

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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4 RIDGEVIEW MEADOWS CONSERVATION SUBDIVISION
5 AT NORTH COLONIE
6 1126 LOUDON ROAD

7 APPLICATION FOR CONCEPT REVIEW/BOARD UPDATE

8 *****

9 THE STENOGRAPHIC MINUTES of the above entitled matter
10 by NANCY L. STRANG, a Shorthand Reporter Commencing
11 on July 11, 2017 at 7:02 p.m. at The Public
12 Operations Center, 347 Old Niskayuna Road, Latham,
13 New York

14 BOARD MEMBERS:
15 PETER STUTO, CHAIRMAN
16 LOU MION
17 BRIAN AUSTIN
18 STEVEN HEIDER
19 KATHLEEN DALTON
20 CRAIG SHAMLIAN
21 SUSAN MILSTEIN

22 ALSO PRESENT:
23 Michael C. Magguilli, Esq. Town Attorney's Office
24 Joseph LaCivita, PEDD
25 Michael Tengeler, PEDD
Brad Grant, PE, Barton and Loguidice
Benjamin Avery, Blackrock Construction
Jeff Connery
Marc Weiss
John Smith
Mike Reo
Lisa Easterly Klaas
Hong Zhou
Mark Couch
John Chakmakas
Mary Jane Bendon Couch
Brian Beari
David Malicki
Christopher Guzda
Angela Britt

25

1 CHAIRMAN STUTO: Welcome everybody to the Town
2 of Colonie Planning Board. Thank you for your patience.
3 We are just getting organized.

4 This is one of our better showings since I have
5 been here. I've been here almost 10 years.

6 Thank you for showing up. I think it will be a
7 productive meeting.

8 Joe, before I start calling the items on the
9 agenda, you have any business that you would like to talk
10 about?

11 MR. LACIVITA: Yes, we do have to call a public
12 hearing for Siena Heights Subdivision. It's going to be
13 for its final review SEQR determination here on July 25th.
14 It is 522 Loudon Rd. It is a 20-lot subdivision. We have
15 seen it through sketch and into concept. It is a 20-lot
16 subdivision on 15 acres of land.

17 Again, we would need to have a motion to call
18 the public hearing for July 25th.

19 MS. DALTON: I will make a motion.

20 MR. MION: Second.

21 CHAIRMAN STUTO: All those in favor, say aye.

22 (Ayes were recited.)

23 All those opposed, say nay.

24 (There were none opposed.)

25 The ayes have it.

1 The project of the moment is Ridgeview Meadows
2 Conservation Subdivision at North Colonie.

3 Before we get started, a lot of the people here
4 were at the other meeting. I want to talk just a little
5 bit about process and background just so that you know
6 what our function is here at the Planning Board and at
7 least how I see it as the chairman. Maybe the Board will
8 share some of my views on this.

9 When somebody comes in with an application for
10 a site plan review subdivision, a plan district
11 development, it is a special animal and you may have heard
12 that title recently in recent weeks. It starts with a
13 paper application that gets filled out with certain
14 rudimentary drawings and then it goes to the DCC meeting.

15 What does DCC stands for, Joe.

16 MR. LACIVITA: Development Coordination
17 Committee.

18 CHAIRMAN STUTO: Which is the Town Departments
19 getting together and try to get some of the baloney out of
20 the way, or some of the preliminary matters out of the way
21 so that they can start to take shape and crystallize for
22 the land owner/applicant.

23 That occurred with respect to this development.
24 This is a unique property in the sense that -- I think
25 that it is about 27 acres total.

1 Is that right, Joe? Did I get my numbers right?

2 MR. LACIVITA: I believe it was about 22 -- no,
3 you're right. It's 27 acres.

4 CHAIRMAN STUTO: There is a front piece which
5 is zoned differently than the back piece. The back piece
6 which faces the residence at Bergen Woods, etcetera, which
7 is the larger piece is single-family residential - SFR.
8 That is how that is zoned. The piece toward Route 9 is
9 consistent with the other pieces that run on Route 9 which
10 is COR. The letters stand for
11 commercial/office/residential. The single-family piece --
12 the principal permitted use is single-family, as the name
13 implies.

14 A COR district, commercial/office/residential
15 contemplates a mixed-use; commercial, office and
16 residential, as the name implies in accordance with the
17 specifics that are in the Land Use Law for the ratios of
18 those various uses on the property.

19 Just to get terminology out of the way and also
20 help educate everyone and make sure that we are on the
21 same page so that we know what we are talking about during
22 this important presentation, PDD stands for planned
23 district development. Planned district development is a
24 mechanism that was created by State Law in the Town Law
25 and it has been recognized in the Land Use Law of the Town

1 of Colonie. What that allows an applicant to do is to
2 take a piece of property and say I want to rezone this
3 property in accordance with a certain type of use which
4 may not be consistent with the zoning that it already has.
5 The idea of that is to sort of have village communities
6 where you can have a mixed-use, connectivity of internally
7 and with the external neighborhoods the properties and
8 where it would give something special back to the Town.
9 One example is access to the Mohawk River. That is one
10 that got approved.

11 There are other examples around.

12 Some got approved before this Board was here. A
13 couple got approved after this Board. Some got disapproved
14 by this Board. Some were withdrawn after this Board had
15 seen it.

16 This applicant came in this property which is a
17 combination - as I understand it - with entirely a PDD on
18 the first application.

19 That right, Joe?

20 MR. LACIVITA: Yes.

21 CHAIRMAN STUTO: It was entirely a PDD and that
22 the concept was that the piece would be treated as it
23 would be treated under COR. That is the Route 9 piece.

24 The back piece would be treated residential -
25 that backs up against the Bergen Woods neighborhood.

1 The middle piece is the one that needed a
2 variation. The applicant was looking to put in memory care
3 facility on a piece of the single-family in the middle
4 which was between the Route 9 and between the Bergen Woods
5 piece. So, that was the application they came in with.

6 The procedure for that is that they go to the
7 Town Board and they make a request. The Town Board, if
8 they are so inclined - and they were this time - passed a
9 Resolution referring it to the Planning Board asking us to
10 review it and asking us to make a recommendation back
11 either yes or no and with whatever specifications or
12 particularities that we wanted to put on it. That's a
13 procedure that we have gone through before.

14 I don't think the PDD was well received. It
15 wasn't fully embraced, I will say, at the last meeting.

16 So, the applicant went back and came back with
17 an application for a completed residential piece. I think
18 it is 15 lots and it is also - another term - conservation
19 subdivision.

20 I will explain what the conservation
21 subdivision is because it is relevant to the proceedings
22 tonight.

23 A conservation subdivision typically are most
24 often used in a conservation overlay district.

25 Where are our conservation overlay districts?

1 I know that we have them in the western part of Town.

2 MR. LACIVITA: There are a couple in the Boght
3 area. There's one where the Canterbury Crossing going in.
4 There are adjacent lands over there. We have some just a
5 little bit to the north of this parcel as well as the way
6 it skews around. Then, we see them out in the western part
7 of the Town.

8 CHAIRMAN STUTO: Where Albany Street is -- What
9 are some of the other streets around there? They are
10 toward Schenectady and toward Rotterdam.

11 MR. LACIVITA: Right. And that is the Pine Bush
12 area.

13 CHAIRMAN STUTO: I don't mean to belabor this
14 too much but the conservation overlay districts are areas
15 that have been identified by the Town as deserving of
16 extra environmental conservation. So, what they do is go
17 through a conservation analysis. First of all, they
18 subtract 40% that has to be preserved. Then, of the rest
19 that is there, they have to take the developable versus
20 the undevelopable.

21 What is the right terminology?

22 MR. LACIVITA: The constrained lands versus the
23 unconstrained.

24 CHAIRMAN STUTO: Constrained lands are wetlands
25 and/or particularly steep lands. You subtract that out and

1 then you take the unconstrained lands, divide by the
2 normal lot size which is 18,000 square feet and that gives
3 you the number of lots that you can have. Then, you can
4 further consolidate where you do your development. You can
5 have lots that are less than that size, but you have to
6 preserve the rest of the land. So, you don't get any more
7 lots. You get to preserve a substantial amount of land
8 that has conservation value.

9 There is also a provision that says the
10 applicant - not just in the conservation overlay district
11 but in any district - can come and apply for a
12 conservation subdivision. What they have to do is
13 identify the constrained lands and subtract out, identify
14 the unconstrained lands, figure out how many lots you can
15 build there if you went conventional and then that would
16 permit them, if the Planning Board so recommends -- it is
17 a discretionary act of the Planning Board - the
18 conservation subdivision. If the Planning Board so chooses,
19 they could approve the conservation subdivision and some
20 lots could be smaller than the normal lot size which is
21 18,000 square feet which is a little bit under a half
22 acre. That's the minimum lot size in the Town.

