does what.

1 That's the biggest question and I'm not sure
2 if we can answer that tonight. It would be
3 great to see that, though. I think that it's a
4 great area back there.

5 MR. SIPPERLY: It's really a feature that
6 doesn't exist in the Town of Colonie right
7 now.

8 MR. AUSTIN: Right, so to have that part
9 as maybe in addition to the Town park -

10 MS. DALTON: I think that the use of the
11 land and the way that you've clustered the
12 development and the way that you've maximized
13 that and protected that conservation overlay
14 makes perfect sense.

15 I think that doing a PDD here makes
16 sense.

17 CHAIRMAN STUTO: Well, we have findings
18 so let's deal with that because that's what we
19 have to vote on. There is a paragraph that has
20 to deal with that.

21 What would you suggest next? The
22 environmental consideration?

23 MR. GRASSO: No, I think that we should
24 jump to the written findings and let's work
25 out the language. If you can find the PDD land

1 use law written findings, there are nine items
2 that are described. If you go to six, the
3 fourth sentence would need to be revised. I'll
4 read it as it's currently written:

5 "The large track area located on the
6 westerly side of the parcel and which contains
7 the nature trail will be dedicated and
8 conveyed to the Town to become an actual
9 extension of the existing Town bike path and
10 Town park facilities located adjacent to the
11 parcel."

12 I would revise that sentence to read:
13 The large track area located on the westerly
14 side of the parcel and which contains the
15 nature trail will be either conveyed to the
16 Town, or protected as private open space and
17 could become a natural extension of the
18 existing Town bike path and Town park;
19 facilities located adjunct to the parcel.

20 CHAIRMAN STUTO: Okay, you need the word
21 conservation easement in there somewhere. You
22 could say in parentheses, by fee interest or
23 conservation easement. I'll leave it to the
24 lawyer, but I think that we need that in idea
25 in there somewhere.

1 Do you want to reread the sentence?

2 MR. GRASSO: I have: The large track area
3 located on the westerly side of the parcel and
4 which contains the nature trail will be either
5 conveyed to the Town by fee conveyance by
6 deed.

7 CHAIRMAN STUTO: I would use the word fee
8 versus conservation.

9 MR. GRASSO: Okay, by fee interest or
10 protected through conservation easement.

11 CHAIRMAN STUTO: Okay, what next?

12 MR. GRASSO: I'll make sure of the final
13 text, but I think that the record clarifies
14 the position that we're looking to achieve.

15 CHAIRMAN STUTO: Do you want to do the
16 environmental now?

17 MR. GRASSO: Sure. There is the
18 environmental assessment form.

19 CHAIRMAN STUTO: I'll leave that to you
20 and Elena what the level of detail is, and you
21 can discuss that.

22 MR. GRASSO: I think that the most
23 important part of the environmental assessment
24 form is the Part III, the narrative
25 description of the various impacts and the

1 page number is five.

2 MS. VAIDA: It's part of the negative
3 declaration.

4 MR. GRASSO: That entire document was
5 prepared by our office.

6 CHAIRMAN STUTO: You want to go over
7 that?

8 MR. GRASSO: I'm going to read a section
9 of the SEQRA negative declaration - reasons
10 supporting this determination.

11 "The potential environmental effects of
12 the project were discussed at the regularly
13 scheduled Town Planning Board meetings held on
14 December 7, 2010 and December 6, 2011 at the
15 Town of Colonie Public Operations Center. The
16 Planning Board as lead agency has completed or
17 has caused to have completed Part II of the
18 full environmental assessment form, after
19 reviewing information provided by the project
20 sponsor. The Planning Board has determined
21 that this action as a Type I action under
22 SEQRA and as such this proposal is more likely
23 to require the preparation of an environmental
24 impact statement.

25 The Planning Board appointed a Town

1 Designated Engineer to assist with the
2 technical review of this project, pursuant to
3 6NYCRR 617. The project engineer completed a
4 significant amount of investigative work, site
5 design modifications as requested by the
6 Planning Board and the TDE. The Planning Board
7 has determined that the environmental impacts
8 of this proposal have been mitigated to the
9 greatest extent practicable and the
10 preparation of an environmental impact
11 statement is not necessary.

