

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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PEEK OPEN DEVELOPMENT AREA  
9 OLIVER AVENUE  
ODA RECOMMENDATION TO THE TOWN BOARD

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6 THE STENOGRAPHIC MINUTES of the above entitled  
7 matter by NANCY L. STRANG, a Shorthand Reporter,  
8 commencing on January 10, 2017 at 7:02 p.m. at The  
9 Public Operations Center, 347 Old Niskayuna Road,  
Latham, New York.

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

17 ALSO PRESENT:  
18 Joseph LaCivita, Planning and Economic Development  
19 Department  
20 Michael Tengeler, Planning and Economic Development  
21 Department  
22 Ted DeLucia, Vision Planning  
23 Sally Burchhardt  
24 Christopher Beneger  
25 Dee Alling  
Michael Snyder

1                   ACTING CHAIRMAN MION: Good evening everybody.  
2                   We will now call the meeting to order. Joe, do you  
3                   have anything you'd like to report on?

4                   MR. LACIVITA: Yes. For those that may have  
5                   been here for the Morris Road section of Town for  
6                   tonight, precision industrial maintenance project  
7                   which was slated for 245 Morris Road -- we had to pull  
8                   that project this evening because the Town Designated  
9                   Engineer could I make it. So, if anyone is here for  
10                  that specifically, on sorry for calling you out this  
11                  evening. We will not be talking about that project  
12                  tonight. From an administrative standpoint, we are  
13                  changing Chairmans tonight. Peter is ill and Lou is  
14                  going to take over, for the record.

15                  FROM THE FLOOR: Joe, will that be on the  
16                  agenda coming up?

17                  MR. LACIVITA: Right now it looks like we're  
18                  going to try to move it to March 7th. There would  
19                  definitely be notification on that as well. If anyone  
20                  is interested in speaking, there is a sign in list.  
21                  Just identify what project you want to speak about.

22                  MR. AUSTIN: Just as a point of introduction  
23                  before we begin, we have a visitor. It's always nice  
24                  to see students from local schools visiting us and  
25                  doing different activities regarding planning. We have

1 a gentleman from LaSalle. I'm sorry. I don't remember  
2 your name.

3 MR. SNYDER: Michael Snyder

4 MR. AUSTIN: It's good to see you tonight. I  
5 hope you gain something from this meeting. Thank you  
6 for coming.

7 MR. LACIVITA: Michael learned a lot the last  
8 time. I do have that CBA application in the car.

9 ACTING CHAIRMAN MION: Our first presentation  
10 will be Peck Open Development Area.

11 MR. LACIVITA: This one is for an Open  
12 Development Area. The address is 9 Oliver Avenue. We  
13 are here tonight under Resolution 377 for 2015 which  
14 was acted upon by the Town Board July 23, 2015. In  
15 your packets tonight you have a Resolution, should we  
16 go forward on the project this evening. The scope of  
17 this project is, again, we are looking for an ODA.  
18 It's 1.65 acres. The fact is that it doesn't have  
19 frontage under 280a of regulation on a dedicated Town  
20 Road. We have Ted DeLucia along here with Chris Myer.  
21 They will talk through the project and if you have  
22 questions, will get them answered.

23 MR. DELUCIA: I'm Ted DeLucia with Vision  
24 Planning. I also have the owner here of the property,  
25 Mr. Brian Peek. Also, this is Chris Myer from O.J.

1 Meyer & Son. They are a surveyor hired by the property  
2 owner Mr. Peek. Briefly I give you a little  
3 background on our presentation proposal tonight. If  
4 it's okay, I'll read some of my information here. If  
5 you have any questions, you can stop and interrupt me.

