

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

3 \*\*\*\*\*  
4 FOREST HILLS  
5 33 DENISON ROAD  
6 APPLICATION FOR FINAL SUBDIVISION APPROVAL  
7 \*\*\*\*\*

8 THE STENOGRAPHIC MINUTES of the above entitled  
9 public hearing BY NANCY STRANG-VANDEBOGART, a  
10 Shorthand Reporter, commencing on  
11 December 20, 2011 at 8:58 p.m. at the Public  
12 Operations Center 347 Old Niskayuna Road,  
13 Latham, New York 12110

14 BOARD MEMBERS:

- 15 PETER STUTO, Chairman
- 16 MICHAEL SULLIVAN
- 17 LOUIS MION
- 18 TIM LANE
- 19 BRIAN AUSTIN
- 20 PAUL ROSANO
- 21 ELENA VAIDA, Esq., Attorney for the Planning Board

22 Also present:

- 23 Joe LaCivita, Director, Planning and Economic  
24 Development
- 25 Skip Francis, CT Male and Associates
- Melissa Courier, PE, CT Male and Associates
- Ed Garrigan, CT Male and Associates
- Jeff Myers, Shelco Development
- Tom Johnson, PE, Barton and Loguidice
- Lawrence Palleschi, VP, Birchwood Neighborhood  
Association

1 (cont.)  
2 Jill Knapp, Director, Mohawk Hudson Land  
3 Conservancy  
4 Stuart Denike  
5 Christopher Emr  
6 Wallace Krawitzky  
7 Kevin Laurilliard  
8 Linda Lindstrom  
9 David Nerrow  
10 Shawn Palleschi  
11 Ellen Pemrick  
12 Susan Quine  
13 John Razzano  
14 Dave Rettig  
15 Robert Schlieman  
16 Tammy Weingarten  
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1                   CHAIRMAN STUTO: We obviously have a lot  
2 of residents here. I have the sign in sheet.  
3 If anyone else hasn't signed in, please do so.

4                   We don't have a Town Designated Engineer  
5 on this one as we do for the more modern  
6 projects.

7                   Joe, we don't have a TDE on this, so I'm  
8 going to ask you to make a more detailed  
9 presentation then you normally make. Then,  
10 we'll turn it over to the applicant.

11                  MR. LACIVITA: Do we want to read the  
12 public hearing notice first?

13                  CHAIRMAN STUTO: If that's a requirement,  
14 then, yes.

15                  MS. VAIDA: Notice is hereby given that  
16 pursuant to Section 276 of Town Law, the Town  
17 Planning Board of the Town of Colonie, Albany  
18 New York will meet and conduct a public  
19 hearing at the Public Operations Center, 347  
20 Old Niskayuna Road, Latham, in the Town of  
21 Colonie, County of Albany, New York on the 20<sup>th</sup>  
22 day of December at 7:05 for the purpose of  
23 hearing all persons upon the approval,  
24 modification or disapproval of a certain  
25 residential subdivision plat in the Town of

1 Colonie, County of Albany known as Forest  
2 Hills subdivision consisting of approximately  
3 85 acres of land located at 33 Denison Road to  
4 be divided into 75 building lots.

5 CHAIRMAN STUTO: Thank you.

6 Joe, can you give us some background?

7 MR. LACIVITA: The project existed in  
8 review under the Planning and Economic  
9 Development Department since back in 2001 when  
10 it was known as Oak Hill. As time went on,  
11 this actually became a/k/a Forest Hills. It  
12 received concept approval prior to the Land  
13 Use Law change of 2007. So, this was a  
14 grandfathering provision that has been carried  
15 on through the years because the approval of  
16 work back in the prior zoning block. It  
17 started off with, I believe, 92 or 95  
18 residential lots and it has been downsized now  
19 to 75 residential lots. There have been  
20 several meetings over time on the project with  
21 neighborhood associations, with residents,  
22 with the developer, the engineer and Planning  
23 and Economic Development.

24 We're here tonight to try to come to  
25 resolution on any existing or outstanding

1 issues that may be on the site so we can  
2 obtain final approval on the subdivision known  
3 as Forest Hills, 75 residential lots.

4 CHAIRMAN STUTO: Okay, are there any  
5 major issues that existed that in your mind  
6 have been resolved, or attempted to have been  
7 resolved?

8 MR. LACIVITA: There were a number of  
9 issues that have been discussed and asked and  
10 answered over time.

11 I think that the ones that are still  
12 outstanding at this point in time, Peter, is a  
13 document out from the Verdoy Fire Department  
14 as to access from Tamarack to Vly Road. The  
15 neighborhood association would like that to be  
16 considered. This was on the original plan with  
17 Planning and I think that through the review  
18 processes that came off the site plan. So,  
19 when concept was given, there was no  
20 connection to Tamarack from Vly Road. That was  
21 based on site line constraints from that area.

22 CHAIRMAN STUTO: Meaning what?

23 MR. LACIVITA: There is a little bit of a  
24 bend to that area which actually reduces the  
25 standards of sight line. I'm not going to have

1 the actual footage needed under sight line,  
2 but I think that we have 200-something feet  
3 existing and I think that the standard is 300.  
4 Certainly Skip or Melissa can definitely speak  
5 to the actual standards. This site as it's  
6 located will not be able to get those sight  
7 line distances needed for that access point.  
8 That was one of the issues.

9 One of the other issues existed with the  
10 Comprehensive Plan as this area called out for  
11 a pocket park, if you will. Mr. Myers from  
12 Shelco, who is the actual developer for the  
13 site, has put a seven-acre parcel in across  
14 the street because he has a holding for that  
15 one which is known as Ridgely Commons. He's  
16 developing that one. Seven acres have been  
17 determined in that site, which is probably  
18 more level than any of the other areas for a  
19 pocket park.

20 CHAIRMAN STUTO: Is it being proposed  
21 that land be dedicated as part of this  
22 approval?

23 MR. LACIVITA: It's part of the Ridgewood  
24 approval that will be coming up.

25 CHAIRMAN STUTO: I was saying the other

1 development, when it's approved, that aspect  
2 of the Comprehensive Plan would have been -

3 MR. LACIVITA: That will be addressed.

4 CHAIRMAN STUTO: Thank you.

5 MR. LACIVITA: The other thing - of  
6 course traffic is an issue out in this area.  
7 You have the narrower roads. One of the other  
8 issues that was brought up in this area is  
9 that some of the sites or the homes are over  
10 410 feet in elevation. Certainly Skip and  
11 Melissa will talk to this, as well. This  
12 project also talks about a water tower that  
13 will actually change the pressure and be able  
14 to feed the properties - the houses that are  
15 being built. A couple of the adjoining  
16 properties will be able to be upgraded and  
17 brought on-line once the developer constructs  
18 the infrastructure needed for a water tower.

19 CHAIRMAN STUTO: So, the water tower is a  
20 prerequisite to approval of this project.

21 MR. LACIVITA: That is correct. It's a  
22 major component of the project.

23 CHAIRMAN STUTO: It also feeds the other  
24 subdivision?

25 MR. LACIVITA: Yes.

1                   CHAIRMAN STUTO:  And some existing.  Is  
2                   that the circle up near the park (Indicating)?

3                   MR. LACIVITA:  Skip, where is the water  
4                   tower sited?

5                   MR. FRANCIS:  The pump station is here  
6                   (Indicating).

7                   MR. LACIVITA:  The Latham Water  
8                   Department will be going one by one in  
9                   bringing houses on-line after that's  
10                  constructed.

11                  CHAIRMAN STUTO:  Are there stormwater  
12                  issues?  Mike and I were having a brief  
13                  discussion and we didn't have a thorough  
14                  discussion on that.

15                  MR. LACIVITA:  There is nothing, per se.  
16                  There are some water issues with some abutting  
17                  neighbors that are going on.  I know that there  
18                  have been historic issues that have been  
19                  discussed with the neighbors.  Skip will  
20                  certainly articulate those going on.  To date,  
21                  if you've read through the minutes, there are  
22                  no stormwater concerns at this point in time  
23                  from the review.  This actually has sign-off  
24                  under the old DEC regulations, which have now  
25                  changed.  We have the MS4.  The SWPPP was

1 approved, I think, back in January or February  
2 of this year. So, they're under the old  
3 guidelines of the project under DEC law. So,  
4 it seems like everything has been taken care  
5 of to date for stormwater.

6 CHAIRMAN STUTO: Anything else before we  
7 turn it over to the applicant?

8 MR. LACIVITA: I think that we're pretty  
9 much set. I'm sure you can ask questions along  
10 the way.

11 CHAIRMAN STUTO: And we'll definitely  
12 hear from the public, too.

13 MR. FRANCIS: Good evening. My name is  
14 Skip Francis. I'm a professional engineer with  
15 CT Male Associates. I'm representing Shelco  
16 Development, who is the applicant tonight.  
17 With us is Jeff Myers, also the president of  
18 Shelco.

19 Thank you for this opportunity to hear  
20 this proposal tonight and please be patient  
21 for about 15 or 20 minutes as I try to fit in  
22 10 years of information. I appreciate all of  
23 your time reviewing the rather thick file of  
24 this subdivision. I'll try to keep it as  
25 direct as I can.

1           A couple of key points: I want to make  
2           sure that what we go through tonight is to  
3           assure this Board that all Town Department  
4           comments have been addressed to date. I'll go  
5           through those a little bit more in detail. I  
6           also want to assure the Board that all  
7           reoccurring questions from the public and the  
8           neighborhood associations have been asked and  
9           addressed.

10           The other key point is that we seek final  
11           action tonight on a project so that we can  
12           move forward with state and federal  
13           permitting, as these agencies do not review  
14           applications until after the Planning Board's  
15           final action.

16           Moving into a brief general description  
17           of the overall features of the subdivision:  
18           Joe mentioned a couple of them in his  
19           introduction here. It's formerly known in your  
20           files as Oak Hill. The formal name now is  
21           Forest Hills. That was requested by the  
22           Planning and/or Police Department due to the  
23           common references of Oak in the Town. So, it  
24           was changed to Forest Hills.

25           It's 85 acres, 75 single family lot

1 subdivision at 33 Denison Road. It is on the  
2 east side of Denison Road. It's bounded on the  
3 north by Walnut Lane and bounded on the south  
4 by Vly Road.

5 CHAIRMAN STUTO: Can you trace Denison  
6 Road for us?

7 MR. FRANCIS: Denison Road is going from  
8 North to South from Walnut Lane south down to  
9 Vly Road (Indicating).

10 CHAIRMAN STUTO: Thank you.

11 MR. FRANCIS: The subdivision has four  
12 stormwater management areas; the dark green  
13 areas shown on this aerial map. The SWPPP has  
14 been reviewed by the Town's Stormwater  
15 Management Officer in February. We have the  
16 MS4 acceptance form and we have filed the  
17 notice of intent with DEC, so we have permit  
18 coverage at this moment.

19 There are two vehicle access points to  
20 the property. One from the west on Denison  
21 Road by Branchwood Way and there is one from  
22 the north, Tamarack Lane. There is no  
23 connection right now to Vly for reasons that  
24 I'll discuss later. He touched on those  
25 briefly in the introduction.

1           The project has proposed elevated water  
2 tank that would provide the source of  
3 municipal water for this subdivision. It is  
4 interrelated to this application, but is not a  
5 specific component of this application  
6 tonight. The adoption and acceptance of the  
7 water tank is a Town Board action reviewed and  
8 the responsibility of the Division of Latham  
9 Water. I'm bringing you up to speed as to why  
10 it is here and how it is interrelated, but  
11 it's not part of your decision tonight.

