

1
2
3
4
5
6
7
8
9
10
11
12
13
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15
16
17
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PLANNING BOARD COUNTY OF ALBANY
TOWN OF COLONIE

DONNA DRIVE SUBDIVISION
100 DONNA DRIVE
AMEND FINAL SITE PLAN APPROVAL

THE STENOGRAPHIC MINUTES of the above entitled matter
by NANCY L. STRANG, a Shorthand Reporter commencing on
March 10, 2020 at 7:00 p.m. at Memorial Town Hall,
Loudon Road, Newtonville, New York

BOARD MEMBERS:
PETER STUTO, CHAIRMAN
CRAIG SHAMLIAN
SUSAN MILSTEIN
CHIP ASHWORTH
LOU MION
PAUL ROSANO

ALSO PRESENT:

Kathleen Marinelli, Esq., Counsel to the Planning
Board
Michael C. Magguilli, Esq., Town Attorney
Sean M. Maguire, AICP, CecD, Director, Planning and
Economic Development
Zach Harrison, Planning and Economic Development
Department
Joseph Grasso, RLA, CHA
Luigi Palleshi, PA, ABD Engineers
Carol Cyr
Leonard Cyr
Clay LaPorte
Mike Cerutti
Jeff Lockhart
Angela Buck
Elizabeth Martin
Michael Brennan
Mary Ellen Lorini
Kiersten Kolber
Susan Laurillard
Jerome Thomas

EXHIBIT INDEX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
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24
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- CHA Donna Drive Exhibit 1 - Area of Actual Clearing and Grading Past Approved Limits and Grading
- CHA Donna Drive Exhibit 2 - Area of Proposed Clearing and Grading Past Approved Limits And Grading
- CHA Donna Drive Exhibit 3 - Aerial Photo
- CHA Donna Drive Exhibit 4 - Photo Log

1 CHAIRMAN STUTO: Welcome everybody to the Town
2 of Colonie Planning Board. We have four items on the
3 agenda of varying complexity. The first one is going to
4 be Donna Drive.

5 If you're here for that and you want to
6 speak, is a sign-up sheet in the back.

7 Sean, do you have any business to discuss?

8 MR. MAGUIRE: No.

9 CHAIRMAN STUTO: Okay, so, we will call up
10 Donna Drive Conservation Subdivision, 100 Donna Drive.
11 The application is to amend final site plan approval and
12 we're going to ask the Town Attorney, Mike Magguilli, to
13 come up here and explain why were back in front of the
14 Planning Board.

15 MR. MAGGUILLI: Thank you, Peter.

16 Basically what we're here for is back on July
17 24, 2018 this Board, after much work, gave final
18 approval to the Donna Drive Subdivision. As part of
19 that approval, this Board took great pains in
20 protecting the neighbors both to the north and south
21 of the Donna Drive Subdivision.

22 Some of the things that the Board
23 incorporated into the final approval was a limit of
24 grading and clearing line and a no-cut conservation
25 zone, essentially. That was specifically made part of

1 the approval. Again, it was in the subdivision plan
2 that was included and filed in the Albany County
3 Clerk's office.

4 Thereafter, the Town was approached by Mr.
5 Cillis, the developer, and his attorney Mr. Doherty
6 who wanted to amend the no-cut provisions of the
7 subdivision approval. They were taking the position
8 that the conditions imposed by the Board rendered
9 their lots essentially unmarketable. If they couldn't
10 or weren't allowed to go past the grading limit line
11 and the no-cut provisions, that they would have a very
12 difficult time selling the property.

13 They then came to my office and presented my
14 office with a number of proposals by emails dated - I
15 think they were May 16 and May 17, 2019. We advised
16 Mr. Cillis and Mr. Doherty that any change in the
17 subdivision plan had to be done pursuant to an
18 amendment to the subdivision plan and pursuant to Town
19 Planning Board approval; that the Planning Board was
20 the only entity that had the authority to change the
21 subdivision plans that were approved and on file in
22 the County Clerk's office and that was the basis of
23 the subdivision.

24 Subsequently, after we they were advised in
25 writing by these emails, they had to go to Planning

1 and essentially had to start over and we found out
2 that they had gone and contacted Joe LaCivita and Joe
3 Grasso and had the same discussions with them -
4 whether it was disclosed we had sent out these earlier
5 emails that were from Planning is unknown to me at
6 this time. Be that as it may, some discussions were
7 had between those parties and some changes - minor
8 changes were made not to the limit line to the grading
9 and clearing, but to the conservation part.

10 If you recall, this is a conservation
11 subdivision. The Board had taken some pretty strong
12 action there. You had made a no-cut provision where
13 from the line of the limit of grading and clearing,
14 the developer nor subsequent owners could do anything
15 to change the layout of the land in that area of each
16 lot. There was a no-cut. They were taking the position
17 what happens if there is a dead tree - that these
18 people couldn't even mow their lawns there. So,
19 apparently some changes were made to the extent that
20 this was turned into a conservation area rather than a
21 no-cut area where subsequent purchasers would be
22 allowed to cut down dead trees - certain dead trees,
23 apparently and would be allowed to mow the grass
24 there, but there was still a no-cut provision along
25 the boundary lines.

1 Now, there is an issue whether it was to go
2 back to the Planning Board for subsequent
3 incorporation into a plan. Plans were never filed with
4 the County Clerk's office and the like.

5 Later, about February 11 of this year, it
6 came to our attention that the developer had gone in
7 and essentially clear-cut the entire subdivision.
8 Essentially, they ignored the no grading line and
9 clearing line and cut out trees all the way to the lot
10 lines, both to the north into the south. Additionally,
11 they cut down some substantial trees that were marked
12 on the plans to be saved. Essentially, the plans were
13 ignored. The developer had pretty much did what he
14 wanted to do.

15 Because of that, I recommended to our
16 Building Department that they immediately issue a stop
17 work order and subsequently I also advised the
18 Building Department to rescind the two or three
19 building permits that were out there already. That was
20 both done.

21 On February 19 of this year we met with Mr.
22 Cillis' representative, Mr. Doherty and they had
23 requested that I rescind the stop work order. I told
24 them I didn't have the authority to do that and that
25 the way the project was now, that in my opinion they

1 could never get a certificate of occupancy for the
2 premises because the clearcutting that they did
3 essentially voided the approved plans that are on
4 file. So, when they did come back, they would never
5 get a CO.

6 I said the only way, in my mind, they could
7 do this was they would have to come back in front of
8 Planning and present you with a plan that would
9 satisfy you to protect the neighbors, north and south,
10 which was your original intent.

11 Also, a fine was certainly due and owing
12 here. That's basically how we got here today.

13 If there's any questions, I would be happy to
14 answer them.

15 CHAIRMAN STUTO: Any questions at this point?

16 (There was no response.)

17 What we're going to do next is hear from Sean
18 Maguire and Joe Grasso. Sean is our department head.
19 Joe Grasso is our Town Designated Engineer who has
20 been reviewing this. They both visited the site and
21 have examined the site, have created materials, took
22 pictures and I think they have a pretty good handle on
23 what actually happened on the site, in fact. Then, we
24 will see how the dynamic goes and if the Board has
25 questions. We will let the applicant say what they

1 need to say. We will also let the neighbors have their
2 say as well.

3 Mike, I do want to ask you what the so-called
4 remedy might be? I think I know what we are here to
5 do. I don't know if you want to speak to that. We
6 could approve the revised plans with a clear-cut, if
7 we wanted to. Although, it may violate green space
8 provisions. We could also prescribe some type of
9 remedy like plantings and so forth and perhaps a
10 penalty. Is that correct?

11 MR. MAGGUILLI: This is a conservation
12 subdivision, for one thing. So, I do think that the
13 Board is limited with respect to being able to approve
14 the clearcutting and still have this be a conservation
15 subdivision. It's nothing that I would recommend.

16 First and foremost, what the Town is
17 concerned with as I'm sure the Board is - is to
18 protect the neighbors both north and south, which was
19 the original purpose of the no-grading limits and
20 no-clearing limits and to the no-cut provision. That
21 was all meant to screen the people in existing houses
22 on Alfred and the street to the south.

