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PLANNING BOARD COUNTY OF ALBANY
TOWN OF COLONIE

THE PROPOSED PLANNED DEVELOPMENT DISTRICT AND
OPEN DEVELOPMENT AREA KNOWN AS
HOFFMAN SENIOR COMPLEX, 1 ALICE AVENUE

THE TAPED AND TRANSCRIBED MINUTES of the above entitled
proceeding BY NANCY STRANG-VANDEBOGART commencing on
May 12, 2009 at 7:54 p.m. at the Public Operations Center
347 Old Niskayuna Road, Latham, New York 12110

BOARD MEMBERS:

JEAN DONOVAN, CHAIRPERSON
ELENA VAIDA
MICHAEL SULLIVAN
THOMAS NARDACCI
GEORGE B. HOLLAND, JR.
CHARLES J. O'ROURKE
TIMOTHY LANE
PETER STUTO, Jr. Esq., Attorney for the Planning Board

Also present:

Joseph LaCivita, Director, Planning and Economic Development
Daniel Hershberg, Hershberg & Hershberg
Joe Grasso, Clough Harbour & Associates
Kevin DeLaughter, Planning and Economic Development

1 CHAIRPERSON DONOVAN: Also on the agenda this
2 evening we have Hoffman Senior Complex. It's a PDD
3 proposal on 1 Alice Avenue.

4 Our town designated engineers are Clough Harbour
5 on this proposal. Mr. Hershberg from Hershberg and
6 Hershberg, is the engineer for this.

7 Joe, how would you prefer to start?

8 MR. GRASSO: I'd prefer to let Dan give a
9 presentation.

10 CHAIRPERSON DONOVAN: Okay, Dan, please?

11 MR. HERSHBERG: Does the board have copies of our
12 comment letter that we issued on April 16th?

13 CHAIRPERSON DONOVAN: Yes.

14 MR. HERSHBERG: Good evening. My name is Daniel
15 Hershberg. I'm from Hershberg and Hershberg. We're here
16 representing 1 Alice LLC. The principal of that is
17 Mr. Hoffman; thus the name, the Hoffman Senior PDD.

18 I reviewed the letter from Joe and I reviewed the
19 comment letter from the departments. A lot of them are
20 fairly standard comments. A lot of Joe's concerns had
21 to do with grade issues.

22 This is existing Eastview Drive from the edge of
23 this (Indicating). You have a 6% grade on it. That's
24 the existing grade. We propose from this turn an 8%
25 grade going up to the top. The sidewalk along side of

1 it would parallel. That would also be 8%. The safety
2 issue regarding the seniors does exceed 5%. His
3 recommendation is that it comply with a railing along
4 that sidewalk, which we certainly have no objection to.

5 Another issue was that the geometry of this
6 intersection was partially dictated by the grade coming
7 out of the apartment complex. The applicant does have
8 the right to change the geometry of this roadway any
9 way necessary to get town approval. As a matter of
10 fact, he has the right under that easement agreement to
11 grade this as a town road. We talked that over at the
12 DCC meeting. The town has no interest in accepting that
13 as a town road. Under that easement agreement, he
14 reserved rights to do whatever he wants to with regard
15 to that ingress. The previous owner owned this property
16 here before he sold it for apartments.

17 The key elements that Joe mentions are that there
18 are constrained lands. This color indicates federal
19 wetlands and we do have some steep slope on the site.
20 The steep slopes are primarily bordering the dry river
21 although again, there is a section of slope. When you
22 look down Eastview Drive, you see that hill going up
23 steeply? That's the slope that approaches 20%. So, the
24 existing grades are a challenge. We think that we've
25 engineered around the challenge.

1 The project started in 2002. We actually have
2 been around for awhile.

3 In Colonie, in the middle of the approval
4 process, we were caught in the middle of the definition
5 of the Land Use law and we were advised to wait until
6 that got passed so that we could move this project
7 forward in conformance of the Land Use Law. We had
8 actually made a previous application under the old law
9 and this Planning Board actually looked at it and
10 referred it back to the Town Board.

11 Another element that was raised by Joe had to do
12 with the Alice Avenue. Alice Avenue is not an entrance
13 to the site other than for an emergency entrance or
14 exit. That would only get used if, in fact, there was a
15 blockage on the main roadway when an emergency took
16 place. There is no intension of using it for any other
17 purpose. It truly is a secondary emergency access road.

18 Based on the VCC meeting there were a couple of
19 issues raised. They talked about how a fire truck would
20 get here. I said, how does a fire truck get to existing
21 houses? He says, with difficulty.

22 We had proposed to review and change the radiuses
23 at all the intersections between Route 7 and Alice
24 Avenue to accommodate the radius of the fire trucks. We
25 talked that over with Bill Neeley from Public Works and

1 that was their concern. We proposed to improve those
2 intersections to accommodate the turning radius. That
3 can only be done within the street right-of-way of the
4 street. Alice Avenue was proposed to be built to town
5 standards. In his review, Joe recommends a turn around
6 at the end of it. I assume that's for plowing purposes
7 because the only traffic would be to this one dwelling
8 on Alice Avenue, because we're not going to use it for
9 ingress and egress. We can put one at the end here
10 (Indicating) and make the gate beyond that turnaround.

11 Again, we're willing to work with safety people
12 and with the town designated engineer to make this work
13 as a secondary method of egress and ingress.

14 Another issue that was raised had to do with
15 visibility of buildings. We made the closest building
16 to the rear of the houses on Eastern Avenue a one-story
17 building.

18 This is a rendering of what we intend to build
19 (Indicating) right here. This is a one-story building
20 with a peak roof. The elevation of that is four or five
21 feet below the elevation here.

22 MR. O'ROURKE: What is the peak of the roof;
23 18 feet or something?

24 MR. HERSHBERG: No, the peak of that roof is
25 probably about 22 feet. It's got a steep roof on it.

1 It's probably about 10 and then you have another
2 12 feet here (Indicating). We have these buildings set
3 so that the setback from here (Indicating) is about
4 140 feet, which will remain undisturbed.

5 The closest point of anything close to these
6 properties is this corner of the parking lot, which is
7 146 feet from the rear property line. This building
8 itself is approximately 300 feet from the property.

9 We have federal wetlands there (Indicating). As
10 you go up there a lot of them don't look like wetlands.
11 A lot of them look like forested areas because these
12 are actually forested wetlands. We intend not to cut a
13 single tree there and not to clear anything there.
14 That's going to stay just the way it is. The one thing
15 that Joe pointed out is that we do show a new water
16 main. It was identified that there is an existing water
17 main here. They would like to upgraded to a brand new
18 10-inch water main. The applicant proposed to do that.

19 We haven't determined whether or not we might try
20 to do a directional bore underneath that to avoid
21 disturbing more wetlands.

22 MR. O'ROURKE: Why a 10-inch?

23 MR. HERSHBERG: That was the size assigned by the
24 Latham Water District.

25 MR. O'ROURKE: Can we get more clarification on

1 that, please?

2 MR. HERSHBERG: If they asked for a 12-inch one,
3 we would do whatever they -

4 MR. O'ROURKE: Again, I don't know why they would
5 want so big of a main extension.

6 MR. HERSHBERG: This actually connects all the
7 way across down into Watervliet. This is actually a
8 service main. It's not really to service us. The
9 existing main starts here (Indicating). It's through an
10 existing easement.

11 MR. O'ROURKE: Oh, okay.

12 MR. HERSHBERG: It's not to serve us. It's a
13 service main.

14 MR. O'ROURKE: It's a service main someplace
15 else.

16 MR. HERSHBERG: Yes. It closes the loop with
17 regard to providing pressure and everything else
18 regarding the system.

19 MR. O'ROURKE: Oh, that makes sense to me now.

20 MR. HERSHBERG: Our internal mains will all be
21 8-inch. The minimum size required by the fire law will
22 be 8-inch and we will add hydrants.

23 I note the comment here and we can certainly make
24 this roadway around this building 20 feet. For some
25 reason I thought that the New York State minimum was

1 15 feet. But I guess the code is 20 feet and if, in
2 fact you have a hydrant on it, it has to be a minimum
3 of 26 feet and we will comply with those roadway
4 widths.

5 The design again is to have 198 units of senior
6 housing here. Senior housing, we are defining as
7 55 years and older. One question that was raised by
8 someone was how do you define senior housing? We define
9 it as 55 years and older.

10 The other question was: Will we have HUD
11 apartments on the site? The current applicant is not
12 prepared to issue HUD vouchers for these apartments. It
13 is the intent to rent them all to afford to design this
14 project.

15 The key elements also raised in Joe's letter
16 repeated a number of the recommendations from our
17 geotechnical engineer. Those raised eyebrows but our
18 eyebrows were already raised. We've had a geotechnical
19 report since October 2007.

20 We're aware of the mains on the site. It's a
21 careful site to handle. We do have some excavation to
22 do. We have a wall to build. I've had the chance to
23 talk to Jeff Boudreau on behalf of the City of
24 Watervliet. He raised the question of this dam.

25 It shows a portion on our property and a portion

1 on the city's property. We are willing to deed it to
2 the City of Watervliet. We don't want to own that dam.

3 The way that they get down to it now is that it's
4 virtually impossible to get down those slopes. The way
5 that they already identified a route to our site is
6 actually through here and down here (Indicating). This
7 area here was apparently graded at one time for access.

8 You can see how the contours are very close
9 together. This dam goes back to the mid 1800's. There
10 were dams here along this dry river for manufacture of
11 power before it was for flood control. We believe that
12 dam has been in existence since about 1840. Watervliet
13 is under consent order, I understand, to do work on
14 those dams. They want access to it. We told them that
15 my client will grant them access through his property
16 to get to them. Even if this project doesn't go
17 forward, we don't want to be obstructionists to allow
18 water to get through our property. We will grant them
19 ingress and egress to the property. You can put that on
20 the record. I've made a commitment on behalf of the
21 Hoffmans to grant access.

22 Also, to clear up the title to this dam, we want
23 to deed it over to Watervliet so that they have the
24 right to do whatever repairs or restoration that they
25 have to do.

1 We have 1.5 parking spaces for each of these 196
2 units. The 1.5 on senior apartments is a generous
3 number. Some have one or one and a quarter. Joe says
4 that we should consider adding some more parking for
5 visitors and we can certainly take a look at that.
6 Actually, the floor plans for these garages actually
7 indicates that we can fit more than 66 parking spots on
8 some of these. They have plenty of spaces underneath
9 these buildings to put parking.

10 I've provided some floor plans. I don't know if
11 people had a chance to look at it.

12 It does have amenities for the site. It does have
13 a health club, it has a convenience store for people to
14 go to. There is an allocation for a hair dresser or a
15 barber shop. These are the kinds of conveniences that
16 people would like to do on-site. We believe that a
17 successful residence requires those. We'll have a full
18 health club, a swimming pool and a walking trail around
19 the site. We actually call for a fitness trail around
20 here (Indicating) with fitness stations for people to
21 go and stretch properly and do the proper exercises
22 based upon their capacity.

23 We think that we've done a good job of limiting
24 the wetland disturbance. We will have to go for a
25 nationwide permit for this project. We are going to be

1 disturbing one-tenth of an acre. We also are going to
2 be disturbing 100 feet of intermittent streams. So, we
3 will be going for a nationwide permit from the Army
4 Corp of Engineers.

5 In anticipation of that and also because of the
6 historic nature of the town, we had Birchwood
7 Archaeological do a Phase I archaeological study. They
8 found nothing historic or prehistoric on site. They
9 found primarily modern debris.

10 This area here (Indicating) actually had a
11 significant amount of fill put on it at one time. Both
12 our geotechnical report tells us that as well as the
13 archeological report.

14 Niagara Mohawk has a right-of-way in this area by
15 way of deed. We submitted them a plan and we have not
16 negotiated with them. They are always concerned about
17 not right-angled crossings, but the spacing from the
18 towers seem to be adequate. This one is almost a right
19 angle. This is almost an 80-degree angle which is
20 certainly not a right angle but we could, in fact, if
21 they do insist on us making more right angles doing it
22 in this direction and making it more of a right angle.
23 But from a roadway standpoint, it makes more sense to
24 cross at an angle.

25 We are required to pump the sewerage up to this

1 location here (Indicating). We did originally have a
2 discussion with Dave McMorris. Obviously, we'll have to
3 discuss this further with the department. We think that
4 essentially a pressurized system is required and we do
5 call for a series of ejection pumps for each of these
6 units.

