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PLANNING BOARD COUNTY OF ALBANY

TOWN OF COLONIE

4152 ALBANY STREET
PROPOSED CONSERVATION SUBDIVISION
SKETCH PLAN REVIEW

THE STENOGRAPHIC MINUTES of the above entitled matter
by NANCY L. STRANG, a Shorthand Reporter commencing on
April 28, 2020 at 6:00 p.m. held via Zoom Video
Conference

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

ALSO PRESENT:

Sean M. Maguire, AICP CECD, Director, Planning and
Economic Development
Kathleen Marinelli, Esq., Counsel to the Planning
Board
Zachery Harrison, Planning and Economic Development
Department
Nicholas Costa, PE, Advance Engineering and Surveying
Charles Voss, PE, Barton and Loguidice
Victor Caponera, Esq.

1 CHAIRMAN STUTO: Welcome to the Town of Colonie
2 Planning Board.

3 Sean, do you have any business to discuss
4 before we call up the agenda?

5 MR. MAGUIRE: The only thing - no, not tonight;
6 thank you.

7 CHAIRMAN STUTO: It appears that everyone is
8 here on the Planning Board; all seven members. So, we'll
9 just state that for the record.

10 First item on the agenda is a sketch plan
11 review. It's at 4152 Albany Street. It's a proposed
12 conservation subdivision. The proposal is to subdivide
13 109.84 acres into eight residential lots which will
14 result in a density of .07 units per acre. The site is
15 zoned single-family residential and is a proposed
16 conservation subdivision.

17 Sean, do you have anything to say about this
18 before we send it over to the applicant?

19 MR. MAGUIRE: No, I'm just going to bring the
20 drawing up for everybody.

21 CHAIRMAN STUTO: Who will be speaking on behalf
22 of the applicant, to start?

23 MR. COSTA: I'll start, Peter; Nick Costa.

24 I'm Nick Costa from Advance Engineering and
25 Surveying. As you mentioned and as you can see on the

1 screen currently the site is located at 4152 Albany
2 Street. All of its frontage is along Albany Street. It
3 is composed of 109.84 acres. The site does have a
4 substantial amount of wetlands that traverse the site.
5 It's also bisected by a National Grid/NIMO parcel and
6 the CSX is adjacent to the southwest corner of the
7 parcel. The parcel has been owned by Mark Neimith and
8 has been in his family for I think it's been
9 approximately 40 years. It's zoned single-family
10 residential. It's also located in a conservation
11 overlay district.

12 The applicant, Jeff Ferraro, is proposing to
13 develop the site with eight single-family residential
14 lots having frontage along Albany Street and each
15 having access from Albany Street. Along this frontage
16 it does provide municipal services and there is a
17 water line - a water main that is located on the same
18 side of the street. There is also sanitary sewer that
19 is located along generally the centerline of the road
20 - of Albany Street. It can easily be accessed to the
21 single-family proposed lots. We did have a DCC meeting
22 back on March 11. There was discussion at that time
23 about the provision of the sanitary sewer and water
24 services to the site. Stormwater would be managed on
25 each lot.

1 There would not be any new roads for these
2 new homes. It would all be off of Albany Street.

3 The parcel is located within the conservation
4 overlay, so it does have to show that it is preserving
5 or deed restricting 40% of the parcel.

6 We do have on the next exhibit - in the top
7 right-hand corner there is a conservation - - it is a
8 summary of the conservation overlay data. The parcel
9 is 109.8 acres. It has 55 acres of wetland, almost 30
10 acres of wetland buffer so the total constrained lands
11 is 84.82. The total usable is 25 acres - a little more
12 than 25 acres. So, the required conserved areas is
13 about 10 acres. We are proposing to conserve about
14 10.7 acres on Lot 7. Those 10.7 acres are shown to be
15 deed restricted on Lot 7.

16 We are in the process of reaching out to the
17 Pine Bush, Mr. Gifford, to get their input.

18 We have the DCC minutes and we are looking
19 for the Planning Board to give us their thoughts on
20 this and we hope to address those comments and bring
21 it back for a concept approval.

