

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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LOUDON EAST HILLS

120 SPRING STREET

APPLICATION FOR CONCEPT ACCEPTANCE

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6 THE STENOGRAPHIC MINUTES of the above entitled  
7 Public Hearing by NANCY L. STRANG, a Shorthand  
8 Reporter, commencing on May 10, 2016 at 8:02 p.m. at  
The Public Operations Center, 347 Old Niskayuna Road,  
Latham, New York.

9

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

14

15 ALSO PRESENT:

16 Michael C. Magguilli, Esq. Town Attorney and Counsel to  
17 the Planning Board  
18 Joseph LaCivita, Planning and Economic Development  
19 Department  
20 Brett Steenburg, PE  
21 Candice Ross  
22 Tony Esposito, Vice President, Albany Rural Cemetary  
23 George Wasserman  
24 Wendy Van Patten Horn  
25 Todd Curley, Prime Companies  
Sheila Fitzgerald  
Ray Andrews  
Patrick Quinn  
Don Allard, Conservation Advisory Council  
Mark Ross

24

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1                   CHAIRMAN STUTO: Next on the agenda is Loudon  
2 East Hills, 120 Spring Street. This is an application  
3 for concept acceptance. This is a 29-lot residential  
4 subdivision.

5                   Joe, can you give us some preliminary comment  
6 on this before we turn it over to the applicant?

7                   MR. LACIVITA: Absolutely, Peter. This project  
8 here, as you know through your packets that it is a  
9 project that has received concept acceptance and had  
10 gone through some environmental constraints moving  
11 forward. The applicant is before us tonight in order  
12 to reissue concept in order for him to move forward  
13 towards final approval and design.

14                   I know also in your packets -- I know that we  
15 got some late letters that I pass out and we'll enter  
16 them into the file and we'll have these addressed as  
17 we move forward into the design of this project.

18                   CHAIRMAN STUTO: Can you state your name for  
19 the record?

20                   MR. STEENBURG: My name is Brett Steenburg and  
21 I'm the engineer for the applicant. The proposal is  
22 for the Loudon Hills East subdivision.

23                   This subdivision back in 2015 was nearing  
24 preliminary final approval when an issue was raised by  
25 the New York State DEC at the last minute regarding

1 the proximity of some of the real property lines to  
2 the access road going to the existing landfill. Since  
3 then we have been working with New York State DEC and  
4 the TDE to address these concerns. Essentially, what  
5 has happened is the easterly most property line of the  
6 parcel has moved to the west, shortening up the access  
7 road in the middle and shortening up that horseshoe on  
8 the bend. It is reducing the total number of lots  
9 which was originally proposed at 35 down to 29  
10 building lots on the parcel. Everything else has  
11 remained essentially the same from what we have seen  
12 prior. Stormwater management is the same and all of  
13 the runoff from the site is conveyed to one large  
14 stormwater management basin located at the southeast  
15 property corner and discharging off the site through  
16 two different locations. One towards Spring Street  
17 Road and the other toward the remaining lands.

18 The other thing that we worked with DEC with  
19 was regarding the stormwater management. They looked  
20 very closely at that to verify that the additional  
21 runoff won't have any effect downstream on the  
22 landfill and the neighboring properties. We did some  
23 soil tests in the area of the discharge location and  
24 found that they had no concern. So, essentially since  
25 that time the conceptual approval has expired.

1           Just going back through our records, this  
2 project received a SEQR negative declaration back in  
3 April of 2008.

4           I'm just going to hit on some of the points  
5 that I know are of a concern. One being the landscape  
6 buffer along the westerly property line in East Hills.

7           The trees on that side have been cut on the  
8 subject parcel anywhere between 20 to 50 feet has been  
9 cleared on the site leaving little vegetation along  
10 that property line.

11           CHAIRMAN STUTO: Can you show where you're  
12 talking about?

13           MR. STEENBURG: Yes. It would be in this area  
14 here (Indicating). That leaves little vegetation in  
15 that area for us to maintain as a preserved buffer.  
16 The applicant has agreed to replace additional  
17 plantings and we've done that in detail and worked  
18 with the Board and the Town Designated Engineer in the  
19 past on that. None of that is changed. We are  
20 continuing to maintain that new landscape -

21           MS. DALTON: Why would you do that?

22           MR. STEENBURG: Why would we do what?

23           MS. DALTON: Why would you clear that?

24           MR. STEENBURG: We didn't clear it. The  
25 neighbors cleared it - the builders for the neighbors

1 cleared it. Somebody cleared it -

2 MS. DALTON: Do you know who cleared it?  
3 Either nobody knows who cleared it or you do know who  
4 cleared it.

5 FROM THE FLOOR: The developer did it.

6 CHAIRMAN STUTO: Okay, this is not an open  
7 session. When we give you a chance to talk, you can.  
8 Do you know who cleared it?

9 MR. STEENBURG: I don't know who cleared it. I  
10 know that when the applicant had a contract bid, it  
11 had already been previously done.

12 CHAIRMAN STUTO: Okay, fair enough.

13 MR. STEENBURG: There is some vegetation that  
14 has been cleared in that area. The applicant has  
15 agreed to and had in the past, add additional  
16 plantings. We have detailed that out on the  
17 landscaping plan which was previously submitted in the  
18 package and that's something that they continue to  
19 maintain that they are going to take care of, as well  
20 as all the required plantings along the Town road -  
21 the two street trees running through the site. I know  
22 that there are concerns regarding stormwater. Again,  
23 the stormwater is going to be managed on the site and  
24 not discharge toward the existing residences. The  
25 stormwater from the neighboring subdivisions does flow

1 to this site and it's being maintained and managed or  
2 allow to flow through as it is now through that  
3 wetland channel which runs down through the middle of  
4 the parcel.

5 CHAIRMAN STUTO: Can you talk in more detail  
6 about the stormwater? I know that we have a letter  
7 here from Albany rural on that topic. I had some  
8 discussions with the engineer. You said that you're  
9 diverting stormwater in two different directions? I  
10 don't want to speak for you.

11 MR. STEENBURG: I appreciate that. The  
12 stormwater management system which will collect all of  
13 the stormwater throughout the parcel - there will be a  
14 line coming down along Spring Street Road discharging  
15 into the basin.

16 CHAIRMAN STUTO: Where is the basin going to be  
17 located?

18 MR. STEENBURG: The basin will be located in  
19 the southeast corner of the parcel right in this  
20 location here. It will have an outlet structure with  
21 a diverter on it. The diverter is to divert the  
22 majority of the flows toward the existing low area on  
23 the existing Realco property. We've walked it and  
24 we've looked at it. A good majority of the stormwater  
25 existing on the site flows to that location. The site

1           pretty much flows this way -- that's why we've got  
2           this diverter. There is a low area and some  
3           interestingly sandy soils for that area which the  
4           water is allowed to percolate in that location. Then,  
5           there is an additional pipe which discharges a small  
6           portion out to Spring Street Road into the street side  
7           culvert channel and the gutter line which eventually  
8           makes its way down to the bottom of the hill.

9           MR. LANE: To where?

10          MR. SHAMLIAN: The Kroma Kill.

11          MR. STEENBURG: Yes, the Kroma Kill.

12                 The stormwater has been designed and we've  
13                 tried to maintain the existing run off patters as much  
14                 as possible. It's been attenuated significantly from  
15                 the predevelopment flows, basically in the range of  
16                 20% to 30% to what is going there now for peak run-off  
17                 rates in cubic feet per second. That's something that  
18                 the applicant has wanted to maintain so that we don't  
19                 have any impacts downstream and don't have any impacts  
20                 on Spring Street Road. I know initially we had  
21                 everything discharging out onto Spring Street Road.  
22                 We worked pretty closely with Brad regarding that to  
23                 come up with a different solution and that was to  
24                 discharge some of that onto Realco's property and  
25                 that's one of the issues that we had getting DEC

1 involved to get them to sign off on it. They have  
2 since reviewed our calculations and agreed that it is  
3 significantly less than what the existing flows are to  
4 that location as well as the Spring Street Road  
5 location and feel comfortable on signing off on that.

