

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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LUPE WAY CONSERVATION SUBDIVISION & REZONING

8 LUPE WAY & 102 CORDELL ROAD

SKETCH PLAN REVIEW

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6 THE STENOGRAPHIC MINUTES of the above entitled
7 matter by NANCY STRANG-VANDEBOGART, a Shorthand
8 Reporter, commencing on December 15, 2015 at 7:12 p.m.
at The Public Operations Center, 347 Old Niskayuna
Road, Latham, New York

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10 BOARD MEMBERS:
11 PETER STUTO, CHAIRMAN
12 CRAIG SHAMLIAN
13 TIMOTHY LANE
14 LOU MION
15 SUSAN MILSTEIN
16 KATHY DALTON

17 ALSO PRESENT:

18 Michael Tengeler, Planning and Economic Development
19 Kathleen Marinelli, Esq. Counsel to the Planning Board
20 Joseph LaCivita, Director, Planning and Economic
21 Development
22 James Easton, MJ Engineering
23 Neil Gifford, Pine Bush Preserve

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1 CHAIRMAN STUTO: Lupe Way Conservation
2 Subdivision and Rezoning, 8 Lupe Way and 102 Cordell
3 Road. This is a sketch plan review. The proposal is
4 for a 52 lot residential conservation subdivision and
5 one commercial parcel including a rezoning of 56 acres
6 to single family residential.

7 Joe, do you have any introductory remarks?

8 MR. LACIVITA: The only thing that I want the
9 Planning Board to recall was you'll remember back
10 about two years ago the applicants at that time - the
11 Lupe owners and the number of parcels out there -- in
12 fact Joe Grasso did the rezoning for it -- they banded
13 together. What was once industrial went to commercial
14 office and then they went to other things. It went
15 through a whole rezoning district out there. Again,
16 Joe oversaw it on behalf of the Planning Board. We
17 changed that zoning back - I think that it was in 2013
18 and we're back again to go back to single family
19 residency.

20 Jaime is taking on the charge of going forward
21 with the change of use.

22 Jaime, I'd also like you to update the Board as
23 to the little legality that happened when this kind of
24 stalled going from the DCC to sketch and where we are
25 today.

1 MR. EASTON: Good evening. My name is James
2 Easton and I'm with MJ Engineering.

3 Just to summarize - just like Joe said, the
4 parcel currently is zoned industrial. We are only
5 here tonight to discuss about sketch plan and we will
6 back in front of this Board to discuss recommendation
7 to the Town Board for a zone change from industrial to
8 single family which we believe is the best use for
9 this land. We'll talk about the parcel itself.

10 Currently, there are three parcels according to
11 the Town of Colonie tax maps; 110 Cordell Road, 106
12 Cordell Road and 8 Lupe Way. After a title search and
13 surveying of the parcel, all three of the parcels that
14 I just mentioned are actually one lot. So, because of
15 the legal issue of someone purchasing 8 Lupe way and
16 also at the same time purchasing 106 and 110 Cordell
17 Road, there was a stall in the project because
18 obviously someone thought that someone was getting
19 more than what they thought. So, at the end of the
20 day, the seller, Mr. Lupe and my client, Mr. Adams
21 came to an agreement that 106 Cordell Road would be
22 part of this larger 8 Lupe Way project area that he
23 bought and 110 Cordell road would be given back to him
24 during the subdivision process. When I refer to this
25 project -- and a lot of times you'll see site

1 statistics and things like that, as we have gone
2 through this and I've updated them since that last
3 application to the Town. When I talk about the
4 project as a whole, I'm really going to be talking
5 generally about 106 Cordell Road and 8 Lupe Way as the
6 project area. I'm going to discount the 110 Cordell
7 Road because it's really during the subdivision
8 process that it's going to be back on its own parcel.
9 Currently it's a stand-alone parcel right off of
10 Cordell Road right now that abuts the other properties
11 and it's bounded by the power lines. So, it's kind of
12 a stand alone. It's not contiguous to this larger
13 project area (Indicating).

14 During the DCC meeting it was mentioned and it
15 was given to me basically back in September that I met
16 with the Pine Bush and DEC to discuss this project
17 which I have done. I met with them and discussed the
18 project intent and what we planned on doing. They
19 liked the project. I'm not going to put words into
20 their mouth. They wanted to see how the project
21 progressed.