23 What I had suggested to the developer that
24 they might want to do is come to the Town with a plan
25 that would be something similar as far as the level of

1 protection goes to those neighbors and see if the
2 Board would be willing to accept whatever they
3 proposed and we would have to do a new filing with the
4 County Clerk - essentially, a new subdivision
5 approval. I would assume that whatever the Board would
6 want to do, the Town would want it to be be as
7 substantial as was reasonably approved by this Board.

8 CHAIRMAN STUTO: As I said, we will go to Sean
9 and Joe Grasso and if we have any questions, we will ask
10 those and be answered and then we will let the applicant
11 speak and then we will open up to the neighbors. They
12 can tell us what their opinions are. Then, we will give
13 guidance, make a decision and/or steer the applicant in
14 a certain direction.

15 So, we will turn it over to Sean and Joe.

16 MR. MAGUIRE: So, as Mike highlighted, we did
17 go out to visit that site on February 28; myself, Zach
18 from the Planning Department, Joe - we met with Mr.
19 Cillis and his representatives. It was pretty obvious
20 that the work on the site went above and beyond what was
21 approved on the site plan. We discussed that with Mr.
22 Cillis.

23 He suggested to us that when he filed his
24 plans with the Building Department he made those
25 changes on there. I believe we reiterated to him that

1 the Building Department's role was to approve the
2 building. The Planning Department's role was to
3 approve the site plan and those prescriptions there.

4 We reviewed the minutes of the prior meetings
5 and the transcription and it was pretty clear that
6 this Board had in its direction to establish the limit
7 of grading and clearing that was discussed during the
8 meeting. Again, during the transcribed minutes,
9 there's a full discussion on that and even so much as
10 elements described pointing to the map and what was
11 going on. So, this did happen in the actual meeting
12 itself. The conservation easement was later added.

13 You can see up here that these are the
14 stamped and approved plans that we have in our office.
15 So, this is what we are going by.

16 CHAIRMAN STUTO: And that is filed with the
17 county, as well.

18 MR. MAGUIRE: It is filed with the county. We
19 consider this to be the final piece.

20 CHAIRMAN STUTO: And that's the recorded
21 document.

22 MR. MAGUIRE: So, that's what we are going off
23 of. You can see slightly faintly behind the homes in the
24 northern areas - the faint gray dotted line - that's
25 going to be the limits of clearing and grading that this

1 Board discussed and approved.

2 CHAIRMAN STUTO: Joe, can you just show us
3 those lines?

4 MR. GRASSO: So, it's this line (Indicating)

5 MR. MAGUIRE: So, it's not a straight line. It
6 follows the contours of the site. It was meant to
7 provide that buffer space in there. And going further to
8 having this conservation easement on the back where
9 nothing would be touched and where there would be some
10 permanent protection was also provided there.

11 I will switch over to Joe because he also has
12 the results of the investigation from the site.

13 MR. GRASSO: So, during February, the Town had
14 alerted us that there was clearing that exceeded the
15 clearing limits and possibly the grading and clearing
16 that went into the deed restricted conservation areas.
17 So, what we did was we went out to the site and we
18 actually walked the site and compared the limits of the
19 clearing and grading. We could see out there to the
20 approved subdivision plan. So, basically we are focused
21 on the northern part of the project site.

22 What you will see here in this orange
23 coloring throughout the northern side of the site is
24 the difference in the area between the approved limit
25 and the clearing and grading on the subdivision plan

1 and the actual limit of clearing and grading that we
2 saw out in the field (Indicating).

3 On the side of that orange boundary - this is
4 the approved limit of clearing and grading. What we
5 saw out there was reading in clearing that went up to
6 this line (Indicating). So, you can see the varying
7 widths.

8 So, this is the area that we were able to
9 document that the limit of grading and clearing was
10 exceeded from that which was shown on the approved
11 subdivision plan.

12 The other thing - getting back to Mike and
13 Sean's comments about the deed restricted areas -
14 there is a deed restricted area around the perimeter
15 on this side of varying widths that basically follows
16 along the property line. In some cases the clearing
17 and grading went right up to the property line and
18 actually violated the deed restricted areas, well. In
19 this area and in this area you can see that the
20 grading and clearing went right up to the property
21 line (Indicating). There were a couple of trees that
22 were taken out that were identified on the approved
23 plans to be saved. These two trees were removed.
24 Those, the applicant had asked to the Town and
25 Planning Department and the Department of Public Works

1 if they could take those trees down and those were
2 approved by the Town, subsequent to the approval.

3 We did notice that there were some other
4 significant trees that were identified to remain on
5 the approved subdivision plan. This was one
6 (Indicating). There is another and another one here
7 (Indicating). Those trees were removed as part of the
8 initial clearing and grading limits.

9 We also walked on the side of the site and we
10 were able to confirm that the clearing and grading was
11 in accordance with the approved plan.

12 I just want to make note that we did not do
13 our investigation here. This is not an area of noted
14 concern. So, there was no investigation.

15 The other thing we did when we were out there
16 was we took a series of photos and this is photo 1, so
17 you can see where was pointing back in this location
18 all the way up to 12 and there's a photo log included
19 in your packets, so you can get an actual view. This
20 is photo 1 and 2.

21 CHAIRMAN STUTO: Can you make comment as you
22 go?

23 MR. GRASSO: Yes.

24 MR. MAGGUILLI: Before you do that, would you
25 show the Board - does the line show there - which was

1 the limit line for grading and clearing? Is that shown
2 on this map?

3 MR. GRASSO: Yes, but it is a little hard to
4 see because I kind of masked with the orange. So, it's
5 basically this edge of the orange - that's the limit of
6 clearing and grading (Indicating). So, it follows along
7 this boundary here.

8 MR. MAGGUILLI: That line - the limit of
9 clearing and grading is different than the no-cut
10 conservation area, correct?

11 MR. GRASSO: That's correct.

12 MR. MAGGUILLI: What is that?

13 MR. GRASSO: If this would represent the
14 approved limit of clearing and grading, the no-cut buffer
15 line was actually back up into this location
16 (Indicating). So, it's much thinner. So, the limit of
17 clearing and grading was generally more restrictive than
18 a no-cut buffer. This is an area where the applicant is
19 supposed to follow during construction of the project
20 site.

21 MR. MAGGUILLI: Now, the limit of clearing and
22 grading - that is what shows on the approved plans that
23 were filed with the Clerk dated July 24, 2018, correct?

24 MR. GRASSO: Correct.

25 MR. MAGGUILLI: Would you show the Board - this

1 is the limit of clearing and grading line here - this
2 curved line and what was clear-cut around February 11 or
3 12th is everything going right up to the property line,
4 correct?

5 MR. GRASSO: That's correct.

6 So, you start out by looking at photos 1 and
7 2 which is pointed back in this location (Indicating).
8 So, this is an area of a stand of trees that was
9 supposed to be protected. This is that same house in
10 photo 1. This is basically looking down the property
11 line. So, there would be a thin deed restricted area
12 here and there would be an area of 30 foot width of
13 trees that was to be protected in this corner
14 (Indicating). So, we're basically looking at this area
15 - down this property line (Indicating). So, there is a
16 thin deed restricted area and then this was the
17 section of woods that was supposed to remain.

18 Now are going to switch over to photos 3 and
19 4. That's basically looking along the property line.
20 Again, it would be a deed restricted area along here
21 and this was an area of trees that were cut that were
22 to be protected (Indicating).

23 Photo 4 is looking in this direction toward
24 the back of the house and you can see that there is no
25 vegetation that remains.

1 Now are going to go to photos 5 and 6 which
2 are further down the property line - a view toward the
3 east, as well as a view towards the north. This is an
4 area where they did save the trees along the side and
5 you can see the grading and clearing went right up to
6 the property line here (Indicating). This is an area
7 of additional grading work that was done. This is a
8 view towards that house with some understory growth
9 that was left in place on the property line.

10 Now are going to go to photos 7 and 8. This
11 is an area pointing towards trees that were planned to
12 remain. They were not impacted by the initial clearing
13 operation. So, if you go to photos 7 and 8 you can see
14 that the area of trees that they did actually save - -
15 this is a specimen tree that was flagged and
16 identified during the initial review process to be
17 protected and they did protect that tree. The tree
18 remains.