6 CHAIRMAN STUTO: We have a letter from Albany  
7 rural signed by Anthony Esposito, Vice President and  
8 Board of Directors. It says:

9 "Earlier development projects on Spring Street  
10 resulted in stormwater discharge directly onto the  
11 cemetery property resulting in significant erosion  
12 issues. The project plan appears to show two 12 inch  
13 corrugated metal pipes running under Spring Street  
14 from the project onto cemetery property for the  
15 purpose of discharging stormwater directly in the  
16 cemetery. The cemetery was never consulted about this  
17 by the developer, nor have we consented to it. This  
18 is unacceptable and perhaps a violation of our  
19 property rights. Stormwater must be managed on-site  
20 and not discharged on cemetery property."

21 Can you fit in what you just told us with that  
22 comments?

23 MR. STEENBURG: Yes, I can discuss that.

24 What those culvert pipes are is just a  
25 pass-through of the existing wetland which runs

1 through the site. If you look at the site, there is a  
2 wetland that runs through and there is a stream  
3 channel right in this location which runs through the  
4 cemetery's parcel and ultimately down the hill. I  
5 guess there will be erosion problems further as you  
6 get down the hill, before it discharges into the  
7 Hudson River. However, one of the things that we have  
8 done with this site is gotten all of the stormwater  
9 from both this side of the road (indicating) as well  
10 as every place else on the site, from any of the new  
11 impervious surfaces and relocated it into this basin  
12 which gets it away from there.

13 MR. LANE: Are you saying that the culvert  
14 pipes are actually to be used so that it all goes into  
15 the discharge basin?

16 MR. STEENBURG: No, the culvert pipes are there  
17 to just maintain the existing flows of the stream  
18 channel. We are not changing that and we are not  
19 adding to it. If anything, we are cutting off some of  
20 the flows to that stream channel from the runoff from  
21 our site and picking it up into our stormwater  
22 management system and relocating it to the easterly  
23 side of our site.

24 MR. LANE: Who is going to be responsible for  
25 the retention basin after this is done?

1 MR. STEENBURG: The retention basin will be  
2 turned over to the Town of Colonie.

3 MR. SHAMLIAN: Are the culverts there now?

4 MR. STEENBURG: There is a culver there now;  
5 yes. We are replacing a culvert because of the poor  
6 condition that the culvert is in.

7 CHAIRMAN STUTO: Chuck, can you comment on what  
8 the applicant just said in reaction?

9 MR. VOSS: Yes, Brad submitted a letter to the  
10 Board last week that kind of basically reiterated  
11 exactly what Brett was talking about.

12 The letter from Albany Rural Cemetery is  
13 referring to two existing culverts that now go under  
14 Spring Street. Those culverts were constructed at  
15 some point in probably the last 20 years, maybe even  
16 longer, to accommodate the natural flows that progress  
17 through the site many years ago. The adjacent  
18 development further to the north in the west -- their  
19 stormwater management system as we understand it flows  
20 through that wetlands. Back then it was designed to  
21 basically dissipate through the wetlands and down  
22 through this adjacent site, under those two culverts  
23 and eventually down to the Kroma Kill.

24 Brad has studied the watershed extensively,  
25 along with John Dzialo, the Town's Stormwater

1 Management Engineer and there is certainly  
2 significantly flooding issue and stormwater runoff  
3 issue downstream. Hopefully, through the design of  
4 this site, we'll be able to test and prevent and  
5 divert a lot more water from coming off of not only  
6 the adjacent subdivision that was approved many years  
7 ago with this new subdivision as well into, as Brett  
8 was describing, the new pre-engineered site.

9 DEC has looked at those plans. It's our  
10 understanding that DEC has conceptually signed off on  
11 those plans which we are pleased to hear. Again, they  
12 are the ultimate authority on this along with the  
13 Town's stormwater management engineer. So, we feel  
14 that the potential flooding issues will be at best  
15 mitigated more than what we are seeing now but no  
16 worse than what we're certainly seeing. Again, we  
17 want to look at the final designs that Brett has been  
18 working on. We haven't quite seen the full analysis  
19 yet. We feel comfortable that the existing condition  
20 that is not being caused by the site -- but we do have  
21 pass-thru for stormwater to the site. That can  
22 potentially be mitigated through your design.

23 CHAIRMAN STUTO: Okay, you can continue.

24 MR. STEENBURG: As far as the sanitary sewer,  
25 the developer will be installing a gravity sanitary

1 sewer line from the site down to the existing sanitary  
2 sewer and Spring Street Road. Again, this will be a  
3 gravity line and at one point we were discussing a  
4 force main and it will be located in the roadway, as  
5 required by Pure Waters and I know that all of this  
6 has been reviewed in the past by Pure Waters. They  
7 have signed off on all the sanitary sewer design for  
8 the site.

9 To speak on your point, some of the areas where  
10 we will be able to mitigate some of the water getting  
11 to those wetlands, we do have some underdrain located  
12 in the site at the rear of some of the lots because  
13 the pitch of the lots. There is concern of surface  
14 water leaking out of the side of the hill which  
15 ultimately would have been making it to that drainage  
16 channel and down. That is all being picked up in our  
17 stormwater management system and diverted away from  
18 that area of existing concern to an area where we are  
19 a little bit better able to handle it and manage it.

20 MS. DALTON: Can we go back? Can somebody  
21 summarize again - I think that what I understood is  
22 that those pipes were on the cemetery property for a  
23 long time.

24 CHAIRMAN STUTO: That's a correct statement.  
25 They're not on cemetery property though -

1 MS. DALTON: They're discharging to cemetery  
2 property and it's not a new situation and it was not  
3 created by the applicant.

4 MR. VOSS: Correct.

5 CHAIRMAN STUTO: It's not going to get any  
6 worse and it may get better, from the stormwater  
7 management.

8 MR. STEENBURG: One final note - all of the  
9 proposed lots that are conforming lots to the Zoning  
10 Code - we are not asking for any variances for these  
11 lots.

12 We're happy to answer any questions you may  
13 have.

14 CHAIRMAN STUTO: I'll try to stay ahead of  
15 questions that may be asked anyway.

16 What is the tree situation? We have an aerial  
17 and it does look to be treed on this. Are there  
18 significant trees?

19 Chuck, do you know?

20 MR. STEENBURG: There is mostly a mixture of  
21 hardwoods and conifers probably ranging in age from  
22 mid-cessesinal to old growth, depending on where you  
23 are on the parcel.

24 CHAIRMAN STUTO: Are there any opportunities to  
25 save some of the significant trees?

1                   MR. STEENBURG: I'm not going to say no because  
2                   in the wetland boundaries, they will obviously be  
3                   saved in those locations.

4                   CHAIRMAN STUTO: Can you show me where that is?

5                   MR. STEENBURG: That's the hatched area right  
6                   in the middle of the site. Unfortunately, due to the  
7                   grades on the site and the grading required, there  
8                   aren't a lot of trees that are going to be saved  
9                   either in the front yards or the side yards of the  
10                  residential homes. However, the trees will be planted  
11                  in the front yards and the houses will be landscaped  
12                  as well. There may be some areas as you get in the  
13                  rear of some of these lots in here and again, we'll be  
14                  able to maintain some of the trees here and on the  
15                  larger estate lot - the trees in the rear will be able  
16                  to remain as well.

17                  CHAIRMAN STUTO: Do we have other questions  
18                  from the Board?

19                  MR. MION: On this side of the other property  
20                  owners where it's been cleared, could you go back over  
21                  again and tell us where you're going to plant trees in  
22                  there?