6 As already mentioned, the property does consist  
7 of 1.65 acres in a single family residential zoning  
8 district known as Lot 9 Oliver Avenue. We are seeking  
9 to install an emergency access road to the Town's New  
10 York State standards in order to build a new one  
11 family home in this place right here (Indicating)  
12 which is serviced by the paper Street of Oliver Avenue  
13 and Fisler Avenue which is also owned by Mr. Peek.  
14 Currently we have a house part of the way down Oliver  
15 Avenue - number 76, Cordell Road, which is currently  
16 using a driveway as access over the paper street. What  
17 we are looking to do is develop this road, as I said,  
18 as an emergency access road to meet the standards that  
19 are shown on the map here. We also are going to  
20 install the required utilities within the right-of-way  
21 which are sewer, water and whatever drainages  
22 necessary. All the improvements are going to be fully  
23 the responsibility of the owner, Mr. Peek. We are  
24 actually providing what they call an emergency  
25 hammerhead here for a fire truck apparatus access over

1 this area (Indicating). The road is going to be built  
2 to standards that are required for the weight, the  
3 width and so forth. That's really kind of summarizes  
4 what we are here for. Obviously, this will be a safer  
5 situation even for the existing home that is there  
6 now. It will be serviced by Mr. Peek and maintained by  
7 Mr. Peek indefinitely. We're not looking for the Town  
8 to take ownership of the road.

9 ACTING CHAIRMAN MION: Would the Board like to  
10 speak or listen to the public first?

11 MR. LANE: Let's hear the public first.

12 ACTING CHAIRMAN MION: Sally Burchhardt.

13 MS. BURCHHARDT: I just wanted to know where it  
14 was located? I can't tell because I know it is a  
15 paper street, but I can't really tell.

16 MR. DELUCIA: This is Cordell road right here  
17 (Indicating). This is the driveway that serves number  
18 76.

19 MS. BURCHHARDT: Okay, now I know we are.

20 MR. DELUCIA: We are going to improve that road  
21 to comply with the emergency access road requirements  
22 and actually provide this - turnaround. It's called a  
23 hammerhead so fire truck could get in and basically  
24 turnaround and the home will be placed right here  
25 (Indicating). There will be a limited clearing of the

1 property. This is a large lot. We're only going to  
2 clear a small portion of it.

3 MS. BURCHHARDT: Thank you.

4 MR. SHAMLIAN: Is there a reason why your  
5 access to not come off of Nutwood?

6 MR. DELUCIA: Actually, Mr. Meyer could  
7 probably comment a little more on that. The elevations  
8 are just not doable from that location. As you come  
9 down Nutwood, the Town road ends -- I don't know how  
10 many feet. There is nothing there beyond that, but the  
11 elevations are very, very bad. So, beyond this point  
12 coming in, there really could not be any development  
13 going further to the east because of where the  
14 elevations are.

15 MR. SHAMLIAN: And what you're going to do,  
16 will that allow access to 93?

17 MR. DELUCIA: Yes. There is already access to  
18 93 over the current driveway, if you will.

19 MR. SHAMLIAN: Those are two separate lots.

20 MR. DELUCIA: That is actually going to enhance  
21 that location.

22 ACTING CHAIRMAN MION: Could you stand up  
23 please?

24 MR. BENEGER: My name is Christopher Beneger.  
25 We are the owners next to 76 Cordell. The street that

1           you're talking about - that access - that is actually  
2           considered Fisler. Where does Oliver come into play?  
3           Why would you not continue off Fisler Street rather  
4           than coming in that access point?

5           MR. DELUCIA: This driveway that services your  
6           home is known as Oliver Avenue.

7           MR. BENEGER: It's also Fisler Street. I have  
8           the schematics. I have an address listed as 76  
9           Cordell Road and 87 Fisler Avenue.

10          MR. DELUCIA: Right, because your property  
11          borders Fisler which is the paper street which  
12          basically goes north and south. So, you have what they  
13          call a corner lot and that's possibly why it is  
14          indicated that way. The road that we are currently  
15          using and you are using is known as Oliver Avenue.

16          MR. BENEGER: I was just curious because the  
17          map shows Fisler curves down and around an access road  
18          into -

19          MR. LACIVITA: Part of our process when we go  
20          through any project within the Town is getting  
21          reviewed by our Emergency Services; police and fire.  
22          They are the ones under 911 that dictate what the  
23          address actually is on the projects based on the ID  
24          number that they may have out on the lot. From a  
25          responsive point, that's why we have been directed as

1 to the address for this project.