12 In addition, the potential environmental
13 impacts of the proposed project will be
14 eliminated or reduced to small to moderate
15 through existing regulatory requirements
16 including mitigation pursuant to the Boght
17 Road/Columbia Street GEIS statement of
18 findings.”

19 Then we go through Part III and the
20 narrative description and the impacts on land,
21 impacts on water, impacts on aesthetic
22 resources, impacts on historic and
23 archeological resources, impacts on
24 transportation, and impacts on growth and
25 character of the community or neighborhood.

1 The SEQRA conclusion on page nine.

2 "Acting as lead agency, the Town of
3 Colonie Planning Board has completed a careful
4 review of the reasonably anticipated areas of
5 environmental concern raised by the project.

6 Based upon the review, the criteria for
7 determining significance contained in the
8 SEQRA regulations and the rule of
9 reasonableness, the Planning Board issues this
10 negative declaration concluding that the facts
11 and circumstances of this project will not
12 result in a significant adverse environmental
13 impact. The environmental impact statement
14 will therefore not be required."

15 CHAIRMAN STUTO: Okay, questions or
16 discussions on that by the Board Members?

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

18 MR. GRASSO: If you want I can read the
19 Resolution which covers three things. It
20 covers the establishment of lead agency, the
21 neg dec, and the positive referral of the
22 project to the Town Board.

23 CHAIRMAN STUTO: Is that the one on the
24 back of the EAF?

25 MR. GRASSO: Yes, it is.

1 "Draft Resolution of the Town of Colonie
2 Planning Board lead agency designation and
3 preparation of a negative declaration.

4 Whereas Schermerhorn Development
5 Corporation, the applicant, has submitted to
6 the Town of Colonie Town Board the Northern
7 Pass Planned Unit development located at 586
8 Old Loudon Road and 1226 Old Loudon Road,

9 And whereas the project will require a
10 zone change and has been referred to the Town
11 of Colonie Planning Board for recommendations
12 of the zone change to the completion of the
13 SEQRA review.

14 And whereas the project is a Type I
15 action under SEQRA and falls within the
16 geographic area of the 1990 Boght
17 Road/Columbia Street area GEIS.

18 And Whereas the Planning Board has
19 reviewed Part I of the full environmental
20 assessment forms submitted by the applicant
21 and completed Part II and III of the full EAF
22 in conjunction with the review of the
23 significant number of documents related to
24 this project that are enumerated in the draft
25 neg dec and maintained in Town files.

1 And whereas the Planning Board initiated
2 lead agency proceedings under SEQRA, Part
3 617.6 on April 12, 2012 and there have been no
4 objections.

5 Now therefore be it resolved that the
6 Planning Board declares itself lead agency for
7 the purposes of SEQRA review, and be it
8 further resolved that based on a thorough
9 review of the project by the Planning Board
10 that there will be significant adverse
11 environmental impacts and no EIS will be
12 required.

13 Be it further resolved that the attached
14 negative declaration be adopted in accordance
15 with SEQRA Part 617.12.

16 And be it further resolved that based on
17 the above, the project be given a positive
18 referral to the Board to proceed with this
19 development."

20 CHAIRMAN STUTO: Do we have a motion?

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

22 CHAIRMAN STUTO: Second?

23 MS. DALTON: Second.

24 CHAIRMAN STUTO: Discussion? Comments?

25 Questions?

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

2 CHAIRMAN STUTO: There being none, I'll
3 call for a vote. Those in favor?

4 **(Ayes were recited.)**

5 CHAIRMAN STUTO: Those opposed?

6 **(None were opposed.)**

7 CHAIRMAN STUTO: The ayes have it.

8 MS. VAIDA: I have just one other matter
9 to make sure that the record is clear. I know
10 that it was discussed when Joe was going over
11 the project, but it's also part of
12 the -- subject to the conservation overlay
13 district. I think that in discussing it with
14 Joe, it would appear as though this project
15 complies with the requirements of the
16 conservation overlay district. The only issue
17 is whether at some point we're going to do
18 some specific findings to that effect. I think
19 that the record should be clear that we did
20 consider that and that's incorporated in our
21 findings.

22 MR. GRASSO: Based on our review, because
23 this is a zone change to a PDD, we didn't
24 think that going through the findings of the
25 conservation development overlay - we agree

1 that the project is designed in accordance
2 with those design requirements.