23                  MR. STEENBURG: Sure. We actually have a  
24                  detail that was submitted in the previous application  
25                  and reviewed by the engineer as well as the Town

1 department staff for a mixture of white pine, white  
2 fir and Norway Spruce trees planted in a pattern with  
3 eight-foot centers. Every eight feet this way and  
4 this way (Indicating) there will be tree plantings  
5 creating a buffer along here. We chose the various  
6 different species for the following reasons: Both  
7 white pine and white fir have a very good tendency --  
8 both grow very fast and are extremely hard. The  
9 disadvantage with white pines is that they grow up  
10 tall and lose their lower branches. The advantage  
11 with the white fir is that they will fill in those  
12 lower areas creating a buffer that is going to  
13 establish itself quickly but still be able to maintain  
14 the lower branches and the lower screening.

15 MR. MION: You're going to bring them right out  
16 to the line?

17 MR. STEENBURG: They will be right along the  
18 property line.

19 MS. DALTON: Have you met with the neighbors  
20 and discussed that plan?

21 MR. STEENBURG: I don't believe that we have,  
22 no.

23 MR. MAGGUILLI: It's my understanding that the  
24 area has been cleared for this site already?

25 MR. STEENBURG: Yes.

1 MR. MAGGUILLI: Do you know how much was  
2 cleared and where?

3 MR. STEENBURG: Yes, it was cleared  
4 approximately 50 feet in this location, tapering down  
5 maybe as you get maybe 300 feet into the site, to  
6 about 20 feet onto our parcel and then increasing back  
7 to this distance about 40 to 50 feet and then once you  
8 get up into here (Indicating), it goes back -

9 MR. MAGGUILLI: Can you tell me what was  
10 cleared from that location?

11 MR. STEENBURG: All of the trees.

12 MR. MAGGUILLI: Who did it, do you know?

13 MR. STEENBURG: I can't answer that. I'm  
14 assuming that it was -

15 CHAIRMAN STUTO: I wouldn't make assumptions.

16 MR. MAGGUILLI: If you don't know, you don't  
17 know. Did you say that it was more than an acre that  
18 was cleared?

19 MR. STEENBURG: I wouldn't say that it was more  
20 than an acre. I would say that it was probably a  
21 half-acre, at best.

22 MR. LACIVITA: Michael, the Planning Board has  
23 a letter from one of the abutting neighbors that shows  
24 those pictures of the clearing and how those back  
25 yards -- I think that it was Ms. VanPatten who sent

1 the pictures. That shows the clearing that was done.

2 MR. MAGGUILLI: How long ago was that done; do  
3 you know?

4 MR. STEENBURG: I can't answer that either.

5 MR. MAGGUILLI: When did you first bring the  
6 subdivision to the Board?

7 MR. STEENBURG: I personally first got involved  
8 in 2009 and I believe that it received a negative SEQOR  
9 Dec in 2008. I think that in 2007 the applicant  
10 officially brought it to the Board.

11 MR. MAGGUILLI: And was this one of the  
12 subdivisions that was grandfathered? Do you know?

13 MR. LACIVITA: No, there is no grandfathering  
14 provision at this time, Michael. We had received  
15 concept acceptance and went through design and then it  
16 got held up under the DEC. We tried to bring it  
17 through for final approval at one point, I think that  
18 is when the issue came to be - the DEC issue. We do  
19 have the SEQOR determination for lead agents back in  
20 February of 2008 and then we adopted that SEQOR in  
21 September 23, 2008.

22 MR. MAGGUILLI: Thanks.

23 CHAIRMAN STUTO: Any other questions from the  
24 Board at this point?

25 MR. LANE: I'm curious as to the proximity to

1 the Altech site and the effects on this property as  
2 well as there was a mention of an overflow in the  
3 event of a 100-year storm and how that is going to  
4 work. Did you talk about those things?

5 MR. STEENBURG: Yes. The Altech site, which is  
6 located to the northeast of the parcel -- and the  
7 actual landfill is located where my hand is here  
8 (Indicating). That has an access road which runs  
9 along the easterly property boundary. As far as  
10 affecting the subject parcel, those houses that are  
11 currently closer to the landfill - now that we are  
12 proposing this existing subdivision. We are required  
13 to put a radon mitigation system and all of the houses  
14 due to its proximity to the landfill and a ventilation  
15 system under the foundations for the houses. I don't  
16 now if the other subdivision had that but that is  
17 something that DEC has required.

18 MR. LANE: Are the people who are looking to  
19 purchase these properties - are they notified of the  
20 proximity to that site and that there is still a  
21 certain amount of contamination on the lower levels,  
22 obviously.

23 MR. STEENBURG: It is shown clearly on the  
24 subdivision plat and there are requirements placed on  
25 it by the Town that it be shown on some of the

1 documents as far as the purchasers of the homes  
2 regarding the location of the landfill.

3 MR. LANE: What about the 100-year overflow?

4 MR. STEENBURG: The 100-year overflow and the  
5 stormwater management system again has been designed.  
6 The basin itself has been designed to maintain and to  
7 contain and discharge the 100 year storm. So, if we  
8 get a 100- year storm which in the Town of Colonie is  
9 roughly Six inches of rain in 24 hours, the stormwater  
10 basin will be able to maintain that without an  
11 overflow. However, we do have an overflow that does  
12 discharge in that location. In all of our design  
13 numbers and design criteria, we're reducing the amount  
14 of flow to that location and the majority of that will  
15 be discharged to this low area which is on the east  
16 side of the access road. That location has been  
17 reviewed by DEC and tested to make sure that we won't  
18 have any issues with stormwater disturbing any  
19 contaminates in that location. There weren't any  
20 identified in that location. That was their concern at  
21 one point. We sent them all of our calculations and  
22 numbers and I know that Brad and I have been out there  
23 and we have walked the site and had several  
24 discussions back and forth on looking at various  
25 options for discharging the stormwater and coming up

1 with a solution to address everyone's concern. The  
2 stormwater overflow does flow in that directions. Our  
3 calculations are showing that we are meeting the  
4 required, however, every pond that is designed has to  
5 have that overflow.

6 MR. LANE: How many 100-year storms have we had  
7 in the last -

8 MR. STEENBURG: We've had more than I would  
9 care to mention. The climate has changed.

10 MR. LANE: Never say never.

11 MR. STEENBURG: I don't disagree and that's one  
12 of the reasons that I do stormwater design and usually  
13 add a little buffer in there for that.

14 CHAIRMAN STUTO: Anything else from the Board  
15 before we hear from the public?

16 (There was no response.)

17 Candice Ross.

18 MS. ROSS: Thank you. I have a few questions  
19 about the project narrative.

20 CHAIRMAN STUTO: Do you live in the  
21 neighborhood, ma'am?

22 MS. ROSS: Yes, I do.

23 CHAIRMAN STUTO: Do you want to show us roughly  
24 where?

25 MS. ROSS: I live right down here (Indicating).

1 Right off Spring Street.

2 CHAIRMAN STUTO: Not shown on the map?

3 MS. ROSS: Not shown on the map.

4 CHAIRMAN STUTO: Thank you.

5 MS. ROSS: Also, while I'm over here, this area  
6 that he said has been cleared, that was cleared when  
7 we moved in. That was cleared by the developer.  
8 Marini did all the building. I don't know if he took  
9 away these trees or not but all these houses that he  
10 plans on building, there are 50-foot trees here that  
11 are planned to be clear cutted. It will end up  
12 looking like Maxwell Road.

13 This buffer area is actually on these people's  
14 property - that he intends to plant. That's where he  
15 is talking about where it's been cleared already.

16 CHAIRMAN STUTO: It's on whose property?

17 MS. ROSS: That was cleared by the developer.  
18 This is going to be on VanPatten property, the next  
19 property over -- all these houses along here -

20 CHAIRMAN STUTO: The applicant can correct me  
21 but by definition they put it on their side of the  
22 property line; am I correct?