12           CHAIRMAN STUTO: But it can be a  
13 condition of our approval, correct?

14           MR. FRANCIS: It already is integrated  
15 into that because during the course of the  
16 subdivision review by Latham Water, they  
17 specifically asked to see the design drawings  
18 for the tank and the pump station.

19           No low pressure lines are proposed. The  
20 waste water will be discharged to the Mohawk  
21 View treatment facility. All roads, sanitary  
22 water infrastructure, stormwater management  
23 areas ultimately will be dedicated to the  
24 Town. In terms of construction sequence, the  
25 underground infrastructure goes in first with

1 waterlines, the tank and pump station will be  
2 constructed. Sanitary storm infrastructure  
3 will go in and the second phase of  
4 construction would be basically - it won't be  
5 a phase. It would be the second sequence of  
6 the roadways and the mass grading for the  
7 building pads. Last, the homes will start to  
8 pop up - all the homes and the structures,  
9 themselves.

10 There are lots of questions about what is  
11 going to happen first - if this was the  
12 construction sequence, which was proposed.

13 As Joe mentioned in his introduction  
14 about the Town Park, there is no Town Park in  
15 this subdivision application. It is located on  
16 the Ridgewood parcel, which is on the west  
17 side of Dennison Road and it's highlighted on  
18 this aerial map here (Indicating). That's  
19 under a separate application of the Ridgewood  
20 subdivision, and we'll discuss the park a  
21 little bit later as to how it came to be over  
22 there.

23 There is open space on this property,  
24 approximately 15 acres; approximately 18  
25 percent. These are the light green areas shown

1 on this map (Indicating). These are areas that  
2 are not to be developed. They'll be preserved  
3 by conservation easements. That's a condition  
4 of the concept approval carried forward.

5 CHAIRMAN STUTO: Can you point that out  
6 again?

7 MR. FRANCIS: These large light green  
8 areas - there are two of them; one here to the  
9 north and one more to the south (Indicating).

10 CHAIRMAN STUTO: What is the acreage on  
11 those?

12 MR. FRANCIS: Total combined acreage is  
13 about 15.9 acres.

14 CHAIRMAN STUTO: Walking paths aren't in  
15 there, then?

16 MR. FRANCIS: Those are largely in Army  
17 Corp Wetland areas. It's not conducive to  
18 walking paths.

19 CHAIRMAN STUTO: Who is the recipient of  
20 the conservation easement? The Army Corps?

21 MR. FRANCIS: Those areas with the Army  
22 Corps - we'll put them in the covenants and  
23 restrictions, but ultimately those areas are  
24 intended to be dedicated to the Town.

25 CHAIRMAN STUTO: The Town Attorney said

1           what about that? Dedicated as a conservation  
2           easement?

3           MR. FRANCIS: Correct, yes.

4           CHAIRMAN STUTO: Has the Town Attorney's  
5           office spoken to that, or given the approval  
6           of that?

7           MR. FRANCIS: Not at this time. That will  
8           be a function of our joint permit application  
9           and coordination of DEC and the Corps and the  
10          wetland permitting process. It will be ironed  
11          out in the covenants and restrictions at that  
12          point in time. I'll address that a little bit  
13          later.

14          As Joe mentioned in January 15, 2002, a  
15          SEQRA negative declaration was issued and a  
16          concept approval for the plan that you see  
17          before you tonight was approved back then. The  
18          project has been grandfathered under  
19          preexisting land use regulations that were in  
20          effect at the time that concept approval was  
21          granted. Since then, we've undergone about six  
22          design iterations to get to this point. The  
23          plans have been on file with the PEDD office  
24          since April of this year.

25          Ultimately, the Town's direct benefits

1 for this project would be 75 new residences  
2 with a base market value at or above other  
3 nearby residential properties that would be an  
4 asset to a local housing market to a Town that  
5 has been nationally recognized as one of the  
6 best places to live, and the safest places to  
7 live.

8 The new water distribution system  
9 including an elevated tank - a pump station -  
10 will be designed, permitted, constructed and  
11 maintained by this applicant at no capital  
12 cost to the Town, prior to dedicating to the  
13 Town. The roadways, sanitary sewer and  
14 stormwater management areas also will be  
15 designed and constructed by the applicant  
16 prior to dedication. So, those are the key  
17 direct benefits to this project.

18 If I may, I'd like to bring the Board up  
19 to speed with the summary of permits and  
20 reviews of where we are - what permits we've  
21 accomplished and which ones we have yet to  
22 achieve. I'll touch on the three major  
23 outstanding issues that Joe introduced. I'll  
24 address each one of those before we return to  
25 questions and the public hearing.

1           Those permits that we have received to  
2           date or reviews that have been completed are  
3           the following: All Town Departments have gone  
4           on record and comments have been addressed, to  
5           date. The Army Corps of Engineers has issued a  
6           jurisdictional determination of wetlands in  
7           March of 2002 for the wetlands on the  
8           property.

9           The Federal Aviation Administration has  
10          reviewed the water tank in July of 2011. They  
11          issued a determination of no hazard to air  
12          navigation.

13          The Latham Water District, as of July, in  
14          a memo contained no further substantive  
15          comments on this subdivision of the elevated  
16          tank or the pump station. They are satisfied  
17          with the design, as it is.

18          The Office of Parks and Recreation and  
19          Historic Preservation issued a letter in  
20          August of 2011: No impact on archeological and  
21          cultural resources.

22          The Stormwater Management Office has  
23          reviewed and accepted the SWPPP and the  
24          stormwater design and drainage of this  
25          project. In February they signed the Town MS4

1 acceptance form and subsequently later that  
2 month, we filed our notice of intent for DEC  
3 or general permit coverage.

4 In March, DEC issued their letter of  
5 acknowledgement saying that we do have  
6 coverage.

7 The DEC also, lastly, has reviewed the  
8 project for threatened and endangered species  
9 and in January of this year issued a letter of  
10 threatened and endangered species in this  
11 area.

12 A couple of permits and reviews, I'll  
13 entertain questions along the way from the  
14 public about reviews that are not required.  
15 One is an Albany County Planning Board review.

16 This project is not located within 500 of  
17 the municipal boundary and does not have  
18 access to a county roadway; thus not  
19 triggering any review by the Albany County  
20 Planning Board.

21 The other review that is not required is  
22 specifically by any school districts. The  
23 project does lie within two school districts;  
24 South Colonie Central and Niskayuna Central  
25 School Districts. As a courtesy to those

1 School Districts, we have notified them of  
2 that subdivision. In December of 2001 we  
3 notified South Colonie Central and in January  
4 of 2001, we notified Niskayuna. We've never  
5 received any formal responses from these  
6 school districts. Nonetheless, as a courtesy,  
7 we have notified them.

8 The outstanding reviews and permits yet  
9 to do: We propose to follow through with these  
10 permits and reviews and any final action from  
11 this local Board tonight. One would be payment  
12 of the remaining GEIS mitigation fees. That's  
13 been carried through from the PEDD reviews; a  
14 joint permit application to DEC and the Army  
15 Corps of Engineers for impacts to wetlands on  
16 the property. They're minor, but they would,  
17 nonetheless, require a joint permit  
18 application.

19 In that, as the Chairman spoke to  
20 earlier, part of that would be under DEC and  
21 Corps coordination along with the Planning  
22 Department and the Town Attorney. We would  
23 work out the restrictive covenants during the  
24 course of the JPA review.

25 We also have an application for a public

1 water supply for this subdivision to obtain  
2 through DEC. That's related to the elevated  
3 water tank and the pump station.

4 The fifth outstanding permit or issue is  
5 the Albany County Department of Health. There  
6 is an application for a public waste water  
7 sewer extension for this subdivision. We have  
8 to also record the subdivision and any  
9 restricted covenants at the County Clerk's  
10 office and prior to starting any construction,  
11 we have to get a Town DPW engineering grading  
12 permit before we can commence with any land  
13 disturbance.

14 I have seven things in front of me that  
15 we still have yet to do once we get final  
16 approval at the local level for these state  
17 and federal agencies. There is still some work  
18 in front of us.

19 If I may just real quickly: The three  
20 main items that Joe spoke of earlier was the  
21 Town Park, the water system improvements and  
22 the traffic issues. I'll highlight those real  
23 quick.

24 The Town Park's Department issued a  
25 statement in a memo of 2001. They had no

1 interest in a park on this particular parcel.  
2 The Town Park is not part of this application.  
3 Rather, it's another part of a proposed  
4 development on the west side of the road owned  
5 by the same applicant, but another project  
6 entitled Ridgewood Subdivision. It's  
7 highlighted in the southwest corner of the map  
8 here (Indicating).

9 This issue of where the park is located  
10 was discussed at the January 15, 2002 Planning  
11 Board meeting for concept review of Forest  
12 Hills and it was discussed in the December 1,  
13 2009 concept approval for the Ridgewood  
14 project. So, both projects in the course of  
15 the Planning Board's review understood and  
16 made a decision that the park is located on  
17 that project and it's not part of this  
18 application tonight.

19 Moving on to the water system  
20 improvements - I have a separate map to give  
21 you a general idea of the service area that is  
22 proposed in relationship to the subdivision.  
23 On this service area map, the Forest Hills  
24 subdivision is the light blue area  
25 (Indicating). In order to have Forest Hills

1 exist with water pressure, we would have to  
2 construct an offsite water main approximately  
3 one-half mile long up to the proposed location  
4 for the 400,000 gallon water tank. It is  
5 located somewhat in the middle of the green  
6 parcel entitled Ridgewood Subdivision, but  
7 that would not be built until after this tank  
8 is in service. The three subdivisions that  
9 this water system would serve would be Forest  
10 Hills in blue, Ridgewood in Green and the  
11 approved Londonderry Ridge Subdivision in the  
12 magenta red color (Indicating).

13 CHAIRMAN STUTO: The water tank has to be  
14 built and operational before you can have a CO  
15 on any house?

16 MR. FRANCIS: Precisely. It was the  
17 airport area GEIS that identified that in this  
18 high ground area where these three  
19 subdivisions are located. Any development in  
20 that area would require an elevator bar tank.  
21 Latham Water District, as Joe mentioned,  
22 cannot provide water pressure above the  
23 elevation of 410 feet. So, these areas, both  
24 green and red are all above that elevation.

25 Latham Water District has requested to

1 review the design plans of this water tower  
2 pump station, as I touched on earlier, and  
3 they have reviewed those tank plans  
4 concurrently with the layout of this  
5 subdivision. We have prepared an engineering  
6 report and that's been reviewed by them. The  
7 applicant has agreed to design, permit,  
8 construct and maintain this system until  
9 everything is fully operational and functional  
10 before turning it over to the Latham Water  
11 District.

12 The Londonderry proposed subdivision has  
13 been approved. I don't believe construction  
14 has actually started yet, but that applicant  
15 has agreed to at least contribute some portion  
16 of the funds to the improvements to help with  
17 the construction of the tank and the pump  
18 station.

19 The overall source and operation of this  
20 system is called the new Vly Denison High  
21 Service Area. It will be drawing off of the  
22 existing 3.4 million gallon Denison Road  
23 reservoir. The pump station will be located  
24 right on that property. It will pump through  
25 the Forest Hills water system through an

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1 easement on the Ridgewood parcel property.