7 I've covered water, sewer, stormwater issues.

8 MR. O'ROURKE: So Dave McMorris in the writings
9 that the board has - he understood what you just said?

10 MR. HERSHBERG: Yes. Again, his comments here
11 said that he wants to meet with us to discuss the plan
12 prior to going any further. His comments certainly were
13 not negative with regard to this.

14 MR. O'ROURKE: Did he understand the gravity
15 of - - I mean, I understand what you just said. Did he?

16 MR. HERSHBERG: Yes.

17 MR. O'ROURKE: Okay.

18 MR. HERSHBERG: Again, we had discussed
19 originally whether or not we wanted to bring it all
20 together in a single pump station with gravity sewers
21 or use a series of pumps.

22 MR. O'ROURKE: And he thought it was a good idea
23 for the taxpayers of this town to have a series of
24 pumps?

25 MR. HERSHBERG: No. These are going to be owned

1 and maintained by the operator. The operator is going
2 to own and maintain those.

3 MR. O'ROURKE: It will all be internal?

4 MR. HERSHBERG: The only public utility will be
5 the water main. The water main has to be a public
6 utility because you can't put fire hydrants out without
7 those hot boxes on them to protect the water main.
8 We'll be maintaining all the sewer systems, all the
9 recreational system and all the parking. The only thing
10 that we intend to turn over to the town would be to the
11 Latham Water District to take over the water system to
12 maintain the public water.

13 MR. O'ROURKE: Which isn't even the water main
14 for you. It's the loop which provides Watervliet.

15 MR. HERSHBERG: In addition to that 10-inch main
16 in there, we also have several 8-inch mains around our
17 site.

18 MR. O'ROURKE: That's the one that goes through
19 the wetlands?

20 MR. HERSHBERG: The 10-inch goes through the
21 wetlands. The 8-inche ones are around the site.

22 MR. O'ROURKE: Okay, that's what I thought.

23 MR. HERSHBERG: The 8-inch mains normally, we
24 would apply to the Latham Water District to build to
25 the Latham Water District standards and turn it over as

1 an extension of the public water system so that they
2 would own and maintain it.

3 MR. O'ROURKE: That's correct; so the town is
4 going to own that 10-inch main?

5 MR. HERSHBERG: Yes. They own the 10-inch main as
6 well as the smaller 8-inch main. They don't own the
7 service into the buildings, but the 8-inch mains that
8 the hydrants are on, it's important to make them part
9 of the public system for the fire safety issue.

10 You don't want hydrants if you can avoid it.
11 First, maintenance of them becomes a problem. You may
12 have people that don't properly maintain them and
13 somebody goes to use them and when a fire occurs they
14 don't function. You also have to put a filter on them.

15 The one public utility that will be built and
16 turned over to the town on the site would be the water
17 main. The sewer system would be all owned and privately
18 maintained. We think that's doable because this is not
19 a single family subdivision. If this was a single
20 family subdivision, Albany County Department of Public
21 Health would not approve us doing a private system.
22 They might on those certain cases where you have a
23 homeowners association, but they really don't like
24 those. Towns don't like them because if the homeowners
25 association doesn't do their job, sewer systems fail.

1 People start calling town hall. Because this is
2 multiple family housing, we can deal with a private
3 sewer system.

4 Let me just talk briefly about the stormwater
5 management system. Joe says that it is a little small.
6 Actually, we have detailed about 16,000 in these four
7 areas (Indicating); 16,000 square feet of space here
8 (Indicating). That's almost 1% of the site. Now,
9 normally your stormwater system takes between 1% and 2%
10 of your land area to accommodate it. They may be a
11 little small. We're willing to go through the design of
12 those.

13 I also have indicated that preference of sand
14 filters. Even though Joe points out that if you go
15 through the matrix, there are a whole bunch of reasons
16 why sand filters would not be desired, I have had good
17 luck with them. We think that they are working well. We
18 have a number in the town that are functioning such as
19 Hudson Preserve. I'm a big fan of sand filters and let
20 me just explain briefly why.

21 I think that all the studies show that next to
22 ground water recharge, sand filters are the most
23 efficient at removal of post solid phosphorus and
24 nitrogen. They are the most efficient as a sand filter
25 as opposed to a pocket wetland, micro pool or any other

1 wetland solutions. A filter system has studies that
2 prove it and I can give you the studies and cite them.
3 There are plenty of studies that show it; even in a
4 cold weather area. People are concerned about cold
5 weather and what they do to filters, but this study was
6 actually done by a group in Nebraska. They have some
7 cold weather there and essentially those systems work
8 well there, as well as any other areas. That's why my
9 preference would be to use the sand filter system.
10 These, again, are privately owned and maintained. John
11 Dzialo still has to approve them and will go through
12 them.

13 We'll have to file a SWPP. We'll have to get a
14 SWPP acceptance form from the stormwater management
15 person. A whole bunch of approvals still have to get
16 done, but I'm still a fan of using sand filters.

17 These (Indicating) are just shown as areas that
18 are not really designed yet to show the storage of
19 space. Jeff said that their major concern is that we
20 control the 100-year design storm and I said that I
21 understand that.

22 Watervliet has always been concerned about
23 drainage coming off the hill down to them. For Hudson
24 Preserve, we designed that for a 100-year storm and I
25 think that it's functioning quite well. I think that

1 the drainage situation is critical and we will address
2 it.

3 Again, it certainly is not the easiest site in
4 the world to develop, but I think essentially it's a
5 valuable site to develop in that it has the benefit of
6 having some perfectly developed land with constrained
7 land around it.

8 I think that the views from the upper floors of
9 this building will be beautiful from the assisted
10 living. The floors will also have very nice views. I
11 think that it's clear that it will be a beautiful site.

12 We were cognizant of the neighbors' concerns. We
13 have heard it a number of times regarding the views.
14 That's why we left all this undisturbed area here
15 (Indicating). We have a one-story building here. The
16 roofs of these have stepped down so that you're below
17 the ground line so that you'd have to be standing on a
18 roof here (Indicating) to be able to see some of these
19 buildings from the rear of the house on Eastern Avenue.

20 I'm prepared to answer any questions that the
21 board may have.

22 CHAIRPERSON DONOVAN: I'd like to invite Joe to
23 go ahead.

24 MR. GRASSO: I can go through the letter. There
25 are a number of comments and many of the comments are

1 extensive. I'm not going to read it verbatim, but I'll
2 touch on what I consider the highlights of the letter.
3 Dan has touched on many of these but I'm going to go
4 through them anyways just so that the board can get a
5 sense of where our concerns lie.

6 In general, this appears to be consistent with
7 the PDD guidelines and based on the use, it appears to
8 be an appropriate project for the town. However, given
9 the site, it does contain significant constraints to
10 development including steep slopes, bad soils, on-site
11 wetlands and overhead power lines that go through the
12 site. Based on those constraints we question whether
13 the site can be realistically developed to the extent
14 shown on the plan without risk of significant impacts.
15 We're confident that they could engineer this plan to
16 prove that it works from an engineering perspective.
17 But as you look to do extensive engineering exercises
18 and the issues that this site has, it raises the risk
19 of significant impact only because you're altering the
20 environment so extensively to accommodate the proposed
21 development plan.

22 Much of the site contains slopes in excess of
23 20%. Generally when you get over 20% you're looking at
24 significant land alterations to try to accommodate
25 normal development such as this. So generally we don't

1 consider those slopes suited for development. The areas
2 that we're talking about include the main access drive,
3 much of the assisted living site and portions of the
4 independent living site.

5 The main site entrance consists of a connection
6 to Eastview Drive on the adjacent property. It results
7 as somewhat of a skewed intersection along that
8 existing sharp curve. It feels awkward and it could
9 lead to increased accident potential. So, we're looking
10 for a key type intersection to be evaluated.

11 We threw out an alternative that due to Eastview
12 Drive being a curve in this area, it may be appropriate
13 to have the primary entrance to the Hoffman Senior
14 Complex directly connect to Route 2. Obviously the way
15 that the access is now, there is no jurisdiction by DOT
16 because they come off of a private drive developing
17 into access onto Route 2 and that would trigger DOT's
18 review. We're not confident that an alternative access
19 connection will solve all of the issues and be any
20 easier to implement than this one. It's just another
21 alternative to discuss with the applicant's engineer.

22 We recommended accommodations to turn around
23 vehicles on the emergency access road be provided
24 primarily from a main standpoint. According to the New
25 York State Fire Code the width of the access road has

1 to be 20 feet. There is different criteria when the
2 widths need to increase from 16 to 20 and then up to 26
3 feet. These are relatively new to the code.

4 Based on our interpretation of the uses and the
5 purpose of the accesses, we think that some of them are
6 substandard and need to be increased and we can work
7 with Dan on that.

8 Regarding the parking, we would look for
9 justification for the reduced parking that proposed.
10 They're proposing one and one half spaces per unit
11 versus the two spaces and maybe there are some studies
12 or some other projects that they have done where they
13 have provided a similar parking ratio that has worked
14 well that could justify the decrease parking needs for
15 this project.

16 We commented that based on the use, 88 accessible
17 routes throughout this site are going to be extremely
18 important and it will be difficult to achieve based on
19 where they're looking to develop property and the
20 slopes of the site. So, we're looking at other
21 alternatives for accessible routes through the site and
22 different accessible accommodations be provided to make
23 this site as accessible as possible to the residents.

24 We have some questions regarding where the guide
25 rail is shown and how it's going to be designed.

1 There is limited information regarding the areas
2 of stormwater management and later on in our letter we
3 talk about the specific measures that they are going to
4 propose such as a sand filter.

5 DEC provides a matrix that you go through based
6 on the site's criteria and the uses. As we go through
7 that matrix, we're not coming up with the sand filter
8 that was proposed. We have some questions regarding
9 that and those concerns were also raised by John Dzialo
10 in the Department of Public Works.

11 It's our understanding that the Corp of Engineers
12 has not issued a jurisdictional determination for the
13 project. It generally takes them some time to do that.
14 We would like to see some correspondence that has been
15 sent to them regarding timeframes on that determination
16 and obviously if they do make a determination we think
17 that the town and our office should be copied on that.

18 It does appear that there is going to be stream
19 and wetland impacts associated with the project that's
20 going to trigger some permitting by the Corp of
21 Engineers. Obviously some close coordination with the
22 Core of Engineers is going to be required on the
23 project and any changes to the project will impact the
24 Planning Board's review.

25 There is a stream on the channel that they have

1 determined to be jurisdictional to the Corp of
2 Engineers and the way that they're looking to minimize
3 impacts to it is by using an open bottomed concrete box
4 culvert. Based on the contributing drainage area to
5 that stream and other changes proposed outside of that
6 and the immediate confines of the stream, we think that
7 there is really impacts there that are going to be
8 unavoidable. The stream may not actually operate as a
9 stream and we would expect that the Corp of Engineers
10 are going to raise similar concerns.

11 Dan touched on the fact that there is a new
12 waterline going through the wetlands. They haven't
13 clarified to us whether or not that line would be
14 installed by directional bore so that there are no
15 surface impacts, or through an open trench where those
16 impacts would have to be mitigated. There is some open
17 space proposed that we would like clarification
18 regarding the legal instruments to protect those in
19 perpetuity.

20 There are three separate privately owned small
21 pump stations proposed with a relatively long force
22 main. I don't think that the Department of Pure Waters
23 has significant concerns only because they're not going
24 to be responsible for maintenance of the system. They
25 don't have any concerns regarding the point of

1 connection or the capacity of the system gravity sewer
2 that handles the flows from the project. However, we
3 have a concern that the system with three separate
4 pumps is the best alternative to provide sewer service
5 to this. Obviously, whenever you have a sewer system
6 serving a commercial property, we look for redundancies
7 or back up systems or back up generators or other pumps
8 that would kick on or allow one pump to be pulled when
9 you were replacing the other pump if it ever fails.
10 When you're talking about three primary pumps, then
11 you're looking at three redundant systems to be created
12 as well. So, we think that there are other options that
13 should be investigated, if they haven't already been
14 investigated. We'll have to work with the Department of
15 Pure Waters as we go through these other alternatives
16 to make sure that we don't raise any new concerns for
17 them.

18 There are the National Grid transmission lines
19 that bifurcate the site. We haven't seen anything in
20 the file with confirmations that the crossings are
21 acceptable to National Grid in terms of location,
22 alignment or clearances. National Grid has some strict
23 policies regarding proposed crossings even if they had
24 the easement that crosses the site allowing a certain
25 number of crossings to adjacent properties. So, we

1 think that those discussions should occur immediately,
2 and obviously we would like to be copied on any
3 correspondence.