22 CHAIRMAN STUTO: Okay, this is being reviewed
23 by our Town Designated Engineer, Barton and Loguidice. I
24 think we have Chuck Voss here from Barton and Loguidice.

25 Chuck, I know you haven't completed your

1 formal review as this is only sketch plan, but could
2 you give us your thoughts so far?

3 MR. VOSS: Sure, Peter. We were at the DCC
4 meeting March 11. So, we've been with the project since
5 the beginning. We have also taken a look at the site.
6 Nick was accurate in basically describing how they want
7 to break the site up. Each individual lot, for the most
8 part, Lots 1 through 6 are a little bit more than half
9 an acre in size. So, they are compatible with the
10 surrounding lots that are out there - residential lots.

11 Again, as Nick mentioned, it's a
12 single-family residential district. Conservation
13 zoning overlay is in play here. His initial analysis
14 of that conservation overlay appears to be correct.
15 For the most part, the site as Nick mentioned and you
16 can see in the site plan, has extensive wetlands.
17 These are DEC wetlands and they do have a mandatory
18 buffer around them which really severely prohibits any
19 growth or development near them. There are several
20 Niagara Mohawk Power Corporation properties that cross
21 through this. There is a CSX parcel further to the
22 south that also binds the site in. So, really the only
23 way we get to the site primarily is from Albany
24 Street.

25 As you can see, the layout of Lots 1 through

1 6 pretty much conform with what's occurring in that
2 area of Albany Street.

3 There is an aerial photo and I don't know if
4 you have that Sean, but it shows the existing
5 conditions. It shows similar residential parcels on
6 the east side of Albany Street. The use, from your
7 standpoint, is consistent with what's out there. It
8 appears again that Lot 7 will move a little further to
9 the north and will have access itself out onto Albany
10 Street to that little keyhole parcel that connects
11 out. It's my understanding in talking with Nick and
12 certainly at the DCC that any housing building that's
13 going to be constructed on Lot 7 will probably be
14 pretty close to that frontage. It certainly won't be
15 much further back where you start to infringe on the
16 watercourse buffer that's in that area, as well as the
17 wetlands. Any house lot would certainly be consistent
18 with what's nearby. As you can see, there's a whole
19 residential lot just north and a little further back.

20 The other thing we discussed certainly with
21 Nick - - I had a conversation with him last week - was
22 access to Lots 1 through 6. I know there was concern
23 by the Board for potential additional curb-cuts on
24 Albany Street being so close together. So, Nick was
25 going to take a look at either shared parking or

1 potentially a thought for some other access road for
2 that. I will let Nick speak to that, or let the Board
3 address that directly. It was a suggestion that was
4 made.

5 Other than that, it appears to be consistent
6 use of the conservation subdivision clause and
7 certainly the single-family clause. We are pleased to
8 see so many wetland complexes in one area be
9 preserved.

10 Nick did mention at one point a potential for
11 maybe preserving some of the parcels in the back for a
12 mitigation receiving area for the Town at some point
13 down the road. Again, it is something to think about.
14 It would be a great use for this kind of parcel for
15 something like that. We certainly look forward to
16 seeing what Nick produces on the next round and taking
17 a look a little bit more closely.

18 CHAIRMAN STUTO: Okay, we will take comments
19 from the Board and questions. We'll go down the line.

20 Paul Rosano?

21 MR. CAPONERA: Hey, Peter?

22 CHAIRMAN STUTO: Yes.

23 MR. CAPONERA: Peter, this is Vic Caponera. Do
24 you mind if I say a few words?

25 CHAIRMAN STUTO: Sure, go ahead,

1 MR. CAPONERA: Thank you. So, as some of the
2 Board Members probably know, I have represented Mr.
3 Nemith for many, many years. As Nick alluded to a few
4 minutes ago, the Nemith and Vinciguerra families have
5 co-owned this property since 1980. Probably hundreds of
6 thousands of dollars in taxes have been paid on this
7 property for the last 40 years.