23 MR. STEENBURG: That's correct.

24 CHAIRMAN STUTO: Do you know what I'm saying?

25 MR. STEENBURG: The developer did that. What

1 I'm saying is that all of these trees where these  
2 houses are - this is all mature -

3 CHAIRMAN STUTO: Right, but they are proposing  
4 that the plantings be on the applicant's property.

5 MS. ROSS: But that's not going to be buffered.  
6 They are going to be six foot trees.

7 CHAIRMAN STUTO: Okay, if that's the point that  
8 you're making, that's a different point.

9 MS. ROSS: So, my question is: The document  
10 states that 84.4% of this area is going to be  
11 greenspace. Does this refer to the 19.6 acre parcel  
12 or does it include the 51.9 entire parcel of land. Is  
13 that where the greenspace is being taken from?

14 CHAIRMAN STUTO: Okay, if you get all your  
15 questions out, we'll turn it over to the developer.

16 MS. ROSS: So the next is, the buffer - how  
17 many feet does that buffer seem to be? Is that 100  
18 feet, 200 feet, 10 feet? I just want to know what the  
19 buffer is going to be. Do they propose putting up a  
20 six-foot fence?

21 Those are my questions but I also have comments  
22 about the narrative.

23 CHAIRMAN STUTO: Go ahead and make your  
24 comments, ma'am.

25 MS. ROSS: Okay, so the narrative states that

1 the anticipated trips per day will be approximately 30  
2 out of that development. Now, if there are 30 homes  
3 in the development and usually every household has two  
4 cars, two people are going to work in the morning and  
5 two people are coming home at night, that's a lot more  
6 than 30 trips a day.

7 In addition, they are proposing that there is  
8 one child per household. That seems a little  
9 unrealistic to me. I think that if you have children,  
10 you're going to be going in and out of that  
11 development taking them to and from different  
12 activities.

13 They also propose that there is going to be a  
14 minimum noise effect from construction. It will be  
15 intermittently and not an issue. I proposed that it  
16 is going to be a daily hindrance with construction  
17 vehicles coming up and down Spring Street.

18 Then, I would like to propose the soil  
19 contamination issue. I looked up under CDC which is  
20 usually accurate with their information. Chromium is  
21 imbedded in clay and will be immobile in clay and PCBs  
22 will be immobile in clay. It's all clay out there  
23 here (Indicating). When the construction vehicles  
24 come in and dig foundations for these houses, all  
25 those chemicals are going to be exposed there. With

1 the rainwater and the wind - those chemicals will be  
2 washed downstream. The people that live downstream,  
3 down Spring Street, all that water from these  
4 construction sites is going to go down to those small  
5 houses that are down at the bottom of Spring Street.  
6 That's what happened when we built our houses. So,  
7 the water will affect those people.

8 Also, I have read the documentation of the  
9 environmental indicator determination and on page 6  
10 where it says "does the discharge of contaminated  
11 groundwater surface likely to be insignificant?" They  
12 say yes, but the groundwater will be a significant  
13 impact with all the chemicals which is sulfate,  
14 chromium and PCB.

15 That's all I have.

16 CHAIRMAN STUTO: Okay, I'll ask the applicant  
17 to answer her questions.

18 The percent of greenspace over which -

19 MR. STEENBURG: Over the entire parcel.

20 CHAIRMAN STUTO: Can you trace it?

21 MR. STEENBURG: Yes. It would be every place  
22 that there isn't a house.

23 CHAIRMAN STUTO: No, just trace the entire  
24 parcel.

25 MR. STEENBURG: It would be here (Indicating).

1                   MR. SHAMLIAN: Just to clarify, it's the parcel  
2 that you're purchasing - it does not include the  
3 Realco parcel?

4                   MR. STEENBURG: It does not include the Realco  
5 parcel.

6                   CHAIRMAN STUTO: How many feet is the buffer  
7 and do you propose a six foot fence?

8                   MR. STEENBURG: We are not proposing a six foot  
9 fence. The buffer is going to be constructed and as  
10 far as the number of feet, roughly 550 feet long,  
11 along that westerly property boundary.

12                   MR. LANE: What about depth-wise?

13                   MR. STEENBURG: Depth-wise it will be eight  
14 feet deep because of the sawtooth pattern of the  
15 trees. That's from center of tree to center of tree.  
16 As the trees end up growing out, you're probably  
17 looking at 30 feet with that, assuming that there will  
18 be a 20-foot tree in diameter.

19                   CHAIRMAN STUTO: Okay, those were the questions  
20 and the others were comments.

21                   Tony Esposito, I skipped over you, by mistake.

22                   MR. ESPOSITO: Thank you, Mr. Chairman for  
23 making some of the earlier references that you did.

24                   My name is Tony Esposito and I'm Vice President  
25 of the Board of Albany Rural Cemetery. We may have

1           come a little late to this party because we feel that  
2           we are substantially contiguous to the Spring Street  
3           Road subdivision and that is a historic district, as  
4           you know, thereby making we think, the cemetery an  
5           important part of SEQR. We really just found out  
6           about this from the notice that Joe sent us several  
7           weeks ago. We also requested a copy of any of the  
8           SEQR documents. I think that I'm understanding that  
9           process is already left the station.

10                   CHAIRMAN STUTO: SEQR has been completed. It's  
11           coming back to me. I remember Albany Rural  
12           participated or at least made comments on some of the  
13           development on Spring Street and I'm not sure whether  
14           it was this project or not.

15                   Do you remember, Joe?

16                   MR. LACIVITA: I think that Peter Hess was  
17           involved at the time. They talked about this project  
18           - VanBuren - when we were doing that development. I  
19           know that the Albany Rural Cemetery had some concerns  
20           about the flooding issues at that time.

21                   CHAIRMAN STUTO: Siena College, as well.

22                   MR. LACIVITA: Siena College, as well as the  
23           golf course. Brad did an extensive study there and  
24           actually went down and looked at what pipes were  
25           compromised due to the silt and everything. At that

1 time nobody found that there were issues as to the  
2 maintenance practices within the cemetery.

3 I think that Tony and I had these conversations  
4 the other day about that.

5 MR. ESPOSITO: Yes, we did.

6 MR. LACIVITA: I'm going to try to look through  
7 the documentation here to see if historically what had  
8 been given to the cemetery. I know that they have  
9 been involved with similar development in that area.

10 CHAIRMAN STUTO: The environmental review had  
11 been completed years ago. Whether that can be  
12 reopened, from our perspective, it can't. You may  
13 have a different opinion.

14 MR. ESPOSITO: Well, they're still very very  
15 concerned about both the volume and the velocity of  
16 the water that goes through when it rains hard. What  
17 that does is cause significant erosion problems, not  
18 throughout just the cemetery but through Menands.  
19 People are very upset. There is very little that we  
20 can do with our own property of some 400 acres as  
21 roads get washed out. I do appreciate, Mr. Chairman,  
22 you're reading parts of my letter and bringing this to  
23 the attention of the Town. It's a very serious issue  
24 for us.

25 CHAIRMAN STUTO: And I don't know if you were

1 involved with the cemetery then, but we walked some of  
2 the property with Brad who is a stormwater engineer.  
3 Tim may have been there with us. Tim and I are both  
4 from Menands. We know what goes on in the bottom of  
5 the hill.

6 We were very careful when Siena did their  
7 dormitory project. They did a whole comprehensive  
8 stormwater thing. We are sensitive to it.

9 This developer is not going to get any worse  
10 and it may get better. Can we design it to make it a  
11 little better? I don't know.

12 MR. ESPOSITO: Maybe those two culverts that  
13 have been there for 20 years as you mentioned -  
14 perhaps they might drain into a different part of the  
15 stream situation in the cemetery and we would  
16 appreciate the opportunity to work with you on that,  
17 perhaps.