22 Based upon the layout, they were pleasantly
23 pleased on your application. Most likely, you will
24 see that these lot lines on the back all extend past
25 the property lines which were basically two-acre

1 parcels or two and a half acre parcels of land. That
2 was following the Town Code, basically giving us the
3 option of deed restricting it or putting in an HOA for
4 this conservation subdivision. After the DCC meeting
5 and meeting with the Pine Bush and meeting with DEC,
6 we changed our approach. Instead of deed restriction
7 of land, we would be basically giving it over to the
8 Town who then can deed restrict that large open space
9 so that it is preserved within the Pine Bush.

10 CHAIRMAN STUTO: You're looking to give what
11 over to the Town?

12 MR. EASTON: Basically, the conservation lands.

13 CHAIRMAN STUTO: Can you show us where those
14 are?

15 MR. EASTON: I will get to that in one second.

16 MR. GRASSO: Is that the plan that we have in
17 front of us?

18 MR. EASTON: Let me take a look. That plan up
19 there is what was submitted in August. From talking
20 to Mike Lyons, he wanted me to show the progress since
21 August, to when that was submitted to where we are now
22 after meeting with DEC.

23 During the sketch plan, we're going to be
24 looking at the core road that comes down through this
25 general area and this spine (Indicating). This hasn't

1 changed on your plan whatsoever. After meeting with
2 DEC and the Pine Bush and getting the DCC comments, we
3 revised the application and we submitted it so I'll
4 say that during the Planning Board review during the
5 zone change, they have better information and that's
6 what really today's meeting is really about.

7 CHAIRMAN STUTO: Can you trace the entire
8 parcel?

9 MR. EASTON: So, the entire parcel is 60-some
10 odd acres. It goes out to Cordell Road and it comes
11 back (Indicating).

12 CHAIRMAN STUTO: And which is the parcel that
13 you're leaving with Mr. Lupe?

14 MR. EASTON: Mr. Lupe will be 110 Cordell Road
15 which fronts Cordell Road.

16 MR. SHAMLIAN: And that's not in the 60 acres.

17 MR. EASTON: That's correct. That's not in the
18 60 acres.

19 CHAIRMAN STUTO: Has the Town expressed an
20 interest in taking that?

21 MR. EASTON: Yes, they have.

22 CHAIRMAN STUTO: Who in the Town has?

23 MR. EASTON: From talking to the Planning
24 Department, Mike Lyons and everybody felt that due to
25 this location of this project, that this land would be

1 taken from the applicant. The applicant would give it
2 over to the Town and then either be deed restricted or
3 basically be turned over to the Pine Bush. I think
4 that this occurred before within the Pine Bush area.

5 CHAIRMAN STUTO: So, the Pine Bush would take
6 it in the end?

7 MR. EASTON: I believe that was the ultimate
8 intent from talking with Mr. Lyons at the Planning
9 Department. He said that was the goal and the wishes
10 of the Planning Department. The original plan - as
11 you see, I have lot lines that go way back through the
12 wetlands (Indicating).

13 CHAIRMAN STUTO: Do you have any comment on
14 that Joe?

15 MR. LACIVITA: That's one of the things that
16 Mike sits on - the Commission for the Pine Bush and
17 one of the things that he's been working on. Any
18 development in that area -- it is a conservation area
19 that they have for the entire Pine Bush and they work
20 collaboratively with the Pine Bush.

21 CHAIRMAN STUTO: So, it's a possibility.

22 MR. LACIVITA: We haven't vetted that fully
23 through the Town.

24 CHAIRMAN STUTO: How many acres is that?

25 MR. EASTON: The total site is 60 acres.

1 That's what we're approximately giving, based upon the
2 new plan. The 38 acres to the Pine Bush, hence the
3 Town to turn over to the Pine Bush, which is about 65%
4 of the project area.

5 CHAIRMAN STUTO: There appears to be a NIMO
6 easement or something going through the drawing that I
7 have.

8 MR. EASTON: This is actually a right of way
9 for National Grid. They own it. There are no
10 telephone poles or anything in it, but they do own
11 that land between these two parcels.