4 In terms of the geotechnical evaluation: It's
5 good that they have that study done. It is a little
6 outdated. Based on a slightly revised plan, there is a
7 lot of recommendations in the geo study that touch on
8 specific measures that would need to be built into
9 these plans that you wouldn't normally see with many
10 other projects that we see coming before us. It just
11 touches on the significance of the site constraints and
12 just how difficult it's going to be to engineer your
13 way around this plan. We included those into the review
14 letter to provide guidance for us to follow as the
15 plans get refined.

16 I already touched on the stormwater issues
17 regarding the proposed method of stormwater management.

18 MR. O'ROURKE: Joe, is there the expertise within
19 our departments to handle the oversight?

20 MR. GRASSO: In terms of the geotechnical?

21 MR. O'ROURKE: Yes.

22 MR. GRASSO: That's something that we have the
23 expertise in-house. We can provide the oversight
24 because we think that there's a certain amount of
25 oversight that should be done now at the planning

1 stage. The other expertise within the town lies within
2 the Building Department. Obviously they're not really a
3 part of this review process. We would look to provide
4 that expertise now and not require the Building
5 Department to be burdened with it when it goes into the
6 building permit stages. We think that the proper forum
7 is here with the Planning Board.

8 I believe that sums up our comments.

9 CHAIRPERSON DONOVAN: Kevin, in your comments you
10 talked about the slopes. It's based on an earlier site.
11 That's what Joe said.

12 MR. DELAUGHTER: It would need the additional
13 analysis.

14 MR. HERSHBERG: If I could just point out the
15 changes made.

16 We originally had an assisted living facility
17 site here and it was actually steeper than it was over
18 here (Indicating), as a matter of fact. We used Dente
19 Engineering and we can have Fred go out there and
20 update that. We had the assisted living site building
21 on the other side here (Indicating), which had the same
22 sort of slope constraints.

23 MR. DELAUGHTER: I think that aside from the
24 change in the plan there are statements in the report
25 that it does require further analysis as the plan

1 progresses.

2 MR. HERSHBERG: Normally, the geotechnical
3 engineers provide a schematic plan and that's when they
4 do their things like slope stability analysis and stuff
5 like that. Then we give them an actual layout plan and
6 as we get further into the process, they actually give
7 us very specific recommendations. In their reports,
8 too, they say that they want to be involved.

9 Also, the intension is to retain a firm to do
10 on-site geotechnical work on the property. You don't
11 want to trust a guy in a bulldozer to make the final
12 decision. They will have oversight. We normally work
13 with Fred at Dente Engineering and we have used him to
14 supply us with the geotechnical work throughout the
15 site. That means that there would be an inspection any
16 time where there would be grading going on at the site
17 at all.

18 CHAIRPERSON DONOVAN: We had a memo from
19 Lieutenant Ken Pirro from the Highway Safety Committee
20 saying:

21 We had a concern with the grade of the entrance
22 road and feel that it is too steep. It would result in
23 vehicles sliding out onto Route 2 during the winter
24 months. We also feel that the traffic impact study does
25 not show an actual trip generation count.

1 MR. HERSHBERG: Actually, I did use the IT manual
2 and I did do a trip generation count. Both Kevin and I
3 looked at it and said, is that for real? But those are
4 the uses that we have on it. We have senior apartments,
5 assisted living and an Alzheimer's unit which classify
6 as a nursing home. We had to prepare it and it actually
7 came out with the peak hourly flow at any time during
8 the peak hours of 26 vehicles per hour. That sounds
9 very low. It's going to be sent to CDTC for their
10 review and analysis.

11 MR. DELAUGHTER: Actually, it has been sent to
12 CDTC and I had a conversation with Dave Jukins this
13 morning. They have not completed their review but we
14 did talk about the trip generation analysis. We don't
15 have the benefit of having the most current edition of
16 the Institute for Transportation Engineers Trip
17 Generation in our office, but Dave does. You read me
18 the characterization of the land use that you used for
19 the 198 apartments and it sounded exactly like what's
20 being proposed. So, based on that, he was comfortable
21 with the numbers that you were using.

22 MR. HERSHBERG: It sounds ridiculous, we have 198
23 apartments, we have 93 units of assisted living, we
24 have 40-some-odd units that are Alzheimer's units and
25 we're only generating 26 vehicles. You have to remember

1 that's starting the peak hours of the adjoining
2 roadway. An awful lot of traffic takes place during
3 non-peak hours.

4 CHAIRPERSON DONOVAN: Ma'am, I'm going to open it
5 up to the public in just a few minutes.

6 MR. HERSHBERG: Senior citizens don't always
7 leave at 8:00 a.m. in the morning to go someplace.
8 These were statistics, as a matter of fact, sometimes
9 the statistics were only on one or two studies and
10 they're not viable. These were based on an awful lot of
11 studies that were done.

12 The tick marks on the graph are numerous so
13 essentially these are real numbers. Will it be somewhat
14 higher? Conceivably so. When CDTC does an analysis, we
15 are going to have a traffic impact that we are going to
16 have to pay for. Obviously, we would like them as low
17 as possible. We think that we used the right numbers.

18 We're not saying that there won't be more traffic
19 at different times of the day. As a matter of fact, the
20 peak hours were generated from the site and they
21 sometimes would be between 10:00 and 2:00 in the day
22 when an awful lot of seniors do go out and go to
23 doctor's appointments and go shopping; but those are
24 not the key hours. The key hours are the peak hours of
25 the adjoining traffic on Route 2 and other roads of the

1 town. That's why the traffic numbers look a little
2 skewed, but I think that they are explainable.

3 MR. GRASSO: I just to clarify that statement
4 because I don't necessarily agree with everything that
5 Dan is saying.

6 It's important that you look at both peaks. You
7 have to look at the peaks from the site to see if that
8 peak is going to trigger a need for any improvements
9 there and we don't believe that there are. That's why
10 we didn't raise a concern in our letter.

11 As Dan said, you need to look at the peak on the
12 overall corridor, which those are the hours that we
13 looked at when we looked at the traffic study - which
14 he is correct; it's only going to be 26 vehicles per
15 hour. We look at - okay, if 26 isn't the number, what
16 would that number need to be if we started to raise
17 concern and warrant additional analysis? It would have
18 to be three times or four times that before we would
19 start to be concerned. That's why we are not concerned.
20 DOT is aware of the project and has not raised any
21 concerns.

22 MR. NARDACCI: Dan, can you address the first
23 part of our comment which is Pirro's letter? The way
24 that I'm reading it, it says that we're not going to
25 have a cue. All the cars are, in the winter time, going

1 to slide right into Route 2.

2 MR. HERSHBERG: Actually, you currently have this
3 large apartment complex that uses exactly that driveway
4 to Route 2. This portion of the driveway is already in
5 place so if they were going to slide into Route 2,
6 they're sliding into Route 2 now.

7 This here (Indicating) adjoins Route 2. We can,
8 go through an approval process and have a traffic
9 engineer go out there. The one thing that they do is
10 they do pull accident reports in the area and find out
11 whether or not they are considerable and what the
12 reasons were. Was it icy roads? Was it improper
13 stopping? Was it somebody running a stop sign? Those
14 are the sort of things that we can do as part of the
15 process and we are willing to do that. But I point out
16 the fact that the Lieutenant's comments are on a piece
17 of roadway which currently exists.

18 MR. NARDACCI: I think that there are serious
19 concerns about that. You have a site that you admit is
20 a real challenge. It's very challenging. We've read
21 this throughout the comments about how challenging the
22 site is. While in the town, we have a real need to
23 accommodate seniors and to accommodate assisted living,
24 why take such a challenging site and put seniors here
25 when you're going to have a daily call for emergency

1 services at a site like this? I mean multiple calls.

2 MR. HERSHBERG: Senior Apartments shouldn't
3 generate that many calls. Quite honestly, I'm 68 and a
4 half and I haven't had an emergency call yet. I'm 13
5 years older than the people that qualify to live in the
6 center.

7 MR. O'ROURKE: Realistically, let's not fool
8 around. The place my parents are in - twice a day there
9 are emergency vehicles there.

10 MR. HERSHBERG: Assisted living is a place where
11 there probably will be repeated calls. Senior
12 apartments themselves, normally generate a significant
13 increased number of calls.

14 MR. NARDACCI: I'm more concerned about that; the
15 Alzheimer's and the assisted living. I think that those
16 two buildings alone are going to generate, I think, a
17 daily response.

18 I'm sorry I jumped in here, but it's tied into
19 this first question about emergency access. It just
20 seems like such a challenging location. Why fool with
21 that and public safety? All I can go by is what I read.

22 This is my second year on the board and I have
23 read through dozens and dozens of these memos. This is
24 the first memo that I've ever read that just stopped me
25 in my tracks because it said that the committee has a

1 concern with the grade of the entrance road. They feel
2 that it's too steep and will result in vehicles sliding
3 out.

4 You're saying that it's an existing roadway.
5 That's not how I'm reading it. I'm reading that it has
6 to do with - - I mean, we need clarification on that.

7 MR. GRASSO: I think that I can clarify. You've
8 got a 6% grade on the existing road, but then it goes
9 through an existing S curve and provides some level of
10 traffic calming. What's happening is that we're
11 creating a straight shot down and you've got a 6% grade
12 which is relatively steep. It's not pushing the limit.
13 The most max that we would like to see is 8%. What we
14 are creating is a straight shot of 8% which goes to 6%
15 and there is no level landing.

16 MR. NARDACCI: Joe, let me answer your question.
17 Let's not even talk about cars coming out. Let's talk
18 about the fire truck trying to get in during the winter
19 and the ice. Worse case scenario, but I think that we
20 should talk about it because we're talking about an
21 older population.

22 MR. GRASSO: Assuming that the road is
23 maintained, a truck will not have any problems getting
24 up an 8% grade.

25 MR. HERSHBERG: An 8% grade is a permitted grade

1 on town roads.

2 MR. O'ROURKE: I agree with you Dan, except when
3 we're talking about seniors or children, there has got
4 to be a difference. This board has an obligation to the
5 citizens to hold those things to a different standard.
6 So although an 8% grade might be great for you and me
7 to run up, I don't want my mom coming down an 8% grade.

8 Find a new place.

9 MR. NARDACCI: Kevin, what was the standard?

10 MR. DELAUGHTER: The standard maximum is 6%. The
11 8% is allowed by a wavier if there is a second access
12 to this 6% or less.

13 MR. GRASSO: For a town road.

14 MR. DELAUGHTER: Yes.

15 MR. O'ROURKE: But they're not going to be town.

16 MR. GRASSO: Right, but I'm just trying to
17 provide a comparison as to how this relates to the town
18 standards.

19 MR. O'ROURKE: Right, so it's not going to have
20 to be maintained to the town standard. So, if the roads
21 do deteriorate, we have no control over what the roads
22 may become.

23 MR. LACIVITA: They've already worked out an
24 agreement for accessibility right in that area. Was
25 there any other area that he could access the apartment

1 complex to make that grade or that concern right there
2 go away?

3 MR. HERSHBERG: I don't think so because when
4 they built these apartments they came to the Town of
5 Colonie and got approval for this entrance road to gain
6 access to their project. We don't think that there's
7 any place else that these people either theoretically
8 have title to or can get an easement that will make
9 this ingress any better than it is right now.

10 MR. LACIVITA: So, they couldn't come up through
11 the development that they currently have through there,
12 Fennimore Trace, or whatever those apartments are
13 there. I guess why I say that is that those S turns
14 that you talked about kind of slow traffic down and
15 help, but there's another way to get it in. That takes
16 away that whole straight shot down to Route 2 and
17 sliding out.

18 MR. HERSHBERG: Again, we can talk about doing
19 something with the roadway to slow it down and maybe we
20 could come up here and do something, but then the other
21 point of Joe's comment was he prefers the T
22 intersection rather than this calming curve. That means
23 essentially we could take this S curve over back a
24 little bit and realign this driveway to make it a right
25 angle turn. It can be done. It can be engineered. We

1 can do it.

2 MR. O'ROURKE: Honestly, everything that I read,
3 all the problem with this is the fact that in several
4 boring locations they found fill that was transported
5 in. So, who brought the fill in?