18 CHAIRMAN STUTO: That's fine. If the applicant  
19 is willing, but our TDE and Joe will definitely talk  
20 to you about it.

21 MR. ESPOSITO: I don't want to take anymore  
22 time but you did mention walking. At 7:30 this  
23 Saturday everyone is invited to join us with the  
24 Autobahn walk. It's wonderful and fantastic. The  
25 cemetery is a wonderful place.

1                   On Memorial Day, please come at 9:00 for a  
2                   lecture of the cemetery and then a walking tour led by  
3                   Paul Grondahl at 10:00. Don't miss it. The cemetery  
4                   is a true jewel in the Town and I think that we all  
5                   appreciate that. Thank you, Mr. Chairman.

6                   CHAIRMAN STUTO: I bring all my kids to Chester  
7                   A. Arthur, or I used to. I have Grondahl's book on  
8                   all the cool people in there. The guy who founded  
9                   Alcoholics Anonymous and the baseball player from the  
10                  Cincinnati Reds.

11                  MR. ESPOSITO: Thank you, sir.

12                  MR. LACIVITA: Peter, just for the record, I  
13                  know that back in September 15, 2008 - as I said I  
14                  know that Mr. Hess was involved back then but I do see  
15                  the certification in the record as to who was  
16                  notified. Several abutting neighbors and several  
17                  businesses, as well as the Albany Rural.

18                  So, I know that Tony, you may not have been  
19                  involved, but it looks like it went down to Mr. Hess  
20                  at that time.

21                  MR. ESPOSITO: Thank you.

22                  CHAIRMAN STUTO: George Wasserman.

23                  MR. WEISSMAN: Good evening, Chairman Stuto and  
24                  Members of the Board. My name is George Weissman.

25                  With Barbara Downs, we purchased 11 Guilder

1 Court in early October 2015. Behind the home are the  
2 wetlands and not drainage down here (Indicating) but  
3 back here. In any event, prior to purchasing the  
4 home, the wetlands were approximately 30 feet from a  
5 picture that I have provided to the Board that  
6 unfortunately wasn't taken in October but it was taken  
7 later. Right now that water has moved significantly.

8 On April 3rd - that's marked Exhibit A and it  
9 has now moved from the wetlands and has migrated  
10 beyond the fence.

11 CHAIRMAN STUTO: Can you point to where your  
12 house is?

13 MR. WEISSMAN: It's the lands of Barry  
14 Hollander, right here (Indicating). Here are the  
15 wetlands and the wetlands now -- there was such a turn  
16 that we now have migrating wetlands on the back end.

17 What I was able to ascertain prior to this  
18 winter was that there was roughly a 30-foot barrier  
19 between where the standing water was in the wetlands  
20 and the fence that's in the picture that is marked as  
21 Exhibit A and taken on April 3rd. The April 3rd  
22 picture was taken immediately after the last snowstorm  
23 that occurred.

24 As you can see the water is beyond the fence.

25 The next two pictures were taken on April 28th

1 and the edge of the standing water is still beyond the  
2 fence.

3 Let me make something perfectly clear here.  
4 That standing fence is on the developer's property.  
5 Thanks to Joe LaCivita, he provided me with some  
6 information. But having said that, we have since  
7 hired a surveyor and we can tell you with reasonable  
8 confidence that the water has exceeded the property  
9 line where the obtuse line is, which is approximately  
10 135 degrees. It's a pie-shaped piece of property.

11 Additionally, when I got back into town in  
12 April and this first occurred, we reached out to the  
13 Town and the Stormwater Department was great. They  
14 came out and they took a look. They didn't see any  
15 beaver dams or anything that might have caused the  
16 water to move.

17 If you take a look at the topographical maps  
18 and also other water flows, you'll see the water flows  
19 from the wetlands toward Guilder Court.

20 Quite simply, we have a case of migrating  
21 wetlands and at least we start out with two simple  
22 questions. First: How will this existing advance of  
23 these wetlands be mitigated. Second: How will the  
24 development of Loudon Hills East affect these wetlands  
25 and the current migration of the water?

1                   CHAIRMAN STUTO: Thank you. We'll answer those  
2 questions.

3                   MR. STEENBURG: The post development, if  
4 anything, will decrease the amount of flow to those  
5 wetlands. I don't want to say that too much because  
6 -- you're kind of bound by the Army Corp regulations  
7 not to dry up the wetlands and still maintain  
8 hydrology, which we are still maintaining a lot of  
9 hydrology. A lot of the stormwater - the flow that  
10 comes into that wetland, actually comes off of Guilder  
11 Court and the subdivision to the north. What we are  
12 proposing is no impact to those wetlands and  
13 maintaining a positive drainage pattern to the site.  
14 I anticipate through management of the wetlands and  
15 management around the site that flow actually through  
16 our site from north to south which would be from here  
17 to down (Indicating) will effectively increase the  
18 amount of flow -- not impound as much flow in that  
19 location, causing that to back up. I am surprised  
20 that there is so much migration up on his parcel. I  
21 don't know if that is something that is seasonal. I  
22 know that he said that he's been there since 2015 and  
23 how much fluctuation there is in that wetland  
24 boundary, based upon the seasonal high water table and  
25 the run off during the stormy periods. The proposed

1 development will have no effect on that.

2 CHAIRMAN STUTO: Do you have another follow-up  
3 question?

4 MR. WEISSMAN: Yes. Historically, speaking to  
5 the people in the neighborhood and the owner prior to  
6 purchase because we purchased only land we didn't know  
7 that we were going to have approaching wetlands. So,  
8 how do you explain all of the sudden that this year we  
9 now have wetlands and now they are on the property of  
10 11 Guilder Court and they could affect the property  
11 that is to the right of me, going west?

12 MR. STEENBURG: Without looking at it, I can't  
13 answer that question and seeing it first hand.

14 CHAIRMAN STUTO: You guys haven't altered the  
15 property.

16 MR. STEENBURG: No. We haven't altered the  
17 property in any way. I do know that what I can say  
18 conclusively is that the alterations of the property  
19 should and will divert the water away from that  
20 location because of the grading of those lots that are  
21 located in that area. I know that it gets a little  
22 trickery - the contours as you get on top of the hill  
23 there - which way water is flowing. It's a large flat  
24 area. There is a large area of standing water. The  
25 primary discharge is to the south, however, there is a

1 stormwater management structure in the middle of that  
2 wetland area. I don't know who installed that.

3 CHAIRMAN STUTO: Is that on your property?

4 MR. STEENBURG: That is on our property and I  
5 don't know. I would assume that was looked at when  
6 the Town went out there to take a look at it. My  
7 first thought would be that is something that we will  
8 take a look at.

9 CHAIRMAN STUTO: Joe, do you have anything to  
10 add?

11 MR. LACIVITA: I don't remember seeing that on  
12 the aerial.

13 MR. STEENBURG: It's in the one corner of the  
14 wetland - the pond area.

15 MR. SHAMLIAN: Do you know if that pipe  
16 discharges anywhere?

17 MR. STEENBURG: That pipe discharges out to  
18 Guilder Court.

19 MR. SHAMLIAN: Into a closed system?

20 MR. STEENBURG: It's a closed system. That  
21 would be my first thought, because it does get very  
22 flat up there and the southerly portion does drain to  
23 the south. That impact could be increasing that  
24 boundary a little bit but without looking at it -

25 CHAIRMAN STUTO: Do you know what the Town

1 found out, Joe? Did you go?

2 MR. LACIVITA: No.

3 MR. SHAMLIAN: The historic flow that is  
4 showing towards Guilder Court - first of all, how far  
5 out onto your property does that historically flow?