12 CHAIRMAN STUTO: In fee or in easement?

13 MR. EASTON: They own it in fee. These two
14 parcels have access rights that are joined together
15 across.

16 CHAIRMAN STUTO: Do they have the right to
17 cross?

18 MR. EASTON: They have the right to cross, but
19 you're not allowed to build anything in it.

20 Getting back to this sketch plan here, what you
21 really have is a standard subdivision package or
22 standard conservation subdivision package that
23 originally was going to deed restrict the land within
24 the lots itself, conforming to Town Code.

25 Based upon the recommendations of the Planning

1 Department, I met with the Pine Bush and DEC and they
2 felt that this was a much better intent. The both
3 liked the general layout of the roadway. They didn't
4 see any impacts or general large concerns to buffers.
5 We actually still need to get a wetlands permit.

6 Joe, just to bring you up to speed, I know that
7 Peter Vogel was concerned about the buffer impact. In
8 talking to Carl Parker on that matter, Carl looked at
9 what we were hitting on the buffer, what we are
10 proposing to get back and based upon its design, he
11 liked it. I asked him if he wanted the road changed
12 or anything else due to the small wetland impact up in
13 here. He said, no, I like the layout the way that it
14 is and let's keep going forward in this general
15 direction.

16 CHAIRMAN STUTO: Now there is a certain
17 conservation analysis that has to go on; correct?

18 MR. EASTON: That is correct.

19 CHAIRMAN STUTO: And at some point when it's
20 appropriate you're going to walk us through that?

21 MR. EASTON: Yes, but for right now we're just
22 really talking about sketch because the Planning
23 Department felt that this was important for the next
24 step when we go to the zone change that you generally
25 understand the dynamics that are going on in this

1 parcel.

2 The next portion of this application will be
3 just a zone change application for this parcel. The
4 Board will consider it and then they will understand
5 at least what we are proposing to build. We're going
6 from a zone change of industrial to single family and
7 you will have some general background of what is going
8 on. Really, today, do you like the general alignment
9 of the roadway and generally where the houses are
10 being situated? Because if you are generally okay
11 with that, then the zone application that was put in -
12 we can then progress. If you don't generally like the
13 layout, you can hash that out more at the next
14 meeting, but the zone change application - it's just a
15 zone change application and that would go back to the
16 Town Board.

17 CHAIRMAN STUTO: Do we get a chance to comment
18 on that -- make a recommendation on the zone change?

19 MR. LACIVITA: Yes, there are a couple moving
20 parts to this.

21 MR. EASTON: We're taking baby steps. That's
22 the best way to put it.

23 CHAIRMAN STUTO: Is that the end of your
24 presentation?

25 MR. EASTON: Yes. Like I said, I don't want to

1 get into how much land is not deed restricted but how
2 much is constrained land per Town Code and how much is
3 unconstrained lands per Town Code.

4 CHAIRMAN STUTO: Occasionally I get the feeling
5 that some developers try to get more density than they
6 are allowed to get, or even if they are not, I want to
7 understand the math. I'm not saying that you have to
8 do it now. I'll ask Joe what he thinks. I'd rather
9 hear the broad brush over.

10 MR. EASTON: I will just tell you real quick
11 that based upon the density that is allowed, it's
12 about 72 housing units for single family SRF that this
13 gets zoned to. We're only proposing 52. So, we're
14 not even going to what we -

15 CHAIRMAN STUTO: Do you agree with that?

16 MR. GRASSO: Yes.

17 CHAIRMAN STUTO: Does that include the third
18 lot that they are keeping industrial?

19 MR. GRASSO: I don't know. I have questions
20 about some of the numbers, but the general intent is
21 that they are going to be allowed maximum of between
22 70 and 80 lots. Mathematically, you're looking to
23 propose between 50 and 55 lots.

24 MR. MION: What you are presenting tonight - is
25 that in reference to this letter of April 14th

1 changes?

2 MR. EASTON: That is correct. Based upon that
3 April letter issued to me in August or September of
4 this year, I met with Neil Gifford who is in the
5 audience today. I met with him and I met with Carl
6 Parker at the end of September, the beginning of
7 October and based upon the DCC findings and speaking
8 with them, the plan that you have which has been
9 altered in the sense that the only thing that has been
10 altered is the property lines. Instead of extending
11 out to its boundary, it has been cut back. Instead of
12 deed restrictions based within a lot, it will now be a
13 general contiguous lot.