6 MR. HERSHBERG: That was before my client bought
7 it.

8 MR. O'ROURKE: Between one and six feet. If you
9 look across Route 2 by the Stewarts, all the houses up
10 on those hills - I know people that their houses are
11 separating two inches because it's all fill. Not only
12 are there geotechnical difficulties with this site and
13 then the borings - they find fill from one to six feet.
14 So, how far across this property have people dumped
15 fill in? We don't know.

16 MR. HERSHBERG: The maximum fill is in this area
17 right here (Indicating).

18 MR. O'ROURKE: But we don't know the extent of it
19 and it all has to be excavated.

20 MR. HERSHBERG: When we're talking about moving
21 the fill underneath all the buildings and all the
22 roadways -

23 MR. O'ROURKE: Hundreds of thousands of yards.

24 MR. HERSHBERG: No. Not nearly that.

25 MR. O'ROURKE: One is six feet.

1 You're an engineer. I'm not.

2 MR. HERSHBERG: I'm talking about this building
3 here (Indicating). The basement grade for the garage is
4 four to five feet below -

5 MR. O'ROURKE: So closer to that grade there
6 where I walked - that hill isn't fill there?

7 MR. HERSHBERG: Most of this is fill.

8 MR. O'ROURKE: I know it's fill. I walked there.

9 MR. HERSHBERG: Again, we wouldn't have to take
10 the fill out in the grass areas. We would take it out
11 in the building for foundation purposes and we
12 specifically put garages under so that -

13 MR. O'ROURKE: The question that I asked earlier,
14 Joe - and not to harp on it but who do we hold
15 accountable? Who do we look to for this geotechnical to
16 say hey, that's a grass area. We don't have to take all
17 that fill out. All that roadway stuff and all the stuff
18 that was sucked out of drains 15 years ago that someone
19 dumped there. Who looks out for the taxpayer?

20 MR. GRASSO: The design engineer. We're going to
21 be reviewing it.

22 MR. O'ROURKE: So, once it's done, it's done.

23 MR. GRASSO: Yes.

24 MR. O'ROURKE: Thank you.

25 CHAIRPERSON DONOVAN: Mike?

1 MR. SULLIVAN: I had a few questions. First, with
2 the Alzheimer's unit, why is it in close proximity to
3 the roadway?

4 MR. HERSHBERG: Actually, our position has been
5 that Alzheimer's patients like to be in active areas as
6 opposed to being put in inactive areas. We do provide a
7 walking area behind there so that they will have a
8 fenced area where people can go outside to walk. They
9 do have to be contained. You can't allow Alzheimer's
10 people free access to the environment. They will not be
11 allowed to go out and walk on the property. They can go
12 out accompanied by someone, but our experience is that
13 Alzheimer's patients are better located in a busier
14 portion because the activity stimulates them rather
15 than parking them someplace where it's quiet.

16 MR. SULLIVAN: I was talking about their safety.
17 You said that you had a fence there. Can you tell me
18 what type of fence it would be around that building?

19 MR. HERSHBERG: Again, this would probably be a
20 six-foot decorative wrought iron type fence with bars
21 that are six inches apart. Nobody can get through this
22 area here (Indicating).

23 The main thing in most of these units is exit
24 control. You have to have your patients in a lot of
25 these units wear sensors. If they pass a certain point,

1 the sensor beeps and sends off alarms and physically in
2 some places, flashes over the door that they're heading
3 for so somebody knows that someone is trying to leave
4 the building.

5 I want to say that it is a very secure
6 environment for people not leaving. Most Alzheimer's
7 units learned on issues in the past where Alzheimer's
8 patients have gotten out and are found wandering near a
9 Stewarts store or down in a ditch. Again, here, this
10 will be controlled by state of the art science. It is
11 relatively easy to make certain that nobody leaves the
12 building.

13 MR. STEWART: My concern is that there seems to
14 be one barrier in there. I don't see any other barrier
15 there. Move the building farther away from the road. If
16 an emergency happens and someone gets out, it's not
17 that far to get down to Route 2. I just feel like this
18 is just ill suited for this type of use.

19 There was some mention in one of the memos to
20 have a perimeter fence by some redundancy. Will that be
21 a possibility?

22 MR. HERSHBERG: We'll take a look at that. I'm
23 not certain of the geometry of that building will work
24 like that. I guess we'll have to take a look at that.

25 MR. STEWART: Not just for that building, but

1 also along the perimeter to keep people out of the
2 ravines.

3 MR. HERSHBERG: We do intend on having a
4 retaining wall here (Indicating) with a guide rail on
5 top of it all along here. Someone would have to
6 physically crawl underneath the guide rail to get out.
7 Again, we envision like a timber guide rail. We think
8 that will be a bit more attractive rather than a steel
9 guide rail.

10 We also propose a wall around here (Indicating),
11 a wall here with all rails on top. We think that
12 essentially that you want safety but you also want the
13 well people to walk the site so you can't really fence
14 it off entirely. We don't think that perimeter fencing
15 is really required.

16 MR. STEWART: I would just have concerns that if
17 they got out to that Route 2, it would be very
18 dangerous. That's one of the reasons why I think that
19 this site is poorly suited for this type of use. That's
20 why I'm asking for the fence.

21 My concern isn't for the well elderly in this
22 case. I am concerned about the well elderly on the
23 walking path. As a PDD, there is going to be path.

24 MR. HERSHBERG: I think that it's all under ADA
25 standards. It's under 8.33%.

1 MR. STEWART: How useful is that to seniors?

2 MR. HERSHBERG: I don't know whether or not
3 you're exaggerating the level at 8.33%. Again, visually
4 at 8.33% is not going to be really steep. We've
5 rendered this building here (Indicating) and this
6 roadway coming down here is about a 5% roadway. Even
7 the difference in sidewalk to the main road is
8 certainly not significant.

9 MR. STEWART: Where would the walking path be?

10 MR. HERSHBERG: Essentially, we show this walking
11 path probably right around here or around the edge of
12 the roads. These are all parking spaces. This is a
13 relatively level piece of roadway. This area here
14 (Indicating), again, you're talking the average grade
15 of this sidewalk pretty much parallels the roadway that
16 it accompanies. It's a sidewalk that separates the
17 roadway around the parking lot or around the roadway.
18 Probably the average grade is someplace around 5%.
19 There are some spots that are up to 8%.

20 MR. STEWART: I drove through the apartment
21 complex adjacent to the site and that is quite steep
22 along that back edge and I'm assuming that roadway
23 would be following the same slope.

24 MR. HERSHBERG: Actually, we're repaving that
25 road with somewhat. The grade here is down about three

1 feet from the edge. Down here we are actually
2 flattening the roadway in here. The grades along this
3 roadway (Indicating) are not particularly steep. We
4 have here less than a 2% grade. This area here is 195
5 to 180 and 200 feet. So the steepest portion is this
6 portion here (Indicating). It's like a 7.5% grade.

7 MR. STEWART: Would you be providing handrails on
8 all slopes exceeding 8% or more?

9 MR. HERSHBERG: Actually we're probably going to
10 provide them anyplace that's over 5% with walkways;
11 anything that's 5% to 8%. To be handicap accessible,
12 you have to provide that.

13 MR. STUTO: Sorry to interrupt but Joe, you
14 disagree with it being below 8.33% in paragraph 8. I
15 just want to make sure.

16 MR. GRASSO: We thought that there were areas
17 that were over 8.33%. Even as such we would recommend
18 them to get the slopes down to less than 5%. Once you
19 get into needing handrails on both sides, you're
20 talking about a very extensive ramp system and for an
21 exterior environment like this, difficult for the users
22 of this development.

23 MR. STUTO: So you disagree about what Dan is
24 saying?

25 MR. GRASSO: We thought that there were some

1 areas - - I'm not sure. Dan is checking a couple of
2 areas and things and there were a few areas that we
3 felt were over 8.33%. We think from a design standpoint
4 we should look to try to get those slopes less than 5%
5 so we can avoid the use of handrails.

6 MR. STEWART: The last question I had was: Do we
7 have any traffic information distribution which
8 combines the contributions from the existing apartment
9 complex and this proposed development?

10 MR. HERSHBERG: We do not.

11 MR. STEWART: Can we get that?

12 MR. HERSHBERG: As this project goes forward we
13 expect that we have to do traffic reports that will
14 address that as well as the sight distance issues.

15 MR. STEWART: My concern, as Joe had mentioned,
16 the seniors coming down 8% from Eastview Drive is at an
17 awkward angle.

18 The sight distance is a bit off. Also, once you
19 get to Route 2, there is poor sight distance there too.
20 There are two retaining walls when you're trying to
21 pull out. Especially if you're trying to take a left
22 turn in the morning. I think that this is just poorly
23 suited for the senior living land use.

24 CHAIRPERSON DONOVAN: George?

25 MR. HOLLAND: The apartment complex - are various

1 parts of it built on different levels?

2 MR. HERSHBERG: Yes, they are. They actually
3 stagger down. There is actually an eight to ten feet
4 difference between this (Indicating) as they go down so
5 that it takes advantage of the grade.

6 MR. HOLLAND: So, the garage won't be one
7 continuous -

8 MR. HERSHBERG: No, we'll have the ramp in
9 between. These two have their own area here
10 (Indicating). We do propose parking under this area
11 here, which will be ramped up to get to it internally.

12 MR. HOLLAND: Are there any of the units that do
13 not have garage entrances?

14 MR. HERSHBERG: No. We anticipate being able to
15 give everybody at least one parking space in the
16 garage. If they need a second parking space, we do
17 provide surface parking outside.

18 MR. HOLLAND: That just answered my next
19 question.

20 MR. HERSHBERG: I know that we're providing one
21 parking spot per unit and then the rest - - if someone
22 needs a second car, they would have a second parking
23 spot.

24 MR. HOLLAND: That's all I had, Jean.

25 CHAIRPERSON DONOVAN: Okay. Elena?

1 MS. VAIDA: I have a lot of concerns about the
2 project. All of them are outlined in the different
3 letters and our engineer's report.

4 I also was wondering and I'm assuming that you
5 did look at the GEIS findings. Just skimming through
6 this, there is a section that talks about vegetation
7 and wildlife.

8 I'm not familiar with this report but it's called
9 the Lumac technical report. It talks about protecting
10 the dry river and adjacent lands to the implementation
11 of water course protection coordinates. It also talks
12 about implementing proper stormwater management and
13 erosion control programs for tech stream integrity. It
14 talks about sensitive habitat in the area.

15 So, one of my concerns that isn't addressed a lot
16 in these papers is the environmental concern. There is
17 little mention of it in a letter from Fraser and
18 Associates where they talk about the stormwater
19 management that you're proposing. It says that the
20 stormwater from the east area of Colonie has to pass
21 through the city on the way to the Hudson River and it
22 talks about projects on this slope in the town had been
23 designed at a higher standard of stormwater management
24 knowing that this is a critical environmental concern.

25 So, I am concerned about that there is an

1 environmental impact that will happen with this project
2 with the stormwater management that you're proposing.

3 MR. HERSHBERG: The stormwater management issue
4 is strictly governed by law P0801 which is a very
5 strict law. What we would have to do is hold extreme
6 flood protection. It's a 100-year storm. We have
7 normally with the town exceeded the 100-year storm for
8 a design purpose. Not everything is a tributary to the
9 City of Watervliet. This is not the only project.

10 We had another project along Route 2 that we
11 actually did in the City of Watervliet that they made
12 us put in stormwater management. The issue here is that
13 we meet the standards. There should be no erosion or
14 sedimentation tacked on the dry river at all.

15 The other thing that I would point out is that
16 this site is 78% green when we're all done, which is a
17 significant portion of the slopes of the dry river. We
18 do meet the corridor requirements of the dry river as a
19 significant environmental area. That's a 100-foot
20 setback and we do meet that 100-foot setback with all
21 of our improvements of that area.

22 Also, there is no danger to any known endangered
23 species. We had the same environmental people that did
24 our environmental review and our stormwater issue on
25 the Hudson Preserve. The only thing that it had

1 identified previously was a species that adapts itself
2 to the slopes of the Hudson River. We had them check
3 and there is none of that. That was a threatened
4 species last seen in the town in 1929. We had them look
5 for certain and that wasn't on the site.

6 MS. VAIDA: You haven't had any sort of
7 assessment done with regard to things like the Karner
8 Blue Butterfly. They have the same concerns in the Pine
9 Bush and no one has really gone in and looked. The
10 report that you have just says that there's nothing
11 that has been reported. We don't know of anything but
12 that doesn't mean nothing exists.