23 Okay, that all said, what we have before us
24 today is a conservation subdivision with 15 lots in it
25 over a portion of this property. It is over a portion of

1 the single-family section the property. So, that's what we
2 are reviewing tonight. Is the developer got this thing
3 approved eventually, coincident with that approval would
4 be a recommendation that the PDD not be approved. We have
5 discussed this with counsel in the department beforehand
6 because it is inconsistent with the PDD application. Those
7 are basically the ground rules of what we are reviewing
8 tonight. What I suggest for procedure tonight is -- I know
9 there has been a lot of meetings and a lot of phone calls
10 which is obviously the rights of the neighbors in a
11 democracy to contact their representatives, to contact the
12 department to communicate -- that is what it is all about.
13 What I'm going to suggest tonight is a matter of
14 procedure. We will allow the developer to make their
15 presentation - what they are proposing tonight. The Board
16 will ask questions during that period. We will ask for
17 comments from our Town Designated Engineer which is Brad
18 Grant from Barton and Loguidice and asked him what he
19 thinks and asking questions. I would suggest that we
20 then -- sometimes be go to the public first and sometimes
21 we go to the Board first. I suggestion is we go to the
22 Board first tonight so that you understand what we think.
23 I think a lot of us have taken a close look at it. I am
24 starting to formulate my own conclusions and I have asked
25 a lot of questions and so forth. Then, we will talk to

1 the public and see if they want to talk and how much time
2 they are going to need and so forth.

3 I also want to make this comment procedure:
4 Planning Board is an independent Board. We are appointed
5 for a term. we have an obligation to act independently
6 under our own judgment. It has been my practice and in my
7 observation the practice of the rest of the folks on the
8 Board is that we don't meet with developers independently.
9 We don't meet with neighbors independently, if they ask
10 for a meeting. The channels of the communication are
11 through the department, through the Town Designated
12 Engineer and through the elected representatives. There's
13 nothing wrong with bumping into a neighbor at a party and
14 having a discussion or bumping into someone at the grocery
15 store, that we made a rule -- the practice has evolved in
16 the beginning that we didn't want to have private meetings
17 with developers so that people thought that this is
18 already been worked out. It hasn't been already worked
19 out. We are here to make independent judgments based upon
20 what you see in front of us and any conversations that
21 we've had with the department and the Town Designated
22 Engineer.

23 That all said, Joe, do you have anything or
24 would you like to turn it over to the applicant?

25 MR. LACIVITA: We will turn it right over to

1 Roger and Ben.

2 CHAIRMAN STUTO: Before you get started, our
3 Town Attorney Mike Magguilli would like to say something.
4 He's filling in for Kathleen Marinelli who is the normal
5 Planning Board Attorney. She lives in the neighborhood.

6 MR. MAGGUILLI: What I would ask is as you make
7 this presentation - as I went through the file started
8 looking, the way that this has come about was initially
9 you were here on June 6 for a planned development district
10 that included 19 single-family homes, a 56-bed 32,230
11 square foot memory care facility, retail office space and
12 apartments. Now, that has morphed itself into a 15-lot
13 residential conservation subdivision.

14 I have a real problem that I need you to
15 address with a segmentation issue.

16 One thing that I am concerned about is I am the
17 person who would have to defend the Town and any future
18 lawsuit that a disgruntled party would bring alleging
19 segmentation. How would you suggest that the segmentation
20 issue be avoided? It is claimed that you are breaking
21 this project up into pieces to get your residential
22 portion approved now and then you're going to come back
23 later and you're going to get the commercial portion
24 approved at some later date. That is a real issue for the
25 Town. So, as you are approaching this, I want you to let

1 this Board know what, if anything, you have incorporated
2 into your plans and design that would insulate the Town
3 for a segmentation claim. Do you understand my concern?

4 MR. KEATING: For the record, my name is Roger
5 Keating from the Chazen Companies.

6 CHAIRMAN STUTO: I want to get this right
7 because we have a lot of folks here. We have asked the
8 applicants to stand to the left of your Board as they tend
9 to get blocked out when you stand on the other side.

10 MR. KEATING: Understood.

11 With respect to the segmentation issue, I can
12 say that -- what we have done is the proposed project as
13 it stands now is all in conformance with the single-family
14 residential zoning districts. This project - the
15 standalone project with respect to the single-family that
16 is being proposed. With the PDD being pulled back because
17 we don't have an end user for the front right now - that
18 could still be changing with respect to that. We don't
19 have that plan definitively defined in the front. So,
20 that's why we're trying to go forward with this piece of
21 it because this piece, by right with the single-family
22 zoning district, is just in line with what we are
23 proposing to do.

24 So, we are not looking for zoning variances or
25 anything like that to go along with the conservation

1 subdivision part.

2 MR. MAGGUILLI: The way your plan is proposed,
3 if I understand it correctly, you would still have a good
4 deal of unconstrained land on the parcel in question that
5 could be developed sometime in the future.

6 MR. KEATING: The unconstrained lands -- the
7 front piece, you mean?

8 MR. MAGGUILLI: No. Between the COR parcel in
9 the subdivision houses, as shown.

10 MR. KEATING: That was where the memory care
11 was previously proposed for the project. I can have Ben
12 speak to it, if need be. That, right now - that plan - we
13 are not in a position to present anything with it because
14 we don't have any end-user in mind. So, the size of that
15 building could change.

16 MR. MAGGUILLI: Do you have anything in the
17 current proposal that you plan on showing to the Board
18 tonight that would prevent you from developing that
19 unconstrained land in the future from changing your mind
20 and coming back to this Planning Board or a different
21 Planning Board with your memory care facility? Now we
22 changed our mind and now we want to do the memory care.
23 What, if anything, in this proposal is going to protect
24 the Town from that type of segmentation proceeding?

25 MR. KEATING: I guess the question then is with

1 respect to -- basically what you are saying is that this
2 project could not stand on its own with respect to the
3 single-family residential piece of it. It would have to
4 proceed as a PDD through the whole process; is that what
5 you're saying?

6 MR. MAGGUILLI: It is my understanding that the
7 PDD has not been formally withdrawn as of today; is that
8 correct?

9 MR. KEATING: That is correct.

10 MR. MAGGUILLI: So, the PDD is still out there
11 which makes my concern even greater about segmentation. It
12 seems to me what you may be doing now - unless you have
13 some plan that you are willing to show us of getting the
14 least controversial portion proved to now and holding off
15 on the more controversial aspect of the project for the
16 future, which could be seen as segmentation and could put
17 the Town in jeopardy of some future lawsuit which is what
18 I am here to avoid.

19 CHAIRMAN STUTO: We will just hold that
20 thought, okay?

21 When it should go forward with your
22 presentation and show us what you've got.

23 MR. KEATING: Thank you, Mr. Chairman. Thank
24 you for describing the overall process here with the Town.

25 Again, Roger Keating with the Chazen Companies.

1 As the Chairman indicated, this is a split
2 piece of property with the front portion being a
3 commercial zoned piece along route nine. So, that would be
4 the front portion here (Indicating). This line would
5 represent the zoning district between the two areas. We
6 would be looking to do - as we were just discussing -
7 single-family residential portion of the project that
8 would be a long the rear part of the property. Currently
9 the property has access to Weatherby Court, Bergen Woods
10 Drive, Nottingham Way along the rear portion of the
11 project site.

12 The single-family residential portion that was
13 previously shown and prepared - we had interconnectivity
14 between the adjacent development. When we were here last,
15 we were asked to meet with the public and we heard a lot
16 of their comments. As a result that meeting and hearing
17 their comments we heard a lot of concerns with respect to
18 the interconnectivity of the extension of the roadways
19 from Bergen Woods Drive and Weatherby Court where there
20 were temporary cul-de-sacs that were not part of the
21 previous development, for the future extension of this
22 property.

23 The results of that meeting that we had - we
24 have developed an alternative plan that shows the
25 interconnectivity to Bergen Woods Drive to be eliminated

1 and the result would be one single-family home located at
2 Bergen Woods Drive at the end of the cul-de-sac and then
3 the reshaping of those lots such that we have another
4 single-family home that would abut Weatherby Court. That
5 proposed change revises the lot sizes a little bit with
6 respect to what we were proposing provides a little bit
7 larger lot size for that area on the project site.

8 One of the other items that was brought up with
9 respect to the adjoining property was there was a lot of
10 discussion with respect to the lot sizes. So, what we have
11 done is we took a look at the adjoining development as
12 part of the process. We took a look at the approach that
13 was done as part of the area next to Weatherby Court.
14 This is the approved subdivision map for the portion of
15 the adjacent project that is Weatherby Court (Indicating).
16 As you can see, I have highlighted a bunch of lots within
17 that adjacent development that had lot sizes that were
18 under 18,000 square feet.