2 MR. BENEGER: It is my understanding that they  
3 are looking to clear 5 feet on either side.

4 MR. DELUCIA: We are required to provide an  
5 access road of 20 feet wide within that area to comply  
6 with the emergency access road requirements. So, the  
7 roadway will be wider than what is actually here - not  
8 the entire portion but if you can see here  
9 [Indicating] the outline of the existing pavement as  
10 you see right here is wider when he gets in front of  
11 your house and in and narrows down. He gets really  
12 narrow. We are required by the law to be 26 feet wide.  
13 So, if you see the dotted line we are required to put  
14 them with road in with this turnaround to serve fire  
15 truck that would get in here to find any fires or  
16 anything that happens. So, it's going to be obviously  
17 safer with the road so that the fire check or  
18 emergency access vehicles can get in there.

19 MR. BENEGER: Why would they not just come  
20 straight through here (Indicating) as an alternative?

21 MR. DELUCIA: Chris could probably field that  
22 question but it's the topography. It's not doable to  
23 come in this way [Indicated]. This is the closest  
24 option because Mr. Peek owns the paper streets.

25 MR. BENEGER: Thank you.

1                   ACTING CHAIRMAN MION: Is there anyone else who  
2 would like to speak?

3                   MS. ALLING: At the end of Oliver where Mr.  
4 Peek is planning to build, isn't that all wetlands and  
5 there? Doesn't that slope down?

6                   MR. DELUCIA: It does slope down, yes.

7                   MS. ALLING: Isn't there a creek or something  
8 that runs through there, or did at one time?

9                   MR. DELUCA: Not to our knowledge. We have had  
10 DCC look at the site. That was part of the process to  
11 get to this point. They have reviewed it and checked  
12 the site and they gave us a clear bill of health to go  
13 forward.

14                   MS. ALLING: So, it's not like you're building  
15 in the wetlands or anything like that?

16                   MR. DELUCIA: That's correct.

17                   MS. ALLING: He is going to have sewer and  
18 water?

19                   MR. DELUCIA: Sewer and water is going to be  
20 serviceable by Cordell Road and come out to the  
21 location and down the right-of-way which is  
22 technically already there.

23                   MS. ALLING: I thought it was some people's  
24 driveways. I didn't realize they were going to develop  
25 it.

1 MR. DELUCIA: It's actually a paper street.

2 MS. ALLING: I know that. I am familiar with  
3 the area. There are a lot of paper streets. Thank  
4 you.

5 ACTING CHAIRMAN MION: Anybody else?

6 (There was no response.)

7 Anybody from the Board?

8 MR. LANE: The only question that I have would  
9 be Joe, when they are positioning the house on the  
10 lot -

11 MR. LACIVITA: It has already been vetted the  
12 Building Department for setback provisions and  
13 everything else, Tim. I think that is the desire as  
14 to the location of it. TIM: So, there are no  
15 requirements as to how the house is positioned.

16 MR. LACIVITA: We do have some subdivisions  
17 which have keyhole lots. This kind of mirrors that  
18 the way it's kind of setback. It is already under  
19 review by the building Department. There hasn't been  
20 any concerns about any setbacks.

21 MR. BENEGER: In regard to maintaining the  
22 property, what is your meaning of maintaining? I mean  
23 with regard to the paper street in maintaining that?

24 MR. DELUCIA: What we are required to do by the  
25 Town is we have to do an easement agreement that has

1 to be drawn up for the purpose of putting this road in  
2 there. We are widening the roads within the  
3 right-of-way. Responsibility is not going to be for  
4 yourself to maintain it. Obviously, problems happen to  
5 the roadway. The roadway needs to be snow plowed and  
6 things of that nature. That's not going to be up to  
7 you to do that. It is going to be up to the new owner  
8 or the current owner, Mr. Peek to take care of that.  
9 So, you have to understand that the utilities will be  
10 put in this roadway out to Cordell Road. So, if there  
11 is any maintenance that needs to be done so that  
12 obviously that person will repair the road and take  
13 care of it and definitely.

14 ACTING CHAIRMAN MION: So, Mr. Peek is going to  
15 do the plowing and snow removal?

16 MR. DELUCIA: That's correct. An easement will  
17 be drafted for that property owner to always have to  
18 maintain all of those services on that property.

19 MR. BENEGER: I'm sorry I have one more  
20 question. I work early in the morning. That's also  
21 another concern for me. I get up at 5 AM. Is that an  
22 issue regarding maintenance as well? Say the weather  
23 hits and we have a foot of snow out there. Is that  
24 going to hinder me getting to and from work?