2 This is about a half-mile of off-site pipeline  
3 up to the high water tank and then provide the  
4 pressure for these areas, as it's developed.

5 We worked closely with the Latham Water  
6 District for design of the tank and pump  
7 station according to their requirements and  
8 their preferences. We've added such things as  
9 radio communication systems that are  
10 consistent with what they use throughout the  
11 Town. It has a backup generator and it will  
12 also have security cameras. There is an image  
13 of what the tank looks like. It's described as  
14 what is called a spheroid water tank. It's a  
15 round tank elevated on a pedestal.

16 Going forward, Latham Water District  
17 acknowledges that some of the existing homes  
18 do have low pressure, due to the elevations  
19 and some of the existing residences. Not all  
20 the residences are equipped to be accepted  
21 into this new pressure zone when it becomes  
22 operational. In the future, the Latham Water  
23 District will review the nearby existing  
24 residences on a case by case basis to  
25 incorporate them into this high service area.

**Legal Transcription**

1           Those homes that are outside these  
2 colored areas will still remain on their  
3 current system. They'll see no changes in  
4 their pressures because this would be an  
5 isolated service area. It will be valved off  
6 and this tank will serve these three areas. On  
7 a case by case basis, it will have the  
8 features to provide additional water service  
9 elsewhere, but will be phased in as Latham  
10 Water District will work. As you may recall,  
11 John Frazer spoke at a special public Planning  
12 Board meeting on March 31, 2009 to discuss the  
13 development of this high ground water tank, as  
14 it relates to these three proposed  
15 subdivisions, including Forest Hills, tonight.

16           CHAIRMAN STUTO: You probably already  
17 described this, but I'm going to ask the  
18 question. When the tank initially goes  
19 on-line, it's going to pressurize your  
20 subdivision and other homes as well, or no?

21           MR. FRANCIS: It will just pressurize our  
22 subdivision until the other subdivisions are  
23 built.

24           CHAIRMAN STUTO: It's not going to affect  
25 any of the existing homes in the beginning.

1           MR. FRANCIS: Any of the existing homes  
2           in the beginning will not be affected;  
3           correct. Outside of these colored areas  
4           (Indicating), it will not be affected.

5           CHAIRMAN STUTO: So, you are your own  
6           water system, although you will be turned over  
7           to Latham Water.

8           MR. FRANCIS: Correct.

9           CHAIRMAN STUTO: You say it may or may  
10          not be integrated with the Latham Water  
11          System.

12          MR. FRANCIS: It will be over time, and  
13          Latham Water District will make that decision,  
14          irrespective of that application or how much  
15          development is done. They will phase it in as  
16          they see fit to bring certain areas on-line  
17          and into the whole system. They certainly have  
18          the capability to serve more than just these  
19          three and provide additional pressures to some  
20          of the surrounding areas. But for now, as this  
21          is going in and coming on-line, it will  
22          provide pressure for Forest Hills only,  
23          Ridgewood -

24          CHAIRMAN STUTO: What is your water  
25          source?

1           MR. FRANCIS: It will be drawing off of  
2 the existing Denison Road reservoir at the  
3 east side of the property.

4           CHAIRMAN STUTO: So, you're going to pull  
5 water from the Town - Latham Water District's  
6 system.

7           MR. FRANCIS: Yes.

8           CHAIRMAN STUTO: Thank you.

9           MR. FRANCIS: That covers the park and  
10 the water and the last thing that I want to  
11 cover is the traffic issues.

12           As Joe mentioned before, there have been  
13 concerns and questions about why there is no  
14 connection from Tamarack Lane which is  
15 currently proposed as a cul-de-sac - why there  
16 is no connection to Vly Road.

17           CHAIRMAN STUTO: What sheet would that be  
18 on? You have a lot of sheets here.

19           MR. FRANCIS: I think that it's sheet  
20 SB4.

21           Just to give you a little background on  
22 this area - what I represent to you tonight is  
23 a drawing that we had dated back in March of  
24 2001 that was presented at the May 2001  
25 Planning Board meeting. This was a preconcept

1 meeting and in that, this is where the project  
2 had proposed a connection of Tamarack Lane to  
3 Vly Road (Indicating). On here it gives the  
4 sight distance requirements. The sight  
5 distance to the east is required by AASHTO  
6 Roadway design standards to have a required  
7 distance of 360 feet. The sight distance that  
8 was available at the time that we measured was  
9 215.

10 CHAIRMAN STUTO: Which direction is east  
11 on that?

12 MR. FRANCIS: This direction  
13 (Indicating). At the 30 mile an hour speed  
14 zone of Vly road, it should have required  
15 sight distance of 360 feet. We have available  
16 215. That is largely due to the existing  
17 geometric features of Vly Road. It curves and  
18 it also drops down as you go to the east; it  
19 drops away. So, this is the basis of a map of  
20 some questions and maybe some things can be  
21 cleared up as to why things have changed from  
22 2001 to the way that they are now. We can also  
23 see, frankly, why in January of 2002 the  
24 concept was approved as we see here with the  
25 Tamarack cul-de-sac. The reason is that first

1 and foremost we could not meet the roadway  
2 design standards that were established by  
3 AASHTO - they could not be met; more  
4 specifically, the sight distance. It's 40  
5 percent deficient, looking to the east, if you  
6 were coming out of Tamarack looking to the  
7 left on Vly.

8 The second reason is the PEDD issued a  
9 memo in April 20, 2001 and directed the  
10 applicant to remove this connection to the  
11 road to make it a cul-de-sac because sight  
12 distance was a problem.

13 The third reason is the Town Fire  
14 Services issued a memo in January 3, 2002 and  
15 stated that Tamarack Lane cul-de-sac was  
16 acceptable, as we see here.

17 The fourth - Town residents who live at  
18 290 and 298 Vly Road - that is this residence  
19 here and this residence here  
20 (Indicating) - right between them would have  
21 been the proposed connection. They both  
22 produced letters that were presented in the  
23 May 2001 concept Planning Board meeting. They  
24 were written requests that connection be  
25 removed. They had problems seeing coming out

1 of their own driveway and stated that as a  
2 fact.

3 CHAIRMAN STUTO: Who owns that strip of  
4 land now between the houses? It appears on the  
5 map - it says parcel to be deeded to the lot  
6 on the right and then the other side of the  
7 lot on the left. Who owns that strip of land  
8 now?

9 MR. FRANCIS: Currently, the applicant  
10 owns it. Part of the proposal, as it stands  
11 now, is that half of that strip - the west  
12 half gets dedicated to 90 Vly Road to the  
13 west. The other half gets dedicated to 296 Vly  
14 Road. Either way, that parcel will be split;  
15 half dedicated to one and the other. It will  
16 also retain an easement because the waterline  
17 runs through there and the sewer line runs  
18 through there. There is a 40 foot wide  
19 proposed easement right now through there. The  
20 lands would be transferred to those property  
21 owners. The property line owned by the  
22 applicant would be ending right back here  
23 (Indicating).

24 CHAIRMAN STUTO: Just so we can visualize  
25 it, if there is an issue on that cul-de-sac,

1           whether it's a fire or an ambulance issue, how  
2           could somebody get out of there? What are the  
3           routes? What are the alternatives? We would  
4           like to visualize it.

5           MR. FRANCIS: To go down Tamarack Lane  
6           and exit by Branchwood.

7           CHAIRMAN STUTO: That's the first way  
8           out, right?

9           MR. FRANCIS: Yes.

10          CHAIRMAN STUTO: Is there another way  
11          out?

12          MR. FRANCIS: No.

13          CHAIRMAN STUTO: What if they continue  
14          down?

15          MR. FRANCIS: Oh, they can go through  
16          Tamarack, I'm sorry. Going all the way to the  
17          north, you can access the subdivision by  
18          Tamarack.

19          CHAIRMAN STUTO: How many feet is it to  
20          that first one?

21          MR. FRANCIS: I'm not sure. I think in  
22          the neighborhood of a quarter of a mile.

23          CHAIRMAN STUTO: Do we have the letter  
24          from Verdoy?

25          MR. LACIVITA: Yes. Do you want me to

1 read it?

2 CHAIRMAN STUTO: If it's not too long.

3 MR. LACIVITA: No, not at all.

4 February 19, 2002. It's from David  
5 Johnson. It's to Chief Lawrence Isabella, Town  
6 of Colonie Fire Prevention regarding the Oak  
7 Hill Subdivision.

8 "As you know some of the issues get put  
9 aside when there is transition in a fire  
10 department. Unfortunately, this was the case  
11 with the review of this subdivision. This area  
12 was brought back in the forefront when Wallace  
13 Krawitzky of the neighborhood association in  
14 this area of the development approached me.

15 Mr. K was concerned with the cul-de-sac  
16 plan from the south end of the Tamarack Lane  
17 extension. I informed him that it's always  
18 better from a Fire Department viewpoint to  
19 have access to any address from more than one  
20 direction. As you know, roads are easily  
21 closed due to firefighting operations,  
22 apparatus placement, hoses, etcetera, during  
23 an incident.

24 The access to this location is limited to  
25 one direction, there is a chance that needed

1 equipment will not be able to get there or to  
2 be delayed. It seems reasonable to request  
3 that Tamarack Lane cul-de-sac be eliminated  
4 and the road be continued through to Vly Road.  
5 There is a 30 foot wide utility easement from  
6 the cul-de-sac to Vly Road shown on the site  
7 plan. This will prevent any building on that  
8 land so that the continuation of Tamarack  
9 appears to be feasible. Some reconfiguration  
10 of the lots on the cul-de-sac may be required,  
11 but it should be a minor revision.

12 Once again, I apologize for the lateness  
13 of this response. I hope that your concerns  
14 can still be relayed to the Planning Board for  
15 consideration, since the suggestion appears to  
16 us to be in the best interest of the potential  
17 district residents."

18 That was by David Johnson, Chief of the  
19 Verdoy Fire Department, February 19, 2002.

20 CHAIRMAN STUTO: Thank you. Now, I've  
21 asked Tom Johnson to be here from Barton and  
22 Loguidice because when I was discussing these  
23 issues with this - for the Board's benefit and  
24 for the public - when I was discussing these  
25 issues with Joe, I really didn't feel

1           confident as a non-engineer to make a decision  
2           on this without professional advice on our own  
3           side. This project has been around since 2002.  
4           It's been nine years. They were grandfathered  
5           in - in the sense that they did not require a  
6           Town Designated Engineer. However, we're  
7           entitled to seek advice from professionals and  
8           charge it against the developer. I am  
9           interested in what Tom Johnson has to say. If  
10          the rest of the Board is, I would suggest that  
11          we hire him and it's got to be billed to the  
12          developer. He'll help us with other aspects of  
13          the project tonight. I actually think that  
14          it's in the best interest of the developer as  
15          well, in the sense that it will help us get  
16          through issues rather than stumble on issues.

17                 Does the Board have any feeling on that?

18                 MR. LANE: Absolutely.

19                 CHAIRMAN STUTO: Motion to hire Tom on  
20          that basis?

21                 MR. LANE: I'll make a motion.

22                 MR. AUSTIN: Second.

23                 CHAIRMAN STUTO: All in favor?

24                         **(Ayes were recited.)**

25                 CHAIRMAN STUTO: All opposed?

1                                    ***(There were none opposed.)***

2                                    CHAIRMAN STUTO: The eyes have it.

3                                    Tom, would you care to comment on that?

4                                    MR. JOHNSON: Anything in particular? I'm  
5 concerned with the sight distance. There were  
6 a few questions that I would have for the  
7 applicant.