6 MR. STEENBURG: It goes just to about that area  
7 of that structure and then everything flows to the  
8 south. The goal is that without modifying anything in  
9 the wetland area - which we can't do - is to basically  
10 leave this alone and let it act as it's acting now by  
11 allowing this to flow to the south as it currently  
12 does and the adjoining lots.

13 CHAIRMAN STUTO: Now assuming this project goes  
14 further, will you know more as you develop your  
15 engineering for the stormwater?

16 MR. STEENBURG: I can look at that. I have the  
17 engineering all developed for the stormwater. I can  
18 look at that again, just to take a look and see what  
19 could potentially be the problem. The engineering for  
20 the stormwater is complete.

21 CHAIRMAN STUTO: If you could do that, because  
22 you still have to come back before us.

23 MR. STEENBURG: Yes, we will take a look at  
24 that.

25 CHAIRMAN STUTO: And we'll try to answer the

1 residents, including Mr. Weissman.

2 MR. STEENBURG: Absolutely.

3 CHAIRMAN STUTO: Wendy Van Patten Horn.

4 We have a letter from you in front of us, as  
5 well.

6 MS. VAN PATTEN HORN: My husband, Chris Horn  
7 and our three kids and I reside right here  
8 (Indicating). So, we would be bordering two plus lots  
9 and we border Spring Street. I think that we are one  
10 of the most impacted residents of this proposal.

11 You said that you had the letter so I don't  
12 want to take too much time. I think that you  
13 understand our concerns.

14 CHAIRMAN STUTO: Hit your highlights for the  
15 record. This will be in the record too.

16 MS. VAN PATTEN HORN: I do want to thank any  
17 Planning Board Members who had a chance to come along  
18 and see the property. You see the pictures that we  
19 gave. Honestly, in person, it really does indicate  
20 that there really is no mature border at all and there  
21 wasn't a mature border. I want to correct the  
22 applicant and I want to correct Candice. The  
23 developer did not clear those trees. Ten years ago  
24 when this was in front of the Planning Board, we went  
25 back and looked at old aerial photos before the

1 development was even developed and there was some  
2 brush there. I think that it was owned by the  
3 cemetery. There was a lot of brush and I know that  
4 people did dirt biking and other things there. Then,  
5 it moved into a natural ridge of the forest that's  
6 behind us. I did my due diligence and Marini also did  
7 his due diligence and let us know that they didn't  
8 clear cut it. There were some dead trees that came  
9 down and some underbrush but there was no clearing by  
10 residents and there was no clearing by the developer.  
11 We moved into a non-buffered property.

12 Just to address the potential buffer that might  
13 be added: As many residents know we are on clay soil.  
14 Most everything you plant, especially pine and fir die  
15 pretty quickly. Anything, if we have it, I don't  
16 think that it's going to last very long which is  
17 unfortunate.

18 Also you talk about the natural ridge - the  
19 elevations, if you didn't see on the maps - these lots  
20 are higher than this lots (Indicating). It goes down  
21 and it goes back up and then down. There is like 20  
22 or 30 feet a couple of times through this. I'm not  
23 sure what the developer has planned for this, but if  
24 these lots are not clear-cut, any sort of buffer of  
25 trees -- the houses would be that much higher than the

1 trees anyways. I'm not sure what the plan is, except  
2 just clear-cutting everything as it is.

3 I addressed in my letter that the deed will  
4 have a lot of covenants. I'm not sure if this  
5 resident will have an HOA and I'm certainly not  
6 wanting developers to impost an HOA, however, when we  
7 moved in, we had the anticipation and expectation of  
8 having homes next to us that had the same rules. So,  
9 we have pretty strict rules that I'm not sure that  
10 everyone is so thrilled about but mowing and  
11 fertilizing and we can't park RVs and we can't have  
12 above-ground pools and no sheds, clotheslines,  
13 exterior lighting has to be a certain way. All  
14 construction of homes, pools and patios have to be  
15 approved by the HOA and also specifically fences. So,  
16 one thing that I noticed in the plan here is - I  
17 understand why they are putting a fence around the  
18 stormwater and also a fence running along the graveled  
19 roads -- the landfill, but they are also suggesting a  
20 fence which is exactly what we don't allow in our  
21 neighborhoods. I'm thinking that if that's okay  
22 there, then I'm wondering if other neighbors are going  
23 to impose that sort of fencing and put that back up to  
24 our neighborhood. I'm hoping to encourage you to keep  
25 the mature border between us. It could be done by

1 eliminating a few of the lots and we just have the  
2 mature border between the neighborhoods. That would  
3 eliminate any needs to have covenants on their side.  
4 It would keep the separation between our neighborhoods  
5 and I think that it would benefit both neighborhoods.  
6 We could be connected with the sidewalks that they are  
7 proposing but actually, just be maintained peacefully  
8 and separately.

9 Thank you, very much.

10 CHAIRMAN STUTO: Thank you.

11 Can you describe what the houses are going to  
12 look like and whether you are going to have covenants  
13 or deed restrictions?

14 MR. CURLEY: I'm Todd Curley with Prime  
15 Companies and the one thing that we are going to and  
16 we've worked with the East Hills HOA several years ago  
17 -- we got a copy of their covenants. We are going to  
18 adopt them for this development. That was very  
19 important with our early conversations with the  
20 neighbors. They are great covenants and it works for  
21 us. It works for our builder, Jeff Ferraro. He's  
22 built several homes in East Hills and East Ridge.  
23 Those are the types of homes that we are going to see  
24 here. It's going to be fitting between the estate  
25 homes and the carriage homes. It's going to be a nice

1 product that is going to fit between them both nicely.  
2 The covenants are certainly something that we really  
3 like and you guys did a great job.

4 CHAIRMAN STUTO: What's the housing mix?

5 MR. CURLEY: I don't want to speak for Jeff,  
6 but I think that we're going to be starting in the  
7 high fours; a lot of first-floor masters. It will be  
8 a mix somewhere between the carriage style home and  
9 the estate homes that are over in East Hills right  
10 now. I think that it's going to fit in nicely. We've  
11 had a lot of good feedback from potential buyers.

12 CHAIRMAN STUTO: Can you talk about the  
13 chain-link fence?

14 MR. CURLEY: Yes. The chain-link fence is  
15 actually something that came up from DEC and they  
16 encouraged that fence as well as the rules and regs  
17 around stormwater ponds.

18 CHAIRMAN STUTO: Can you show us where the  
19 fence is going to be?

20 MR. CURLEY: The fence line is going to go  
21 right here along the access road (Indicating). Again,  
22 that was something that was asked from DEC and we  
23 agreed to do that for them.

24 CHAIRMAN STUTO: You don't envision it on the  
25 other side?

1                   MR. CURLEY: No, and again, the rules and regs  
2 will be the same as East Hills, which does not allow  
3 that kind of fencing.

4                   CHAIRMAN STUTO: Thank you.  
5                   Sheila Fitzgerald.

6                   MS. FITZGERALD: I'll be super brief. I live  
7 at 10 Sherborne Drive. I am right here (Indicating)  
8 and I look right between these two houses. I am here  
9 to support and agree completely with Wendy Horn's  
10 proposal, especially in regards to that buffer with  
11 the hopes of having a decent buffer there and  
12 hopefully maintaining some of the mature trees that  
13 are there already. We do have a very difficult time  
14 sustaining our trees in our neighborhood, especially  
15 some of the pines. I do foresee that some of those  
16 trees will die. That's it. Thanks.

17                   CHAIRMAN STUTO: I'm going to ask the applicant  
18 to deal with the buffer again and the sustainability  
19 of the trees and whether any can be saved. Can you  
20 just generally and specifically comment on that?