19 Similar to what we are proposing here is a
20 conservation subdivision, years ago there was a thing
21 called a cluster subdivision in the Town. This development
22 uses a very similar approach that we are looking to use
23 here. These that are highlighted here (Indicating) are
24 under 18,000 square feet. The lot sizes are 14,000 square
25 feet to the 18,000 square foot range.

1 There has been a lot of discussion with respect
2 to that we are putting in substandard lots. They are
3 smaller than the adjoining development. From a size
4 perspective, we are similar in nature with respect to the
5 lot sizes that we are proposing as part of our
6 conservation subdivision.

7 A few other items that were brought up at that
8 meeting - with respect to the traffic -- there was some
9 discussion with respect to traffic coming down from the
10 north and possibly cutting through the development.

11 I guess there was a residential development
12 just north of us. They have had some traffic that was
13 entering into this development. We are not aware of any
14 traffic study that was done as part of the project, but we
15 don't see the 15 lots being a very large traffic generator
16 from that perspective.

17 However, the elimination of the Bergen Woods
18 Drive would also reduce one of the connections. The
19 elimination of that would be something that the Board
20 would need to consider as well because it has been
21 something that has been noted as part of the previously
22 approved plans - that there was a desire to those to be
23 extended into this development.

24 Some of the other items that were talked about
25 previously or the extension of water and sewer. So, it

1 would be the Bergen Woods Drive connection going away.

2 The water and sewer would be extended to
3 Weatherby Court. We would bring the water and sewer off
4 of that connection versus bringing it down Bergen Woods
5 Drive.

6 Lastly, there are some small areas that were
7 inward of the site that were proposed for future trails
8 and things along those lines -- provided an area that we
9 could utilize for some parking out there so there would be
10 access to those types of spaces.

11 Also, there is a storm water lot proposed in
12 the center of the project site in conservation lots for
13 this large area in the uplands along the Nottingham Way
14 portion of the project.

15 With that, I will turn it back to the Board for
16 any questions or comments at this time.

17 CHAIRMAN STUTO: Does the Board have questions
18 before we turn it over to the Town Designated Engineer?

19 (There was no response.)

20 I do have one question. I call it the Jones
21 property, which is the other connection. Can you point to
22 that?

23 MR. KEATING: That's right here in the southern
24 portion (Indicating).

25 CHAIRMAN STUTO: Do the Joneses still own that?

1 MR. REO: I do, actually.

2 CHAIRMAN STUTO: Somebody told me that some
3 builder or developer was interested in building both
4 parcels - both residential pieces. Would you speak to
5 that?

6 MR. KEATING: Sure. Chris Marchand is actually
7 here tonight. He is from CGM. He's working with Bill Jones
8 to developed the adjacent piece. He has reached out to
9 Blackrock with interest in constructing those homes with
10 Blackrock. That's what you're probably hearing.

11 CHAIRMAN STUTO: Right, and it would make those
12 pieces fit together better. That's in my simple, humble
13 opinion.

14 MR. KEATING: We are trying to do like-style
15 homes. We're not looking to try to do -- I know there has
16 been things about cottage style homes and things like
17 that. That was something that was discussed a long time
18 ago. That's not the intent of what the style and types of
19 homes that we are looking to build here. It is more
20 similar to what you currently see in the residential
21 development.

22 CHAIRMAN STUTO: If there are no other
23 questions, we will turn it over to the Town Designated
24 Engineer, Brad Grant from Barton and Loguidice.

25 Brad, can you give us your thoughts on this

1 project?

2 MR. GRANT: Sure, Peter.

3 We have received the plan that everybody is
4 looking at for just the conservation subdivision. In
5 previous meetings and iterations we have been provided
6 with the maps that show the full scale of the development,
7 including both the CGM and what is going up Route 9 - the
8 COR type of property and what was going to take place for
9 the memory center. So, we are just looking at a small
10 portion of this regarding the conservation subdivision. We
11 have just got this recently and received also some density
12 calculations this afternoon. There hasn't been a lot of
13 time to digest.

14 I am basically just going to talk about some of
15 the issues that were previously - as part of the review.

16 We talked about connections to both Bergen and
17 to Weatherby. In particular, in the past, there is
18 interest in emergency connections for emergency
19 responders. When you need help, you want them to get there
20 quickly. There are occasions where those happen without
21 direct road connections with essentially a paved driveway
22 with the fence and a lockbox. The Fire Department, if
23 they needed to get access through, could access that and
24 get into one neighborhood from another, but not have the
25 day to day traffic.

1 Some of those applications have included
2 pedestrian access but not be open for pedestrians. That is
3 a consideration.

4 In particular with the CGM development, it
5 applies here too -- to have vegetative buffers to separate
6 the neighborhoods by a visual screening.

7 Looking at what is in front of us tonight on
8 the conservation layout there are properties very close -
9 within 15 feet of a common boundary with existing
10 properties on Weatherby. So, that is a legitimate concern
11 of houses of perhaps different lot sizes and architecture
12 and size. It is very close without those visual vegetative
13 buffers and what they provide.

14 The original land zones that are here - the
15 single-family residential goes all the way up to the COR.
16 What you're looking at is a gap in the middle and as Peter
17 said, it is a little concerning in not knowing what is to
18 become of that and perhaps the Board should consider or
19 the developer should consider retaining that single-family
20 residential zone and trying to develop to all the
21 guidelines and the land use regulations for single-family
22 residential. The COR is the COR on Route 9.

23 That is essentially what I have.

24 CHAIRMAN STUTO: We will take comments from the
25 Board. If the Board doesn't mind indulging me, I'm going

1 to plunge forward with my opinions and that hear from
2 everybody else.

3 I am personally -- I have a lot of things to
4 say and I have studied this fairly hard. I am not in
5 favor -- I think this is a little bit piecemeal. I
6 understand how it evolved and I'm not blaming the
7 developer. It is a split so and there is that gap of
8 single-family residential that is not really spoken for
9 right now.

10 I will put my cards on the table that I am not
11 in favor of planned district development. I am not in
12 favor of using any portion of the single-family
13 residential for other than single-family residential.

14 That being said, I would suggest a conventional
15 residential subdivision on this portion. I think it would
16 be better to utilize the whole single-family piece. That
17 is my humble opinion. I can't force you to make that
18 application, but that is my opinion and I am not in favor
19 of the PDD. I am not in favor of nonresidential uses in
20 zones that are residential. I have stated that opinion
21 other times and there have been other PDDs that have come
22 and gone away.

23 I can remember one in particular without
24 pointing it out. We said you're trying to get twice as
25 many houses in here that would be allowed under

1 single-family residential. We don't favor that. We said
2 it meeting after meeting. They kept putting money into
3 the project and we voted no in the end. My personal
4 opinion - and I don't speak for the rest of the Board - I
5 am not in favor of putting nonresidential use in a
6 residential zone. That is relevant to the PDD. It also
7 bears into the segmentation as well.

8 That said, with the piece below it available
9 and the connectivity on Route 9 possible, I am not in
10 favor of car connections to Weatherby or to Bergen Woods.
11 So, that is my humble opinion. I think a pedestrian
12 connection would be okay.

13 Some people have talked to me about emergency
14 access. I would leave that to the other Board Members. I
15 think pedestrian and bike connections would be nice. I
16 think it would also allow green space screening between
17 the current cul-de-sacs at Weatherby and Bergen Woods to
18 the new development.

19 Some engineers will tell you that you should
20 have connectivity and that it helps traffic. There is also
21 an alternative view. My feeling in this case is that it is
22 not appropriate. There may be other Board Members that
23 have opinions on that particular thing.

24 That all said, conservation subdivision -- this
25 may be my final point -- conservation subdivision - you

1 end up with some small lots next to the current
2 residential and you have modified that a little bit.
3 Conservation subdivisions are a discretionary act. I
4 reviewed the language today in the Land Use Law. I am not
5 in favor of it. You can continue with that application,
6 but I would like to see a conventional subdivision
7 covering the whole property before I could even go forward
8 thinking about this.

9 I also wanted to mention that I don't think we
10 are prepared for a vote tonight.

11 That said, I will open it up to the Board.

12 Kathy?

13 MS. DALTON: I tend to agree with most of what
14 Peter said, some for different reasons.

15 I have a lot of trouble with what you have
16 presented without knowing what you think is going to go on
17 the rest of that parcel. We tend to be uncomfortable with
18 those kinds of plans. We frequently will see developers
19 come in and say it's a phased project. This is Phase 1,
20 Phase 2 and Phase 3. Then, we get a better sense of what
21 exactly is going to be put in each community. That to have
22 so much space to be left unaccounted for when you're
23 talking about such a critical piece of land, it just makes
24 me uncomfortable. That is my first reason for being not
25 in favor.

1 Second would be related to some of the things
2 that Mr. Magguilli talked about. I am not completely
3 familiar with the legal aspects, but I would like to see a
4 legal conversation between some of the things that Mr.
5 Magguilli said and what your legal representation might
6 say in response.