19 Going back to the other map, with photos 9
20 and 10 you will see there was an extensive area of
21 vegetation that was supposed to remain that had been
22 impacted. You can see all the trees which were
23 removed, except for a couple along the property line.
24 You can see that the limit of clearing and grading
25 actually went right up to the property line. A

1 distinct outline is approximately the deed restricted
2 area that no clearing and grading would occur ever and
3 then the limit for clearing and grading for the
4 initial subdivision is down the slope in this area
5 (Indicating).

6 Photos 11 and 12 are the last two pictures.
7 It's basically going back to this one corner again.
8 Number 12 is down looking at the corner of the project
9 site.

10 So, similarly, you can see the grading and
11 clearing up to the limit of the project site here and
12 then this is the deed restricted area comes down to
13 the property corner (Indicating). So, the limit of
14 clearing and grading would have been to the right side
15 of the page here.

16 Again, this is the results of our site
17 investigation on February 28 of this year. Again, this
18 is a comparison between the actual limits of clearing
19 and grading, as opposed to what was approved on the
20 subdivision plan. These are the locations.

21 The next exhibit that we will show is what
22 has been submitted by the applicant since this time as
23 depicting a new limit of clearing and grading and we
24 will get to that.

25 MR. MAGGUILLI: Joe, before we get to that, the

1 original plans for July 24, 2018 also required the
2 developer to construct retaining walls, correct?

3 MR. GRASSO: Yes.

4 MR. MAGGUILLI: Would you show the ladies and
5 gentlemen of the Planning Board where the retaining
6 walls were to be constructed?

7 MR. GRASSO: I believe in the side of the site
8 (Indicating). There were about five lots that these
9 retaining walls were shown as the heavy black line in
10 this location. So, there were two there. They were
11 stepped up like a terraced effect.

12 There's another one here and here and here -
13 retaining wall here. The purpose of the retaining
14 walls was to show the lots would be buildable and they
15 were intended to try to reduce the amount of clearing
16 that would be required within each of the approved
17 building lots.

18 MR. MAGGUILLI: Because of the grading that was
19 done, those retaining walls cannot be constructed as
20 approved, correct?

21 MR. GRASSO: It's not that they can't be
22 constructed. They weren't constructed because they
23 basically eliminated the retaining walls and in order to
24 meet the maximum slope of one on three they didn't
25 continue to grade right up towards the property line.

1 MR. MAGGUILLI: What would they have to do to
2 put it back to where it was supposed to be as approved
3 on July 24?

4 MR. GRASSO: They would need to modify the
5 grading to more replicate the existing conditions.

6 If we go to the other exhibit map, the
7 applicant had submitted a revised subdivision plan
8 which had new limits of clearing and grading and what
9 we did was we wanted to highlight the differences from
10 what was previously approved from the limits of
11 clearing and grading which is this side of the blue
12 area (Indicating), to what is now currently proposed
13 by the applicant which is basically up to this area
14 here.

15 So, the important part of this plan is not
16 only are we looking at a revised limits of grading and
17 clearing from the approved plan based on the
18 additional work that's been done, but also the Board
19 should be aware that what they had before tonight was
20 additional clearing and grading throughout other
21 limits of the project site. That's what's currently
22 proposed.

23 CHAIRMAN STUTO: I'm going to make a comment on
24 this one. So, to reiterate what I understand of this
25 drawing is: They submitted a new drawing that they are

1 hoping we might approve. You have pointed out the
2 deviation from the new drawing and the old drawing from
3 lands that should not have been disturbed, correct?

4 MR. GRASSO: Correct.

5 CHAIRMAN STUTO: I haven't been to the south
6 side of the site and I know you haven't investigated it,
7 but the fact that a lot of that is purple on the south
8 and also on the east implies that they may have
9 disturbed those areas.

10 MR. GRASSO: They may have. I don't know.

11 CHAIRMAN STUTO: Or they want to.

12 MR. GRASSO: They definitely want to. I think
13 that's important.

14 MR. MAGGUILLI: Joe, is this similar to what
15 the developer initially proposed for the grading and
16 landscaping when they first approached the Planning
17 Board for this project?

18 MR. GRASSO: I believe so. I think they had
19 looked for more liberal limits of clearing and grading I
20 think through the review process that areas that were
21 being protected.

22 The other thing that this plan does show was
23 that there was some landscaping within the deed
24 restricted areas. I believe it was for trees per lot
25 and that was a requirement as part of the approved

1 subdivision to provide additional screening because
2 some of the trees were thin in some areas and that was
3 previously proposed mitigation. To mitigate the
4 addition of clearing that has occurred - and the
5 applicant's consultant can speak to this - they have
6 proposed an additional three trees on four or five of
7 the lots. So, either 12 or 15 trees. They propose
8 three additional trees appear on Lot 42; three
9 additional trees along the back on 46; three
10 additional trees on the back of Lot 48 and three
11 additional trees to the back of Lot 52. Those would be
12 proposed up in this area (Indicating). Then, the last
13 lot is 54 and they are proposing three additional
14 trees in this area. Those are proposed as mitigation
15 for the additional clearing and grading that they are
16 proposing to do as part of the subdivision.

17 CHAIRMAN STUTO: Anything else you want to add?

18 MS. MARINELLI: I want to mark the exhibits for
19 admission to the record. The area of actual clearing and
20 grading past approval limit of clearing and grading
21 which was the first one you put up would be CHA Donna
22 Drive Exhibit 1.

23 The exhibit that was just up there - the area
24 of proposed additional clearing and grading past
25 proved limits and grading CH a Donna Drive Exhibit 2.

1 The prior condition aerial photo CHA Donna
2 Drive Exhibit 3.

3 Then, Donna Drive Town of Colonie photo log
4 which you showed up there, CHA Donna Drive Exhibit 4.

5 MR. GRASSO: Thank you for reminding me,
6 Kathleen.

7 So, there was an additional exhibit that we
8 created. It was a copy of an air photo from 2018. This
9 basically shows the conditions of the site before any
10 construction occurred.

11 Peter, I would recommend that we let the
12 applicant talk about the proposal.

13 CHAIRMAN STUTO: Okay.

14 MR. PALLESHI: Luigi Palleshi with ABD
15 Engineers.

16 Thank you. We're here tonight and I just want
17 to start off by saying we want to resolve this. It
18 wasn't any intention for Mr. Cillis to come in and
19 clear cut everything.

20 If you remember back in 2018 when this
21 project was approved, yes, the intent was to save the
22 trees. You can see from this aerial here that I have
23 which is the eastern portion of the site which was
24 farmland - it wasn't treed. When you compare the 2018
25 map versus what was re-issued and refiled in 2019, you

1 will see that it was grass before.

2 When we had proposed to extend the limits of
3 what we call clearing and grading, there was no trees
4 certain areas. I just want to make that clear,
5 especially on the eastern end.

6 One way of looking at it is if you take this
7 lot here which is Lot 73, what you see here is what
8 was originally approved in 2018. This area right here
9 (Indicating) was farmland, like I previously
10 mentioned. There were no trees in there, other than
11 one tree right in that spot.

12 I remember that the Planning Board had asked
13 us to do a tree survey. We provided that tree survey.
14 Out of all the trees that we had survey, we showed you
15 which ones that could be cut and which ones that could
16 be saved. From the difference of the purple line here
17 that was originally approved to what we are now
18 proposing which is yellow, there are only three trees
19 that have really been cut out of what we had
20 originally surveyed from the tree survey perspective
21 (Indicating).

22 To backup to Mr. Grasso's investigation, when
23 you look at the northwest portion of the site, you can
24 see again the 2018 clearing and grading limit did go
25 to there and we are requesting to go to the yellow

1 line. Again, there are no trees in that area. It was
2 just grass to begin with.

3 Those of you who really know the end of Donna
4 Drive, there is a cul-de-sac there that terminated.
5 Then, there was a dry well that is owned by the Town.
6 In order to clean that up and remove the dry well and
7 remove the cul-de-sac to extend Donna Drive, the Town
8 actually asked us to get in there and remove some of
9 the debris and remove the drywell that was in that
10 area. That's why that area they are in was cleared and
11 graded, but not necessarily cleared because again that
12 was a grassy area of brush. Our tree survey would have
13 shown a tree that this Board wanted to keep and there
14 was no tree specifically in that area.