21                   MR. STEENBURG: Unfortunately as far as the  
22 trees that are on the site, given the location and the  
23 grading, again as Ms. Horn stated - there is  
24 significant undulation in the property in order to  
25 maintain the current standards and construct the road,

1 even without the building lots themselves, there is a  
2 significant amount of grading that has to be done. As  
3 far as maintaining or saving some of those trees  
4 particularly along that easterly property boundary,  
5 that can't happen with construction of the homes in  
6 that area.

7 As far as the sustainability of the buffer,  
8 I'll take a look at it. I know that the white firs  
9 grow well in almost any soil type and they are  
10 extremely hardy. That's why they are tough to get but  
11 that's why I specified on the lot because I never get  
12 any issues or call backs on those because those are  
13 usually never dying.

14 As far as the white pines, that's something  
15 that I'm going to take a look at and I'm going to have  
16 to take a little bit closer look at the Norway spruce.  
17 I've had some success with those in heavier soils.  
18 The white pines, we may take a look at and do a little  
19 bit of different planting, but I did want that.

20 CHAIRMAN STUTO: I don't understand why you  
21 can't save some of the trees. The first lot is 133  
22 feet deep. You're not going to build all the way to  
23 the back of the property, right?

24 MR. STEENBURG: Keep in mind that the tree line  
25 is 50 foot in on the property. The existing tree line

1 is actually at the back of the house, in that  
2 location. It's only maybe five or ten feet off of this  
3 house and maybe 10 or 15 feet off of that house  
4 (Indicating). When you get down to lot 10, we can  
5 look at -- and I believe that we have some of these  
6 trees saved. I think that most of the concern has  
7 been in this location.

8 CHAIRMAN STUTO: It's in a cleared conditions.

9 MR. STEENBURG: It's in a cleared condition, as  
10 it stands. Certainly if we could preserve a tree  
11 buffer along the property line of 10 or 15 feet, we  
12 would. Unfortunately, there isn't a tree buffer along  
13 that portion of the property line. When that was  
14 removed is a moot point. It's just not there.

15 CHAIRMAN STUTO: Do you have anything to add to  
16 that, Chuck?

17 MR. VOSS: The only way that you could have any  
18 kind of tree buffer would be to remove those first  
19 four lots going in on the left side. Realistically, I  
20 don't think that the developer is prepared to make  
21 that offer.

22 The only other alternative is to slide those  
23 houses up to have zero front setbacks and that's so  
24 that they would conform to Code.

25 CHAIRMAN STUTO: Okay, thank you.

1 Ray Andrews.

2 MR. ANDREWS: I'm Ray Andrews. I live on 7  
3 Sherborne. I back up to East Hills as you turn on  
4 East Hills Boulevard. I'm the second house on the  
5 right.

6 CHAIRMAN STUTO: Do you have an idea where you  
7 are on the map?

8 MR. ANDREWS: Sure. Wendy, the Ross' and then  
9 us. I'm here (Indicating). I'm the second house on  
10 the right.

11 I'm going to pile on the tree comment. I, maybe  
12 more than anybody, have like 20 trees on the back of  
13 my property. I've lost probably five or six. If you  
14 went and looked at my trees right now, there are  
15 probably five or six that you would say need to be  
16 replaced. The idea that really any of the trees that  
17 are growing or have a robust growth - that's far from  
18 the truth. So, the idea that if there is going to be  
19 a buffer and that will be a robust buffer -- my  
20 reality is that is not the case. I just wanted to  
21 highlight that point.

22 I have a question about significant trees. I  
23 have heard that term used by the Board. What is  
24 significant mean?

25 CHAIRMAN STUTO: It's not defined here.

1           MR. ANDREWS: The Chapter 177 Code talks about  
2 three inch. It says that: "

3           No live tree exceeding three inches in diameter  
4 may be cut down in such area without expressed consent  
5 of the Planning Board."

6           So, I guess in my mind, three inches is  
7 significant.

8           MR. VOSS: A three-inch caliper is a little bit  
9 bigger than that.

10          MR. ANDREWS: I'm just saying what the Code  
11 says. The applicants must in addition to existing  
12 requirements show the area from which trees will be  
13 removed.

14          MR. VOSS: The Code doesn't define three-inch  
15 caliper as a significant tree. It just says that a  
16 three-inch caliper tree or larger has to have Planning  
17 Board approval before its taken -

18          MR. ANDREWS: Okay. I just heard the term  
19 significant and I was looking for a definition from  
20 you guys. What is the definition?

21          MR. VOSS: It's usually a larger much more  
22 mature tree. I don't think that the Code actually  
23 defines it.

24          CHAIRMAN STUTO: As far as I know, it doesn't.  
25 We may have used it in a lay sort of way. I think

1           that we meant bigger mature trees.

2           MR. ANDREWS: So, it's subjective.

3           I wrote a letter and I'll hit the high points.

4           I think that we should have a forever wild  
5           buffer, maintain the existing tree line. We addressed  
6           the homeowners association. It sounds like they are  
7           going to adopt ours. I talked to the Chapter 177. I  
8           see in the news that there is a big push of the  
9           clearing of the trees, so I hope that the Board  
10          considers that. Lastly, it went from 35 to 29. They  
11          can go from 29 to 24.

12          CHAIRMAN STUTO: Does the Board have any  
13          comments or questions?

14          MS. MILSTEIN: I have one question. Obviously  
15          there are some slim trees that are on the property  
16          that are thriving and doing well. Are those the kind  
17          of trees that you can plant in the buffer area?

18          MR. STEENBURG: That is something that we can  
19          look at. There are some conifers that are on the  
20          property. The majority of the trees on the property  
21          are deciduous. There are a lot of large oak trees on  
22          the parcel. We'll take a look at what the evergreens  
23          are that are thriving on the property. Unfortunately,  
24          I think that a lot of them are white pines, which they  
25          have a tendency to find sandy soil over time. There

1 are some sandy soils on the site. They are  
2 intermittent. It's a unique site from a soil  
3 standpoint. I understand and I appreciate the  
4 neighbors concerns with developing this buffer and I  
5 know that from day one, the applicant has been  
6 committed to development and a buffer -

7 CHAIRMAN STUTO: Is there a way to move dirt  
8 onto that borderline?

9 MR. STEENBURG: That is something that we are  
10 considering right now - importing some soils.

11 CHAIRMAN STUTO: How about on-site soils?

12 MR. STEENBURG: Some of the on-site soils could  
13 be lined on the property line just to help encourage  
14 the growth of those evergreens. That is something  
15 that we're sitting here and listening to everyone's  
16 comments -

17 CHAIRMAN STUTO: Chuck, can you help with that?

18 MR. VOSS: Sure.

19 CHAIRMAN STUTO: And get the appropriate  
20 plantings?

21 MR. VOSS: We'll have our landscape architects  
22 work with Brett on that.

23 MS. MILSTEIN: Why not put deciduous trees  
24 along there?

25 MR. VOSS: They just don't do well in

1 screening.

2 MR. STEENBURG: I don't have an issue putting  
3 the deciduous trees there but the screening actually  
4 for deciduous trees in their youth and infancy and as  
5 the trees grow up, you start looking right past them.  
6 It's the nature of the beast in this industry.

7 CHAIRMAN STUTO: Any other comments or  
8 questions from the Board?

9 (There was no response.)

10 Okay, the question before us is for concept  
11 acceptance.

12 MR. QUINN: Would you accept another comment  
13 from the public?

14 CHAIRMAN STUTO: Sure.

15 MR. QUINN: Again, my name is Patrick Quinn.

16 I walked the site substantially and found that  
17 there are a lot of birch there. Birch don't last  
18 terribly long, but they reseed. There are a few  
19 pines. Pines, fir are not indigenous to this area.  
20 That's a well-known fact; deciduous trees are. The  
21 remaining deciduous trees are. They are not very  
22 mature except for the ironwood and a few of the pines.  
23 This is a dense forest.