7 I know that it is early for this, but there
8 isn't any representation of what kind of buffering you
9 were looking at with regard to separating this new
10 neighborhood from the old neighborhood. If your argument
11 is that it's going to look a lot like the old
12 neighborhood, I want to see why it's going to look a whole
13 lot like the old neighborhood. If it's not going to look a
14 lot like the old neighborhood, then I want to see
15 appropriate transitions are being made.

16 Again, while that typically would not be done
17 at this point in the project, because of all of the other
18 questions, I think that is something that you have to
19 bring to the Board.

20 I think that's enough of my thoughts for now.

21 CHAIRMAN STUTO: Chief?

22 MR. HEIDER: Do you know offhand what the lot
23 size minimum was in Dutch Meadows?

24 MR. KEATING: It was 18,000 - at least for this
25 portion of it. There were multiple phases that we're tying

1 into that. At this point in time, it is 18,000.

2 MR. HEIDER: I have to agree with the Chairman.
3 I think that overall the conventional residential does a
4 lot more for the project than the combination of
5 cluster-type housing and bigger lots. I don't think it
6 goes. I don't think it looks good. I don't think it looks
7 well with the adjoining neighbors.

8 The concern that I have with connectivity - I
9 talked to Peter about this - connectivity sounds great and
10 looks great until you're in the neighborhoods that are
11 connected. When you connect them for the purposes of
12 biking or recreation, I think that's all well and good but
13 if there's not a defined reason to connect for vehicle
14 traffic -- in my past life all I saw was a lot of problems
15 concerning connectivity. There were a lot of traffic
16 problems and problems with people doing cut-throughs.
17 Especially here, with this potential of the road -- I
18 think it's just a dangerous option without showing some
19 form of and/or some form of connectivity with the other
20 single-family residential. I would not be in favor of it.

21 The other thing is obviously it's very
22 important - the piece that is optional at this point. I
23 think it would be a big difference if that was a
24 definitive option at this point, but it is not. Even
25 though that might be in the process, there are a lot of

1 ifs in this Town but of the past have never materialized
2 and we have been stuck with things that were supposed to
3 be but never were.

4 CHAIRMAN STUTO: Craig?

5 MR. SHAMLIAN: I agree with the Chairman said
6 about PDD. I certainly don't think that is an appropriate
7 use here and I am not in favor of anything other than
8 single-family residential and the SFR zone.

9 Just to reiterate, clearly we want to see what
10 else you have planned for the rest of the SFR. Without
11 that, we are left to guess and we are probably not going
12 to guess favorably from your viewpoint. Those are probably
13 the things that are most concerning. I am not steadfastly
14 against the conservation concept, but I would like to see
15 a conventional development as well so that we have a basic
16 comparison and can make an informed judgment as to whether
17 the conservation district really should be used in this
18 instance.

19 MR. MION: I agree with the rest of the Board
20 Members, so far.

21 I think I would like to see the build-out and
22 where you are going to put the residential housing. I
23 think you could move the current housing that you have
24 forward and maintain a natural buffer over on Weatherby
25 and down through that area. It looks like you're going to

1 use for the entrance to that area - that would be to the
2 Jones property, if I'm not mistaken. I think you would
3 have to work that out.

4 The connectivity issue, I would not say that
5 you need the connectivity issue together in certain areas.
6 What I would like to see or at least considered using
7 Weatherby Court as an emergency entrance/exit only. You
8 could use it as a back path as well. The only way that
9 you're going to go in and out is through a gate. It will
10 not be for through traffic.

11 MR. AUSTIN: I have to agree with the Chairman
12 and the rest of the Board. There have been a lot of
13 statements made about the piece that is - the mystery
14 piece, so to say. Coming before the Board with a road to
15 nowhere on the mystery piece is very concerning because we
16 don't know what might go there. If you come before the
17 Board with that piece with housing on it, that might have
18 been something that we could take a look at - or something
19 planned on that, understanding that the COR piece up on
20 Route 9 is in fact commercial/office/residential. So, that
21 is a different piece entirely.

22 I am not in favor of connecting Weatherby Court
23 or the Bergen Woods Drive. I see that you have eliminated
24 Bergen Woods completely on the new diagram. If Weatherby
25 was to be connected and dead-end that and not have to

1 connect out to Route 9 - if that was to be even
2 considered -- which I don't think it needs to be. I like
3 the idea of the emergency access, potentially. I think
4 that one pie shaped piece right on the corner of Weatherby
5 on the new development is very close to the line. I think
6 there is some serious buffering issues.

7 Looking at just a few moments ago some of the
8 real estate on Bergen Woods and such and looking at the
9 lot sizes, some of them are under 1/2 acre and some of
10 them are closer to 1/2 acre. The houses are anywhere from
11 the high twos to the low fours as far as square footage
12 goes. To fit houses like that into the parcels that you
13 are considering, it is tight.

14 A former colleague of mine said it's like
15 putting 10 pounds of sand into a 5 pound bag. You're
16 trying to squeeze the lot into a little. If you could
17 spread it out more, that would solve a lot of the issues
18 that we are seeing right now. I think that really the
19 biggest issue, even with the new plan, is that
20 single-family residential piece - that it is not spoken
21 for. I'm not willing to move ahead really at all without
22 seeing something more with that.

23 CHAIRMAN STUTO: I think that people want to be
24 heard and I think they deserve to be heard. What I'm going
25 to suggest is this: The applicant respond to what we just

1 said. In the meantime, certain people have signed in and I
2 will take that sheet. We will put another sheet out and if
3 people can make brief comments, because this thing is
4 obviously going to change a lot -- we will listen to what
5 you have to say, but we will ask you to please be brief.
6 I'm going to put another sheet out and I will ask the
7 applicant to respond.

8 Would the applicant like to respond?

9 MR. AVERY: Benjamin Avery from Blackrock
10 Construction for the record.

11 We just want to thank the Board for their time
12 in certainly taking in all of this feedback. It appears
13 clear that we want to probably withdraw our PDD
14 application and reconsider looking at a two phased
15 project; one in the single-family residential and then a
16 senior care component in the Route 9 corridor.

17 From a connectivity standpoint we certainly
18 have to take into account a lot of factors, but we can
19 certainly be respectful of the neighbor's concerns and in
20 our designs, looking at looping, extended cul-de-sacs, and
21 so on and so forth to limit that.

22 While I certainly cannot commit to any
23 connection through an adjoining parcel right now that does
24 not currently exist, I think there are ways that we can
25 work potentially extending the existing street, but not

1 creating connectivity it could be worth review.

2 I think the one thing to note is that a review
3 of that single-family residential and that amount of
4 acreage will likely result in a net gain in units there.
5 So, there would be an increase in the number of homes as
6 we utilize that land. Again, we are taking that on the
7 Board's direction.

8 Thank you, and we will move accordingly in the
9 coming weeks.

10 MR. MAGGUILLI: That is only a detriment if you
11 plan on not using that single-family residential
12 unconstrained portion at all. From what I have heard from
13 your group tonight, you do have plans to develop that
14 section of property. It's not as if you are going to leave
15 it vacant in perpetuity.

16 MR. AVERY: No. To clarify, what I was saying
17 is that if we were to withdraw the PDD application and not
18 have the intent of refileing it to put a memory care use
19 and that, we would simply redraw that residential portion
20 in a conforming manner. But as we utilize that unspoken
21 for - that will result in a higher number of residential
22 units.

23 MR. MAGGUILLI: Single-family units.

24 MR. AVERY: Correct.

25 MS. DALTON: What I was going to encourage you

1 to do is then make sure that your lot sizes and your home
2 sizes and the character of the neighborhood that you are
3 now going to propose be much more consistent with the
4 neighborhood that already exists there. That's number one.

5 Number two - just going back to the
6 conductivity thing, reiterating that when you reconfigure
7 it I think that anything you do that creates connectivity
8 or somebody can cut from Route 9 and somehow get through
9 to the Dutch Meadows neighborhood is going to be
10 problematic.

11 I live over off of Route 7 at the animal
12 hospital and Peter Harris and I do a lot of stuff coming
13 down from the Clifton Park area and any time I can get off
14 of Route 9 and take back roads back to my house, I do. I
15 do because I know that those certain times when I get to
16 Latham Farms and try to get over 87 back into my
17 neighborhood is difficult.

18 So, anything that we can do at this point to
19 mitigate traffic impact on our neighborhoods in are
20 residential areas - we have to try and accommodate that.
21 Please don't come back with something that takes us from
22 Route 9 into Bergen Woods.

23 MR. AVERY: We agree. We will likely take the
24 standpoint that zoning line - probably we should figure
25 out how to incorporate the residential even in with the

1 existing residential and have the Route 9 piece stand by
2 itself. So, they would be absolutely no the particular
3 connection between Route 9 and any of the existing
4 neighborhoods, or any of our newly planned neighborhoods.
5 I think that's what I hear you saying and that makes a lot
6 of sense from a buffer standpoint.