15 So, moving to the east behind this lot here
16 which is Lot 46 - 44 and 46. Joe Grasso showed you
17 some of the pictures where some clearing and grading
18 had been up to this guy's property line, but that
19 property owner actually asked Mr. Cillis to cut some
20 of the trees down. Those trees were cottonwoods. It
21 was our understanding that cottonwoods could be
22 removed, the second time going around. The owner asked
23 for it, so Ted was trying to be a good neighbor to go
24 in there and cut a couple of the trees that are there.
25 He didn't clear cut everything along the property

1 line, but he cut the few trees or couple of trees that
2 particular homeowner asked to cut down. So, Ted was
3 being a good neighbor.

4 As you go again further east, Lot 54 -
5 there's a tree on the tree survey. It's a big oak
6 tree. That is still there today.

7 We had proposed a plot plan on Lot 54 where
8 we had revised a grading plan to pull the grading from
9 the back and that's what got approved, but the tree
10 still stands.

11 What Ted also did was on Lot 52 - some of the
12 soils were put on 52 and what you see out there today
13 is a stock pile of the soil. He didn't necessarily go
14 in there and clear and grade and cut additional trees.

15 I think what we're getting confused on is as
16 an engineer, we always label limits of clearing and
17 grading but it doesn't always necessarily mean that we
18 are cutting trees down. It could be just a little bit
19 of brush or grass.

20 When I go back to my example here on Lot 72,
21 if I'm going to be buying a \$400,000 or \$500,000 house
22 and everything here on my lot or half my lot is going
23 to be graded, cleared and have beautiful sod and then
24 the back half of my lot is going to be brush or the
25 old grass, I'm going to ask the developer to just

1 clean that up for me. So, I'm not necessarily clearing
2 or grading, but I'm trying to match a brand-new house
3 and a brand-new lot so that they would all blend
4 together.

5 So, as we go further east there is another
6 portion where you can see where the purple grading
7 limit line comes around (Indicating). There are some
8 trees there.

9 When Ted works with these customers, the
10 customers pick the size of their home, they picked the
11 location of where they want it on the lot. From my
12 understanding, this Board and the Code allows a
13 certain front setback, side setback and rear setback.
14 So, as long as we are within those building setback
15 areas, we don't know at the time of when we are
16 submitting and presenting in front of you guys exactly
17 where this house is going to be located. So, there's
18 got to be a little bit of leeway. Again, what we put
19 on a plan is a typical clearing and grading limit
20 line.

21 So, this is a tree that I remember from the
22 previous Planning Board to save and we have saved
23 that. We have an orange construction fence around
24 that. So, that saved.

25 The tree that was on the back of Lot 72 -

1 that had to go because it was a danger. There was a
2 water line that was required by Latham Water to go
3 through here and because of the water line and the
4 depth of groundwater in that location, that tree was
5 actually sinking. It was becoming dangerous and that
6 tree had to go. So, that was another reason why some
7 of these trees had to go similar to the tree that Joe
8 Grasso mentioned over here on Lot 44. It was diseased.
9 Ted did asked to remove that tree.

10 When you're working five feet in the ground
11 with a tree ready to collapse, you've got to take care
12 of that for the protection of the construction people.

13 As you move further south into the west,
14 those areas you will see from our tree survey -
15 weren't any particular trees that were to be saved.
16 That's a brushy area or grassy area and what you can
17 see from my exhibit here is you have a purple line
18 again was part of the original 2018 and what we are
19 proposing now.

20 This is a stormwater management area
21 (Indicating). All of the trees that you see in that
22 lighter green and even around the whole sites - those
23 lighter green trees are the trees that have been
24 surveyed, that have been kept and will remain as you
25 see here.*From an engineering standpoint, we need some

1 leeway on grading. Obviously with stormwater, that's
2 engineered out, so on an engineering plan I can see
3 this line did not change and didn't need to change
4 because that, you can engineer from day one. That so
5 we did. We held true. You can see there that there is
6 the purple line pretty much masking the yellow line.

7 Overall, if you follow the purple and if you
8 follow the yellow, and didn't really go beyond and we
9 didn't clear every tree that you think might have been
10 in there because we have the tree survey. What we are
11 proposing is we are proposing additional trees.

12 If you remember from the 2018 subdivision
13 approval, that plan didn't have a conservation
14 easement in the back - a generally 15-foot easement.
15 There was a limit of clearing and grading, but it did
16 not have a deed restricted 15-foot buffer around the
17 edge. It didn't have the four trees that I proposed.

18 Since then and since Ted and Dan came in and
19 talk to Town staff, there was an agreement that we
20 weren't trying to circumvent this Planning Board. It
21 was just an agreement and we thought we were doing the
22 right thing by producing this 2019 map that's now
23 filed and what you guys are reviewing. Now, this has
24 the protection for the neighbors. It has the four
25 trees per lot; two Dogwoods, two Northern Spruces

1 which grow very quick and provide some buffering even
2 in the winter time. So, the neighbors have that
3 protection now on the back of every lot, in addition
4 to the existing trees that we surveyed and that are
5 still there today.

6 Another good point - I actually drove through
7 the site on my way in and when I was driving obviously
8 you've got a grade change. We set lower than a lot of
9 these neighbors on the north. When you're standing
10 down here in these lots (Indicating) and you look up
11 at that hill and envision these proposed trees that we
12 are proposing in that conservation area, it's going to
13 provide a great buffer to the point on some of the
14 houses - - you may not even see the peak of the roof
15 standing at this elevation looking up the hill
16 (Indicating). So, I feel that what we are proposing
17 here - 156 existing trees that will stay true, is a
18 good plan. Let's not forget about the two trees per
19 lot that we will be installing for the streetscape, as
20 well.

21 I can go on and on, but I think at this point
22 maybe I'll just turn it over to the Board for any
23 further questions.

24 CHAIRMAN STUTO: I will ask staff again. Do you
25 have any comments in reaction to what was just

1 presented?

2 MR. GRASSO: There seems to be two different
3 presentations about the condition of the project site.
4 It may be from when the air photos that were taken from
5 different years and different seasons.

6 The exhibit that I had shown you was
7 obviously during a leaf-on condition. This is a
8 leaf-off condition.

9 Just to reiterate, the project site extends
10 up to this area - to the east and comes down behind
11 these lots (Indicating). It comes up here and swings
12 around the end of Donna Drive and that northern
13 property line is up in this location here
14 (Indicating).

15 Like Luigi said, this part of the project
16 site you can definitely see is very open with just a
17 few specimen trees and you can kind of see the
18 condition of the rest of the site. I would consider
19 that like a mixed deciduous because you don't see too
20 many evergreens. I would consider that like a mixed
21 deciduous forest consistent with the air photo that we
22 had from 2018.

23 The other point that I just want to make is:
24 In terms of the interpretation of what a limited
25 clearing and grading line means is you're not allowed

1 to do any soil disturbance or any vegetative cutting
2 past that. Whether or not it's grass, shrub, tree, 36
3 inch diameter tree - doesn't matter. There should be
4 no disturbance past the line whatsoever. It shouldn't
5 be manicured to where somebody can mow it in the
6 future. That's not the intent of those lines; deed
7 restricted or not.

8 MR. PALLESHI: I guess just to clarify where I
9 was coming from, what I recall from the original
10 Planning Board meetings is the Board asked for a
11 specific tree survey and we went out and hit specific
12 trees that had certain size, certain type and yes, you
13 see that this is overgrown with trees there are many
14 trees in here that were under the requirement of what we
15 were trying to focus on. When I say tree, I was
16 specifically referring to the trees that we actually did
17 a survey based on a requirement from the Planning Board
18 as to that certain size. I don't want you to think that
19 it was. It was treed but again, it wasn't a requirement
20 of what we had picked up on our survey per the Board's
21 requirements. I hope that clarifies a little bit.

22 CHAIRMAN STUTO: Does the Town Attorney want
23 interject anything at this point?

24 MR. MAGGUILLI: No.

25 CHAIRMAN STUTO: Do the Board Members have any

1 comments or questions?

2 (There was no response.)

3 Carol and Leonard Cyr.

4 MS. CYR: My husband and I have lived on 21
5 Alfred Drive for 54 years. We pay taxes to the Town of
6 Colonie. We aren't against development, even though my
7 kids were always out in the backyard. They were
8 snowmobiling before the trees grew. However, we knew the
9 two owners wanted to get rid of this land. We did not
10 want something commercial going in there. We had made up
11 our mind okay, if Cillis is going to build, this should
12 be good. My opinion has changed of the Cillis building.
13 I was at every meeting. The last meeting we were at, I
14 remember saying gee, will the new homes - their property
15 mesh into ours? I was told yes.