24 The other thing is that the pond stretches  
25 right down to almost this road (Indicating) from the

1 middle property at the top of the curve. The pond,  
2 according to the satellite view, goes right down to  
3 the road. I don't see how they are going to get rid  
4 of that and I don't see how even all the questions  
5 that have been raised tonight - would it make sense to  
6 develop this forest by completely obliterating it and  
7 building houses. I don't see the sense. It doesn't  
8 make sense.

9 MR. ALLARD: Mr. Chairman, I'm Don Allard with  
10 the Conservation Advisory Council.

11 Unfortunately, we have not had an opportunity  
12 as counsel to review the full size plans for this  
13 project. I just want to state that for the record.  
14 It looks like it needs more looking at. I just wanted  
15 you to know that we have not -- it could be that back  
16 in 2009 or 2008 that it was looked at but we have not  
17 had an opportunity -

18 CHAIRMAN STUTO: Joe, what is the process? I  
19 thought CAC -- don't they get all of our notices?

20 MR. LACIVITA: They do. Again, this goes back  
21 before your time, Peter. We did not elicit comments  
22 from the existing CAC back in 2007, 2008 and 2009 when  
23 it went through the process. I know that they  
24 recently had a copy sent to them during the concept.  
25 We just got a comment from Ms. Rosano this afternoon

1 today.

2 CHAIRMAN STUTO: Okay, what did she say?

3 MR. LACIVITA: It says here "Recommendations  
4 that the wetlands be left undisturbed, if possible.  
5 Clarify tree line in the southwest corner of the  
6 parcel as to removal and remaining."

7 That's the comment that we have. Don is  
8 correct. Typically with the landscape plan, we'll  
9 send them a copy and ask them to comment. I think  
10 that the practice was, prior to, there really was no  
11 comment from CAC.

12 CHAIRMAN STUTO: I guess I don't understand.  
13 They've been commenting on most of our projects  
14 recently. How is this one different?

15 MR. LACIVITA: It dates back much more before  
16 this. Then, Peter, when we were at that concept level  
17 and not going to final, they didn't have any comment  
18 back in that time period.

19 CHAIRMAN STUTO: I see.

20 I'm still personally inclined to go for  
21 concept. It doesn't mean that it's final. You can  
22 make your comments in the interim. That's how I feel  
23 about it. I don't think that it's fair to hold the  
24 developer up further on this.

25 MR. LACIVITA: We can certainly work with the

1 CAC and the landscaping plan. As Brett and Todd had  
2 mentioned, they are looking to adopt the HOA covenants  
3 and everything else. So, we definitely will be  
4 working with the applicant and the Town Designated  
5 Engineer along the way.

6 CHAIRMAN STUTO: I don't know how the rest of  
7 the Board feels.

8 MS. DALTON: I understand why leaving the  
9 buffer of trees is problematic because in the buffer  
10 area there are no trees. For the rest of the  
11 neighborhood, there are trees there as well. I'm  
12 still not understanding why you have to clear-cut the  
13 entire neighborhood and why you can't be a little more  
14 discriminating in what you leave.

15 MR. STEENBURG: I don't have the grading plan  
16 in front of me this evening. There are actually some  
17 areas as we approach the rear property here, when you  
18 get up into here (Indicating), those trees are going  
19 to be maintained. This seemed to be the focus of the  
20 area and up until this point (Indicating) in order to  
21 develop these core lots, that area has to be cleared.  
22 As you get into here, there will be a treed area minus  
23 an area where we have to connect the waterline.

24 MS. DALTON: What about the center area?

25 MR. STEENBURG: In the center area there is

1 going to be a substantial amount of trees locate din  
2 here at the top.

3 CHAIRMAN STUTO: The trees that are there now?

4 MR. STEENBURG: The trees that are there now,  
5 yes.

6 MS. DALTON: So people are referring to  
7 clear-cutting but it's actually not your plan.

8 MR. STEENBURG: Not to clear-cut the entire  
9 parcel, no. There will be areas where we can leave  
10 trees. I'm not going to say that we are not going to  
11 be cutting a lot of trees. We have tightened up the  
12 grading as much as possible. I know you're probably  
13 looking at the grade plan and Brad has looked at the  
14 grade plan. We want to maintain and minimize the rear  
15 yards of the lots as much as possible to try to  
16 maintain some of those greenspaces and try to minimize  
17 our cuts and fills on the site as well.

18 MS. DALTON: I live on Laura Drive off of Route  
19 7 and one of the reasons that I bought in that  
20 neighborhood is the builder left trees in the front  
21 yard as well. They were just careful. I still have  
22 very mature trees and so do my neighbors, in the front  
23 yard area.

24 MR. STEENBURG: I would like to say that we  
25 could leave trees in the front yard. Unfortunately,

1 at any given point the road on the site is either  
2 several feet of cut or several feet of fill. That  
3 transposes back onto the site, as you're cutting and  
4 filling just to get the road grades in there. I  
5 totally agree with you that. We try to do that as  
6 much as possible. It works great on a site where all  
7 the grades on the site are at one, two and three  
8 percent and you can run the roads at the existing  
9 grade at a parcel. Unfortunately, this parcel isn't  
10 conducive to that.

11 CHAIRMAN STUTO: You should be able to save a  
12 significant number of back yard, including the outer  
13 perimeter and the inner perimeter.

14 Chuck, can you work with them on that?

15 MR. VOSS: Sure.

16 CHAIRMAN STUTO: Can you come back with a map  
17 that everyone can see?

18 MR. STEENBURG: Absolutely.

19 MS. DALTON: I think that a tree inventory  
20 would be appropriate for this.

21 MR. ROSS: My name is Mark Ross. I just have  
22 one question. You're talking about adopting the  
23 covenants and I was on the homeowners association for  
24 six years with Bernie. We have a whole system of  
25 policing it. Now, to say that they are going to have

1 covenants - I don't know who is going to police it.  
2 Are you going to make us take responsibility?

3 CHAIRMAN STUTO: You have nothing to do with  
4 it.

5 MR. ROSS: I know but who is going to maintain  
6 that?

7 CHAIRMAN STUTO: Are you having an HOA?

8 MR. STEENBURG: We are not.

9 MR. ROSS: On our HOA, it's like trying to herd  
10 a bunch of cats.

11 CHAIRMAN STUTO: I'm involved in an HOA too and  
12 I understand what you're saying.

13 MR. ROSS: So you can say that it's going to  
14 have all the covenants that you have, but when a shed  
15 pops up -

16 CHAIRMAN STUTO: He covenants without an HOA  
17 generally means that the homeowners can sue each  
18 other, or try to enforce it against each other.

19 MR. SHAMLIAN: It's up to the individual  
20 homeowner.

21 MR. ROSS: I was just curious about that.

22 CHAIRMAN STUTO: We have an application for  
23 concept acceptance, with the conditions and provisos  
24 that we talked about today, including looking to  
25 preserve trees, looking to beef up the buffer along

1 the western side and all the other conditions talked  
2 about today and in the Town Designated Engineer letter  
3 and in the department comments.

4 Do we have a motion?

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

6 CHAIRMAN STUTO: Second?

7 MS. DALTON: Second.

8 CHAIRMAN STUTO: Any discussion?

9 (There was no response.)

10 All those in favor say aye.

11 MR. MION: Aye.

12 MS. DALTON: Aye.

13 CHAIRMAN STUTO: Aye.

14 MS. MILSTEIN: Aye.

15 MR. SHAMLIAN: Aye.

16 CHAIRMAN STUTO: All those opposed say nay.

17 MR. LANE: Nay.

18 CHAIRMAN STUTO: We have one nay. Mr. Lane  
19 opposes it.

20 Thank you.

21 MR. STEENBURG: Thank you.

22

23 (Whereas the above entitled proceeding was  
24 concluded at 9:06 p.m.)

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CERTIFICATION

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I, NANCY L. 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 L. STRANG

Dated \_\_\_\_\_