7 Just falling back to the discussion of lot
8 sizes and square footage -- that's all very easily
9 quantifiable. If the Board wants us to pull through tax
10 records and get lot sizes and square footage and assessed
11 values of half the neighborhood before the next meeting,
12 we are certainly happy to do that. That seems like a lot
13 of work. That is something that the Board would like to
14 see and it would be helpful -

15 CHAIRMAN STUTO: We know it is in the
16 neighborhood. I'm not sure of the point that you are
17 making.

18 MR. AUSTIN: I understand the Dutch Meadows has
19 three phases. I understand the first phase and the second
20 phase and they would get bigger as they go. Keeping in
21 mind, as you are, that those lot sizes should be
22 comparable and the housing style should be comparable too
23 - not only for the residents but to keep the feel of the
24 neighborhood, as well.

25 MR. AVERY: We agree wholeheartedly with that.

1 We feel that we have partnered with a builder who can
2 execute on that.

3 CHAIRMAN STUTO: Okay, we are going to hear
4 from the neighbors. We have about 20 names here. So, I
5 would ask that you try to get right to your best points. I
6 will call them in the order that they are written in. We
7 will ask you to go up to the microphone, if you are
8 physically able.

9 Jeff Connery.

10 We will ask you to keep it to three or four
11 minutes.

12 MR. CONNERY: I don't know if I can do that.

13 CHAIRMAN STUTO: If you really have something
14 else to say when everybody else is done, in fairness - the
15 person who is the 20th should get an opportunity. too.

16 FROM THE FLOOR: He is representing most of the
17 neighborhood.

18 CHAIRMAN STUTO: Well, we have Ridgeview
19 Meadows and six names there. Is he speaking on behalf of
20 all those people?

21 FROM THE FLOOR: No. He's speaking on behalf of
22 the meetings that we had.

23 CHAIRMAN STUTO: Let's just go forward and
24 we'll try to be civil.

25 MR. CONNERY: For those of you who don't know

1 me, my name is Jeff Connery. I live on Weatherby Court
2 right at the end next to this project with my wife Kelly
3 and our two kids.

4 I want to thank the Board for their input
5 tonight. I was glad to see that you guys have looked into
6 this and answered a lot of our questions that we had. I
7 know that most everyone here appreciates it.

8 I want to start by just saying that on June 6,
9 2017 I attended a Board Meeting here in the Town
10 Operations Center for a sketch plan review of a proposed
11 planned development district located at 1126 and 1126A
12 Loudon Road here in the Town of Colonie which adjoins the
13 Dutch Meadow community. I attended the meeting with
14 approximately 60 other residents from Dutch Meadows who
15 were opposed to this development.

16 On the same night, the Chairman of the Board,
17 Mr. Stuto, postponed the next meeting of June 20th which
18 was supposed to be concept review and possible concept
19 acceptance for this project. Mr. Stuto asked the community
20 and the builder to get together on a mutual location on
21 June 20th to discuss possible solutions for the proposed
22 development that the community and the builder would be
23 happy with. Mr. Stuto then rescheduled the concept review
24 for tonight, Tuesday, July 11th.

25 On June 20, 2017 approximately 75 residents

1 from Dutch Meadows attended the meeting with the builder
2 Ben Avery, developer Frank Polsinello and Roger Keating at
3 the Boght Road Firehouse to discuss the possible solutions
4 to their problems that the community of Dutch Meadows was
5 having with the proposed project. Several great
6 suggestions were made by several members of the Dutch
7 Meadow community.

8 Towards the end of that meeting we asked Mr.
9 Avery if he could put our suggestions to a drawing and
10 meet with us before the July 11th concept review so we
11 could see it and give our input.

12 Mr. Avery then explained that he would not
13 redraw anything for us to see. He said that he was
14 listening but he told us that we would have to make a list
15 of suggestions to submit to the Board tonight on this
16 date.

17 So, I'm here tonight to present the list of
18 suggestions for the Dutch Meadow community regarding the
19 proposed development.

20 I'm going to have my wife and Chris hand out a
21 couple of things to the Board. One is going to be the list
22 of suggestions and the other one is going to be an 11 x 17
23 drawing to help visualize the suggestions that we are
24 making for this project.

25 CHAIRMAN STUTO: Okay, this sounds like it may

1 be going too long, so just be aware.

2 MR. CONNERY: I would like to start by saying
3 that as a community we are not against development of
4 single family residential homes in single family
5 residential zoning. We are against a planned development
6 district in single family residential. Planned development
7 districts were designed as the exception and not the rule
8 in building. So, please, no commercial buildings in single
9 family residential.

10 We are against conservation development in
11 single family residential. The proposed development area
12 is not in a conservation overlay in the Town's
13 comprehensive development plan. This would allow the
14 builder to build smaller homes than in Dutch Meadows. This
15 would also include smaller lot sizes, setbacks and
16 streets. This, in turn, would lower our property values.

17 I'm going to start with the first issue on this
18 drawing. We do not want the road connections to Weatherby
19 Court and Bergen Wood Drive. If these roads were to be
20 connected, it would jeopardize the safety and security of
21 our children and ruin the peaceful nature and privacy of
22 our neighborhood which has been established for almost 15
23 years.

24 These are the spots that I'm talking about for
25 the connections; here and here (Indicating); Bergen Woods

1 and Weatherby Court. We do not want to see a connection
2 there.

3 We do understand the need for sewer and water
4 connections from Weatherby Court and Bergen Woods Drive.
5 If connected, we would like to see the sewer and water
6 easements covered after the installation of infrastructure
7 with a five foot wide bike path. You can see that I listed
8 it right on here so that you can see this.

9 We would also like to see as few trees as
10 possible removed during the installation of the
11 infrastructure to keep that buffer. We would like to
12 preserve that buffer. It's in green right here
13 (Indicating) that goes around. If you see this - all this
14 blue is wetland (Indicating). So, they are trying to
15 squeeze houses in right up against us right here with
16 substandard lots. They are about 14,000 square feet. I'm
17 not happy with that and neither is anyone else from Dutch
18 Meadows. So, we would like to see this green buffer
19 preserved with the walking path that goes through here
20 from Weatherby Court (Indicating) where you can get your
21 utilities and also from Bergen Woods Drive - we would like
22 to see the same thing - a walking path through.

23 The wetland disturbance, I have in tan right
24 here (Indicating). Our wetland disturbance is less than
25 one-tenth of a percent which in that situation it falls

1 into the Army Corp of Engineers approvals.

2 The tree buffer and the wetland will protect
3 our neighborhood from the unsightly building that will
4 start on top of Route 9 in the commercial area.

5 I'm going to have Chris just go around and show
6 the Board the trees.

7 CHAIRMAN STUTO: Can you tell me how far along
8 you are in your presentation? If everybody spoke as long
9 as you, we would be here for several hours.

10 MR. CONNERY: I'm talking on behalf of other
11 neighbors.

12 CHAIRMAN STUTO: Somebody said no. The first
13 six people said no, that you're not representing them. I'm
14 just letting you know as a matter of politeness. Everybody
15 has to take their turn and if you want to come back -- all
16 I ask you is how far you are into your presentation?

17 MR. CONNERY: I only have another four more
18 issues to show what is represented.

19 MR. LACIVITA: Peter, do we want to submit this
20 for the record in full and then a copy of this would be in
21 the record?

22 CHAIRMAN STUTO: Sure, in the file.

23 Okay, what points do you have?

24 MR. LACIVITA: We received his talking points
25 and we had this drawing.

1 CHAIRMAN STUTO: Can you mark those Mr. Connery
2 documents and date them today and put them in the file?

3 For the record, those are what those records
4 will be identified as.

5 MR. CONNERY: The picture that you are being
6 shown right now is Shelter Cove. I invite anybody in here
7 to take a ride up to Shelter Cove, drive all way down in
8 the back by the river where they have their pool and their
9 clubhouse and you will see that the minute you get out of
10 your car and turn around and look, the elevation is almost
11 the same exact thing as what we had in our neighborhood to
12 Route 9. If they take down our trees and we don't have a
13 buffer there, that's exactly what we are going to see from
14 our neighborhood. It's in that picture if you'd like to
15 take a look at it afterwards.

16 The fourth thing: All the homes - we would like
17 to see 2,800 square feet, not including the 20 x 20 garage
18 on a minimum of a 18,000 square foot lot.

19 What I did was scan the original plan from the
20 developer and went over the top of it and sat down with an
21 engineer and put everything to scale so that -- these are
22 all to scale 2,800 square foot houses without the garage.
23 I have a 140-foot setback like Dutch Meadows. The only
24 thing that is different is the street size which is 30. It
25 makes it harder to put 36 in like we have, but at the same

1 time the Town in the past doesn't want 36-foot wide roads
2 anymore; they want 30. If they have to redo them in the
3 future, it doesn't cost as much for taxpayers.