25 MR. DELUCIA: I can't answer that question, but

1 I assume that you plow it now or have it plowed by  
2 someone?

3 MR. BENEGER: I have maintained it for four  
4 years, yes. It is a concern because I can't call in.  
5 I work for the air National Guard. I can't just say  
6 hey Sarge, I'm not going to be in.

7 MR. DELUCIA: I don't know if we are mandated  
8 by the Town that the road actually has to be snow  
9 plowed at a certain time. We are extending an olive  
10 branch saying that we are doing the improvements.  
11 Obviously, this house is beyond yours so it would make  
12 sense -

13 MR. BENEGER: I fully understand. It is just  
14 something else that I have is a concern. I am  
15 obligated to be and to serve and that's what I intend  
16 on still doing. I need to make sure that I can still  
17 get to where I need to be at the time I need to be  
18 there.

19 MR. DELUCIA: It is something that can be  
20 addressed, certainly.

21 MR. LACIVITA: If the Board act on it tonight,  
22 which it sounds like it may be moving towards for the  
23 open development in order for you to construct a home,  
24 number six of the resolution talks all about the  
25 maintenance and everything with it. So, there will be

1 an agreement with the Town. We can read them as we go  
2 forward. I know you have them in your packets if you  
3 wanted to read them prior to any motion or after any  
4 motion; any way that you want to do it.

5 ACTING CHAIRMAN MION: So, does anybody else on  
6 the Board have any questions?

7 (There was no response.)

8 ACTING CHAIRMAN MION: It certainly was  
9 enlightening to me because I grew up in that area and  
10 I have relatives who lived down there. In fact, I  
11 believe where you live, you've got the flag of the Air  
12 Force. One of my cousin's cousin retired from the Air  
13 Force recently. It took me forever to find that paper  
14 street. I found it. What I would like to do is have  
15 Brian, if you would, read the Resolution and Nancy,  
16 please put the whole thing in the record.

17 I think all you have to do, Brian, is just read  
18 the now therefore be it resolves.

19 MR. AUSTIN: This is a special rule of the  
20 Planning Board setting conditions and limitations and  
21 recommending an establishment of an open development  
22 area for 9 Oliver Avenue, Town of Colonie pursuant to  
23 the Town Law Section 280 - a. Now therefore be it  
24 resolved that the Planning Board recommends that the  
25 ODA, open development area, as requested by the

1 applicant be approved in all aspects subject to the  
2 following conditions that 1. The address of this  
3 parcel will be 9 Oliver Avenue, a private road  
4 consistent with the 911 communications designations.  
5 And be it further, any further changes to the  
6 recommended open development area including but not  
7 limited to additions, demolitions, structural or site  
8 changes subdivision and or change in use must comply  
9 with all of applicable Town of Colonie processes and  
10 approvals

11 . And be it further, a hold harmless and  
12 indemnity agreement shall be entered into with the  
13 Town, protecting the Town from liability in connection  
14 with the access and maintenance of the roadways of the  
15 subject property. And be it further, a copy of all  
16 the existing easements for ingress and egress and  
17 utilities must be provided to the Town Attorney's  
18 office in the Planning and Economic Development  
19 Department prior to the issuance of a building permit.  
20 And be it further, the granting of the ODA, Open  
21 Development Area, does not relieve the applicant in  
22 compliance with all other underlying SFR,  
23 single-family residential zoning district requirements  
24 or applicable environmental building and land use law  
25 requirements. The owners of the 1.65 acre subject

1 parcel to be constructed thereon, their heirs assigns  
2 and successors in interest shall be fully responsible  
3 for all maintenance upkeep required improvements  
4 snowplowing etcetera of the private road which abuts  
5 and provides access to the subject property. TIM:  
6 I'll make a motion.

7 ACTING CHAIRMAN MION: Do we have a second?

8 MS. DALTON: I will second.

9 ACTING CHAIRMAN MION: All in favor?

10 (Ayes were recited.)

11 Against?

12 (There were none opposed.)

13 It passed.

14

15 (Whereas the above entitled proceeding was  
16 concluded at 7:34 PM.)

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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 \_\_\_\_\_