16 I also asked: Will there be a gully behind
17 any of the houses between the two properties? No. You
18 should go over there right now it's a mess that we
19 have right now.

20 I also said: What about the poplar trees? We
21 have some that had been falling down in the yard. I
22 had been since told that no more poplar trees are
23 going down because of trees were taken in the northern
24 part of the lot and we are supposed to be stuck with
25 these and all the mess from it.

1 Also, you built a swale. Was I happy about
2 it? No. We have had water problems. All my neighbors
3 will tell you that. So, now we have a swale. We still
4 have water. The rain comes down. So, the swale isn't
5 taking away any of the water behind our houses.
6 There's like four of us have ponds, mosquitoes and
7 everything else. The property looks bad.

8 The straw that broke the camel's back was
9 last week when there was a work stop issued, I looked
10 out my back window and what do I see, but men putting
11 up these ugly black posts. My husband went out there
12 and said what's going on? Oh, we are going to cordon
13 this off for the Town. Really? What are you going to
14 do about this? Again, you need to come out and see
15 this monstrosity. At 21 Alfred Drive we're going to
16 have a fence halfway down our back line.

17 First of all, I think that's fair. I don't
18 think the Cillis people are fair to us. If you going
19 to put a fence there, it should be a decent fence like
20 over on Shaker Road in that other development. Maybe
21 like white vinyl all the way down? If you decide well,
22 I can't do that, we should not be paying the price at
23 the expense of having all these new homes and have one
24 halfway down.

25 I'm very upset that this is going on. I'm

1 very upset with the Planning Board for okaying this
2 mess down behind our house, Alana's house, the
3 Thomas', etcetera. I am upset with the Cillis
4 Builders. Shame on both of you for allowing this to
5 happen.

6 CHAIRMAN STUTO: Does Leonard want to speak?

7 MR. CYR: Not to be repetitive, but the swale
8 is becoming an issue with stagnant water now. Now we
9 have a virus that's coming into the area that be
10 affecting our environment combined with this well and
11 what they're going to produce is a mosquito haven. You
12 know what the mosquitoes carry. So, now are looking at
13 double jeopardy.

14 While all this is done in good faith, and all
15 this is doing for the prosperity of the Town of
16 Colonie, but we're still looking at viruses that are
17 affecting our environment. Were looking at swales with
18 still stagnant water. Maybe we can work on the a
19 little consideration and see what you can do for us.
20 Thank you.

21 CHAIRMAN STUTO: Thank you.

22 Clay LaPorte.

23 MR. LAPORTE: I live on Raffaele Court and I
24 was at all the last Town meetings.

25 Like the lady said, this was kind of pushed

1 through it was going to be done no matter what. There
2 wasn't much pushback from the Town or anything at the
3 time. That's okay. I know how things politically work.

4 Originally, it was supposed to be 24 houses
5 built. It was pushed 18 because of conservation. Then,
6 when it finally got approved, it was 25 houses.

7 Members of the Board that were up here were saying we
8 don't remember 24. It was always 25. It was not. I
9 understand where she's coming from, okay?

10 So, some of the things that I want to discuss
11 or mention are that there are certain times they are
12 supposed to be starting. It's supposed to be 7:00 and
13 hopefully if all goes well, not on weekends. That's
14 been violated consistently on a regular basis. It's
15 usually about 6:00 and they start whenever they feel
16 like starting. I understand if you have a couple of
17 rainy days during the week so you start early on the
18 weekend. I've never called the Town to complain about
19 it. I know these guys have jobs. There are big
20 infractions, but there are small infractions also
21 which nothing has been addressed about that.

22 I live right there, but right here - they
23 stopped within the 15 foot boundary line (Indicating).
24 It's probably right here. They went around and marked
25 all of the trees that were supposed to stay. The

1 absolute biggest tree of all was right there. The
2 trunk was four feet wide by five feet wide. That was
3 by far the biggest tree and that one was taken out. I
4 don't know why that was not flagged to be saved. Now
5 the poor red fox can find someplace else to live. Each
6 day that goes by there are less and less trees.

7 There's been like three cutting of trees there. There
8 was the initial cutting which was fine and which was
9 what was agreed upon. Then, there was a second, third
10 and maybe a fourth cutting. I understand as you move
11 along in the project you have to adjust, but when
12 they're running the wood chipper and they're taking
13 out two foot wide trees - - in the last month or so
14 they were taking out trees with two foot wide trunks.
15 They were supposed to be marked not to be touched. It
16 was my understanding that in the 15 foot boundary line
17 - that wasn't supposed to be disturbed. I don't have
18 any trees behind my house. Unfortunately, they were
19 all taken out before this project started.

20 I was told by the Cillis Builders' attorney
21 that no one can step on the 15 foot property. We can't
22 even walk on there, or make any disturbance
23 whatsoever. We have to stay off of that. So, during
24 the whole project, they were parking machines on it,
25 disturbing the dirt, putting equipment on there. So, I

1 think okay, if they're doing that to it where there
2 are no trees, what do they do when there are trees?
3 I've always heard the chainsaws and the grinders which
4 were going all the time. I'm not sitting out there
5 spying on them, but I'm the closest house to it and
6 I've got best views with a window out in the back of
7 my house. I sit at the computer and I see it. I can't
8 help but see it and hear it all day long.

9 I understand that they have to build the
10 houses and I understand there's noise. I've never
11 complained about the noise. I'm just saying that I can
12 see where they were going beyond taking out stuff that
13 they weren't supposed to.

14 The engineer came up and made a nice fluffy
15 presentation, but he over-fluffed it because he was
16 saying stuff that wasn't necessarily 100%.

17 As far as being on schedule, I know when they
18 first came in with these big machines and took out the
19 big trees - they took out a big tree at some point and
20 even though I don't have any trees behind my house, it
21 was a ways away. It got out of control. They dropped
22 the tree, it hit my shed and put a hole right through
23 the roof. So, that's because they didn't get the right
24 equipment.

25 I have run heavy equipment. I have run

1 excavators and bulldozers and stuff. I know how to run
2 it. He was just basically trying to overdo a machine
3 that was incapable of doing what he was doing. Now, I
4 have to find somebody to fix my thing. It's still not
5 fixed because it's winter. You can't get a contractor
6 to come out and fix it during the winter. I still have
7 a hole in the roof and I have to fix it, eventually.
8 Now I'm paying for somebody else who is being lazy.

9 I'm not 100% sure because I haven't walked
10 the property and talked to all the owners, but I'm
11 thinking that I might be the only one that has a fence
12 along the back. This fence here was put up by the
13 previous owner to keep kids from coming through here -
14 cutting through here and going to the school.

15 All along here there was barbed wire across
16 the top of the fence. I don't think anybody else has
17 barbed wire. I'm thinking that was put up. That's
18 going to be taken down. So, I've got a whole open
19 backyard. I have a dog. Now I have to pay \$5,000 to
20 put up a fence because Cillis Builders is not willing
21 to step up and maybe put a fence up as they tear that
22 one down. They said they're definitely taking it down,
23 but with no choice to replace it, or anything. You
24 could throw a couple trees up, but that doesn't keep
25 the dog in and all the trees to be replaced because

1 the two foot trees that they took out - I'll be dead
2 before those trees grow up. So, I'll never appreciate
3 them. That's all I got to say.

4 CHAIRMAN STUTO: Thank you.

5 Mike Cerutti.

6 MR. CERUTTI: I didn't realize it was a sign-up
7 sheet to speak. In fact, I'm happy with my development
8 where I am.

9 CHAIRMAN STUTO: Thank you.

10 MR. CERUTTI: It was all scrubs and poison ivy
11 and a bunch of junk that was falling over in my
12 backyard. I'm at 40 Donna Drive, at the end.

13 CHAIRMAN STUTO: Thank you.

14 Jeff Lockhart.

15 MR. LOCKHART: Good evening. I submitted a
16 letter to the Planning Board already. It should be in
17 your packets.

18 I'd like to introduce myself. My name is Jeff
19 Lockhart. I do not live on Donna Drive, but I am
20 planning on building a home there with my family. I
21 have grown up in Colonie my entire life. I'm also a
22 taxpayer. I come from a family of public service and
23 we are excited to move into Donna Drive.