8                                    CHAIRMAN STUTO: Please guide us through  
9 this.

10                                   MR. JOHNSON: Obviously, I have not  
11 reviewed much of the information other than a  
12 site plan and what you've been presented  
13 tonight. The sight distance criteria - do you  
14 know if that has changed to date since you  
15 evaluated it? When did you evaluate that?

16                                   MR. FRANCIS: It was evaluated in 2001. I  
17 don't believe that it has changed since then.

18                                   MR. JOHNSON: I know that they have  
19 changed the eye height measurements. I don't  
20 know if that actually changed the requirements  
21 at all.

22                                   The sight distance that the driveway  
23 would not meet - is that the intersection  
24 sight distance, or would that be the stopping  
25 sight distance?

1 MR. FRANCIS: I believe it's the  
2 intersection of sight distance.

3 MR. JOHNSON: Does it meet the stopping  
4 sight distance; do you know?

5 MR. FRANCIS: I do not have that  
6 information.

7 MR. JOHNSON: Just for the Board's  
8 information, the intersection sight distance  
9 you would want provides more sight distance  
10 coming out of a driveway or a roadway. The  
11 stopping sight distance is more of a critical  
12 concern if it doesn't meet that. That  
13 basically tells us that a vehicle would likely  
14 not be able to stop in time for a collision of  
15 cars.

16 You say that it was probably the  
17 intersection sight distance? You're not sure  
18 about the stopping?

19 MR. FRANCIS: Correct. I didn't conduct  
20 those particular calculations myself to be  
21 able to answer that for you tonight. I can  
22 check.

23 MR. JOHNSON: You mentioned the sight  
24 distance was evaluated against the speed  
25 limit; is that correct?

1           MR. FRANCIS: I believe it was evaluated  
2 against the 30 mile an hour speed zone at that  
3 location.

4           MR. JOHNSON: Do you know what the actual  
5 operating speed it?

6           MR. FRANCIS: Probably much higher.

7           MR. JOHNSON: So, if it's much higher -

8           MR. FRANCIS: According to the public, it  
9 is much higher.

10          MR. JOHNSON: If it would be higher, than  
11 obviously the more distance it would require  
12 for the sight distance.

13          MR. FRANCIS: But if they're traveling at  
14 a higher rate of speed, they're breaking the  
15 law.

16          MR. JOHNSON: I understand that.

17                 The restrictions on the sight distance  
18 along Vly Road - you mentioned that it's a  
19 horizontal curve and part of a vertical curve?

20          MR. FRANCIS: Correct.

21          MR. JOHNSON: Are there ways to improve  
22 the sight distance other than raising the road  
23 or straightening the road out? Can you see  
24 through or is there a way that will allow you  
25 to see to meet the standards or come close to

1 the standards, anyway?

2 MR. FRANCIS: To my knowledge, and I've  
3 seen it recently, there is no large trees,  
4 shrubs brush out near the road that are a  
5 direct obstruction. I think that it is largely  
6 due to the curvature in the road and the grade  
7 change as it drops down. At some point there  
8 may be a tree or a shrub that comes into view,  
9 but I think in general the property owner at  
10 this location - he or she might be in the  
11 audience tonight -- I think that their front  
12 yard is relatively clear of vegetation.

13 MR. SULLIVAN: Has the possibility of an  
14 emergency access been discussed using the  
15 easement as a crusher run roadway there with a  
16 locked gate? Has that option been discussed at  
17 any point during this project?

18 MR. FRANCIS: Not specifically for  
19 emergency access use and egress/ingress only.  
20 No, that has not been reviewed or discussed.  
21 It's never been brought up from the Town's  
22 perspective at all at this point.

23 MR. SULLIVAN: Would that be something  
24 that's an option here? Could that be designed  
25 to work in proximity with the waterline?

1           MR. FRANCIS: It's entirely possible and  
2           can be looked into, of course. We'd need to  
3           talk it over with our applicant. I don't see  
4           any reason why we couldn't consider designing  
5           a system that could support the weight of a  
6           fire access vehicle. They make those products  
7           and they are available. That easement that  
8           contains a waterline and a sewer line beneath  
9           it could be topped with some interlocking  
10          fence with grass over it. It wouldn't have to  
11          be an asphalt road. That's an option. It's not  
12          something that we've discussed yet, but that's  
13          entirely a possibility for emergency access to  
14          get to Tamarack Lane. For emergency use  
15          only -- that would be safer.

16          MR. SULLIVAN: Then emergency vehicles  
17          would have lights and some stopping sight  
18          distance.

19          MR. FRANCIS: One thing I might add is  
20          that doing something like that might require  
21          some cooperation of those neighbors that would  
22          have to grant that easement to the Town. In  
23          the event of an emergency situation, they  
24          would have an emergency vehicle pass right  
25          through their personal driveway.

1 I think that both of these properties  
2 have a shared driveway. They currently come in  
3 and out about right where this applicant owns  
4 the property now. If that easement did exist,  
5 a portion of their private driveway - as it  
6 gets closer in here - could be an emergency  
7 vehicle access with a gate or a knock down  
8 gate.

9 CHAIRMAN STUTO: Tom Johnson, do you have  
10 any opinion on that?

11 MR. JOHNSON: The emergency access would  
12 be something favorable to look into; yes.

13 I have one more question about the sight  
14 distance. Which movements did not meet the  
15 criteria? Was it just the exiting, or did you  
16 evaluate left turns in to Tamarack from Vly  
17 Road?

18 MR. FRANCIS: I do not know the specifics  
19 of the turning analysis. I would have to look  
20 into that.

21 CHAIRMAN STUTO: Okay, next topic?

22 MR. FRANCIS: Continuing on with  
23 traffic - I discussed the Vly Road connection.  
24 The Capital District Transportation Commission  
25 was requested by the Planning Department to

1           conduct a study of the Vly/Denison  
2           neighborhoods. The neighborhoods being in full  
3           build-out of the Forest Hills, Ridgewood and  
4           Londonderry subdivisions, they produced a  
5           report dated March 1, 2009 with findings. They  
6           had a special Planning Board meeting on  
7           March 31, 2009 when they presented those to  
8           the public and the Planning Board as a general  
9           understanding of the development that was  
10          proposed for these areas. Those findings were  
11          presented - not at the Planning Board meeting,  
12          but I think that it's summarized in a Planning  
13          Department meeting with Mr. DeLaughter. In  
14          their professional opinion, CDTC's  
15          professional opinion concluded that under full  
16          build-out conditions, the roadway  
17          infrastructure for any intersection would not  
18          warrant traffic improvements.

19                 Lastly, existing conditions - we may hear  
20                 from the public tonight of claims of high  
21                 speed traffic, but that is a law enforcement  
22                 issue for the Town. It's nothing that our  
23                 applicant can do. They've already posted the  
24                 speed limit of 30 miles an hour through  
25                 Denison Road and Vly Road areas. The Town

1           representatives have acknowledged that the  
2           speed limit cannot be lowered any more below  
3           that. Beyond that, the applicant is not  
4           obligated to address any existing traffic  
5           conditions such as those.

6           CHAIRMAN STUTO: You're contributing to a  
7           mitigation fund for traffic, correct?

8           MR. FRANCIS: Correct.

9           CHAIRMAN STUTO: Can you explain that?

10          MR. FRANCIS: Those mitigation fees are  
11          set.

12          Joe, you might be able to clarify that  
13          for me but the mitigation fees for GEIS for  
14          traffic are generated by CDTC. Is that  
15          correct?

16          MR. LACIVITA: That is correct.

17          MR. FRANCIS: As to the calculations, I  
18          don't know the specifics of that. In fact,  
19          that was described, I believe, in the  
20          March 31, 2009 Planning Board meeting.

21          MR. LACIVITA: Do you want the breakdown  
22          of the mitigation costs?

23          CHAIRMAN STUTO: Just the grand number  
24          would be good. I see it right here in your  
25          memo; just for our benefit and the public

1 benefit.

2 This memo says \$589,000.

3 MR. LACIVITA: That's correct; \$210,925  
4 is attributed to CDTC's analysis on  
5 transportation. The balance of that which is  
6 \$378,864 is based on water, recreation and  
7 GEIS.

8 CHAIRMAN STUTO: So, you're paying into a  
9 pot of money to pay for a number of Town  
10 improvements which either have been made or  
11 will be made in the future, including traffic.

12 MR. FRANCIS: Correct.

13 With that, this concludes my description  
14 of what we believe and what Joe touched on in  
15 the beginning with the main public issues that  
16 may be outstanding.

17 I'd like to direct your attention to a  
18 letter that we prepared on behalf of the  
19 applicant in December 2<sup>nd</sup> of this year in  
20 response to about 76 questions by the  
21 Birchwood Neighborhood Association about many  
22 other issues. The largest issues were the  
23 water tank, the park and traffic in this area.  
24 So, there are many other issues. If there are  
25 any other specific ones that you wish me to

1 address, I would be happy to do so. Beyond  
2 that, I will go back to all those issues in  
3 that letter - I hope to give you a thumbnail  
4 sketch and definitive responses of actions and  
5 dates and decisions that were made to help  
6 this Board reach a decision on this project.  
7 We'd like to move forward to get the other  
8 permitting, the state and federal, taken care  
9 of. I want to assure the Board that all the  
10 Town Department comments have been addressed  
11 to date, we have addressed all the public and  
12 association's questions and maybe some  
13 misunderstandings that they have had just to  
14 make sure that we're talking about this  
15 project and not any other project.

16 CHAIRMAN STUTO: When was your last  
17 meeting with the residents?

18 MR. FRANCIS: September 15, of this year  
19 we met at the PEDD office. We have also had  
20 previous meetings with the neighborhood  
21 association on October 6, 2008 and also  
22 March 26, 2009. This year it was  
23 September 15, 2011 and the two previous  
24 meetings also involved the Ridgewood  
25 Subdivision and this one. So, we may have

1           talked about different projects, but  
2           essentially the same traffic issues.

3           MS. PEMRICK: It was only from the  
4           Birchwood Neighborhood Association. Nobody on  
5           the Vly Road side which is covered by a  
6           different neighborhood group had been  
7           contacted.

8           MR. FRANCIS: She's correct. These are  
9           the meetings with the Birchwood Neighborhood  
10          Association.

11          CHAIRMAN STUTO: Elena and Joe, you were  
12          at the last one?

13          MS. VAIDA: I was.

14          MR. LACIVITA: We held a meeting here on  
15          the 28<sup>th</sup> of September.

16          MR. FRANCIS: They delivered the  
17          questions then and we received the questions  
18          in November. We then addressed the letter.

19          CHAIRMAN STUTO: Anything else you want  
20          to touch on?

21          MR. FRANCIS: Not at this time. I'll turn  
22          it over to questions to review.

23          CHAIRMAN STUTO: Do you have anything,  
24          Joe, that you want to add?

25          MR. LACIVITA: Nothing at this time.

1                   CHAIRMAN STUTO: Do the Board Members  
2 want to talk? It looks like we want to hear  
3 from the public first.

4                   Please go up to the microphone when your  
5 name is called.

6                   The first is 15 Denison, Linda Lindstrom.

7                   MS. LINDSTROM: I'm the lady with the  
8 garage. What I fail to see on all of the  
9 documentation is the benefit to me as the  
10 homeowner that currently lives there for more  
11 than 20 years. I'll be putting up with more  
12 traffic. I'll be putting up with additional  
13 building materials coming in and out for  
14 multiple years. I just don't see what the  
15 benefit is.