3 There was a memo from the Planning
4 Department that the findings were not
5 required. If they are deemed required based on
6 further review of Elena or the Town Attorney's
7 office -

8 CHAIRMAN STUTO: Let me be clear. You're
9 saying that because it's rezoned under the
10 PDD, the overlay is not applicable.

11 MR. GRASSO: That's right.

12 CHAIRMAN STUTO: Although it appears that
13 it would apply.

14 MR. GRASSO: Yes, based on our review.

15 MS. VAIDA: It would be in compliance.

16 MR. GRASSO: If it's determined that
17 findings are required, we will prepare on the
18 Planning Board's behalf for the record, based
19 on the information in the record and based on
20 the project application, the findings that
21 support the project for compliance with those
22 conservation overlaid development standards.

23 CHAIRMAN STUTO: Now we have to consider
24 the written findings for the PDD; correct?

25 MR. GRASSO: That's correct.

1 CHAIRMAN STUTO: We've done the negative
2 declaration. Before us we have a document
3 entitled land development district, Colonie
4 Land Use Law written findings.

5 You want to read the highlight or
6 headings?

7 MR. GRASSO: I'll read through the nine
8 headings that have a written narrative in
9 support of each one.

10 The first one being that the PDD is
11 consistent with the purpose and intent of this
12 chapter including the design standards.

13 The second being that the PDD is
14 compatible with the surrounding neighborhood
15 context and character, as it conforms with the
16 Comprehensive Plan.

17 Third, that the requirements of SEQRA
18 have been fulfilled and that the PDD has
19 mitigated potential adverse environmental
20 impacts that have been set forth during SEQRA
21 review to the maximum extent practicable.

22 Fourth, that the PDD will add to the long
23 term assets of the community and will not
24 erode the livability or viability of the
25 existing neighborhood areas.

1 Fifth being that the open space
2 recreation areas and facilities provided are
3 commensurate with the level of development
4 proposed and the predevelopment open space
5 resources potentially available for
6 protection.

7 Sixth that the provisions to protect open
8 space resources are sufficiently secured by
9 dedication where appropriate and desirable, or
10 legal instruments and/or monitoring programs
11 and/or establishment or use of an existing
12 trust continues for long-term protection.

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

21 Eighth being that there are adequate
22 community facilities, service to the utilities
23 available or proposed to be made available in
24 the construction of the development.

25 Nine is that traffic will not have an

1 adverse impact on the adjoining transportation
2 system.

3 Therefore, the Planning Board issues the
4 above written findings pursuant to Chapter
5 190.13 of the Colonie Land Use Law documenting
6 the facts and information relied upon to reach
7 its conclusions and in rendering a decision to
8 recommend approval of the Northern Pass
9 Planned Development District to the Town
10 Board.

11 CHAIRMAN STUTO: We'll accept a motion,
12 but first I want to discuss six again, which
13 is the large track area located on the
14 westerly side of the parcel which contains the
15 nature trail. That will be dedicated either by
16 deed, fee interest or by conservation easement
17 to the Town to become a natural extension of
18 the Town bike path and Town park facilities
19 located adjacent to the parcel.

20 With that comment, do we have a motion?

21 MR. AUSTIN: I'll make that motion?

22 MR. MION: I'll second.

23 CHAIRMAN STUTO: Any comments or
24 discussion?

25 MR. HAAK: Just for a point of the

1 record, the blank in three is the date that we
2 adopted the negative declaration.

3 CHAIRMAN STUTO: Any other comments or
4 questions?

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

6 CHAIRMAN STUTO: All those in favor?

7 **(Ayes were recited.)**

8 CHAIRMAN STUTO: All those opposed?

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

10 CHAIRMAN STUTO: The ayes have it.

11 Thank you. We look forward to seeing you
12 here again. You can go to the Town Board and
13 we'll work out the final details.

14

15

16 **(Whereas the proceeding concerning the**

17 **above entitled matter was concluded at**

18 **8:17 p.m.)**

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CERTIFICATION

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2
3
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
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13
14 -----
15 **NANCY STRANG-VANDEBOGART**

16
17
18 **Dated June 11, 2012**

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Legal Transcription

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