24 Obviously, there's been an issue that has
25 come up with the builder and they are addressing it

1 tonight.

2 I would just like the Planning Board to know
3 that I can only speak to my experience with Ted that
4 when we walked the lots back in August when I was
5 first looking at the different lots to select - I
6 selected Lot 49 - he was very clear when we walked the
7 lot about the conservation easements, what the rules
8 and restrictions were related to that easement and
9 exactly where it laid on each lot. When we walked the
10 lot, we walked with the plans. I just think that it
11 was important to know that because he was very clear
12 with me from the beginning that there was a
13 significant easement on Lot 49 and we were okay with
14 that because we do like the trees. Thank you.

15 CHAIRMAN STUTO: Thank you.

16 Angela Buck.

17 MS. BUCK: I live at 4 Raffaele Court, which is
18 right over here with the pool (Indicating). So, I had a
19 beautiful tree-lined behind my pool. Now, there's no
20 trees. There's a huge gap.

21 My dad does not want trees, but I don't agree
22 with him on this. That's one thing we don't agree on.

23 Coming home from work, it was very sad to
24 see. I do have young kids that play in the backyard.

25 *All I can say is we're going along with everything. I

1 just wish all those trees that could have been saved,
2 were saved. It's really disappointing. Thank you.

3 CHAIRMAN STUTO: Thank you.

4 Elizabeth Martin.

5 MS. MARTIN: I don't have a lot to say but I
6 am, putting it crudely, pissed. This spring, we're going
7 to be so loaded with mosquitoes with all the water. I'm
8 not repeating what has been said, but it can't be said
9 too often because a lot of us enjoy the outdoors.

10 There is a water lines behind the houses that
11 are right across the street from me. There's not a
12 single roof system there to stop the water. The swale
13 is a joke because it is extending beyond the other
14 houses and it shouldn't be like that.

15 We pay taxes. We paid taxes before Cillis
16 started to build. To show such disregard to the people
17 on Alfred Drive - it really makes me very angry.

18 MS. MILSTEIN: Excuse me, what is your address?

19 MS. MARTIN: Twelve. I'm right across from 23.
20 The one at 23 has a little pool behind it where I'm sure
21 the mosquitoes are having a really fine sex romp.

22 CHAIRMAN STUTO: Michael Brennan.

23 MR. BRENNAN: I will go after all the
24 neighbors.

25 CHAIRMAN STUTO: Mary Ellen Lorini.

1 MS. LORINI: I live at 6 Nina Drive, which is
2 kind of the top right of the development. I can't say am
3 surprised they were here. I kind of expected that we
4 would be here. I think this is pretty much everything we
5 all hear about businesses coming in and ignoring
6 regulations, ignoring elected and appointed
7 representatives who help make decisions to protect the
8 public. Then they say it's easier to get forgiven than
9 to get permission.

10 I don't think that this was necessarily
11 pushed through, as has been alluded to. We have
12 extremely extensive discussions. I think they were
13 before the Board at least three times over several
14 years. As I recall, the developer had competent - not
15 incompetent engineers here who have assured us
16 throughout the process that every amendment and every
17 change was discussed. Oh yeah, we can do this. All of
18 a sudden, we are here and oh well, we didn't know
19 where the houses were going to be. We didn't realize
20 that the homeowners wouldn't like the brush behind us.
21 Well, this is not new. We talked about this when the
22 Board approved the original plans. Now we are back
23 here with what is before the Board as the initial plan
24 that were not approved by you. We were assured that
25 all these changes and the changing of the private to a

1 conservation subdivision would work by the developer.

2 So, now we have Luigi who's worth every penny
3 he's being paid because it is the most amazing smoke
4 and mirrors presentation I've ever seen.

5 I agree that eastern part didn't have trees
6 on it. It was farmland years and years ago. It hasn't
7 been farmland in decades. It was like that in the
8 original plan prior to the position of the
9 conservation subdivision and it was agreed to that the
10 protected areas were going to be implemented and
11 maintained.

12 The tree survey that you talk about predated
13 the ultimate decision to make this a conservation
14 subdivision. Initially, there was a survey of trees.
15 They identified the ones that were supposed to be
16 protected and the ensuing discussions about the water
17 run-off - the decision was made that instead it should
18 be conservation subdivision with buffers that were
19 originally presented here that have since been
20 ignored.

21 Then, the point about the homeowners not
22 wanting their land to be blighted by the back part of
23 it being brush, or trees or whatever they were
24 supposed to leave alone - that was known at the time.
25 You approved those conditions, to the extent that you

1 asked that they be put in the deeds. So, no homeowner
2 should be surprised that this should be part of the
3 package when they buy the house. So, we talked about
4 these changes at multiple meetings and then the
5 developer comes in and basically did whatever he
6 wanted. Actually, called two offices and was told no,
7 you can't do this or you have to come back before the
8 Board, you have to get pre-permission. Instead, they
9 went ahead and subsequently clear-cut portions of the
10 property.

11 Then, the work stop order was issued.

12 By the way, the workers and some of the
13 utility people have told us that they're going to be
14 back on the job tomorrow. Maybe they know something
15 from Mr. Cillis that the rest of us don't know. His
16 proposal is to come before you and get an amendment
17 that makes it all better so that the work stop permit
18 can be lifted.

19 I think it's insulting to you and to us and
20 to the process. I think I would recommend that
21 whatever you decide involves him going back, refiling
22 a plan with the county and starting again and if there
23 are fines to be imposed, great. Otherwise, we are
24 going to be back here again because something else is
25 going to be done that you didn't intend for him to do

1 and it sets a heck of a precedent for other developers
2 in the Town of Colonie that the Planning Board is to
3 be disregarded. The conditions imposed on any
4 approvals can be disregarded because you can just come
5 back and get an amendment. So, I would urge you to be
6 more respectful of the process, the public and the
7 Board as a whole and dealing with this blatant
8 disregard of what everybody invested themselves in
9 during the initial part of the process.

10 Thank you for your time.

11 CHAIRMAN STUTO: Ms. Lorini, I appreciate - -
12 we will still have more opportunity to speak, but I
13 wanted to interject.

14 I agree with your sentiments and what you're
15 saying. We worked really hard on these plans. We had
16 no-cut lines. We had conservation easements and to me
17 they were totally disregarded. The developer and his
18 engineer can say we made a mistake or we need
19 flexibility. Your comment about clearing the back part
20 of the lot, I agree with. It is disingenuous to say if
21 you're going to put a \$500,000 house there - - why
22 didn't you say that in the beginning when we were at
23 the meetings? We agreed to sign plans and they were
24 stamped and filed with the county.

25 I appreciate everybody else's comments but I

1 particularly agree with those sediments that were just
2 expressed. That's my opinion, but we will keep going.

3 MS. KOLBER: I didn't put my name down, but
4 could I special consideration. I will put my name down.
5 I will make it short.

6 CHAIRMAN STUTO: How can we say no to that?

7 MS. KOLBER: My name is Kiersten Kolber. I live
8 at 19 Alfred Drive. I just want clarification about the
9 border behind our house.

10 CHAIRMAN STUTO: The no-cut order, or just the
11 boundary line?

12 MS. KOLBER: The boundary line.

13 Behind here - our property goes back here and
14 at couple of the Board meetings I asked if they could
15 please save some trees behind our house because trees
16 do prevent erosion. Where our land goes, it drops off
17 almost 3 feet behind our house.

18 Did I just understand tonight that they're
19 going to take those trees down?

20 CHAIRMAN STUTO: We don't know what the
21 conditions are there.

22 How would you interpret that drawing, Joe?

23 MR. GRASSO: They are. There is a deed
24 restricted area of about 15 feet in width and then there
25 are additional 10 or 15 feet further to the limit of

1 clearing and grading.

2 CHAIRMAN STUTO: Do you see where the purple
3 is? They're asking for permission to take down what they
4 need to take down where it's purple.