8 What Nick didn't tell you is that throughout
9 the years of ownership, they have explored selling
10 this property to various municipal entities; the state
11 of New York, DCC, what have you. None of that ever
12 came to fruition and as I'm looking at the aerial view
13 here, you can see that directly across the street from
14 this propose lots our homes. There are several of
15 them. There may be eight or 10. Obviously, each one of
16 those homes have access to Albany Street. Nick, you
17 can correct me if I'm wrong, but this appears to be
18 the only reasonable development of this property due
19 to the constrained lands and the wetlands. My client
20 took title to it from the Vinciguerra family about a
21 year and a half ago because the property used to be
22 200 acres. The other 100-acre parcel, plus or minus,
23 has frontage on Morris Street. Long story short,
24 obviously this whole sale is contingent upon the
25 proposed purchaser getting these residential lots

1 approved.

2 I just thought the Board should have some
3 historical background on for how long it has been in
4 the family and how long they've been trying to develop
5 it. That's all I have to say.

6 I'm sorry, you were calling on Mr. Rosano to
7 speak.

8 CHAIRMAN STUTO: Sure, thank you for those
9 historical comments and so forth.

10 Paul, do you have any comments or questions?

11 MR. ROSANO: Just a couple of small ones at
12 this point.

13 You mentioned that you've got to reach out to
14 Neil Gifford from the Pine Bush. That question comes
15 up to me as: Is any of this in the actual preserve
16 study area, the Pine Bush study area or neither?

17 MR. COSTA: I believe it is because this study
18 area goes all the way out to Central Avenue.

19 MR. HARRISON: You are correct. Nick, you're
20 correct; it goes all the way out to Central.

21 MR. COSTA: I believe it's within the study
22 area. I don't know what the status is of within that
23 study areas that there are - the areas that are
24 identified as more valuable as another. I don't know
25 where this falls within that criteria.

1 MR. ROSANO: The reason I bring it up, Nick, is
2 I've been doing this a long time and Victor will attest
3 to that. No area of the Town is in the Pine Bush
4 Preserve - only in the Pine Bush study area.

5 MR. COSTA: That is correct.

6 MR. ROSANO: I want to make sure that's on the
7 record because this gets confusing all the time.

8 The other part of it is: Do we have to deed
9 restrict at the rear of these lots, even though it's
10 just in the study area with signage or fencing or
11 something along those lines? Just think about that and
12 we'll do that some other time.

13 MR. COSTA: Right and as we develop the
14 conversation with Neil, I'm sure there's going to be
15 some recommendations that they are going to be making
16 for the development of this parcel.

17 MR. ROSANO: Thank you.

18 MR. COSTA: You're welcome.

19 CHAIRMAN STUTO: Thank you, Paul.

20 Chip?

21 MR. ASHWORTH: Nothing right now.

22 CHAIRMAN STUTO: Lou?

23 MR. MION: The curb-cuts coming out onto Albany
24 Street - that does concern me a little bit. I know the
25 speed limit on the street is 30 miles an hour, maybe.

1 You constantly see the Colonie Police out there issuing
2 tickets for going quite a bit faster because it's a
3 shortcut to get over to 155 and out that way. People do
4 fly down through there. Is there any way that you could
5 maybe do something like put a service road in there
6 where those six lots come out and they would all go out
7 one way? Do you know what I'm saying? It's like what we
8 have over on Route 7.

9 MR. COSTA: We can take a closer look as we
10 develop the design. The only issue is that those lots
11 have limitation at the rear with a 100-foot buffer that
12 comes in and impacts those lots quite a bit. If we start
13 putting in another 20 foot wide drive for all these
14 lots, it reduces the construction area - the building
15 envelope.

16 MR. MION: Understood, but you can take a look
17 at that.

18 MR. COSTA: Yes.

19 MR. MION: Lot 7 - does that go through any
20 wetlands where you go into it? That is quite a ways
21 back.

22 MR. COSTA: That's correct. The wetlands are
23 pretty far back from there. There is 175 feet from the
24 front right-of-way to the rear of the lots that are
25 adjacent to it. You can see that the 175 feet. The

1 buffer starts at probably another 100-125 feet from
2 there.