4 All the houses, like I said, are set back 40
5 feet and there is a 15 setback on one side and a 10 foot
6 on the other and a 25 in the rear and it all works in this
7 development.

8 The last thing for points on here - a second
9 Fire Department access to the new development. That could
10 come down from Route 9 where they originally proposed it
11 to come down this way right here into the development with
12 a gate on them. There is no need for an area for a fire
13 truck to drive through here. This could be your second
14 access into your project.

15 This list of suggestions for the proposed
16 development at 1126 and 1126A New Loudon Road from the
17 Dutch Meadows community.

18 I would like to thank the Board and the members
19 for their time and consideration in this matter. I would
20 implore the Board Members to not vote on a concept
21 approval until you see the developer and the builder start
22 to work with this community about this development.

23 One other thing that I would like to talk about
24 is the segmentation issue. What the developer is proposing
25 is like a textbook illegal segmentation issue, which I

1 guarantee you will subject the Town to litigation down the
2 road. We will force that issue, if we have to. We are
3 prepared to get an attorney for the next couple of
4 meetings if we have to. We've already consulted people
5 about it and we are prepared to do it.

6 MR. MAGGUILLI: I think that we addressed the
7 segmentation issue pretty well.

8 MR. CONNERY: You did and I appreciate it.

9 One thing that I would like the Board to
10 consider with the Jones' property and the Polsinello
11 property -- every time we talk in a meeting with somebody
12 we ask questions: What about the water from the Jones'
13 property affecting this property and our properties and we
14 are always getting this - we have to talk to them. I
15 really think that from this day forward if we are going do
16 something with this area of land, we really need to think
17 about both builders. They need to be in the room at the
18 same time, so the questions can be answered.

19 The other thing is these guys are asking for
20 approval on this project down low in the development area.
21 We have such a water issue on Bergen Woods. When you want
22 to control water you control it at the top. You don't let
23 it race down and then try to control it.

24 CHAIRMAN STUTO: I have to ask that this is
25 your last point.

1 MR. CONNERY: This is my last point.

2 My last point is why would we let them put
3 infrastructure for this and not control the water issue
4 back here up the hill beforehand? The problem is that one
5 needs the other. One needs access over here (Indicating)
6 and one needs access out to Boght Road. So, each project
7 needs something from the other. So, we have to work
8 together every time we do it. We have to work together on
9 it.

10 That's all I have to say.

11 CHAIRMAN STUTO: Marc Weiss.

12 Everybody can't speak for 12 minutes.

13 MR. WEISS: Understood. Good evening, members
14 of the Planning Board, Supervisor Mahan.

15 First of all I want to thank you guys. I think
16 that you are doing an amazing job. Thank you for your
17 service. You're doing a great job of balancing the needs
18 of development in the Town and listening to the
19 neighborhood and I really appreciate that.

20 After speaking with the neighbors, I put
21 together some points that I think will encapsulate our
22 thoughts and concerns.

23 My name is Marc Weiss and I'm a regional
24 director for Keller Williams Realty International upstate
25 region. Keller Williams Realty is the largest residential

1 firm in the world.

2 The region will sell 10,000 this year and I'm
3 also the local franchisee and we will sell locally 3,000
4 houses. In fact, we will sell one out of 10 homes in
5 Colonie this year.

6 In addition to being highly qualified to value
7 local properties, I have been a resident at Dutch Meadows
8 for six years at 26 Bergen Woods. The neighborhood is
9 unique in that the houses are built on lots of at least
10 one-half acre and more so in some of the instances they
11 are generally in excess of 2,800-plus square feet. In
12 addition, the neighborhood is marked by limited entry
13 points, cul-de-sacs and 30-foot roadways. These desired
14 features are combined to create an average home price of
15 \$461,000 in the last year. That's nearly twice the
16 average of homes in Colonie. Homes have sold in less the
17 average days and houses on cul-de-sacs often sell well in
18 excess of half-million dollars. The home at 66 Dutch
19 Meadows Drive closed July 6th for \$610,000 in less than 20
20 days.

21 There are 205 homes in a very similar nature in
22 the Dutch Meadows community, including seven cul-de-sacs.
23 The described features are what define the neighborhood
24 and make them highly desirable and create its higher
25 values. The proposed development, if given zoning variance

1 and improved in its proposed density would destroy the
2 unique characteristics of the Dutch Meadows community. The
3 proposed cut-through would likely fall in value about 20%,
4 as would the values on Bergen Woods Drive.

5 In addition, the increased traffic in proximity
6 to the commercial development would likely impact quality,
7 character and desirability of the entire neighborhood,
8 decreasing the other neighborhoods in excess of 10%. We
9 estimate that the average drop in property values in the
10 community would conservatively be 12%. With 205 homes
11 averaging at least \$461,000 the equity of the property
12 owners, many of whom are here tonight, is over \$94 million
13 dollars. This development would decrease the equity of
14 the homeowners hi over \$11.3 billion while being a
15 tremendous shift of wealth from these taxpayers and
16 homeowners to the developer. It would be a financial
17 disaster for these residents if the Town chooses to change
18 the zoning laws and allow this project in its present
19 state.

20 The Town will also lose financially. Any fees
21 that increase in tax bases will be wiped out by the
22 outlandish property tax grievances that the residents will
23 brightly flood the Town with. The only winner in this
24 development would be the developer who stands to gain the
25 tax payer's owner's loss.

1 While the project has merits, the location
2 could not be more proper for this use and densities. On
3 behalf of the neighbors and is a real estate professional,
4 responsible voter and taxpayer, I implore the Town to
5 uphold the zoning that the neighbors trusted are elected
6 officials to hold.

7 Thank you.

8 CHAIRMAN STUTO: Thank you.

9 John Smith.

10 MR. SMITH: My name is John Smith and I live on
11 Providence Court. I just have a simple question regarding
12 an earlier communication within the meeting.

13 A critical parcel to this is the Jones
14 property, obviously. That is the property that abuts most
15 of my neighbors' backyards.

16 When a question came up about ownership, I
17 heard a contradictory comment. It seemed like Mr. Jones is
18 no longer here.

19 CHAIRMAN STUTO: Is that all you want to know
20 is who owns the property?

21 MR. SMITH: Well, that's pretty much went going
22 to ask.

23 CHAIRMAN STUTO: The Jones property is not the
24 application before us. We have to keep moving. If that is
25 your only question, we will try to get that answered.

1 MR. SMITH: My question is: Who owns the
2 property? Who controls it? Is it a contingent sale or an
3 absolute sale and if so, who are we dealing with here? Who
4 are the owners of this property?

5 CHAIRMAN STUTO: It is a fair question. It is
6 related, but it's not this application.

7 Go ahead.

8 MR. REO: My name is Mike Rio. Bill is my
9 father-in-law. I pay him a personal loan. I am still
10 currently paying on it. I pay the taxes on it.

11 CHAIRMAN STUTO: You have a contract to buy the
12 property; is that what you are saying?

13 MR. REO: I have a contract with Bill Jones
14 that is not paid in full.

15 MR. SMITH: Is a contingent or is it absolute?
16 That's really all I want to know.

17 MR. REO: It is a contingent contract right
18 now. It is not paid in full. I do pay the taxes.

19 MR. SMITH: So, we really don't know who we are
20 negotiating or dealing with here.

21 CHAIRMAN STUTO: Do you mind talking with him
22 privately out in the hall?

23 MR. REO: Sure.

24 CHAIRMAN STUTO: Lisa Easterly Klaas.

25 MS. EASTERLY KLAAS: I would like to think the

1 Board and thank you for your responding to our concerns
2 regarding the TDD for the proposed area. I want to speak
3 more to some of the issues that we are already dealing
4 with so as the developers - the one that we do have before
5 us and whoever owns that adjoining land, as they move
6 forward, that they consider and remediate for issues that
7 we are already dealing with.

8 I'm glad to hear that you're not in support of
9 the PDD as proposed tonight. I also want to mention that
10 there is no precedent for PDD's rights directly in our
11 area - Boght Road, Schemerhorn Road and Dunsbach Ferry
12 Road and Route 9.

13 We recently had Amedore and Cillis put in
14 recent developments that are very similar to Dutch
15 meadows. Ted Cillis has just one outlet and it's Orshan
16 Court - that he developed for access to his development.
17 There is no additional road access even for emergency.

18 The other issue is, of course, we do not want
19 to be attached to any commercial building. We don't want
20 the two or three parcels to be separated and rezoned. We
21 don't feel that is necessary and we do feel that it would
22 cause an additional burden of traffic that we don't have
23 an areas that will now be cutting through there.