13 MR. HERSHBERG: This site will not support the
14 Karner Blue Butterfly. I can guarantee that. It's sand,
15 soils and open areas and it will just not support it.

16 There is obviously wildlife on the site. It's a
17 green site. It's been vacant for a lot of years.
18 Wildlife will be there. We do not think that there are
19 any endangered threatened or any species of special
20 concern on this site.

21 If you require us, we will hire an environmental
22 consultant to go out there and see what birds are
23 there.

24 Again, I'm convinced that there is nothing that
25 rises to the level requiring us to protect it by New

1 York State DEC. The question is: Is the town concerned?
2 If you have a species protection letter that goes
3 beyond DEC - if so, I'm not aware of it. If you're
4 concerned about greenspace, we have 78% greenspace. I
5 don't know what else to tell you other than we think
6 that we meet the guidance given to you in that DEIS. We
7 have protected the dry river. We do provide for the
8 setback from the stream course. We do provide 78%
9 greenspace.

10 MR. O'ROURKE: But this is a PDD.

11 MR. HERSHBERG: Yes, it is.

12 MR. O'ROURKE: You cannot move forward unless
13 this board agrees that there is some benefit to the
14 town as a whole. So, my biggest thing is: Explain to me
15 what the benefit is the town, Mr. Hershberg.

16 MR. HERSHBERG: We're meeting an unmet need with
17 regard to senior housing of all modalities. We did a
18 market study and there is a significant shortfall in
19 both senior apartments for well seniors and a shortfall
20 in Alzheimer's units. There is a shortfall in assisted
21 living.

22 MR. O'ROURKE: That's not true in its entirety.
23 There is unrented space for well adults in the town; am
24 I correct?

25 MR. HERSHBERG: We spent for a significant

1 study -

2 MR. O'ROURKE: Am I correct?

3 MR. HERSHBERG: I'm not aware. I don't run any
4 other apartments. It's an unmet need.

5 MR. O'ROURKE: Is that the only benefit that the
6 town has in this PDD application?

7 MR. HERSHBERG: It gains taxable property to the
8 town and it gains a housing need. We would hold out
9 that the additional services provided by the town are
10 significantly less costly than the tax income that the
11 town will get. It's not like a single family
12 residential property.

13 MR. O'ROURKE: I believe that it's the
14 determination of this board to make those
15 determinations.

16 MR. HERSHBERG: Again, you asked me my opinion.

17 MR. O'ROURKE: No, that's not what I asked. I
18 asked what benefit this project has to the town so that
19 we, as a board, can look on it on its merit. The PDD
20 has to have some long-range benefit to the taxpayers of
21 the town. That was my question.

22 MR. HERSHBERG: My opinion is in answer to your
23 question, which is all I can offer. I can't offer you
24 anything other than my opinion. My opinion is that the
25 benefits to the town are that it provides three

1 modalities to housing which our market study shows are
2 in need. It increases the tax base to the town without
3 a significant increase in municipal costs to the town.
4 Those are the benefits of this project to the town.

5 MR. O'ROURKE: Thank you.

6 MR. LACIVITA: C.J., I don't know if you're going
7 off of Christine Cary's letter here regarding the
8 assisted living faculties are abundant in the town. I
9 have a call into her too to find out because I can't
10 think of any. I think that there might be one or two
11 assisted living facilities in the Town of Colonie
12 currently. I can't answer the question and what is or
13 isn't at full capacity. We don't know what that is.

14 MR. O'ROURKE: I think that is the information
15 that I pulled that comment from.

16 MR. LACIVITA: Senior housing is one of the
17 Supervisor's key concerns because there is not a lot of
18 it within the town. She is looking for more sites that
19 will fit it. Now, this site is challenged and I admit
20 that.

21 I guess my question to you, Dan, would be: Are
22 all these components needed to address that senior
23 need? Is the Alzheimer's really needed here? Is there a
24 way that we could reconfigure the site and maybe
25 downsize it a little bit to address that senior need

1 and to address some of the concerns?

2 MR. O'ROURKE: Honestly, I am all for that need
3 for Alzheimer's. I go through it right now with my mom.

4 MR. LACIVITA: I'm just looking at if we could
5 maybe reconfigure the site.

6 MR. O'ROURKE: I just think that there is a big
7 problem with this site, in my opinion. There is fill on
8 the site. I don't believe that it's meant for the
9 seniors that have worked and lived in the Town of
10 Colonie - to put them on this site. That's my opinion.

11 MR. NARDACCI: And to Joe's point: You know that
12 in the comprehensive plan it's pretty clear that there
13 is a long-term desire and need for more housing like
14 this, but I agree with you. I just don't know if this
15 is right.

16 CHAIRPERSON DONONAN: This is so different from
17 the Carondelet.

18 MR. O'ROURKE: The Carondelet is a slam dunk. If
19 this didn't have those challenges and there weren't
20 problems that I'm not 100% sure we could assure the
21 taxpayers that we're going to have somebody on the
22 geotechnical side - it just seems like a bunch of
23 nonsense. Find a new place to put the project.

24 CHAIRPERSON DONOVAN: Mr. Hershberg, how long has
25 Mr. Hoffman owned the property?

1 MR. HERSHBERG: 1 Alice Avenue, LLC is a new LLC
2 set up since Peter Gullo, who is his partner on the
3 project, died. Peter died about five years ago. They
4 owned it before the Eastview Apartments were built.
5 They've owned it for probably 30 years. Either them or
6 a predecessor in title, Peter Gullo or Mr. Hoffman; but
7 it's been in that group's name for about 30 years.

8 CHAIRPERSON DONOVAN: Tim?

9 MR. LANE: Whether there is an abundance or not
10 of these facilities, what portion or will any
11 portion - - and this is from Christine Cary's memo.
12 The independent market rate is what's mentioned. So
13 will there be anything available for low-income or
14 something that is below market value within this
15 facility? Because there is a definitely a need for
16 that.

17 MR. HERSHBERG: We don't think that this
18 particular site could be developed and adequately
19 financed if, in fact, we set aside for low-income
20 housing. The answer to that would be that we do not
21 plan for that.

22 I was actually the site engineer and approval
23 person with regard to all the Delatour housing. I might
24 point out the fact that some of those sites had fill on
25 them. Some of it had wetlands that andantes the current

1 wetland laws. That was a long time ago and we did some
2 things there that we couldn't do now with developing a
3 project. It was a beautiful flat site. That's what I
4 have to tell you is that it was a flat level site.
5 There was no ill to contend with.

6 I would point out the fact that we did run into
7 some significant objections from town people, not
8 necessarily town residents, but people that thought
9 that the increase traffic on Delatour Road caused by
10 the senior housing would be significant. I don't think
11 that has come to fruition. There is housing obviously
12 that comes from the apartment complex in there, but we
13 don't think that it caused any of the problems that
14 were envisioned by the public.

15 We originally planned the 250 units at five
16 phases of 50 units each and we got an objection every
17 time by the increased traffic that they would cause. I
18 don't think that they have done that over the years.

19 CHAIRPERSON DONOVAN: One thing that concerns me
20 and it has for many years is the amount of apartment
21 complexes that are in this town. I look at this and I
22 say, well, this is for senior housing, but supposed you
23 can't rent it to seniors? Are you going to let it
24 remain vacant? It's going to become an apartment
25 complex. That's my fear. I would think that if you're

1 going to have some really senior housing, you would do
2 something like what they have off of Washington Avenue
3 Extension - the small homes that are there?

4 MR. HERSHBERG: The cottages.

5 CHAIRPERSON DONOVAN: Cottage-type housing. At
6 this site I don't think that you would be able to do
7 it; I'm not certain. My fear is that we're going to
8 have another apartment complex in the town and I'm not
9 sure that any of the apartment complexes that we
10 have - - I'm sorry, that's not fair to say. There are a
11 few. But many of them are starting to deteriorate and
12 they're causing more problems in the town than they are
13 benefiting the town. That's a fear that I have with
14 something like this.

15 MR. HERSHBERG: I believe, again, that it will
16 probably call for us to start the project and not build
17 all 198 units as once. We'll probably build one 166 pod
18 and a central unit. We want to make certain that we
19 have that tenanted list of people before we start
20 construction on a third. I would imagine that the goal
21 would be to make sure that they're all fully tenanted
22 with qualified, 55 years or older people. Nobody wants
23 to own an apartment complex that they can't fill.

24 CHAIRPERSON DONOVAN: Have you looked at a
25 different style of housing other than apartments?

1 MR. HERSHBERG: No, we haven't. We actually did
2 the site plan that you're talking about behind Teresian
3 House and that site plan was specific for that site
4 that they wanted those duplex-type units.

5 We have worked with other senior housing. There
6 are certain sites that are just not suitable for that
7 sort of unit, but also the density that you get with
8 those certainly cannot support the site work required
9 for the site. We're sort of in a catch-22.

10 You're correct; it's a very difficult site to
11 develop. I'll tell you that up front. I told you that
12 from the beginning. We've always admitted that. A tough
13 site also calls for additional costs for walls, for
14 grading, for permitting and for a whole bunch of issues
15 here. In order to do that, you have a certain density
16 and I don't think that we'd get that with the
17 cottage-type housing. You may be able to fit in 25 or
18 30 units in here which would give you 60 units of
19 housing, but that wouldn't be enough to support it.

20 Now, if in fact, this Planning Board's opinion is
21 that the site is totally unusable for senior housing;
22 my guess is that we're not going to get a positive
23 recommendation from this board.

24 However, if in fact, you think that it can be
25 modified to make it usable, we'd like an opportunity to

1 do that. Again, the answer here is that we may be able
2 to resolve some of the issues that Joe raised in his
3 letter about grading by reducing the density of 198
4 units. We might be able to do some work in there with
5 regard to the entrance grade. But again, if these
6 issues are insurmountable in the Planning Board's
7 opinion, my guess is that we will get a negative
8 recommendation from you folks and we'll go away. But if
9 we go away, the answer is that I don't know what the
10 use of the site is. I think that this makes the most
11 sense of any use that I can see for this site. Maybe
12 not at this current density but again, it's a
13 significant piece of property in this town and it has
14 some potential for increasing the taxes from it from
15 the vacant land to whatever you build on it. Again, the
16 potential benefits in respect to the site is providing
17 senior housing.

18 CHAIRPERSON DONOVAN: There is no question. I
19 know that there is a problem with senior housing and
20 I'm pleased to see 78% of the site is green. I'm just
21 not certain that this site is the one to be used for
22 senior housing in the apartment-style complex that it
23 shows there.

24 MR. O'ROURKE: I think also, Jean, you have to
25 take 78% of it is green. What percent of that has to be

1 green? I know it's doing a great service at 78% but
2 some of it, you don't have a choice. That's why they're
3 in front of the board looking for a PDD.

4 CHAIRPERSON DONOVAN: I'm sorry, I interrupted.

5 MR. LANE: I actually have a question from that.
6 If our purpose in looking at this is to determine if we
7 can recommend to the Town Board that it should be given
8 the PDD designation, there still does have to be that
9 community use for people that don't necessarily live
10 there.

11 Mohawk Estates is going to provide some access to
12 the river for kayaking, etcetera.

13 CHAIRPERSON DONOVAN: Canterbury is going to have
14 trials, too.

15 MR. LANE: The community within that 36 acres or
16 the community of that area - do you know what I'm
17 saying? I haven't really seen it, but it's a looping
18 trail that goes around - especially since there is some
19 question about the grade of it. The problem is not
20 going to be when that ground is dry. The problem is
21 going to be when we have that wet slippery winter
22 weather. Even if we have a slight little glaze, that's
23 going to be problematic with a lot of people. I've
24 slipped on stuff less than that.

25 MR. NARDACCI: A community path is not

1 necessarily recreation.

2 MR. LANE: That's what I'm asking.

3 MR. STUTO: I could read it from the PDD law.

4 MR. LANE: Yeah, please do.

5 MR. O'ROURKE: It could be as simple as we need
6 the housing for seniors.

7 MR. STUTO: It's sprinkled around and Kevin can
8 chime in at any point.

9 Objectives: In order to carry out the intent of
10 this article, all approved PDDs shall provide an
11 adequate and integrated system of open space and
12 recreation areas designed to tie the PDD together
13 internally and link it to the larger community.