16                  CHAIRMAN STUTO: I'm going to respond to  
17 that, in part. It's not his obligation for him  
18 to show a benefit, per se.

19                  MS. LINDSTROM: Don't you think that he  
20 should be mitigating some of my discomfort?

21                  CHAIRMAN STUTO: Yes, it's our job to  
22 make sure that he mitigates to the reasonable  
23 extent practicable - the impacts on the  
24 surrounding neighborhoods. That's what this  
25 process has been about. That's what the

1 environmental review is about. That's  
2 hopefully what the developer has been talking  
3 about so far. We are supposed to mitigate the  
4 impacts on the surrounding neighbors. But he  
5 is entitled to develop his property. I guess  
6 that's what my response is.

7 Ellen Pemrick, 298 Vly Road.

8 MS. PEMRICK: I have a statement.

9 CHAIRMAN STUTO: I do want to mention  
10 something while you're coming up here.

11 We received two booklets today - I think  
12 this afternoon. It says Birchwood Neighborhood  
13 Association.

14 "The Birchwood Neighborhood Association  
15 requests the following documents and attached  
16 exhibits be made part of the formal record of  
17 the Town of Colonie Planning Board's  
18 consideration of Shelco Development LLC's  
19 application for final subdivision approval of  
20 the Forest Hills project at 33 Denison Road."

21 We've been going through it and trying to  
22 look through it as best we can. They appear to  
23 be in opposition to the project, in general.

24 "We urge the Planning Board to deny this  
25 application for the reasons set forth below.

1 We have included the prior correspondence to  
2 the Town."

3 I'm just going to go through these  
4 quickly. Concept approval for Oak Hill  
5 subdivision is null and void. Town of Colonie  
6 Comprehensive Plan -- I'm not sure what the  
7 conclusion is and maybe I shouldn't guess, but  
8 I assume that you're saying that it doesn't  
9 conform to the Comprehensive Plan. There is a  
10 comment on SEQRA. The Forest Hills application  
11 must be rejected because there has not been  
12 adequate review under the State Environmental  
13 Quality Review Act.

14 The next title is - Vly Road access or  
15 additional access is needed to project site.  
16 We talked about that a little bit.

17 Next is Army Corps of Engineers wetlands.

18 Next is independent Town Engineer.

19 Next is water tower construction and site  
20 alteration. Next title is water pressure and  
21 the next title is pocket park location.

22 Ma'am I'm sorry for interrupting, but I  
23 wanted to get that on the record. I'm sure  
24 that we'll be hearing more about that. We're  
25 doing our best to understand that as well.

1 MS. PEMRICK: I'm here to talk as a  
2 long-time resident of Colonie and of Vly Road.  
3 My house is actually right here on the map  
4 (Indicating). I'm a member of the Vly Road  
5 Neighborhood formerly of the Shaker Ridge/Vly  
6 Road Neighborhood Association which is  
7 currently dormant. I'm also a member of the  
8 advisory committee that guided the preparation  
9 of the Town's Comprehensive Plan in 2005. I  
10 wanted to provide a bit of background  
11 information because this Board is actually the  
12 third Board to look at this project. I think  
13 that you need to be made aware of some of the  
14 issues that have come up in the past.

15 I first submitted comments - I guess it  
16 was in a preconcept meeting in 2001. It was  
17 actually a month before we closed on our house  
18 but I was concerned about the development at  
19 that time. In my comments I stated that  
20 designing a standard residential subdivision,  
21 the developer has really missed an opportunity  
22 to create a subdivision that creates the  
23 natural character and beauty of this parcel.  
24 I'm not going to read everything in my  
25 statement here, but I feel that the developer

1           could have come up with more creative approach  
2           to land development, especially give the open  
3           space on the property, the woodlands and some  
4           of the environmental features. I provided  
5           additional comments under a revised concept  
6           plan in January of 2002 and I provided a copy  
7           of these attached to my statement. At that  
8           time I pointed out that the airport area GEIS,  
9           which even then was more than 10 years old,  
10          identified this property as having severe  
11          environmental constraints and high potential  
12          as wildlife habitat; it does today. I stated  
13          my belief that a supplemental environmental  
14          impact statement should be required despite  
15          these and many of the other concerns expressed  
16          by residents at that meeting in 2002. I've got  
17          notes going back the last 10 years. The  
18          Planning Board at that time voted to grant  
19          concept approval and did not require the  
20          applicant to comply further with SEQRA.

21                 In 2004 the Town hired Saratoga  
22          Associates to assist in completing a  
23          Comprehensive Plan. The purpose of which was  
24          to provide direction for future development. I  
25          served as a member of the Comprehensive Plan

1           Advisory Committee. We met more than 20 times.  
2           We held more than two dozen public meeting  
3           during which we had hundreds of residents who  
4           provided input. Based on the discussions that  
5           took place throughout the Comprehensive Plan  
6           process, an entire section of the plan was  
7           devoted to open space and recreation. This was  
8           an issue that was declared important to the  
9           residents of the Town.

10           Considerable effort was made to identify  
11           a map of parks and trails and areas of high  
12           environmental sensitivity which is water  
13           courses, wetlands and areas where the use of  
14           conservation subdivision design should be  
15           required. According to the Comprehensive Plan,  
16           potential conservation areas represent  
17           relatively large tracks of undeveloped land  
18           that is either in the path of development or  
19           could support additional development  
20           recognized as the few remaining areas of open  
21           space in the Town. The intent is to preserve  
22           the character of these areas as open spaces  
23           while allowing for development to occur.

24           I find it kind of ironic that currently  
25           the open space that's proposed for Oak Hill is

1 now 15 acres. Actually in 2002 it was 24.5.  
2 We're actually losing open space.

3 Among the areas of conservation interest  
4 is the Ashford Glen Preserve which is owned by  
5 the Mohawk Hudson Land Conservancy. I was  
6 hoping that a representative from the Land  
7 Conservancy would be here tonight but -- oh,  
8 there is someone here; wonderful.

9 So I won't speak too much about that.

10 The open space and recreation plan map  
11 included in the Comprehensive Plan also  
12 identified a large area around Ashford Glen  
13 including a location of the Forest Hill  
14 Subdivision as a conservation area for a  
15 potential for recreational development.

16 I included a map of that plan in my  
17 comments.

18 So, the Comprehensive Plan was adopted in  
19 2005. The following year the Town began the  
20 process of updating its zoning and subdivision  
21 regulations to ensure consistency with the  
22 plan as required by law and to begin  
23 implementing plan recommendations. The new  
24 Land Use Law was approved as Local Law 1 of  
25 2007. As was recommended in the Comprehensive

1 Plan, the revised zoning included a  
2 conservation subdivision design requirement in  
3 certain portions of the Town, including the  
4 area which was noted on the open space map.  
5 This was to preserve important natural  
6 resources and open space while still allowing  
7 for development to occur.

8 As it states in the land use regulations,  
9 the overlay district is not intended to  
10 prohibit development, but rather to assure  
11 that the siting and design of development is  
12 sensitive to environmental resources and  
13 constraints.

14 This is exactly what I had in mind when I  
15 commented on the original concept plan for Oak  
16 Hill in May of 2001; a subdivision that  
17 respects the natural character, beauty and  
18 features of the property.

19 Under Local Law 1- 2007, however,  
20 subdivisions had received concept approval  
21 under the preexisting land use regulation in  
22 effect at the time concept approval was  
23 granted were grandfathered. In other words,  
24 they could proceed despite the Comprehensive  
25 Plan as long as the applicant filed final

1 subdivision plans by January of 2009. This  
2 gave developers the opportunity to complete  
3 these older projects in a reasonable period of  
4 time. Otherwise, they would have to comply  
5 with the new land use regulations.

6 Okay, that makes sense.

7 But then the Town Board then amended the  
8 grandfathering provisions in 2008, 2009 and  
9 2010 repeatedly extending the period by which  
10 the applicant had to file final plans.

11 I think that this is a blatant effort to  
12 circumvent the vision that was established for  
13 the Town through the Comprehensive Plan. What  
14 is the purpose of a Comprehensive Plan if not  
15 to guide development? I have worked on these  
16 plans in other communities. As I mentioned, I  
17 was on the Advisory Committee and the plans  
18 addressed very pointedly about this area as an  
19 important area with environmental resources  
20 that need protection. I question whether  
21 continuing to extend these grandfathering  
22 provisions by the Town Board is even legal. It  
23 has been nearly five years since the new Land  
24 Use Law was approved. Certainly, this is more  
25 than adequate time for property owners and

1 developers to either complete their existing  
2 projects or apply with the current applicable  
3 regulations.

4 I think that the proposed Forest Hills  
5 development should be subject to the current  
6 land use regulations, including the provisions  
7 of the conservation overlay district as  
8 recommended in the Comprehensive Plan, as it  
9 is currently proposed, the subdivision fails  
10 to protect environmental sensitive areas  
11 including wetlands and wildlife habitat and  
12 neither preserves nor expands open space on  
13 one of the last large tracks of undeveloped  
14 woodlands in the Town of Colonie. I've noticed  
15 over the last couple of years that there are  
16 only a couple of large tracks of woodlands  
17 left. Many of the older farm lands in the Town  
18 are also being turned over to development.  
19 What is left? We talked in the Comprehensive  
20 Plan over and over again about how residents  
21 want to preserve open space and farmland, but  
22 then all of this land gets turned over for  
23 development.

24 Lastly, I wanted to make a point of  
25 clarification for the record. The letter from

1 Skip Francis of CT Male to Joe LaCivita on  
2 December 2<sup>nd</sup> states that the purpose of this  
3 correspondence is to assist the Planning Board  
4 members in their review and preparation for  
5 final action by assuring the Planning Board  
6 that all BNA's questions and concerns to date  
7 have been addressed by providing definitive  
8 responses including dates of actions and  
9 decisions. As I noted at the September 28<sup>th</sup>  
10 meeting with PEDD, the Birchwood Neighborhood  
11 Association does not represent residents of  
12 Vly Road. We are not part of their service  
13 area. The referenced special meetings that  
14 were held between representatives of the BNA,  
15 PEDD, the applicant and CT Male held in  
16 October of 2008, March of 2009 and most  
17 recently on September 15, 2011. They did not  
18 include representatives of the Vly Road  
19 neighborhood, nor to my knowledge were any of  
20 us informed about or invited to these  
21 meetings. Therefore, our concerns have not  
22 been addressed by the applicant.

23 CHAIRMAN STUTO: Thank you.

24 I'm going to give the applicant to  
25 respond. She raised some important issues

1 about the conservation and how it got reduced  
2 in size. I understand that you want to  
3 dedicate 15 acres. Do you just want to go over  
4 that and clarify it to the extent that you  
5 can? That might be beneficial for the Board  
6 members and the public.

7 Let me ask you a question first. There is  
8 15 acres. You said that it's mostly wet. Is it  
9 Army Corps wetlands?

10 MR. FRANCIS: Yes.

11 CHAIRMAN STUTO: I don't know if the Town  
12 would want that or not. I'm guessing that they  
13 don't want it, if they have responsibility for  
14 preserving that it's wet or not. It's a  
15 liability. I don't want to prejudge that, but  
16 there has to be a mechanism for that property  
17 to be preserved and for the permit to be  
18 complied with. It may or may not be the Town.