24 The neighborhood is asthetic is very important
25 to us. We paid more money to live in this neighborhood

1 where the homes are attractive, where they are set back
2 from the road, they are not bunched together one after the
3 other. They are also very dissimilar in appearance. We
4 would like that the developer, whoever ends up doing this,
5 would use the same rules as were imposed by Marini
6 builders when they did are areas which include no house
7 being built next to the other with the same front
8 appearance or the same model. There are different models,
9 sizes and types next to each other and most of them are in
10 excess of 2000 square feet and they also have brick fronts
11 or stone fronts. Some of them have porches and others do
12 not. They should be similar to Dutch meadows and that
13 there is no house next to the other that looks exactly the
14 same. That was actually one of the big things that Marini
15 would not let us put in the same development.

16 I understand there is a need for housing for
17 seniors. There is a model within the development for a
18 ranch style home that is a single floor. I would like to
19 make the Board aware of that. This requires more buildable
20 space than the two-story homes. Please be aware. So,
21 although these may be 2,200 to 2,400 square foot homes
22 with a 20 x 20 garage they take up more actual disturbed
23 ground space.

24 MR. LACIVITA: Can I just ask one question? Was
25 that type of information or those design standards - was

1 that criteria that was handed to you by Mr. Marini?

2 MS. EASTERLY KLAAS: We had to build according
3 to deed restrictions that are attached to all of our
4 deeds, which the Town and forces.

5 CHAIRMAN STUTO: No, the Town does not enforce
6 deed restrictions.

7 MS. EASTERLY KLAAS: I actually had someone
8 from Code Enforcement come to my house when I purchased it
9 because there is an in-law apartment type on the one side.
10 They came to my house to inspect that we did not rent out
11 the other inside. So, they do enforce it, or they are just
12 overstepping their job by coming in.

13 CHAIRMAN STUTO: They enforce that as a matter
14 of the Town Law. Deed restrictions are private amongst the
15 people that are part of the subdivision.

16 MR. LACIVITA: The only reason that I asked
17 about the design standards was there was another
18 subdivision going in on another part of Town where we
19 tried to adopt them. Do you remember Lupe Way? We asked
20 about the same provisions. So, if you had anything from
21 Mr. Marini from your specific development that this
22 developer could possibly do -

23 MS. EASTERLY KLAAS: Oh, you want the
24 specifics? We may have that. We would have to check our
25 records. We will look into that for you.

1 The other thing that is connecting the
2 neighborhood. Obviously, we do not want the cul-de-sacs
3 opened up. You're talking about building this road and
4 they own land that goes out to Route 9. There are two
5 other access points. There is also Boght Road, which was
6 originally on the agenda. We really suggest that if they
7 need to use it for a utility easement, that's what we
8 would want - and that they should not allow additional
9 traffic - vehicle traffic through our development.

10 Others have talked to the negative financial
11 impact of mushing houses together and having them closer
12 together, closer to the road - it actually does diminish
13 the appearance of the neighborhood and drive down property
14 values.

15 Other issues that we are having are water
16 problems and issues with wildlife.

17 What you going to see right now are pictures of
18 areas that are currently flooding already in the
19 development. They need to be addressed before any
20 additional housing would go in there. We have seen areas
21 where there is actually a running stream going through
22 several people's backyards in the Bergen Woods area, right
23 where they want to develop -- they have four or five
24 houses there.

25 CHAIRMAN STUTO: Ma'am, can I suggest this? A

1 lot of what you have said - the Board already agreed with
2 you. Now you're talking about storm water and I just want
3 to say this: Brad is a storm water specialist. He is the
4 engineer on the left and the green striped shirt. I can
5 assure you that before the process is over - and we are
6 just at the beginning of the process - we don't even know
7 what this is going to look like. Under the storm water
8 regulations and the federal law, those things will
9 definitely be addressed. It's a little early in the
10 process. It is fair for you to bring it up. I'm not saying
11 that it isn't. Most of the points that you are making, we
12 have addressed and we agree with you. I think we have
13 addressed that.

14 With respect to the stormwater, though, in a
15 way you brought up a new issue. That will definitely
16 be --

17 Brad, do you want to speak just very briefly
18 about stormwater?

19 MR. GRANT: Yes, it is part of a combined
20 effort of both review and the CGM property. There are
21 wetlands in this area. They are very flat and sloping
22 lands that in times of peak runoff you do see running
23 water in the back of Bergen Woods and heading in the
24 direction of the Ridgeview development. These soils are
25 tight and they don't drain well, but there are existing

1 stormwater connections through the development. They do
2 have limitations. There is a 24 inch pipe right at the end
3 of Bergen woods court and those limitations and capacity
4 and ability to drain are a part of what we are going to
5 use as a barometer to these projects attenuate to do and
6 what they need to do to not exacerbate existing issues.

7 MS. EASTERLY KLAAS: We just wanted to bring
8 that up. We actually do believe that the runoff that is
9 coming is coming because certain wetland ponds are no
10 longer where they were upstream. There was a pond uphill.
11 That has been -- we don't know exactly what happened, but
12 the pond isn't there. So, now the water just comes down
13 the hill.

14 CHAIRMAN STUTO: There will be plenty of time
15 for those conversations. You can actually talk to Brad
16 privately about that. We are going to address that.

17 MS. EASTERLY KLAAS: Okay, so the one
18 additional point I want to talk about is the issue -

19 CHAIRMAN STUTO: Ma'am, you have to address the
20 Board or else we're going to lose order.

21 MS. EASTERLY KLAAS: So, the other issue is
22 wildlife. I have had deer just come through and destroy
23 very expensive landscaping that we put in. I actually had
24 a coyote den which is -

25 CHAIRMAN STUTO: Are you for or against this?

1 MS. EASTERLY KLAAS: Well, I am a little upset
2 with the coyote killing my house cat and some other
3 people's house cats and in fact that it came right up on
4 my deck.

5 We would like you to preserve the trees which
6 has been a precedent with this Board in these other three
7 neighboring areas. It was mentioned to me about precedent
8 for PDD's.

9 Here is precedent where you did not allow such
10 things on 59 Pollock Road and on 261 to 271 Troy
11 Schenectady Road and on March 21, 2017 that you insisted
12 certain issues be met with the person applying for 347 Old
13 Niskayuna Road. Actually, it doesn't look like the
14 address is on here. Some of the issues that were mentioned
15 were needing the 40 foot setback. The Board supported
16 that.

17 A conservation subdivision should not be
18 inconsistent with Dutch Meadows houses. You have enforce
19 that in the past - that the next developer would maintain
20 the same style of home and wouldn't be significantly
21 different - visually different. Wildlife in my yard and on
22 my deck need to be preserved and there is green space -

23 CHAIRMAN STUTO: Ma'am, you are over 10
24 minutes, as well.

25 MS. EASTERLY KLAAS: I just have a couple more

1 issues.

2 The sloping topography that you have also dealt
3 with in the past and that the emergency access -- the Town
4 does not have a limit on the number of houses that can be
5 on a single point of access and we do not want an
6 additional imposition on our neighborhood when a single
7 point of access has never been defined as being a problem
8 in the Town of Colonie.

9 So, we do have matters that we would bring
10 forth if we did have to pursue litigation.

11 CHAIRMAN STUTO: Ma'am, you have used a lot of
12 time. You are over 10 minutes now. It's almost 11 minutes.
13 Other people want to talk and I'm losing the crowd because
14 everybody's talking to each other.

15 Ning Xiang and Hong Zhou.

16 MR. ZHOU: We had questions, but the previous
17 speaker already asked our questions.

18 CHAIRMAN STUTO: Mark Couch.

19 MR. COUCH: As I was outed as an attorney, my
20 job tonight was to basically say what Mr. Magguilli
21 already said and what the Chairman already said - what you
22 guys have already pointed out. I will give the rest of my
23 time up except to point out that this is not landlocked.

24 It doesn't have to Weatherby and Bergen. It
25 goes to Route 9. They can bring in a street another way.

1 The Chairman points out and Mr. Magguilli
2 points out and every Board Member, I think, voiced a lot
3 of concerns that we have been talking about at the
4 firehouse. We thank you for your time and we appreciate
5 your patience and the patients that we had in speaking
6 with the developer and now you are listening to us. Thank
7 you, very much.

8 CHAIRMAN STUTO: John Chakmakas.

9 MR. CHAKMAKAS: Thank you. First of all, many
10 of the things that we were here to basically tell you that
11 we were against - you guys already addressed them. We are
12 very pleased with that.

13 I have been to all the meetings and I'm a
14 pretty good note taker. One of the things that was said at
15 the June 6 meeting was that the developer said that he
16 wanted to be part of the community, be a good neighbor and
17 he wants ongoing dialogue. So, we met with him on 6/20. We
18 went over the changes and we asked him if he would change
19 his drawing and meet with us. No was the answer to that.
20 Then he said that he's not going to change anything. Now,
21 he comes here and he's got it changed.