14 MR. LANE: That's what I'm getting at so I'm not
15 sure if I'm seeing the link.

16 Other than that, there is still the question of
17 all the sloping. You have Watervliet that is down the
18 hill and they obviously have issues based on
19 Mr. Gleason's report; in addition to the outstanding
20 question of the property ownership of the dam itself
21 that he brought up. I don't think that we can move
22 forward until these issues are answered. Even though,
23 Jean, they have detailed the problems with the
24 stability of the ravines, the stability to cut slopes,
25 and ground water, this gets into the SEQRA which I had

1 questions about the impact of the water under proposed
2 acts. Will it adversely affect ground water? There is
3 no answer, but obviously that disagrees with the geo
4 and you get into impact on aesthetic resources. Will
5 the proposed action effect aesthetic resources,
6 proposed land use of project components obviously
7 different from or in sharp contrast to the current
8 surroundings, land use patterns whether man made or
9 natural. That's obviously a yes and not a no; which is
10 what the answer is on the SEQRA.

11 At this point, until all these issues are
12 resolved, I completely agree with Joe stating that the
13 one thing that needs to be done is looking at possibly
14 downsizing this footprint. Obviously they want to try
15 to do something with the space. The taxes that the town
16 is going to get out of it - I don't know if you
17 calculated it, but you probably provide a review once
18 you put this all together. Then what's the cost as far
19 as are these roads going to be deeded to the town or
20 are they going to remain private?

21 MR. HERSHBERG: On the report, I think that
22 you'll find the police, fire, and for water were the
23 only public services there.

24 MR. LANE: Sewer.

25 MR. HERSHBERG: No, the sewer, actually we're

1 providing the sewer internal service system. We're
2 going to pump it to the town and we're going to pay a
3 fee for that to be treated at the North Albany County
4 Treatment Center.

5 MR. LANE: I think the ground water issues, the
6 soil issues, etcetera, etcetera -

7 MR. HERSHBERG: There might be an issue with
8 erosion sedimentation control that is always an issue
9 with regard to any development site.

10 MR. LANE: The ground water may be encountered in
11 cuts.

12 MR. HERSHBERG: That is something that the
13 geotechnical engineers always use. Every geotech
14 service in the area always says you may encounter a
15 significant different system when we did our borings.
16 That's the truth. It doesn't mean that there is an
17 impact on the groundwater. Our first groundwater table
18 might be something where it's contained within the lens
19 of play and would not impact the total. Groundwater
20 impacts are things where it could impact the deep
21 groundwater tables that are used for water systems.
22 That's normally the impact of what the find is. They
23 answer that yes for impacts -

24 MR. LANE: When you hit that, the water is going
25 to move someplace, isn't it? If it's disturbed, it's

1 going to go someplace.

2 CHAIRPERSON DONOVAN: Anything else for you, Tom?

3 MR. NARDACCI: No, thank you.

4 CHAIRPERSON DONOVAN: You have been patient.

5 Would you like to go first, ma'am??

6 Can we have your name, too? We have our court

7 stenographer.

8 MS. ENDRES: I'm Jacqueline Endres and I reside

9 on Eastern Avenue. I've been there for about 18 years.

10 I guess my first question is that you said that
11 if there were emergencies, they would come out through
12 the Eastern Avenue way. Is that the ambulance and fire?

13 MR. HERSHBERG: Yes. As I said, the only reason
14 that we would use the emergency ingress and egress
15 would be if a fire truck went to come in and there was
16 a water break in the middle of our access road and they
17 couldn't get in that way. That's the only trigger for
18 your second emergency access. When the normal roadway
19 system can't be used for a truck to get in there, they
20 would have to get in through a secondary access. It's
21 not the kind of emergency access you'd use every time
22 an ambulance would come in. They would come in through
23 the Eastview Drive access.

24 MS. ANDRES: I'm that lower half of that last
25 block and I know that we recently have no parking signs

1 all put up because the town felt that the plows
2 couldn't get in and the fire trucks can't get in and
3 now you're saying that it's okay to go in that way to
4 go to this complex. We've not had access for that whole
5 roadway for the whole block because they didn't feel
6 that they could come in to clean the road or to get a
7 fire truck in or an ambulance in. It's just kind of
8 ironic because it's now open for this reason.

9 As far as parking, someone said that there would
10 be like 26 cars from 10:00 to 2:00. I know that you're
11 going to have employees taking care of things in there
12 and that will be 24/7 around the clock. Also with
13 assisted living there is staff and employees there as
14 well. I don't know if you're really counting employees
15 coming in and out of there at all hours of the day.

16 MR. HERSHBERG: Can I answer that?

17 CHAIRPERSON DONOVAN: Sure, go ahead.

18 MR. HERSHBERG: The counts were taken out of the
19 IT manual which is the bible in regard to traffic.

20 What I said was during the peak hour of the
21 adjoining roadway, which is normally considered a two
22 hour period of 8:00 to 10:00 a.m., or sometimes it
23 extends a little further - but the peak hour of the
24 adjoining roadway which in our case is Route 2, that's
25 what this table tells.

1 And as Joe necessarily points out, the peak hour
2 may actually occur at a different hour. I think that I
3 said that, too.

4 If, in fact, you have a nursing shift at noon and
5 people going out to get lunch someplace or go to
6 doctor's appointments, the peak hour volume for this
7 place might be something different. But even if it was
8 50 vehicles per hour, twice the generate level, it's
9 not a level that would create any problems.

10 As a member of the board pointed out, we
11 certainly owe this board a traffic study to say how it
12 combines with the Eastview Apartments because those are
13 not senior apartments. That's a standard apartment
14 complex. People leave for the office every morning time
15 and come back in the afternoon. The traffic study would
16 tell them what the total traffic would be at Eastview
17 and Route 2m and we can certainly provide that
18 information.

19 CHAIRPERSON DONOVAN: Anybody else?

20 MS. BARNES: Cindy Barnes. I live on Eastern
21 Avenue as well.

22 You mentioned some modifications to some
23 properties to allow for access, should they have to
24 come in. I'm wondering what those modification are and
25 how are you going to stop - what structure is going to

1 be able to stop people from using that entrance?

2 MR. HERSHBERG: For people that are going out of
3 that Alice Avenue, we are obligated to gate it and
4 treat it with a lock box. As a matter of fact, we don't
5 even intend on using a breakaway gate. Some people use
6 break away gates and someone could drive through with a
7 pick-up truck. We actually propose to put a solid steel
8 bar gate on it with a lock box. A lock box is something
9 where emergency services has the capability of having
10 that lock box electronically opened and they get the
11 key to open the gate.

12 CHAIRPERSON DONOVAN: There are several areas in
13 the town that have those.

14 MR. HERSHBERG: That guarantees that nobody will
15 be using that on Alice Avenue. I'm not just talking
16 about a chain across the road. It's a substantial
17 barrier.

18 FROM THE FLOOR: What's it going to be attached
19 to?

20 MR. HERSHBERG: On one side you have wetlands and
21 we'll be leaving the trees in there. Unless somebody
22 really wants to off-road it and knock down trees,
23 they're not going to be able to get by. We have
24 extended it beyond there with more fencing to prevent
25 people from getting around it because people tend to

1 try to get around it.

2 The other part of the question is that we did
3 talk with Bill Neeley and we identified that there were
4 three intersections that we could do coming up from
5 Route 2 that we could increase the turning radius. We
6 actually do have a program that runs a truck with a
7 proper turning radius to show that a fire truck could
8 make it into the site. That's going to require some
9 road improvements. Those road improvements may not be
10 appreciated by the people at the intersections because
11 they will have to widen the roadway.

12 MS. BARNES: Have you been down that roadway?

13 MR. HERSHBERG: Yes, I've been on Eastern and
14 Western Avenue a couple of times.

15 MS. BARNES: Our setbacks are already so small.

16 MR. HERSHBERG: Yes, but like I said the only
17 place we have to do it is for the truck to get the
18 access in there is not the straight-aways it's strictly
19 at the intersection.

20 CHAIRPERSON DONOVAN: Excuse me for one minute.
21 Mr. Hershberg, what's the width of the easement? Do you
22 know the town easements?

23 MR. HERSHBERG: Those are 50-foot right-of-ways.

24 CHAIRPERSON DONOVAN: On the properties though?

25 MR. HERSHBERG: There's like a 22 to 24-foot

1 pavement in the middle. It varies. That means that
2 there is another 12 to 13 feet on each side of it which
3 is owned by part of the town right-of-way, which
4 appears now to be gone. That's why I say the people at
5 the intersection might not be pleased but the town does
6 have the right to have us improve those. I'm being
7 honest here.

8 CHAIRPERSON DONOVAN: I knew that. I just wanted
9 to see because I didn't know the width of them.

10 MR. HERSHBERG: I think it's 50 feet.

11 CHAIRPERSON DONOVAN: Sir?

12 MR. ANDRES: I'd like to say that this letter is
13 the first notice that I have ever gotten about what's
14 going on there. It's a nice looking place and if
15 something is going to go in, I'd like to have something
16 like that there.

17 Getting back to the road access for emergency
18 vehicles in my neighborhood: The setbacks on these
19 houses on the corners that you're talking about isn't
20 any more than 8 feet. So, if you're going to widen the
21 road 4 feet, that's going to give them 2 feet and
22 that's going to be the whole length of the road. The
23 road is only 150 feet which is just about what your
24 buffer zone is there. So, your 150-foot buffer zone
25 isn't all that great. It's not that big of a buffer

1 zone is what I'm saying.

2 There are always cars parked, but you're just
3 going to be on people's houses if you widen the road
4 anymore. These houses were probably built before there
5 was any setback rules or whatever.

6 MS. MALONEY: The house at the intersection of
7 Eastern and Alice Avenue -

8 CHAIRPERSON DONOVAN: Ma'am in order for me to
9 maintain and have some control, I have to ask you to
10 please identify yourself.

11 MS. MALONEY: I'm Jennifer Maloney. I live at the
12 intersection. I'm at 53 Eastern which is at the corner
13 of Eastern and Alice Avenue.

14 CHAIRPERSON DONOVAN: So, you're probably one of
15 the properties -

16 MS. MALONEY: Yeah, I was there before the house
17 next door was there and before Alice Avenue was Alice
18 Avenue and there was even a house on Alice Avenue.

19 MR. GRASSO: I think that we're drilling down
20 into a lot of details and we have the public comment,
21 but I think that we understand what the concern is. If
22 this project is going to move forward before the board
23 makes any kind of determination, I think that we would
24 want them to drill down into the specific intersections
25 that would be impacted and see how it could impact the

1 private properties.

2 CHAIRPERSON DONOVAN: I think that's one of the
3 several keys to this whole project is the impact on
4 Eastern Avenue and the properties that are there.

5 MR. LACIVITA: And Joe, being that this is in the
6 Boght area, would mitigating fees be charged to this
7 project for changes?

8 MR. GRASSO: No, the fees that are being charged
9 are for the other improvements and nothing within the
10 project. Nothing that we're talking about here would be
11 assessed to this project.

12 CHAIRPERSON DONONAN: Sir, could we have your
13 name for the record? I know that's your wife.

14 MR. ENDRES: Robert Endres.

15 CHAIRPERSON DONONAN: Thank you.

16 Ma'am?

17 MS. KNORR: Yes, my name is Gloria G. Knorr. I'm
18 very interested in housing. I had an aunt that had
19 Macular Degeneration and she needed an apartment. She
20 was in a tri-level house.

21 Then I took care of my mother for 16 years. When
22 she was 77 she had Alzheimer's until she died at 92.
23 I'm a registered nurse. I could keep her in the home
24 because I'm a nurse. I had to turn her after she had a
25 stoke every two hours. But the house went to pot. I had

1 to turn my mother every two house. She had a room where
2 just a hospital bed could fit into it. But there wasn't
3 an adequate bathroom and just a sink.

4 We have the need for the Alzheimer's unit. We
5 have the need for apartments. We have the need for
6 everything in this project.

7 I know that people do not like change and so we
8 have to come up with a good model. There is a need.
9 There is a need for apartments.

10 When I needed respite, it was \$20 an hour for me
11 to have an hour away; so five hours is \$100. So of
12 course, I didn't have the money for the house and money
13 was an issue. For five years I didn't have health
14 insurance. So when you're talking about this, we do
15 need the affordable component. I realize that they put
16 a lot of money into this. We do need housing for all
17 this assisted living. Something like the American
18 Housing Foundation has done.

19 I was here the last time when Hearthstone Village
20 was here and the neighbors were opposed to the height
21 and the light was going to be lit up like a football
22 field and they stuck them out by Thatcher Park. I think
23 that you were here. They will have a nice view. There
24 is a need for this and I know that this will all be
25 worked out engineer-wise.