19 MR. FRANCIS: Let me clarify. At the  
20 concept approval, the Town had asked for a  
21 conservation easement to be put over the land.  
22 I don't know that the Town is interested in  
23 owning it. I might have misspoke when I said  
24 that there would be dedication to the Town.  
25 The Town has asked that an easement be put

1 over it so that it not be developed and it  
2 remains the open space.

3 CHAIRMAN STUTO: But it's Army Corps  
4 wetlands, anyway, so you're not giving  
5 anything up.

6 MR. FRANCIS: Some of it has some steep  
7 slopes.

8 CHAIRMAN STUTO: Anything else you want  
9 to say to respond to what she said?

10 MS. PEMRICK: They're also proposing to  
11 fill in one of the wetlands.

12 CHAIRMAN STUTO: Is that part of your  
13 permit? Is that accurate?

14 MR. FRANCIS: Our proposed wetland  
15 impacts are represented on the plan. This  
16 project has a proposed impact of .043 acres to  
17 the Corps wetlands. Two very minuet areas; one  
18 here and one here (Indicating) where there is  
19 a stormwater access road down to this basin.

20 CHAIRMAN STUTO: Is there any mitigation  
21 that you have to do because of that?

22 MR. FRANCIS: No, as long as we're under  
23 one-tenth of an acre. One-tenth is the  
24 threshold for mitigation.

25 MS. PEMRICK: What about the wetlands

1 behind 298 Vly Road?

2 MR. FRANCIS: That is an isolated  
3 wetland.

4 MS. PEMRICK: It's still a wetland.

5 MR. ROSANO: Don't be confused with the  
6 word wetlands here. You have DEC wetlands and  
7 you have the federal wetlands.

8 MS. PEMRICK: I've lived there for 10  
9 years. I know that land back there.

10 MR. ROSANO: Yes, but you keep throwing  
11 the word wetlands out there. First of all,  
12 deep slopes are not federally protected  
13 wetlands. It has to be flat area. If you  
14 already know they are already wetlands, please  
15 don't bring the same question back up if you  
16 already know the answer. A lot of people want  
17 to talk tonight.

18 MS. PEMRICK: I saw what was on the map  
19 and I saw that it said isolated wetland to be  
20 filled in and be part of a building lot. Where  
21 is that water going to go? It's going to go on  
22 our property. That wetland is wet all year  
23 round.

24 CHAIRMAN STUTO: Do you want to address  
25 that? Is there one particular spot that she's

1 talking about?

2 MR. FRANCIS: With regard to this wet  
3 area that she's speaking of?

4 CHAIRMAN STUTO: Yes, the isolated  
5 wetland that's going to be filled in to make a  
6 lot.

7 MR. FRANCIS: It's down here at the  
8 southeast corner of the property that's on  
9 this lot here, which is behind her residence.

10 CHAIRMAN STUTO: Is that part of the  
11 forty-three one-thousandths?

12 MR. FRANCIS: Yes, with an isolated  
13 wetland by law you can fill those in. If it's  
14 a DEC or Corps wetland, you must get a permit  
15 for it.

16 CHAIRMAN STUTO: So, it's not a DEC or  
17 Corp wetland?

18 MR. FRANCIS: No.

19 CHAIRMAN STUTO: Because it's below the  
20 threshold.

21 MS. COURIER: It's how it's fed. It  
22 doesn't have another source besides itself.

23 CHAIRMAN STUTO: Thank you.

24 MR. FRANCIS: With respect to the  
25 existing Town Comprehensive Code and the

1           grandfathering provisions, I want to just make  
2           it clear that at some point during the project  
3           we had submitted our conceptual plans back in  
4           2001 and it took over three years and four  
5           months to get comments back from the Town. Had  
6           we gotten comments back in a timely manner, we  
7           might not be in this position to have to renew  
8           a grandfather provision each time.

9                   CHAIRMAN STUTO: Fair enough. We've heard  
10           hearsay of that from the prior administration.

11                   David Nerrow, 28 Denison Road.

12                   MR. NERROW: Despite an earlier statement  
13           that was made that three Boards reviewed this  
14           project, I would submit that it's many more.  
15           We are in our 19<sup>th</sup> year of discussing this  
16           development area.

17                   I have two principal concerns. One is  
18           water and that seems to have been solved by  
19           this particular arrangement. However, I'm  
20           puzzled by why you would put a pumping station  
21           here and run a line all the way over to here  
22           when there is a tank here (Indicating). You  
23           can go directly across here. That doesn't make  
24           good economic sense to me. I don't know if  
25           there is some sort of hydraulic sense to it.

1           These tanks are both at the same level. They  
2           must be if they are connected.

3           I must add that I look forward to  
4           improvement in the water pressure in my house  
5           which is right here on the bend of the road  
6           (Indicating). Almost all of these houses have  
7           had to put in booster pumps in order to have  
8           enough water to run the dishwasher and perhaps  
9           your clothes washer at the same time.

10          On the subject of traffic, yes, it's a  
11          law enforcement problem. They don't seem to  
12          pay much attention. It's been exacerbated by  
13          the fact that New Karner Road is now an easy  
14          road to drive. It's going to be made worse  
15          when New Karner Road becomes four lanes. That  
16          whole route - New Karner Road, Vly Road,  
17          Denison/Birchwood is a very easy transport  
18          from Route 5 to Route 7. Many people have  
19          discovered that which has increased the  
20          traffic substantially. We do not see police  
21          very often. They can park in my driveway every  
22          day of the week, if they like.

23          The four ton load limit is exceeded  
24          routinely. As I said, speed has always been a  
25          problem. It strikes me that putting 75

1 additional homes in here simply exacerbates  
2 that problem to a significant degree.

3 At one point, I think that it was back in  
4 2009, there was some talk about putting a  
5 roundabout at the Vly Road/Denison Road  
6 intersection. I haven't heard any mention of  
7 that today. It sounds like a decent idea.

8 CHAIRMAN STUTO: Do you know anything  
9 about that, Joe?

10 MR. LACIVITA: Yes, it is talked about at  
11 its full build-out. There are some mitigation  
12 areas that are talked about.

13 CHAIRMAN STUTO: But they're not on the  
14 drawing boards for summer or anything like  
15 that.

16 MR. LACIVITA: No. There is talk about it  
17 at CDTC and actually in the minutes of  
18 March 31, 2009, Mr. Jukins does make reference  
19 to some of the impacts that have to be  
20 mitigated.

21 CHAIRMAN STUTO: And they're talking  
22 about a roundabout at that intersection?

23 MR. LACIVITA: A roundabout was brought  
24 up at that area, yes.

25 MR. NERROW: But no decision was made.

1 MR. LACIVITA: No decision was made.

2 MR. NERROW: Who would make such a  
3 decision?

4 MR. LACIVITA: CDTC offers that type of  
5 recommendation to the Town of Colonie.

6 CHAIRMAN STUTO: CDTC is an MPO, a  
7 municipal planning organization. They route  
8 the federal transportation dollars and the  
9 state dollars. There are representatives from  
10 all over the community; mostly the  
11 municipalities like the Town.

12 I work at the airport. I know that the  
13 airport has a rep. The Port of Albany has a  
14 rep, the City of Albany and the county. They  
15 sit around a table and prioritize where the  
16 money is going to go. Somebody can jump up and  
17 improve their own roads at their own expense  
18 but CDTC routes the Federal money and the  
19 state money. So, they prioritize when those  
20 things are going to happen as a group and as  
21 an organization. You could lobby them to try to  
22 get them to prioritize them even further.  
23 Probably eventually, it will happen.

24 MR. NERROW: I have additional concerns.  
25 As you already know all of this property is

1 very heavily wooded. That means that there is  
2 going to be a very substantial amount of trees  
3 removed from here. The land is not flat. There  
4 will be, I guess, substantial movement of  
5 soil. I would assume that there is some sort  
6 of permit required in order to do that.  
7 Because down in here, particularly in this  
8 area - it's is very much lower than it is up  
9 here (Indicating). You will note that while  
10 this is identified as a wetland, it's  
11 continuous with this wetland which is shown as  
12 part of these building lots (Indicating). I  
13 gather that's going to be filled in. If CT  
14 Male says that this is an isolated wetland and  
15 doesn't fall under the regulations, I would  
16 dispute that because their map shows quite  
17 differently.

18 This area in here stays wet 100 percent  
19 of the year (Indicating). In the wintertime  
20 you'll see ice on it. I tend to agree with the  
21 previous speaker about the treatment of  
22 wetlands. This one seems to be ignored.

23 CHAIRMAN STUTO: Okay, I want to  
24 interrupt you for a second because there are  
25 three pretty good questions that I want to get

1 addressed.

2 One is the connectivity to the tanks for  
3 fresh drinking water to your tower. The other  
4 is tree removal and erosion and the other is  
5 the wetland issue that he's talking about.

6 Can you handle those three?

7 MR. FRANCIS: You want me to respond  
8 right now?

9 CHAIRMAN STUTO: Yes.

10 MR. FRANCIS: With regard to the water  
11 tank, you can see the size of the water tank  
12 is a factor here. This is 3.4 million gallons.  
13 This one is not big enough to provide the  
14 service that this tank will need. This is much  
15 higher. This is the tank that provides the  
16 capacity to feed this. That's why we're  
17 pumping this route. This route also follows  
18 the proposed roadways within the Ridgewood  
19 Subdivision. It's kind of jumpy but there is a  
20 reason why it is that way. It goes in once and  
21 doesn't have to get rearranged.

22 As far as wetlands, these wetlands over  
23 here (Indicating) are not proposed to be  
24 impacted at all. They're going to remain.

25 MR. NERROW: I'm referring to these right

1 here (Indicating).

2 MR. FRANCIS: No impacts.

3 MR. NERROW: I don't know what you mean  
4 by no impacts.

5 MR. FRANCIS: We're not touching them.  
6 They're not going to be disturbed all along  
7 Denison Road.

8 MR. NERROW: So, those land owners are  
9 going to have swampy land in the back of their  
10 houses.

11 MR. FRANCIS: They will have covenants  
12 and restrictions associated with each of their  
13 lots, knowing that they purchased a lot with  
14 Army Corps wetlands on site.

15 CHAIRMAN STUTO: He also asked about  
16 erosion. Do you need a permit or what  
17 mitigation measures will be taken during that  
18 process?

19 MR. FRANCIS: We prepared a stormwater  
20 pollution prevention plan that includes an  
21 erosion control plan. Those erosion control  
22 standards are in conformance with the DEC's  
23 erosion control manual. Those will be  
24 implemented as a function of the stormwater  
25 discharge permit - the general permit, as well

1 as the grading permit that will be obtained  
2 from the Town prior to land disturbance.

3 CHAIRMAN STUTO: What kind of measures  
4 will be taken?

5 MR. FRANCIS: That grading permit will  
6 require that erosion control measures be in  
7 place at the time of land disturbance.

8 CHAIRMAN STUTO: What will those control  
9 measures be?

10 MR. FRANCIS: Silk fence, the  
11 construction entrance where you put down the  
12 heavy stone to allow some sediment to settle  
13 in and not be tracked out onto the roads. You  
14 have the stone block protections around the  
15 sediment from going down into inlets are being  
16 constructed during the roadway paving process.

17 CHAIRMAN STUTO: So, that will be  
18 permitted and all the safeguards will be put  
19 into place.

20 MR. FRANCIS: That work has been reviewed  
21 by the Town DPW and the Stormwater Management  
22 Officer and we conform to those requirements  
23 at the State and Town level.