14 MR. MION: And we'll be getting something from
15 them regarding what you just said.

16 MR. EASTON: Yes, I believe that Mr. Gifford,
17 during this public hearing process, will speak about
18 this project and the correspondence from the Pine Bush
19 will be issued to the Board.

20 CHAIRMAN STUTO: Okay, then you'll obviously
21 get another opportunity to speak.

22 Joe Grasso is our Town Designated Engineer with
23 CHA and I know you haven't done a formal review, but
24 we went to great effort in the overall rezoning in
25 this area and I know that you're intimately familiar

1 with it. We had quite a persuasive rationale at that
2 time to do that. So, I'm very interested to hear what
3 you have to say about this proposal.

4 MR. GRASSO: The reason why it was zoned back
5 to industrial is that is the way that it was and we
6 didn't feel there was sufficient basis at the time to
7 justify the zoning that had taken place eight years
8 ago back in 2006 or 2007. At the request of many of
9 the landowners and the study area, we worked with the
10 Planning staff on zoning many of the areas back.

11 Also understanding at the time that the Town
12 took a very careful look at the justification for the
13 land conservation overlay district and affirmed the
14 fact that it is applicable to areas such as this
15 because of their sense of nature.

16 That's the history of the rezoning and I do
17 think that there are merits to rezoning some areas
18 back - especially if you're proposing new residential
19 uses adjacent to existing residential uses. So, in
20 that context I think the application has merit had is
21 worthy of consideration.

22 The site is, as Jaime started to describe is
23 extremely heavily constrained with wetlands both COR,
24 jurisdictional and DEC jurisdictional. Obviously, the
25 DEC wetlands have a 100 foot buffer on them which is

1 also restricted lands. The site also has some areas
2 of steep slopes that have been identified on the
3 plans.

4 One of the underlying Planning considerations
5 of this site and that is as you look at the layout is
6 whether or not those sensitive resources on the site
7 are being protected adequately. That's where I see
8 some issues with the layout that I think that the
9 Planning Board should focus on in its review.

10 The plan that I'm looking at is obviously
11 different than what you have presented and I think
12 that's a step in the right direction. Because the
13 road layout is the same or roughly similar to what I
14 have in front of me, I still think that there are some
15 underlying concerns about residential lots being
16 proposed in what we would consider, at least based
17 upon what we know right now, to be environmentally
18 sensitive areas. I think that's something that I
19 think that we need to take a look at. When you talk
20 about working with DEC and the Albany Pine Bush
21 Preserve Commission, we think that's great and we
22 support those efforts. If you're coming in with a new
23 plan that's different than the plan that we have
24 documented under their review, we do recommend that
25 you come with new letters so that we can understand

1 whether or not they are as supportive of the plan as
2 you state, or if there are other things that the
3 Planning Board should consider.

4 One of the other things from a Planning
5 consideration is the fact that this is a 50-lot being
6 added onto an existing residential development.
7 Development of this area is accessible only through
8 Bonner Avenue. My understanding is that Bonner Avenue
9 currently has about 60 homes provided a single means
10 of access off the end of it. So, we're looking to be
11 adding another 50 or so lots onto that. So, we're
12 going to be looking at 110 lots on the single point of
13 access. It's something that I think that the Planning
14 Board should take a look at. The Town does not have a
15 required maximum number of homes on a single point of
16 access. Obviously, it's something that for fire
17 access is necessary.

18 We can solicit comment from the Department of
19 Fire Services regarding that. I don't think that it's
20 been commented on yet, but it's something that I think
21 that the Planning Board should consider during its
22 review of the project. Obviously, when we look at the
23 density of the project, that's an issue that we have
24 to understand to see -- in terms of the municipalities
25 that have maximum number of lots on a single point of

1 access, 18 is a very common one that we see. We're
2 talking about a significant much larger number than
3 that which we are looking at. So, I don't have a good
4 understanding if there are other areas in the Town
5 with this level of density on a single point of
6 access, but we can research that as well as work with
7 the Planning Department.