1 Duplexes might be nice. I think that I might like
2 that as I age. I'm 68, whereas my children would have
3 one part and I would have another. The previous
4 administration did not like duplexes on Swayze Drive or
5 didn't like duplexes, but it's affordable because you
6 can have your elderly person -

7 CHAIRPERSON DONOVAN: See, I'm thinking more of
8 like everything on one floor. That's something that I
9 think is more convenient for seniors.

10 Just like what you designed over there. You said
11 you designed the Atria?

12 MR. HERSHBERG: Yes, that design there has the
13 duplexes on one floor with one garage. It's like 1,400
14 square feet of space and there are two bedroom units.
15 They are very attractive, but they are not inexpensive.
16 They are very, very expensive. There is a significant
17 entrance fee to pay to qualify for this. They are in
18 great demand.

19 CHAIRPERSON DONOVAN: I know that there is a need
20 and there is no question that there is a need. All of
21 us understand that.

22 My regular job is down with the county and
23 they're talking about what they're going to do with the
24 county nursing home. They don't know if they'll be able
25 to keep it open because of the cost of it and they're

1 looking at all different kinds of alternatives to that.
2 There is definitely a problem and a need, but we want
3 to make sure that we're not causing a bigger problem
4 for some people by approving projects that may not
5 quite be ready. This site might be perfect for it but I
6 think that it needs some work to get what we're looking
7 for.

8 I don't know Mr. Hershberg. It's all a matter of
9 the density and I don't know if you're going to be able
10 to get the density that we'd like to see and be able to
11 make it profitable. That's the key. I understand that.

12 Ellen?

13 MS. ROSANO: My name is Ellen Rosano. Actually
14 I'm here as a member of the Conservation Advisory
15 Council.

16 This is a very interesting project for me because
17 I'm a social worker who currently is employed by the
18 Albany County Nursing Home. I don't think that there's
19 any doubt that this kind of project is needed. My
20 concern is the cost.

21 We have assisted living in the town. We have
22 Colonie Manor and Loudonville Home for Adults. Unless
23 your income is \$2,500 a month plus, you can't live
24 there. We need assisted living. We have people who
25 don't have that type of income and a lot of our seniors

1 don't simply because they're on SSI and these places do
2 not accept SSI. The need is for mid-range income people
3 to live. Absolutely there is a tremendous need and I
4 know that Mr. Breslin wants everybody to stay home and
5 everybody wants to stay home, but you cannot get the
6 help to maintain the care for somebody at home.

7 We discharged a person the other day and we
8 couldn't get anybody to come in because it was vacation
9 week and so many people requested the week off, so
10 there was no support of services.

11 I just have a question. I read the information
12 that was available through the council. They're going
13 to be providing skilled nursing care. My question is:
14 Whether that's going to be licensed by the New York
15 State Health Department. Mr. Hershberg, you may not
16 know that. The Berger Commission just went through New
17 York State and decimated nursing homes and hospitals
18 everywhere. So, have they had contact with the state?
19 Do they have a permit? Some of these things may be
20 premature.

21 CHAIRPERSON DONOVAN: They really are because he
22 has to get through this phase first, I think.

23 MR. HERSHBERG: I have to get through tonight
24 first.

25 MS. ROSANO: But I think that before you can have

1 plans for a building such as this - - and I don't know
2 if it's identified as skilled nursing. There may be a
3 plan where they don't have to go to the Health
4 Department, but they do have to go to some governing
5 body and right now, they are not allowing nursing homes
6 or skilled facilities.

7 CHAIRPERSON DONOVAN: Mr. Hershberg, I think that
8 you said that these will not be mid or low-income
9 housing units.

10 MR. HERSHBERG: The Alzheimer's unit - an awful
11 lot of people will qualify under the assistance program
12 to go there with full payment being made. The assisted
13 living will not qualify as a nursing home so the
14 subsidy will only be available for the people with
15 Alzheimer's.

16 MS. ROSANO: And there you would have to get a
17 statement from the state - - or you have to show a
18 certificate of need. They would have to tell you to go
19 ahead and if you think that this meeting was tough, go
20 to the Health Department.

21 MR. HERSHBERG: I've actually been through two of
22 those recently. We did a Teresian House Alzheimer's
23 unit and Daughters of Sara Alzheimer's unit. We were
24 involved in helping them obtain certificates of need.
25 Both of those, which are fairly large facilities -

1 larger than this one - they were able to get a
2 certificate of need. We're talking about the same
3 demographics in the Town of Colonie.

4 MS. ROSANO: Was it an existing building, or a
5 new building?

6 MR. HERSHBERG: Two brand new buildings.

7 CHAIRPERSON DONOVAN: Yes, ma'am.

8 MS. MITCHELL: Hi, my name is Dorothy Mitchell
9 and I've lived on Alice Avenue for over 30 years.

10 I was wondering if the board knew what this land
11 looked like? I would love the board to come look at it
12 and find out just how hilly it is and how they could
13 build anything there.

14 MR. O'ROURKE: I walked it.

15 MS. MITCHELL: With regard to wildlife. We have
16 pictures at home of deer and turkeys coming up on our
17 lawn. Anyway, if they're going to build another
18 entrance into Eastern Avenue, I don't see how they
19 could possibly do that with that much traffic in that
20 neighborhood. On our street alone is just impossible
21 driving to get through there.

22 CHAIRPERSON DONOVAN: On Alice Avenue.

23 MS. MITCHELL: Right. What's to stop you from
24 coming up even if there wasn't an emergency? If they
25 knew that it was there and they could get through,

1 you're going to get through. It's a very difficult
2 neighborhood to get through now. My husband is disabled
3 and we've needed to call an ambulance several times and
4 to get that through there or a fire truck will be
5 impossible. It's just really a difficult situation.

6 CHAIRPERSON DONOVAN: Anyone else?

7 Okay, you're on.

8 MR. ENDRES: Once again, my name is Robert
9 Endres. These ravines are 30 foot deep ravines and
10 they're like loose shale so if you have an escape, that
11 person is going down. They're going to drown. If they
12 tumble down there, they're going to drown.

13 CHAIRPERSON DONOVAN: I just have one more
14 question for Mr. Hershberg.

15 The parcel of land that you said was once - I
16 guess it would be next to your apartment units there.

17 MR. HERSHBERG: This thing right here
18 (Indicating)?

19 CHAIRPERSON DONOVAN: Right. Was that owned by
20 this group, too? Was it subdivided?

21 MR. HERSHBERG: Yes, they owned this Eastview
22 Apartment area and they owned this parcel here
23 (Indicating). I think that Mr. Hoffman was the
24 applicant and the builder of the Eastview Apartments at
25 the time. In order to make access onto Route 2 at the

1 time, New York State DOT reviewed it and said that they
2 had to come out here (Indicating), they had to come out
3 to the Town of Colonie for site plan approval for this
4 roadway to get out to Route 2. This is probably
5 25 years ago or so.

6 CHAIRPERSON DONOVAN: So is this piece of
7 property what was left after he built the apartments?

8 MR. HERSHBERG: Yes, but again if you take a look
9 at the size of the apartments, this is actually larger
10 than the apartments are built on. They decided to cut
11 off a portion of the apartments to build on. They
12 envisioned this for future development. It wasn't scrap
13 land that they decided to throw away or they would have
14 let it go for back taxes, or sell it to another
15 investor. Their goal was to eventually build something
16 one it. This is the end product.

17 MR. O'ROURKE: If it was buildable, they would
18 have built on it then. That's my humble opinion.

19 MS. CHABOT: I'm Beverly Chabot. I was given the
20 impression that part of that was Watervliet and then
21 part is Colonie. Has it all been annexed into Colonie?

22 I don't know who it was that wanted to build then
23 but Watervliet had a person here and they wanted to
24 annex Watervliet from Colonie in order to be able to
25 build on it.

1 My sister and I were born there. We've been there
2 a good many years. We've seen changes from the get-go.

3 That was always a farm and it was always
4 McGowen's farm and then a brick yard was down there and
5 it was Watervliet. McGowan's was Watervliet. Somewhere
6 in here, unless it's been changed -

7 MR. NARDACCI: There was a letter that we got
8 from a resident that they remember this project
9 several years ago and that they didn't get approval and
10 that there was an effort to try to get Watervliet to
11 annex the land so that they could develop it. There was
12 never any annexation or anything like that. It's always
13 been part of the town.

14 MR. HERSHBERG: In 1829 this entire site and a
15 large portion of the Town of Colonie was a part of the
16 City of Watervliet. In 1854 a large portion of this
17 site was still in the City of Watervliet. By 1891 the
18 corporation boundary of the City of Watervliet split
19 this site something like this (Indicating). By 1929 it
20 was entirely in the Town of Colonie. So, the history of
21 the thing is that the corporate boundaries did change.
22 The boundary between the city and the Town of Colonie
23 did change over the years, but not as a result of
24 anything that the applicant did.

25 I'm not telling anything out of school.

1 The applicant did apply to the City of Watervliet
2 after we investigated what would be feasible under the
3 old zoning law to have this rezoned for the same
4 project. It determined that it wasn't doable. We
5 approached the City of Watervliet. The City of
6 Watervliet's Common Council voted to annex this
7 property to the City of Watervliet. There had to be a
8 joint board of the Town of Colonie. I went to the Town
9 Board and some of you folks were at that meeting where
10 I presented virtually this identical project to the
11 Town Board.

12 At the time, they voted against the annexation
13 and we had to start a court case to be able to - - we
14 had two parties. One municipality that wants the
15 annexation and one municipality that doesn't. The Court
16 decides.

17 We were going to institute a lawsuit. We
18 determined at the time that it would be worthwhile to
19 talk to the Town of Colonie to find out because you're
20 in the process now of just starting your Land Use Law.
21 I'm talking in 2003. The land use process started about
22 then?

23 MR. DELAUGHTER: The comprehensive plan.

24 MR. HERSHBERG: The deal was why don't you hold
25 on awhile and notify the City of Watervliet? There

1 might be a possibility that under the provision under
2 the new law, PDDs then had to have a commercial
3 component in them. The PDD under the old law had a
4 planned development district. We didn't want a
5 commercial component to this. We wanted it to be
6 residential. The only commercial component that we
7 wanted was a small service store inside so that we
8 thought that essentially the mix of commercial and
9 residential use in there would be a tough road to hoe
10 under the old zoning law.

11 Correct me if I'm wrong, Kevin.

12 Under the new Land Use Law it doesn't make it
13 much easier. It still has provisions of what we have to
14 prove and do, but it did layout a method for us to come
15 back to the Town of Colonie and apply for this project
16 and that's where we are now.

17 The Town Board referred it to the Planning Board
18 for a recommendation and the position here is that I'm
19 not hearing a very favorable incline. I can count
20 pretty well. Engineers do have fingers and toes. I'm
21 counting that there is significant reluctance on behalf
22 of this board to make a recommendation back to the Town
23 Board to approve this PDD.

24 CHAIRPERSON DONOVAN: At least tonight.

25 MR. HERSHBERG: I don't know, Madam Chairman, if

1 it's even feasible for us to recommend that we
2 de-intensify it, or make some other changes. If in fact
3 this board says that essentially that it's
4 inappropriate for this use entirely, that no matter
5 what you do with the site plan, this isn't going to
6 work here, that would be good for me to know. I'll just
7 go back to my client and say, here is my final bill for
8 my appearance for the Planning Board of May 12th and
9 I'll see you later.

10 You know, I'm probably exceeding my authority
11 here to find out whether I can get a sense of this
12 board and whether or not this project could be
13 modified, de-intensified or do some other things that
14 we might find an approval for the project. If the
15 answer is no, then I'd rather know that and we can just
16 adjourn this meeting and leave.

17 CHAIRPERSON DONOVAN: I have one question for
18 you. This is single family residential, is that
19 correct?

20 MR. DELAUGHTER: The current zoning is single
21 family residential.

22 CHAIRPERSON DONOVAN: There's no way that you're
23 going to get all these units single family homes on
24 this site.

25 MR. HERSHBERG: If I had to make a cluster

1 development to prove it, no, I can't.

2 CHAIRPERSON DONOVAN: Right away, what you're
3 asking us to do through the PDD is so much more intense
4 than what would be done if it were single family
5 residential zone. So, that's a problem for me when I
6 look at this project, based on the density of the
7 project.