24 MR. SULLIVAN: Will there be limits on  
25 the amounts of land that you can have

1           disturbed at any one time - like acreage? You  
2           can only have a certain number of acres that  
3           are cleared at one time?

4           MR. FRANCIS: Yes. DEC requires that if  
5           you wish to disturb any greater than five  
6           acres at any one time, that you put in a  
7           request to waive that disturbance and you can  
8           disturb up to a preapproved amount. You have  
9           to make a separate application and phasing  
10          plan to show how much you're going to disturb.  
11          But you can be reviewed to disturb more than  
12          five acres at one time. Generally, you try and  
13          do your work on less than five acres  
14          increments at a time.

15          MR. SULLIVAN: Thank you.

16          MR. FRANCIS: Administratively, it's  
17          allowed.

18          MR. NERROW: I think that there is one  
19          more comment about traffic because of the  
20          increase here. If Shop Rite goes into the old  
21          auto sales lot of Route 5, that makes this  
22          worse as well.

23          CHAIRMAN STUTO: That's in the Village.  
24          We're not going to see that project, right,  
25          Joe?

1 MR. LACIVITA: No.

2 MR. NERROW: But you'll see the traffic.

3 CHAIRMAN STUTO: We won't see that as a  
4 Board. We won't see that project. That's in  
5 the Village.

6 MR. NERROW: No, you won't get the chance  
7 to review it but if it goes through the  
8 Village, it will impact our traffic. There is  
9 no question in my mind.

10 CHAIRMAN STUTO: Right.

11 MR. NERROW: Thank you for the  
12 opportunity.

13 CHAIRMAN STUTO: Thank you.

14 John Razzano, 17 Raymond Street, Latham.

15 MR. RAZZANO: Hello. I'm a lifetime  
16 resident of the Town of Colonie. I'm also on  
17 the Board of Directors of Mohawk River  
18 Community Partners and Mohawk Hudson Land  
19 Conservancy.

20 The things that the previous speaker of  
21 298 Vly Road - basically they said just about  
22 everything that I would want to say with  
23 regard to this. I would just like to concur  
24 with her remarks and also just say that I feel  
25 that the developer should be required to

1           adhere to the current Comprehensive Plan  
2           zoning requirements. I don't think that this  
3           is a good law that such things should be  
4           grandfathered. Concept approval should be  
5           grandfathered. When you go to the trouble of  
6           creating a Comprehensive Plan, you should be  
7           adhering to that plan from that point forward  
8           on any development that comes through,  
9           regardless of whether the concept had been  
10          approved under a previous scheme.

11                        In any event, I just feel that the  
12          development can go forward if it is done in a  
13          way which takes into consideration the natural  
14          value of the area. I feel that there could be  
15          a more creative type of development - a  
16          clustering type of development that could be  
17          designed, rather than the kind of standard  
18          subdivision development which this appears to  
19          be. I do also think that the fact that it's in  
20          combination with two other proposed  
21          developments should be taken into  
22          consideration as a whole. That's where the  
23          word comprehensive in Comprehensive Plan comes  
24          from.

25                        I would also make a remark with regard to

1           that person's comment about the traffic from  
2           the Shop Rite. That's another example of how  
3           you have to take into account all of these  
4           collective effects when you're Planning how  
5           you want the quality of life to go forward in  
6           the Town in the future. Basically, that's what  
7           I would like to say.

8                        I know that we also have Jill Knapp who  
9           is the Executive Director of the Mohawk Hudson  
10          Land Conservancy and she'll be adding her  
11          remarks shortly, as well. Thank you, very  
12          much.

13                      CHAIRMAN STUTO: Thank you.

14                      Susan Quine, 83 Ash Tree Lane.

15                      MS. QUINE: Good evening. My name is  
16          Susan Quine and first I'd like to say that  
17          I've lived at 83 Ash Tree Lane my entire life.  
18          I was born in the house and I moved out  
19          briefly to go to college and law school. I  
20          lived in Albany, New York and got married and  
21          decided to come back and raise my family at  
22          83 Ash Tree Lane. Before I came back to 83 Ash  
23          Tree Lane for this period of time, I'm an  
24          attorney.

25                      My last job was with the New York State

1 Department of Environmental Conservation where  
2 I was the wetlands program attorney there up  
3 until 2009.

4 I wanted to address the wetland issues  
5 that have come up here this evening, as well  
6 as some other issues that I have identified  
7 with respect to this project.

8 The first very important thing here  
9 is - and I think that this plan is very  
10 misleading - what you see up here on this  
11 plan. There are federally regulated wetlands  
12 on this property and CT Male's representative  
13 did indicate that the last time that there was  
14 a jurisdictional determination by the Army  
15 Corps of Engineers was in 2002. That  
16 jurisdictional determination means nothing at  
17 this point.

18 The Army Corps of Engineers only honors  
19 the jurisdictional determination for five  
20 years - a written jurisdictional  
21 determination. So, any wetland boundary there  
22 is shown on any map or plans that you have  
23 isn't a valid boundary line. What you don't  
24 see here is you don't see the wetland boundary  
25 line. So, when the Army Corps of Engineers

1 looks at this project - and they have never  
2 received a formal submission from this project  
3 sponsor - they're going to see that there are  
4 many lots here where almost all of the lots  
5 contain wetlands. So, they're asking you to  
6 approve a subdivision plan that has a majority  
7 of the lots which contain wetlands. They'll  
8 never do that - the Army Corps of Engineers.  
9 They wouldn't recommend it.

10 The deed restriction is a very good  
11 thing. Actually, we provided that as part of  
12 our BNA submission. Those are deed  
13 restrictions that the Army Corps of Engineers  
14 utilizes and they would ask to be part of this  
15 project approval.

16 The other thing that I wanted to point  
17 out in that regard is the applicant states  
18 that the Army Corp of Engineers doesn't like  
19 to see projects until they have gone through  
20 local approval. That's not the case at all.  
21 That wasn't the case when I was a wetland  
22 counsel of the New York State Department of  
23 Environmental Conservation. The worst scenario  
24 is for them to come to a local community, get  
25 subdivision approval and then come to them and

1 say, you know what? We have all our lots  
2 approved. You really can't do much because  
3 these are legal lots. It should have all been  
4 worked out beforehand. They should have  
5 submitted these plans to the Army Corps of  
6 Engineers and frankly, Dec. We don't even know  
7 if these are even the actual wetland  
8 boundaries on this property. So, if you vote  
9 to approve this project this evening, you're  
10 approving a wetlands boundary that is not a  
11 valid boundary. That impacts how the layout of  
12 this project is.

13 With deed restrictions you're going to  
14 have a property owner, as someone pointed out  
15 - this area is wet. They're not going to want  
16 to have a swamp in their back yard. They're  
17 going to fill that in. Who is going to be out  
18 there saying don't fill this in because these  
19 are wetlands? Not only are they open space,  
20 but they serve a purpose. There are steep  
21 slopes on this project site. All the water is  
22 running into this area. It's not a coincidence  
23 that wetlands that are along this roadway are  
24 wetlands because they are receiving the water  
25 that's coming off of the steep slopes on the

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1 property. So therefore, they are performing  
2 not only open space and wildlife habitat  
3 function, but they're also performing  
4 stormwater control functions. I would say that  
5 first off these plans that you have, before  
6 you for final approval, do not have a valid  
7 wetlands boundary on it.

8 The other thing that I wanted to address  
9 here is that I think that we laid it out in  
10 our submission. I don't believe that this  
11 project is right for review for this Board  
12 tonight. A lot has been said that this  
13 received concept approval in 2002.

14 I've looked through the various  
15 Resolutions that the Town Board has passed and  
16 when the first land use regulations were  
17 changed in 2007. That resolution basically  
18 gave them a window of people who had received  
19 concept approval. That's a grandfathering  
20 provision. We're going to give you some time  
21 to finish up what you've been doing. They gave  
22 them to 2009. It said that the final plans had  
23 to be filed and approved by 2009. They  
24 weren't. Somehow another Resolution from a new  
25 Town Board who came in and gave them

1 additional time. Finally, there was another  
2 Resolution that gave them until January 1 of  
3 this year. The wording of that resolution is  
4 that if it's not done by then, it's going to  
5 be null and void. No resolution came in to  
6 place which would have extended that beyond  
7 December 31, 2011. Their attempt this year by  
8 the Town Board was to do another Resolution to  
9 kind of make up for the fact that this concept  
10 approval didn't work. The last time it was in  
11 effect, it became null and void by its terms.  
12 That is set out in our submission.

13 So, I first don't believe that there is  
14 even an existing concept approval that you can  
15 all move to final.

16 I also want to talk a little bit about  
17 the SEQRA that's been done on this project.  
18 The short form environmental assessment was  
19 done in 2001 and then a neg dec by the  
20 Planning Board in 2002. The neg dec is still  
21 being used for this project according to the  
22 response that we got from the applicant. It  
23 was never really clear to us exactly when the  
24 SEQRA was done for this.

25 What we have here is a neg dec in the

1 field. It has a cover sheet that was  
2 rewritten, but still dated 2001 by CT Male.  
3 So, I don't know how that can be put on an old  
4 neg dec. Then we have the airport area final  
5 GEIS that if you look at the neg dec in the  
6 findings of no environmental significant  
7 impact, it all relies on the airport area  
8 FGEIS. If you look at the terms of the FGEIS,  
9 that had a term up until 2005. Some of my  
10 neighbors will go into that a little bit  
11 further. Now, we're looking in 2011 to look at  
12 a neg dec from 2002 that's based on an old  
13 FGEIS for the airport area GEIS. That has  
14 outdated information assumptions and somehow  
15 this is all going to work out. So, no  
16 supplement has ever been done for the airport  
17 area GEIS to take into account things like  
18 traffic.

19 One of my neighbors was mentioning how  
20 Vly Road is being used as a thru-road instead  
21 of just a local road. So, all this is just  
22 outdated information. People have said well,  
23 asked and answered many times - all of these  
24 concerns. Well, they've never been answered  
25 and that's why we keep on asking them. That's

1           why you want clarification of all of this. I  
2           just really feel that for the developer to sit  
3           up here and tell us that this is the wetlands  
4           and just state outright that 2002 is it. It's  
5           just misleading to you all. I think that we  
6           deserve to see a project that complies with  
7           the Comprehensive Plan because that's what the  
8           Town wanted. If a Town adopts a Comprehensive  
9           Plan, the State Law says you have to follow  
10          our Comprehensive Plan even if you're sitting  
11          around and your grandfathering it a million  
12          different times. So, that's what I would ask.  
13          I think that this is a very important resource  
14          for the Town. It's open space and we don't  
15          have a lot of it left. The whole issue of the  
16          Ashford - you don't even see that on these  
17          plans. It's way down here (Indicating) so you  
18          don't even know that the Ashford Glen that's  
19          featured on your web site is an important Town  
20          resource - is even near this project. You  
21          don't even know that this developer has not  
22          only land here, but land on this side of the  
23          road (Indicating). There are over 200 acres he  
24          has by a deed from the Union College Board of  
25          Trustees. So, he's segmented this project into

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1 two halves which really you don't see the big  
2 picture because he's not presenting the big  
3 picture to you. He's calling one side  
4 Ridgewood and the other side Oak Hill or  
5 Forest Hills. So, all of these things haven't  
6 really been discussed.

7 You're a new Board looking at this as  
8 Ms. Pemrick mentioned. I think that you have  
9 to stop here and say, what is going on? As we  
10 have said, an independent set of eyes - take a  
11 look at this. You all look at what's in your  
12 Comprehensive Plan. That's what is supposed to  
13 be guiding you as a Town Planning agency. I  
14 guess I'll let my neighbors fill in the rest.  
15 I'm very concerns.