8 CHAIRMAN STUTO: Can we estimate how far it is
9 from the furthest home?

10 MR. GRASSO: Into where it splits?

11 CHAIRMAN STUTO: Yes.

12 MR. GRASSO: About a quarter of a mile down
13 Bonner Avenue.

14 MR. EASTON: It's probably no greater distance
15 than the existing home that was approved for Morocco
16 Way subdivision extension.

17 CHAIRMAN STUTO: Can you say it in feet?

18 MR. GRASSO: I would say from the furthest lot,
19 probably 2,500 maybe 2,000. There is a location map
20 in the upper left hand corner.

21 CHAIRMAN STUTO: It seems like we have been
22 hearing in terms of 800 or 900 is the maximum.

23 MR. GRASSO: That's another thing that some
24 municipalities have. I think that we're past that.
25 We can drill into that when they come back.

1 CHAIRMAN STUTO: I just want to get that out
2 there.

3 MR. GRASSO: And then in terms of the size of
4 the lots, I think that you're looking at lots in the
5 quarter acre range and trying to understand how that
6 fits in the context of the existing development off of
7 Morocco Way. The lots that are shown are 37 acres and
8 there may be other ones that appear to be larger based
9 on the plan and air photo, but that's something that I
10 think that you could provide information on just to
11 see if they are consistent or not.

12 That's pretty much the outline of our concerns
13 right now.

14 There are some other engineering issues like
15 sewer service and stuff, but I'm sure that we can work
16 them through with Jaime and Pure Waters in working
17 through those issues as the plan develops.

18 One of the Board Members expressed a desire to
19 hear from the Pine Bush rep. Do you mind speaking?

20 MR. GIFFORD: I'd be happy to answer any
21 questions that you have.

22 CHAIRMAN STUTO: Well, just your general
23 perspective on it -- you could go to the mic?
24 Generally sketch plan is not open to public comment,
25 but I think it would be relevant.

1 MS. DALTON: I do have some questions. I
2 recognize the letter that we have commenting on a
3 different plan.

4 MR. GIFFORD: Correct. For the record, I'm
5 Neil Gifford and I'm the Conservation Director with
6 the Albany Pine Bush Preserve Commission and I
7 coordinate the review of development proposal around
8 the preserve, in the Pine Bush study areas working
9 with the Commission's technical committee, which
10 includes Mr. Lyons from the Town of Colonie, who has
11 representatives from each of the municipalities as
12 well as DEC and state parks.

13 We have reviewed the sketch plan referenced
14 initially in the April letter. We then met with the
15 applicant's consultant and the sketch plan has been
16 modified slightly. As we stated in our April letter,
17 the project is in an area that was recommended for
18 full protection when the Commission's 2010 management
19 plan and final Environmental Impact Statement which
20 means that we would prefer to see the project
21 protected in its entirety and added to the preserve if
22 possible. However, absent that, we are certainly
23 willing to work with the applicant to come up to a
24 reasonable resolution where we can balance
25 conservation with economic development. I think that

1 the Commission thinks that what they have put together
2 is a step in the right direction. We still have not
3 seen a complete application yet; in particular the
4 SEQRA documentation to really evaluate impacts but
5 conceptually, based on what they have provided
6 tonight, and what we have seen in talking to the
7 applicant, the project appears to be the best possible
8 solution for balancing, conserving important Pine Bush
9 resources and providing the applicant with the ability
10 to afford economic development on it.

11 I think that the devil is in the details and
12 we look forward to seeing the details of the project.
13 In essence as you would say, they're moving in the
14 right direction and we look forward to working with
15 them and with you to strike the best possible balance.

16 CHAIRMAN STUTO: Any questions of this
17 gentleman?

18 (There was no response.)

19 Thank you.

20 MR. GIFFORD: Thank you.

21 CHAIRMAN STUTO: Any further questions or
22 comments for the applicant?

23 (There was no response.)

24 Okay, thank you.

25 MR. EASTON: Thank you.

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(Whereas the above proceeding was concluded at
7:34 p.m.)

CERTIFICATION

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I, NANCY STRANG, Shorthand Reporter and Notary
Public in and for the State of New York, hereby
CERTIFY that the record taken by me at the time and
place noted in the heading hereof is a true and
accurate transcript of same, to the best of my ability
and belief.

NANCY STRANG

Dated _____