3 MR. MION: Can you move it, Sean, so we can see
4 what he is talking about?

5 MR. VOSS: Lou, this is Chuck. There is a
6 protected watercourse buffer in there, as well that
7 limits where that housing can go.

8 MR. COSTA: Yes, that's right.

9 MR. MION: It looks like it goes right through
10 it.

11 MR. COSTA: Yes, it does. That's the line right
12 there (Indicating).

13 MR. MION: Is there a possibility of coming in
14 through Carnavale Street for that lot?

15 MR. COSTA: We don't have frontage on
16 Carnavale. We don't have access to Carnavale. We have no
17 frontage along Carnavale.

18 MR. MION: Right where that last house is - I
19 don't know who owns it. It looks like private property.
20 It looks like it might be Albany County who owns some of
21 it.

22 MR. COSTA: They own quite a bit. The Albany
23 County Land Bank owns quite a bit of it. Where we have
24 1089 written - that's a private lot.

25 MR. MION: Is there something in that one?

1 Because when I went down to the end where the turnaround
2 is - because it's a dead-end street - it dead-ends right
3 into the forest - the wooded area.

4 MR. VOSS: Sean, if you bring up the aerial
5 photo, it might show that better.

6 MR. COSTA: See that last house there, Lou?
7 That lot is owned by those folks (Indicating).

8 MR. MION: Okay. That answers my question.
9 You've got to go out Albany Street because you don't own
10 the property back there.

11 MR. COSTA: Right. We would have to come to the
12 wetlands to get access to that rear portion. That dark
13 green is wetlands (Indicating)

14 MR. CAPONERA: It's not developable. It can't
15 come out on Carnavale.

16 MR. MION: Okay, that's it.

17 CHAIRMAN STUTO: Susan?

18 MS. MILSTEIN: I don't have any problems with
19 the curb-cuts, given the number of lots. It's about six
20 and I don't know where the seventh one is coming out.
21 There are many more on the other side. We have far worse
22 than other places. I really don't have a problem with
23 it. Also, anyone who purchase it is going to know that
24 their driveway is going to - they're going to have to
25 access Albany Street in order to get out of their homes.

1 So, I don't have a problem with it.

2 CHAIRMAN STUTO: Okay, anything else?

3 MS. MILSTEIN: No.

4 CHAIRMAN STUTO: Thank you.

5 Craig?

6 MR. SHAMLIAN: I agree with both Susan and Lou,
7 actually. Take a look at it but in the end, I don't have
8 a problem with the curb-cuts. There is already a number
9 of them there. It is 30 miles an hour in the area.

10 A couple other questions.

11 It looks like some of those lots, Nick, are
12 already encroaching into the wetlands - at least
13 according to - - not this map, but the last when you
14 had up, Sean. Is that just a mapping thing or is that
15 what is actually proposed?

16 MR. COSTA: Well, these lots right now are
17 shown as being about anywhere from 23,000 to 26,000
18 square feet. There is a little sliver of wetlands that
19 are behind Lot 3 and Lot 4 and maybe Lot 5. That also
20 has the 100-foot buffer from that wetlands that comes
21 in. That is what I was saying before is that the actual
22 building envelope is going to have to be further to the
23 east. Where we show the typical lot - that little
24 rectangle that is shown, there isn't much room for that
25 building to be pushed to the west. It has to stay pretty

1 close to the front step back.

2 MR. SHAMLIAN: I was just wondering why you
3 were given that - why you were including the wetland
4 actually into the lot.

5 MR. COSTA: Craig, you're right. We will
6 probably adjust the lot area to take the wetlands out.
7 We won't take the 100-foot buffer out, but we will take
8 the wetlands out. It's just a matter of where that
9 landed. We can adjust that.

10 MR. SHAMLIAN: It's not an issue. I was just
11 curious.

12 Are the homeowners on Lot 7 and 8 ultimately
13 going to own all of this, or is the plan to deed this
14 land to someone else - all this wetland area?