8 Now, I'm telling you that I have no problem with
9 senior housing. I have no problem with the Alzheimer's
10 units. I don't have any problem with assisted care.
11 What I have a problem with is the density of the layout
12 of the site. I don't know if you can answer that. I
13 don't know if your client wants to reduce the number of
14 units.

15 MR. HERSHBERG: I don't know if I tell him, look,
16 we can't get 198 senior apartments. Maybe we can get
17 100. Cut that site in half or maybe get 110. Whatever
18 the figure works out to be, if it's some sort of
19 reasonable thing. We can't get the 93 assisted living
20 because we're squeezing that site too much. Maybe we
21 can get a 60 unit building in there.

22 I'm trying to be as honest as I can.

23 If the feeling from this board is, despite making
24 those changes and despite doing something with the
25 roadway and despite solving some of the grade

1 conditions in here, this board thinks that this site is
2 unusable for the purpose, I'd like to know that. If, in
3 fact, this board thinks that if we make some of those
4 changes this board might consider it, then we'd make
5 another crack at it.

6 MR. O'ROURKE: See, I think that those are all
7 fair questions and I'm not so sure because again, I
8 walked that property. I'd love to tell you
9 Mr. Hershberg, that yes, if you reduce that footprint
10 to 60, it would work. All I know is that I feel a
11 responsibility to the citizens to make sure that my mom
12 doesn't have to go down an 8% grade onto Route 2. So,
13 I'm all for the idea and the concept of it. I just have
14 a problem with the site.

15 I'd love to take the owner with me and take the
16 walk that I took and say, you've got to be kidding me.
17 These are all shale cliffs.

18 There might be some use for it. I just can't see
19 the entirety of that plan fitting on that. That's me,
20 personally.

21 MR. NARDACCI: For this site and for this use, to
22 me, it just didn't make sense. It's such a challenging
23 site. We've all said it and you've said it. And why
24 this use there? I mean, I understand the density and
25 there are economics behind it and there's a need in the

1 town and I'd like to approve a PDD because we're
2 providing senior housing or providing assisted living
3 or Alzheimer's, but my take is that it just doesn't
4 seem like in this site, particularly, with the public
5 safety concerns that it makes sense.

6 CHAIRPERSON DONOVAN: Mike?

7 MR. SULLIVAN: I agree with Tom and also if we
8 were to ask to reduce the grades and increase the site
9 work and reduce the density, then it's not going to be
10 economically viable. I don't see how it can be suited
11 for this type of use.

12 MR. NARDACCI: It's zoned for single family
13 residential. When you made your comments about the
14 cottages and you know, we've talked about this in other
15 sites and other constrained sites, specifically. I
16 understand that there are economics of it but the
17 economics of it doesn't work.

18 CHAIRPERSON DONOVAN: Elena?

19 MS. VAIDA: I just have a lot of problems with
20 it. The location of it. Again, as everyone is saying,
21 the senior housing and the Alzheimer's is all needed.
22 It's the location. The rules that would have to be bent
23 to have you build that there, just doesn't seem to be
24 justified.

25 MR. HERSHBERG: I challenge the rules to be bent.

1 You've got a TDD that's not going to allow it. He can
2 bend any rules.

3 It's a difficult site to develop. We can see that
4 but you're getting to the point in the town where a
5 whole bunch of your projects are being built on sites
6 with significant constraints because all the good lands
7 have already been developed. We are working with
8 constrained sites. This has a little bit more
9 constraints than some of the other sites.

10 MR. O'ROURKE: But there are opportunities for
11 redevelopment.

12 MR. NARDACCI: I was just going to say, you can
13 go up and down Central Avenue and pick a couple of
14 sites that can be redeveloped for senior housing; a
15 couple motels and things like that. That would be
16 perfect.

17 MR. HERSHBERG: Meanwhile, we did the home on
18 Central Avenue. That was a very nice place in the
19 beginning and it still is a decent place. It's well
20 maintained by the Catholic Charities, but the area
21 around it is not the greatest.

22 Again, if we were to tell a developer that we
23 want you to put the market rate on senior apartments in
24 that area, they would laugh me off. The answer is that
25 it's just not going to work. The mix of low-grade

1 residential uses around it which are your motels and
2 your overnight motels or motels by the hour are
3 certainly not good neighbors for senior residential
4 complexes. My guess is that you have to have a more
5 broad view of redevelopment areas then to expect one
6 developer to go in there and take that on as a goal.
7 You really have to have that area redeveloped legally
8 somehow.

9 I hate to use the term in the Town of Colonie but
10 we've done urban development areas all over the state
11 and maybe that's what you need to clean out that area.
12 A single developer can't go in there and pick a single
13 piece of property and develop it. It just doesn't make
14 sense.

15 CHAIRPERSON DONOVAN: Like you said there are
16 areas in the town where there is possibility; off of
17 Albany Street is one.

18 MR. HERSHBERG: There is an awful lot of wetlands
19 off of Albany Street. Pine Bush has constraints on some
20 of the property. There's the Lia property there right
21 now and I don't think they're making money on that
22 three lot subdivision. Again, we're talking about lands
23 that have constraints. Every piece of property in New
24 York has some grading constraints. This has a few more
25 than most.

1 CHAIRPERSON DONOVAN: You've heard the comments
2 from the board. I don't know what you want to do. Some
3 people don't feel that the site is good at all.

4 MR. HERSHBERG: I think that if, in fact, this
5 board is supposed to consider making a recommendation
6 to the Town Board, the recommendation from the Planning
7 Board today would be a negative recommendation; that
8 they do not approve the PDD rather than essentially if
9 you're going to vote up or down on it, I think that we
10 would request it tonight rather than drag it out more
11 and go out another 7 years.

12 CHAIRPERSON DONOVAN: My problem is again, with
13 the SEQRA. I read through the project impacts and the
14 magnitudes and have seen where we're supposed to adopt
15 the type 1 SEQRA action saying that there is no
16 significant environmental impacts. I can't do that
17 tonight based on what we've heard.

18 So, if you want to continue with this and this
19 maybe something that you have to go back to your client
20 and talk to - you've heard the board with our problems
21 with what's going on with the site. If you want the
22 board to vote negative, you can just tell us that and
23 we'll vote negative on it tonight and everybody can go
24 away.

25 MR. HERSHBERG: I would assume that the negative

1 vote would be coming if I asked for it. Again, I don't
2 know if that's even worth it, from what I hear today
3 about whether I should go back to my client. Again,
4 rather than have you vote negative, we can let it die
5 on the vine. The question is that if we're not asked to
6 come back again -

7 MR. LACIVITA: Dan, I think that you owe it to
8 your client to go back and say, this is where the board
9 is going and then at that point in time maybe we could
10 bring it back and make that negative vote. I don't know
11 if you want to push that vote tonight.

12 MR. HERSHBERG: No, again, it's probably not
13 worthwhile, Joe.

14 CHAIRPERSON DONOVAN: You may want to work with
15 Joe. He's heard our comments.

16 MR. HERSHBERG: I read Joe's letter. I know where
17 he was going with it. I read pretty well.

18 MS. KNORR: I go to every Town Board meeting
19 every other Thursday and people come before and I've
20 been to every town comprehensive meeting at every
21 school all the way through the process. I thought that
22 it was kind of stiff zoning. But they're switching.

23 They took a multi-family thing on Route 7 and
24 they're switching it to other zoning. My point is this:
25 If you're taking multifamily property that was zoned

1 that way in the town comprehensive plan, then we need
2 multifamily choices and housing options and I hope that
3 it's going to be so easy to switch from single family
4 to a PDD because we need PDD. We need the density.
5 There is such a need.

6 Maria Shriver spoke to the senate hearing. She's
7 our advocate. I cried when I heard her say, she doesn't
8 know - because he father is Sergeant Robert Shriver. He
9 has Alzheimer's disease. She doesn't know how people
10 without money do it. She was our spokesperson.

11 I go also to the county legislator because I go
12 to the council meetings for the Albany County Nursing
13 Home. How many years have passed and they don't have a
14 site. They need five million dollars to do the
15 sprinklers system and they don't have a site.

16 The reason that I go to these meetings is I took
17 care of my mother for 17 years and I'm a registered
18 nurse.

19 Come on, the nurses aides don't show up, some of
20 them steal. I didn't trust people because if they were
21 rough, their skin just peeled off. Now, come on, we
22 need professional nursing. We need these sites. I don't
23 want them out by Thatcher park or Albany Street.

24 CHAIRPERSON DONOVAN: Albany Street is in the
25 Town of Colonie.

1 MR. LACIVITA: Gloria, I think that you and I
2 have had this conversation with the Supervisor that
3 senior housing is definitely needed within the town. I
4 know that we're looking for it. I think that this site
5 has some constraints. We just have to find a proper
6 site to put these projects on and work with them.

7 CHAIRPERSON DONOVAN: We just approved the
8 Canterbury Crossing which is going to have senior
9 residents in it and the Sisters of Carondelet. So,
10 we're moving forward, but this site just has its
11 problems.

12 Dan, it's up to you. You can go back and tell
13 your client -

14 MR. HERSHBERG: I'll e-mail him tonight.

15 CHAIRPERSON DONOVAN: George, go ahead.

16 MR. HOLLAND: I appear to be in the minority of
17 one or possibly two. I think that this would be an
18 excellent project in this particular location. I think
19 that it could be approved with proper conditions on it.
20 There was plenty in the material here that was against
21 it. It could all be solved. I think that we're wrong in
22 going against it.

23 CHAIRPERSON DONOVAN: I don't think that we're
24 going against it, George. I think that we're asking
25 Mr. Hershberg to go back to his client and tell him the

1 concerns of the board and see if he wants to work with
2 the town in downgrading the density on the site. And of
3 course one of the things that we don't want to do is go
4 up on Eastern Avenue and cause problems up there with
5 the roadway.

6 MR. HERSHBERG: Our recollection is that the
7 Eastern Avenue only came up at the community meeting,
8 the DCC meeting when Bill Daily or somebody else
9 mentioned the fact that they have had problems in the
10 past with trucks making the turn on Eastern and Western
11 Avenue and entering into places in that development.

12 My developer could limit the access to Alice
13 Avenue and could help the town improve those and that
14 was the genesis of why we got involved in that. They
15 think that those intersections have to be improved even
16 if this project doesn't go forward to allow emergency
17 vehicles in and out of the existing development. If we
18 were to do it, that's fine. Again, if the town goes to
19 do it, the town may chose to do it on its own. They
20 have already restricted parking but they'll have to go
21 forward and make those improvement.

22 MS. MITCHELL: My name is Dottie Mitchell. My
23 mother is the one that lived on Alice Avenue and they
24 did put up the signs that said no parking. And within a
25 week, they've been scraping it over. It doesn't do any

1 good. It's just one section of the neighborhood that
2 has those signs. Why are they all up in the rest of the
3 neighborhood? It shouldn't be just one half of the
4 block.

5 CHAIRPERSON DONOVAN: That's an issue not for
6 this board.

7 MS. MITCHELL: I'm not against senior housing. I
8 don't think that this is going to be affordable for
9 seniors once they get done doing everything that they
10 have to do to build this. How many seniors are going to
11 be able to afford to live there anyway? They're not
12 doing low-income and they're not making it affordable.

13 MR. HOLLAND: I think that we should adjourn this
14 and wait for Dan to come back; having listened to all
15 this.

16 CHAIRPERSON DONOVAN: That's what we just did. We
17 put it in Dan's court and it's up to him to go back and
18 talk to his client and see what we can do.

19 MR. HOLLAND: We don't vote either way.

20 CHAIRPERSON DONOVAN: No. We'll adjourn it based
21 on and Dan's conversation with his client.

22 FROM THE FLOOR: My final comment would be that
23 the density factor won't affect us either way. We're
24 still going to experience changes whether you have 196
25 or 100.

1 CHAIRPERSON DONOVAN: We'll see how Mr. Hershberg
2 makes out with his client and see what happens. I'll
3 ask Joe that even though it's a continuation, that all
4 the neighbors be informed when this comes back on, if
5 it comes back on the agenda.

6 Thank you for your time.

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(Whereas the proceeding concerning the above
10 *entitled matter was adjourned at 10:05 p.m.)*

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CERTIFICATION

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I, NANCY STRANG-VANDEBOGART, Notary Public in
and for the State of New York, hereby CERTIFY that the
record taped and transcribed by me at the time and
place noted in the heading hereof is a true and
accurate transcript of same, to the best of my ability
and belief.

NANCY STRANG-VANDEBOGART

Dated May 20, 2009