5 MR. GRASSO: That's 15 feet.

6 MS. KOLBER: They're still going to leave the
7 trees?

8 MR. GRASSO: There is not much there.

9 MS. KOLBER: I know. There's only a few trees,
10 but every tree counts. Okay, just want to make sure.
11 Thank you.

12 MR. BRENNAN: I'm on Herman Street which
13 borders the site over here (Indicating). As we just
14 discussed, this area back here - there will be a 15 foot
15 conservation area and in there they are going to plant -
16 the buffer between the houses there. And there they are
17 going to plant four trees. On here it says two Dogwood
18 and two Norway Spruce. Back in here - this is where that
19 swale is that runs through there. They are taking up a
20 part of that and the neighbors who live right behind
21 there - that's all dug up and it's quite messy back
22 there, especially standing water. If you have those
23 trees there, I don't know if they are going to survive
24 because that area back there is quite messed up now - as
25 far as a swale or whatever. Within that small area that

1 I see outside of the purple area, if you put four trees
2 in there, you're really planting almost in a ditch back
3 there. I don't know what the real purpose of that is. I
4 guess the purpose of the ditches to channel water
5 through it. If you put four trees in there, I hope
6 they're going to put at least to provide a buffer - a
7 significantly sized tree just so it survives.

8 I don't know how that's going to be worked
9 back there. There's just not enough space there. When
10 you do talk about that conservation area, part of that
11 land is actually in the deed for the property owner
12 but they're restricted from building in there, or
13 doing anything near that?

14 CHAIRMAN STUTO: Yes.

15 MR. BRENNAN: Does that include building, or
16 putting a shut up on that property?

17 CHAIRMAN STUTO: Yes.

18 MR. BRENNAN: Where I was getting that
19 information from - if you wanted to know was what you
20 included in the agenda - the narrative description. It
21 was included with the agenda online.

22 CHAIRMAN STUTO: Can you say that last point
23 again?

24 MR. BRENNAN: Where I was getting that 15 foot
25 and the trees was from the narrative that was posted

1 online.

2 MR. LAPORTE: I have just one more point. This
3 part where they were taking the trees down along this
4 part (Indicating). This part was not supposed to be
5 touched. If it wasn't for the Town stopping by and
6 taking a look at this, all that dirt would be gone
7 because it was in the process. It's all been bulldozed.
8 It's a big pile back there ready to be taken out.
9 Fortunately, the Town came out.

10 CHAIRMAN STUTO: Thank you.

11 Okay, Craig?

12 MS. LAURILLARD: I just want to ask a question.
13 My name is Susan Laurillard. I'm a Town
14 resident and member of Save Colonie, a Partnership for
15 Planning.

16 I have a quick question.

17 No one has talked about the grading plan as
18 it relates to what has happened on the site with
19 respect to the approved stormwater pollution
20 prevention plan that was approved by John Dzialo in
21 the Public Works department? How does this site
22 grading and what has happened here which was not in
23 accordance with the plans - how is that reflected or
24 how does that impact the approved stormwater pollution
25 prevention plan that goes along with the site? That

1 was my question.

2 I just had another point. You mentioned that
3 the plans have been filed with the County Clerk's
4 office - the subdivision plans?

5 CHAIRMAN STUTO: That's my understanding, yes.

6 MS. LAURILLIARD: What date where they filed?

7 MR. MAGUIRE: The stamps were down there.

8 Zach, can you read that?

9 MS. LAURILLIARD: It's stamped, but it doesn't
10 say it's filed.

11 MR. MAGUIRE: That was the day we approved it.
12 We have to go back -

13 MS. LAURILLIARD: Can you tell me the date it
14 was filed?

15 CHAIRMAN STUTO: They do have the date right
16 here. It is a matter of record.

17 MS. LAURILLIARD: I looked on the Albany Clerk -
18 County Clerk's office and I couldn't find the plans that
19 were filed. I see they are signed here from July 2019

20 CHAIRMAN STUTO: Okay, we will follow up on
21 that. It is our understanding that they have been filed.

22 MS. LAURILLIARD: Okay, so I would like to know
23 from Mr. Grasso how the stormwater pollution prevention
24 plan -

25 CHAIRMAN STUTO: Joe, be quick on that, okay?

1 That's not really the topic.

2 MS. LAURILLARD: Well, it's part of the
3 approval - the subdivision approval.

4 CHAIRMAN STUTO: I'm not arguing with you. I am
5 asking Joe - I am making a request of Joe. If it hasn't
6 altered it, that's the answer.

7 MR. GRASSO: The overall function of the
8 stormwater management system is going to remain as is.
9 The grading hasn't changed significantly enough to alter
10 that. There are a number of stormwater management
11 improvements that still need to go in. Some of it occurs
12 between the lots that we heard the applicant speaking
13 of. The amount of vegetation that is retained on the
14 site has an indirect stormwater management benefit. So,
15 that is something that would be impacted by the
16 additional clearing. The overall drainage system as
17 proposed and where the run-off is going to get to and
18 how it's going to be treated ultimately will remain the
19 same.

20 CHAIRMAN STUTO: Thank you.

21 Craig?

22 MR. SHAMLIAN: First off, I share the
23 frustration with all of the neighbors and residents. As
24 the Chairman mentioned, we spent a lot of time on
25 things. We try to get things right. When something like

1 this happens, it's pretty upsetting on our end. I'm not
2 really sure how we should proceed with this.

3 I was out at the site today, but did not look
4 at the swale on the backside to see what that looks
5 like. Obviously, that's something that needs to get
6 resolved relatively quickly, otherwise it has the
7 potential to be a problem for the neighbors on Alfred.

8 I would like a magic wand to put this back
9 where it belongs. I don't know how to get there.

10 Having spent some time on this and having
11 heard everyone tonight, I have no intention, speaking
12 for myself, voting on this tonight whatsoever. I do
13 not see myself agreeing to what the developer is
14 proposing by any stretch of the imagination. No
15 offense to the developer, but the idea of four trees
16 on for lots or five lots to remedy the situation is to
17 use someone else in the audience used - is insulting.
18 This is a major deviation from the plan - not just a
19 minor deviation. The idea that they didn't understand
20 what limits and clearing means is, I think,
21 disingenuous to say the least, especially given that
22 it's a conservation subdivision. That's all I've got
23 right now.

24 CHAIRMAN STUTO: Susan?

25 MS. MILSTEIN: I don't have much to add. I am

1 extremely insulted by this whole process. A lot of work
2 needs to be done and see what we can do to remedy the
3 situation and not only that, but what punitive actions
4 we can take. We don't have that at our disposal, right?
5 We need further investigations to see what we can do to
6 try and rectify or cure it some way. We have to resolve
7 this egregious problem that this created here.

8 Again, if there is something punitive, I
9 would like to know.

10 CHAIRMAN STUTO: Lou?

11 MR. MION: You said a beautifully. I think you
12 reflect the opinion of this entire Board. You did a very
13 good job of it.

14 I'm not ready to vote on this tonight because
15 it's insulting. I don't like the idea that you do it
16 and come back and ask for forgiveness. I think we have
17 to put a stop to that.

18 CHAIRMAN STUTO: Paul?

19 MR. ROSANO: Well, I wasn't on the Planning
20 Board, but I was at every meeting.

21 I can't believe that we're still talking
22 about an open swale in 2020. I still can't believe
23 that. With all the engineers and everything that is
24 available out there - that we have an open ditch near
25 people's houses. The people that are going to be

1 buying these \$500,000 houses - they're going to have
2 an open ditch behind their house. I can't buy that.
3 I'm not ready to vote on this.

4 MR. PALLESHI: I think that I can hopefully
5 answer some of the questions, both the Board has in the
6 public has with regard to the swale on the south side.

7 CHAIRMAN STUTO: Sure.

8 MR. PALLESHI: So, the south side - everybody's
9 talking about the swale. First of all, we need to comply
10 with the New York State DEC requirements and this basin
11 that you see serves a lot of the homes and the lots in
12 the roadway that you see - it's an infiltration basin.
13 That was designed and installed in accordance to the
14 plans today. The swale that everybody's talking about is
15 behind these proposed homes and eventually makes its way
16 to this basin. Until these lots get developed, we
17 actually have designed separate practices for each lot
18 in the back, so that the water will go into catch basins
19 and into underground tunnels, pipes to relieve a lot of
20 the water. So, it's not done now and it's springtime
21 here. You've got the thaw and nothing dries this time of
22 year, so of course you're going to get areas that are
23 going to be wet. Even that stormwater basin is going to
24 be wet. In the summer months, or as we get out of this
25 freeze/thaw, it's going to be triannual be able to mow

1 back here. Again, we designed in accordance to the New
2 York State DEC as well as Town standards and it has been
3 reviewed by the TDE.