15 MR. COSTA: Right now we are showing it owned
16 by Lot 7 and 8. As we develop conversations with the
17 Pine Bush, we will have to see how that goes. There may
18 be some requests there.

19 MR. SHAMLIAN: Then, there are no further
20 development they can take place on seven or eight?
21 Right? The plan - there is no way to split those down
22 the road so that you can make three out of two kind of
23 thing, right?

24 MR. COSTA: No, I think once you do a
25 conservation subdivision and you have some deed

1 restrictions, you can go to the Zoning Board of Appeals
2 and make a case for doing two keyhole lots, let's say.

3 MR. SHAMLIAN: I'm good. Thank you, very much.

4 CHAIRMAN STUTO: Chief Heider?

5 MR. HEIDER: I'm just a couple things. I think
6 you can adjust the curb-cuts with requiring the
7 developer to do a little turnaround driveways so that
8 the homeowner has the option of backing into the
9 turnaround rather than pulling out to Albany Street. I
10 don't know if this can be handled or not -- and Victor,
11 I am sure that you are aware when they built those two
12 houses on Maxwell Road, they had to get into Maxwell to
13 get the services. Within a year, a depression started
14 and before you know it there were major depressions in
15 the newly paved Maxwell Road. Here you're going to have
16 eight entries into Albany Street to get to the sewer. I
17 just don't know what can be done to hold of developer
18 responsible three, four or five years down the road in
19 order to make sure that's taking care of.

20 MR. COSTA: Yes, that's a good point. We
21 discussed that at the DCC. What was agreed to was that
22 all the laterals will be done all at once even though
23 the lots are not going to be constructed all at once.
24 The laterals will be pulled all at once and it will be
25 repaved - the entire lane frontage will be repaved at

1 the same time.

2 MR. HEIDER: Those of the only two things that
3 I have.

4 CHAIRMAN STUTO: Thank you. I prefer to
5 consolidate driveways, if possible. So, if we could take
6 a look at that? I understand all the reasons why it may
7 not be a good idea here, but if we could just take a
8 hard look at that. Just because there are driveways on
9 the other side - - those houses, I think, were built a
10 while ago. I view this as a thoroughfare.

11 Anyway, that's my own personal opinion. I
12 think everything else has been said, as far as I'm
13 concerned.

14 MR. HEIDER: The only problem that I saw in my
15 former career is shared driveways are shared problems.
16 They're friendly until the point that they weren't
17 friendly. The next thing you know, you've got six
18 people, in this instance, sharing a common driveway - -
19 it just doesn't work.

20 MR. MION: When you start talking about shared
21 driveways, we would be inconsistent from what we did
22 last week also. We should stay pretty consistent with
23 that, if you remember.

24 MR. CAPONERA: If I may answer that, could I
25 share with his Honor, the litigation I've got going now

1 with my shared driveway problems? It's unbelievable. The
2 Chief is right. It's tough. They fight and fight over
3 this stuff but it's biblical, believe me.

4 MS. MILSTEIN: You are only creating problems.

5 MR. MION: Last week was the same thing wasn't
6 it, Victor, if I remember.

7 MR. ROSANO: On Dunsbach, the two lots that had
8 the common driveways side-by-side. I was definitely
9 against that.

10 MS. MILSTEIN: I am opposed to shared
11 driveways. It just creates problems.

12 CHAIRMAN STUTO: From a lawyer's perspective,
13 it does, for sure.

14 Chuck, is there anything you would like to
15 add, having heard what the Board Members have to say?

16 MR. VOSS: No, I kept track of everybody's
17 comments and they are certainly consistent with what
18 Nick was discussing early on. I will take a look and we
19 see how to deal with a driveway situation and go from
20 there.

21 CHAIRMAN STUTO: Okay, thank you.

22 MR. COSTA: Thank you.

23 MR. CAPONERA: Thank you, very much.

24 (Whereas the above entitled proceeding was
25 concluded at 6:18 p.m.)

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CERTIFICATION

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: _____

NANCY L. STRANG
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