22 As you're looking at - again, little piecemeal
23 parts - this is a small little section of Dutch Meadows.
24 I'm pointing out that there are some lots that are smaller
25 than 18,000 square feet. There are over 200 houses - 200

1 lots there. So, they are only giving you a little portion
2 of that.

3 Then, unbelievably, Ben Avery says that he
4 agrees wholeheartedly. What does he agree wholeheartedly
5 to? He hasn't agreed with anything that we have said or
6 with what you guys have said. So, I think that they are
7 bargaining and not in good faith. I'm glad that you guys
8 are here to address those issues. Thank you, very much.

9 CHAIRMAN STUTO: Mary Jane Bendon Couch.

10 MS. BENDON COUCH: I have only four points and
11 they are very brief.

12 I live on 27 Bergen Woods Drive with my
13 husband, the guy that looks like a lawyer. I don't look
14 like a lawyer, but I am one. I actually practiced in the
15 Environmental Land Use Law arena for 20 years. I will
16 spare reiterating all of the things that you said, which I
17 had planned to say. I want to thank you, though.

18 I also want to thank the Supervisor who took
19 the time to talk to me. She made it clear that she didn't
20 make the decisions, but she listened to what I had to say
21 and I won't ever forget that. I know that a lot of people
22 in this room won't forget that. So, thank you.

23 I want to add to what John said. There has been
24 a massive amount of disingenuity in our discussions with
25 Ben. These individuals gave up hours, days, weekends and

1 nights to try to have conversations with them. He implied
2 for over 90 minutes that he was going to take into
3 consideration the changes that they asked for. Only when
4 pressed by abrasive lawyers such as myself did he finally
5 knowledge that he's not going to change anything. Yet
6 here, at the 11th hour, you guys have received something
7 that was a change that none of us had a chance to even
8 comment on. So, thank you for doing your job.

9 I want to tell you that also the notion that
10 there are 18 smaller lots there - once again reiterates
11 for me the disingenuity of dealing with these individuals.
12 This is a community. We are part of your community. We are
13 all part of a community. We don't deal with each other
14 like that. We will not permit others to deal with us like
15 that.

16 The last thing that I want to say is the Jones
17 land has been referenced on numerous occasions. I'm one of
18 the people that lives on Bergen Woods Drive and in the
19 spring, I cannot go into my backyard because it is so wet.
20 I'm not exaggerating. Everyone keeps speaking about this
21 as one being to the other. We are not going to go away, so
22 let's not pretend they are going to solve and build on
23 Bergen Woods Drive and Jonesville the dumping water onto
24 them whereby making my backyard look even worse than it
25 does right now with big concrete walls and unsafe

1 situations. I want to work with you. They want to work
2 with you and you have definitely demonstrated that you
3 want to do that. We have not seen that from Blackrock.

4 CHAIRMAN STUTO: On that last point, I would
5 suggest that Brad - and he is the engineer in the green
6 shirt -

7 MS. BENDON COUCH: He has been extraordinary.

8 CHAIRMAN STUTO: He is really the guy to talk
9 to on that.

10 MS. BENDON COUCH: He's been marching around
11 backyards and I have a lot of respect for him. When I
12 don't agree with him, I can have an honest discussion with
13 him that is filled with integrity. That is what this crowd
14 is going to demand every time we come back here. Thank you
15 all.

16 CHAIRMAN STUTO: Brian Beari.

17 MR. BEARI: Brian Beari, 23 Bergen Wood Drive.
18 I live there with my wife Marianne and our three children.
19 You have all been excellent.

20 There is a reason that all the local developers
21 have passed on this project and it is the water. You have
22 been outstanding and I would like to take one exception.

23 Much of the water is not stormwater. By trade,
24 I am a college basketball coach. I am not a lawyer. I am
25 not an engineer. I am a New York State Certified Water

1 Operator and I help people find water sources for
2 communities and maintain and install and monitor those
3 water systems.

4 We have groundwater back there - serious
5 groundwater. This is exacerbated by storms. What we have
6 in our community is an adequate stormwater systems. To
7 address this problem of stormwater will not address the
8 problem. It is a real groundwater issue that comes up in
9 the back of the Jones property and extends and comes up
10 further out in the field. There are at least four points
11 of groundwater coming out of the ground. We have water
12 back there 12 months a year and not just in the spring.
13 Thank you.

14 CHAIRMAN STUTO: David Malicki.

15 MR. MALICKI: My name is David Malicki and I
16 have one thing to say. Thank you Board for sticking up for
17 us. The needs of one do not outweigh the needs of the
18 many. My friends and my neighbors speak for ourselves and
19 I hope as Mr. Avery has said, that you hear us loud and
20 clear. Thank you.

21 CHAIRMAN STUTO: Thank you.

22 Christopher Guzda.

23 MR. GUZDA: Good evening. Thank you for hearing
24 us tonight. I live at 29 Bergen Woods Drive and this
25 development and CGM's development affects us as a

1 neighborhood - Dutch Meadows. Once again, thank you for
2 hearing us today. I had prepared a speech. I was ready for
3 a different sketch plan and then this curve ball came at
4 the last second.

5 I'm just going to say: Where do we go from
6 here? I wasn't here for the beginning portion. There is no
7 vote tonight, correct?

8 CHAIRMAN STUTO: That's correct, but I'm not
9 going over the whole meeting again.

10 MR. GUZDA: I was here for the majority of it.
11 If there is no vote, then I don't have to read my speech.
12 I think you address a lot of the concerns and so did Jeff
13 Connery and all the neighbors. So, what are we looking
14 forward to next?

15 CHAIRMAN STUTO: He's going to come back with
16 something different.

17 MR. GUZDA: Should he be meeting with us again?

18 CHAIRMAN STUTO: I hear mixed reviews. First of
19 all, I appreciate them having the meeting. Maybe it didn't
20 go as well and maybe there are some feelings of
21 disingenuousness. I think all the issues are out there.

22 MR. GUZDA: I applaud Mr. Connery's engineer
23 for coming up with this alternative plan. It conserves the
24 amount of housing that the developer wanted to put in. It
25 preserves the buffer space and conservation space. At the

1 same time, it does connect the neighborhoods via
2 pedestrian traffic.

3 I know that Mr. Keating is the design engineer
4 for this property, CGM construction, and they can't get
5 off the road unless this property goes forward. They need
6 to bring their utilities and storm water -- water can be
7 gained from any access point but at least stormwater and
8 sewage needs to go through the lowest point and that's
9 going to be this down here (Indicating). So, obviously, I
10 think they are married. They are in tune.

11 There is a purchase agreement in place with the
12 developer and the builder for this development. I don't
13 understand why that purchase can't be made and we just
14 hear from Mr. Marchaud who is supposed to develop this in
15 the end, anyway. We can urge that purchase but this is
16 ultimately -- the properties are combined when you look at
17 it.

18 Welding Way is going to give access to this
19 development. The only other way that they could gain
20 access - we don't want them to gain access through here by
21 vehicular traffic or construction traffic by them
22 developing the roads from up here (Indicating). You are
23 the Planning Board. I can't make the developer to do
24 anything. These properties are combined. They effect
25 stormwater on both properties - the building, size, the

1 lots. And if Mr. Marchaud is going to develop this, let's
2 hear from him. Why are we hearing from Mr. Avery,
3 especially when there is the purchase agreement on the
4 table?

5 I'm not going to say much more. I look forward
6 to the alternate sketch plan.

7 In closing, I think you and we also have a
8 petition signed by over hundred and 26 Dutch Meadows
9 residents opposition connection to our neighborhoods.

10 CHAIRMAN STUTO: We will take that into the
11 record.

12 Thank you.

13 Angela Britt.

14 MS. BRITT: I'm Angela Britt. I live at 52
15 Dutch Meadows Drive. I happen to have one of the largest
16 lots in the neighborhood. It was the second phase and
17 there was a huge buffer between the second phase and the
18 third phase. I am here because as a resident of 13 years
19 we have six children and we are right at the end of
20 Weatherby so if we had through traffic, that would affect
21 our children's play. We have two grandchildren now that
22 are one and four. The cul-de-sacs promote community and
23 child play. Our kids learned how to ride a bike on
24 cul-de-sacs. I am in favor of keeping those cul-de-sacs
25 intact.

1 I did sell that house at 66 Dutch Meadows. we
2 know that now the community is supporting much larger
3 homes so I would you like to keep that 2,800 or above. I
4 think just getting with the developers at all being on the
5 same page and trying to work together is important.

6 CHAIRMAN STUTO: Thank you to all the
7 residents. That is the last speaker. I think that we have
8 heard you. Hopefully, you have heard us. There will be
9 another rendition so, we will be seeing each other again.

10 Thank you.

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14 (Whereas the above entitled proceeding was concluded
15 at 7:03 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 _____