4 I don't want people to think that there is
5 going to be standing water behind these new homes
6 because we have engineered that with these practices
7 that were originally approved.

8 It's sort of a double-edged sword with the
9 stop work order that we have. How do we get in there
10 to resolve some of these issues that the Board and the
11 public have right now? He has two houses right now and
12 if we could at least get those two to be lifted and
13 correct now - like some of the drainage that the
14 people are talking about in the back so that these
15 homes can get to the right spots so people can see it
16 sooner than later, I think that would help everybody
17 understand where this is going in the end when
18 everything is fully constructed. People are seeing
19 what's there now, but it's not going to look like that
20 in the end.

21 CHAIRMAN STUTO: Okay, we have to move this
22 thing forward.

23 MR. THOMAS: My name is Jerome Thomas and I
24 live at 25 Alfred Drive, which is right behind the
25 retention basin. I have a few simple questions. They are

1 putting in the fence now. You know whether or not they
2 will have horizontal piping on them? In other words, you
3 can have the fence -

4 CHAIRMAN STUTO: For the stormwater system?

5 MR. THOMAS: Yes.

6 MR. GRASSO: I don't recall. The Town has a
7 standard detail that they use for their stormwater
8 management fencing. I know it six foot high. I think
9 it's black vinyl coated fence. I don't know if there's a
10 horizontal cross space on it.

11 MR. PALLESHI: I think there is a top bar. I
12 don't have the details with me.

13 MR. THOMAS: I would recommend it because it's
14 along Sand Creek and there is a chain-link fence without
15 a top bar and its sagging.

16 The other thing I would ask about - the
17 volume of water that's going to run-off from the roofs
18 to the driveways and so on is going to be channeled by
19 pipe down to the retention basin. When I am wondering
20 is: Have the engineers with the existing layout now of
21 the retention basin calculated how much volume of
22 water it can handle say in a 100-year storm? Do you
23 know?

24 CHAIRMAN STUTO: The answer is yes. I don't
25 want to get off topic here. They have done those

1 calculations. We've already been through this.

2 MR. THOMAS: I was at the other meetings and
3 nobody said well, it will hold 100,000 gallons or 20,000
4 gallons. Nobody has ever said that. Do you know a
5 figure?

6 MR. GRASSO: It's a 100-year storm.

7 MR. THOMAS: Now with the 25 Alfred, 27, 23 -
8 those homes. My concern is water getting into the
9 basements because you going to have it standing in that
10 retention basin right behind us. The need for sump pump
11 - is anything being planned as far as something in
12 escrow by the developer that if these homes are getting
13 flooded, you they pay to put in some pumps?

14 CHAIRMAN STUTO: The answer to that is no, not
15 to my knowledge.

16 MR. THOMAS: Can it be, though?

17 MR. GRASSO: That's up to the builder and the
18 homeowner.

19 MR. THOMAS: I mean, if it doesn't happen,
20 there's no need and there's no problem.

21 CHAIRMAN STUTO: The engineering calculations
22 are that's not going to happen.

23 MR. THOMAS: Well, the standing water goes to
24 the ground now into the homes - into the cellars.

25 CHAIRMAN STUTO: Under the current SWPPP

1 regulations, it's not supposed to be any worse and in
2 fact and cases it's better than current conditions.

3 MR. THOMAS: Okay, well, let's hope not.

4 The last thing I want to comment on his
5 traffic and safety. The road goes up and curves at the
6 top. Somebody had mentioned something about putting
7 trees in. You're going to cut off site distance if you
8 do that. It's a very sharp turn.

9 CHAIRMAN STUTO: Okay, that's a good comment.
10 Thank you.

11 Okay, we have to move this thing forward. I
12 just get the discussion going with the Board. I don't
13 think were ready to approve the remedial plan, if you
14 will, for lack of a better phrase that was submitted
15 by the applicant. I know in discussions with Joe and
16 Sean, to some extent that they take the position
17 rightly that they don't speak for the Board so they're
18 not going to direct the developer to do certain
19 things.

20 I think we are going to ask you to kindly
21 come up with a remedial plan and I would say that
22 since a lot of the stuff has been clear-cut or graded,
23 which was not supposed to have been touched, it's
24 documented that there should be enhancements because
25 there's no way to go back to where it was before or

1 very difficult or next to impossible. So, I'm going to
2 ask our Town Designated Engineer in our department had
3 that if we need an outside consultant, get it and we
4 are allowed to do that - if you could react to that
5 and will let the Board react to that.

6 We still haven't investigated the south side,
7 so we would like to know the story there. In
8 particular, people brought up some good points about
9 fencing. I'm not opposed to fencing. I'm not opposed
10 to more plantings. I'm not opposed to looking at the
11 fence around the stormwater, as suggested by the
12 neighbors.

13 I am going to ask you to address the open
14 swale before we go. Paul made a comment and some other
15 people made a comment.

16 Does the Board have any reaction to that?

17 I am really upset and I hate dragging the
18 neighbors out again. So, I want to put some real
19 horsepower behind coming up with a remedial plan
20 that's going to show near immediate results or quick
21 results that the neighbors are going to see some
22 improvement. That's my feeling.

23 MR. SHAMLIAN: And is also going to get this
24 project back to as close as reasonable to what it should
25 of been. The fact that they have to spend whatever to do

1 whatever, that's their problem. If they graded back to
2 the way it should of been and have to plant any number
3 of trees, I don't have any issue with that. That's their
4 problem. They shouldn't have done what they did.

5 MS. MILSTEIN: Including the sides of the
6 trees.

7 MR. SHAMLIAN: They keep going back to the tree
8 survey. The tree survey was only identifying large
9 trees. It wasn't identifying every little small tree.
10 Part of the survey was not that those were the only
11 trees to be saved. It was everything in the
12 no-cut/no-clear area.

13 CHAIRMAN STUTO: Anybody else have anything
14 else to add?

15 MR. ROSANO: And I know cut area, you don't
16 need to do a tree inventory. You have boundaries and you
17 don't cut anything. How simple can that be? That's what
18 I say.

19 MR. GRASSO: I agree. Just in terms of the tree
20 survey, it was focused on the areas that were going to
21 be developed and graded around to see if there were
22 large trees within that area that should be targeted for
23 protection and that's why there were only a few trees
24 out by the road and within the lots that were targeted
25 for protection.

1 CHAIRMAN STUTO: That's separate and distinct
2 from the conservation easement no-cut line.

3 MR. GRASSO: I agree.

4 In terms of the rear yard drainage, very
5 often what we do is we try to open drainage swales to
6 an output in a close drainage system to really to
7 reduce the impacts on the neighbors and to make sure
8 that it drains properly. It's a natural system and it
9 is an approved stormwater technique. There are certain
10 areas where there are combinations of closed storm
11 drainage and an open swale and that's what we see
12 behind Raffaele. It's a combination system, but it is
13 an open swale and that is a common drainage technique.

14 MR. SHAMLIAN: How long do you think is this
15 process going to take?

16 MR. GRASSO: For the drainage?

17 MR. SHAMLIAN: No, just to get back to where
18 were going to vote on something? I know there are a lot
19 of variables. I don't want to leave the neighbors in a
20 horrible situation potentially while this drags on. My
21 sense is that this is not going to be a terrible quick
22 turnaround.

23 CHAIRMAN STUTO: I agree with Craig. I want to
24 put whatever horsepower we need to behind this. I don't
25 think they want to see an open clear-cut lot for any

1 extended period of time.

2 So, do you understand your assignment,
3 gentleman?

4 MR. MAGUIRE: Yes. I can answer on one of the
5 things to get some resolution.

6 We are aware of the fencing around the
7 stormwater retention area. We are working with Public
8 Works to find a way to terminate that fence
9 appropriately, so it doesn't end up ending in the
10 middle of somebody's yard. They can at least start to
11 get some resolution on those pieces.

12 CHAIRMAN STUTO: Okay, thank you.

13 (Whereas the above entitled proceeding was
14 concluded at 8:05 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.

Dated: _____

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