16 We, as residents want to see a  
17 transparent process here where we can say at  
18 the end of the day, the Colonie Planning Board  
19 really looked at this project. They really  
20 followed the regulations. They took care. It  
21 wasn't just because we're adding lots to the  
22 tax assessment rolls. There is a quality of  
23 life issue here for the people who are going  
24 to be left here with this project - even the  
25 people in the project themselves. If I'm

1 living here, I want to get out of this thing  
2 if there is an emergency. I want to be able to  
3 drive to work.

4 I think that I've gone on long enough,  
5 but I just want to tell you that it's very  
6 important that you take a very careful look at  
7 this and not just this evening, but table this  
8 and start from fresh here. This is an old  
9 project that needs to revamped for today.  
10 Thank you.

11 MR. LANE: I want to ask a quick  
12 question. You had mentioned that the Army  
13 Corps of Engineer map is only good for five  
14 years.

15 MS. QUINE: That's right. It's a written  
16 jurisdictional determination and I believe and  
17 I know the applicant -

18 MR. LANE: Do you have a citation or  
19 anything?

20 MS. QUINE: That's the Army Corps of  
21 Engineers. I think that they should be here. I  
22 know that they gave a presentation to the  
23 Town's Environmental Counsel.

24 MR. ROSANO: I was there.

25 MS. QUINE: I know that the applicant on

1           some other lots that he owns - that he has  
2           included in this project's depiction is right  
3           now a conversations with the Army Corps of  
4           Engineers and DEC on two large chunks of land  
5           that were formally part of this project site.  
6           So, they should know the rules for the Army  
7           Corps of Engineers.

8           MR. ROSANO: I was at that meeting and  
9           that was five year was never mentioned at that  
10          meeting.

11          MS. QUINE: If that's the case, then if  
12          you'd like I'm sure you could get a letter -

13          MR. ROSANO: What I would appreciate is  
14          if you're going to come to a meeting like  
15          this, and you're going to make these  
16          statements, at least make the effort of giving  
17          us the documentation.

18          What is the inconsistency with the  
19          Comprehensive Plan that you're talking about?

20          MS. QUINE: I think that if you read the  
21          Comprehensive Plan -

22          MR. ROSANO: Did you bring a copy of it?  
23          Can you give me a title of a section?

24          MS. QUINE: We made a very lengthy  
25          presentation to the Board. I would like to

1 address that point, actually. We came to a  
2 meeting in September and we presented a list  
3 of questions in September and our President  
4 has been asking the Town - where are the  
5 responses to those questions and he did so by  
6 e-mail in October and again November 22<sup>nd</sup>. No  
7 response at all from the Town. We just  
8 received the applicant's answers to questions  
9 that not only the BNA posed, but also other  
10 residents that attended that meeting on  
11 December 9th. So, that made it hard for us to  
12 really look through what was there and present  
13 something. We did our darned best to get  
14 something to you that explained all of this.  
15 This is a very complicated project and we  
16 could have written a lot more on this project.  
17 It's not as though we waited until the last  
18 minute. We only had a very short time frame  
19 and frankly it's December 20<sup>th</sup>. It's five days  
20 before Christmas. We're lucky that we even got  
21 working on that. That's what I wanted to say  
22 on that.

23 MR. AUSTIN: Can I ask a quick question?  
24 Regarding the wetlands and your expertise in  
25 this, you were saying that every five

1 years - - I assume that the wetlands over time  
2 could possibly change. Is that true?

3 MS. QUINE: That's true. Principally the  
4 reason why is the changing system and if it  
5 hasn't been looked at -

6 MR. AUSTIN: So, every five years we get  
7 a new map from the Army Corps of Engineers.

8 MS. QUINE: No, they're going to go out  
9 and do a site inspection and see where the  
10 boundaries of the wetlands are. I think what  
11 you have to do is say to the applicant, you go  
12 out and you get a jurisdictional determination  
13 from the Army Corps of Engineers. They are the  
14 experts. I'm not a biologist, botanist or soil  
15 hydrologist.

16 MR. AUSTIN: I guess my point to the  
17 question is: If a project like this takes more  
18 than five years, then after the five years is  
19 up and the Army Corps of Engineers redoes  
20 their plan, then the developer has to go  
21 through and potentially go through and replan  
22 their entire project.

23 MS. QUINE: Sure. I think that's the  
24 understanding that the applicant would have.  
25 Anyone has that understanding that if you

1 don't get to it and finalize things, you run  
2 the risk of having another regulatory change.  
3 That may change your layout. That's a risk  
4 that you run.

5 MR. AUSTIN: Thank you.

6 CHAIRMAN STUTO: Okay can the  
7 applicant - Tom or Elena can chime in  
8 too - two of the big issues were the Army  
9 Corps letter having expired and the SEQRA in  
10 some fashion be inadequate. Can you address  
11 those two issues?

12 Tom, do you have anything that you want  
13 to say in the meantime?

14 MR. JOHNSON: No.

15 MR. FRANCIS: I'll address the wetland  
16 boundary issue. I beg to differ with the  
17 opinion that they are not valid boundaries.  
18 These are valid Corps boundaries that have  
19 been delineated by an environmental scientist  
20 in the field and surveyed by our survey staff.  
21 So, they were definitive locations for them  
22 and they are indeed shown on this map in this  
23 cross-hatched areas shown here (Indicating).

24 We acknowledge that the JD letter has  
25 expired. We are aware of that time frame. We

1 had conversations with representatives of the  
2 Corps and DEC just yesterday about this  
3 project and we also understand that by  
4 springtime we would be back out to refresh  
5 this Corps delineated wetland. We would have  
6 the Corps visit the site to refresh the  
7 jurisdictional determination. It is true that  
8 there are some seasonal fluxuations, but  
9 largely the boundaries without changes to the  
10 land and development, they generally do not  
11 change appreciably too much. Our proposed  
12 wetland impacts that we do have on this  
13 site - as I mentioned earlier - forty three  
14 thousandths of an acre - we have a threshold  
15 of one-tenth of an acre before we have to  
16 propose any mitigation improvements. We have a  
17 little room. We have some very minor impacts.  
18 Beyond that, there are no other wetland  
19 impacts proposed in the area. It's a risk that  
20 we take. The applicant is aware of that. We do  
21 need to refresh that JD letter, but we do not  
22 see that as an appreciable change to the lot  
23 layout throughout this whole subdivision.

24 CHAIRMAN STUTO: So, you're suggesting  
25 that should be continued -

1           MR. FRANCIS: Let me just state this: It  
2 does need to be a contingency. It will need to  
3 be required as a function of a joint permit  
4 application that I've already discussed. We do  
5 know what we need to do. The Corps will make  
6 us go out and refresh that jurisdictional  
7 determination outright. We can't get a JD  
8 without doing it. We know that we have to  
9 refresh it, but we would do that this coming  
10 spring of 2012.

11           CHAIRMAN STUTO: She stated that the  
12 SEQRA was somehow deficient that was done in  
13 2001 or 2002. Can you address that?

14           MR. FRANCIS: We filled out the required  
15 short EAF forms at the time. The lead agency  
16 made their determination.

17           MS. VAIDA: I should probably point out  
18 that the grandfathering clause does state that  
19 the current Planning Board does have to comply  
20 with the SEQRA and to make sure that it's been  
21 fully compliant.

22           CHAIRMAN STUTO: We do have a neg dec in  
23 the file, correct?

24           MR. FRANCIS: Correct.

25           CHAIRMAN STUTO: Okay, is that compliant?

1 MS. VAIDA: I think that we're going to  
2 need to look into whether there have been any  
3 changes. I don't know if we have enough.

4 MR. FRANCIS: If I may clarify, this lot  
5 layout is the same layout that's the SEQRA neg  
6 dec is based upon. There are 75 lots here and  
7 75 lots here (Indicating); it's the same  
8 layout.

9 MS. VAIDA: But that's not the only  
10 consideration for SEQRA. We actually used the  
11 long form now. The Town Attorney's office now  
12 asks the applicants to use the long form just  
13 to give us more information. I realize that no  
14 one probably asked you to do that. That  
15 probably would be helpful.

16 MR. FRANCIS: That's what the Planning  
17 Department and the Planning Board asked us to  
18 do in 2001. We've presented a plan then in  
19 January 15, 2002 for their concept acceptance.  
20 That's the information that they have before  
21 them as a 75 lot subdivision and that's what  
22 they acted upon with the information that they  
23 had at the time.

24 MS. VAIDA: The short form really doesn't  
25 go through very much in terms of environmental

1 impacts. It doesn't provide very much  
2 information.

3 CHAIRMAN STUTO: He did environmental  
4 studies.

5 Why don't you go through the studies?

6 MS. VAIDA: Although it's not signed and  
7 I don't know if it was acted on but there is  
8 an assessment of GEIS consistency, which I  
9 thought was helpful in terms of the  
10 environmental impact.

11 MR. FRANCIS: I believe that was done by  
12 Mr. DeLaughter.

13 MS. VAIDA: He pointed out where there  
14 might be some issues so it might be helpful to  
15 just look at that document. If it's consistent  
16 with the GEIS, unless there is something that  
17 is not covered there, you would be okay.

18 MR. FRANCIS: I believe that all of his  
19 issues that he has mentioned in his assessment  
20 have either been addressed or still carrying  
21 forward in all the information that we have so  
22 far.

23 MS. VAIDA: That would be the only thing,  
24 Peter, if we just wanted to go through that  
25 quickly and have the applicant affirm that

1           these findings would be the same and nothing  
2           has changed?

3           MR. GARRIGAN: Can I address the Board,  
4           Mr. Chairman?

5           CHAIRMAN STUTO: Who are you?

6           MR. GARRIGAN: I'm Ed Garrigan. I'm the  
7           VP of CT Male Associates.

8           CHAIRMAN STUTO: Sure.

9           MR. GARRIGAN: With regards to SEQRA,  
10          SEQRA is closed. A negative declaration has  
11          been issued. There has been no significant  
12          changes to this plan that was utilized for  
13          that SEQRA determination. So, I don't believe  
14          that you can reopen SEQRA because it is closed  
15          and there are no changes to the project since  
16          that time.

17          MS. VAIDA: You're saying that there are  
18          no changes.

19          MR. GARRIGAN: Correct. This is the lot  
20          layout. Everything that you see here is what  
21          was reviewed during -

22          MS. VAIDA: Changes don't necessarily  
23          mean the lot layout.

24          MR. GARRIGAN: The project, as you see  
25          it, received concept approval which in the

1 Town of Colonie concept is a comprehensive  
2 approval. It's more than just a concept  
3 layout. It's nearly final stage.

4 MR. ROSANO: I believe that this Board  
5 has the ability and has in the past reopened  
6 SEQRA before final.

7 MS. VAIDA: It's not even that. The  
8 grandfathering clause - if you look at the  
9 language of the newest grandfathering clause,  
10 at the very end it says:

11 "Provided that the State Environmental  
12 Quality Review Act has been fully complied  
13 with, it puts upon this Board a duty to make  
14 sure that there are no environmental impacts  
15 and it has been complied with.

16 MR. GARRIGAN: So, we would need to  
17 reevaluate the impacts?

18 MS. VAIDA: What I was suggesting was if  
19 we went through the considerations and if  
20 there have been no changes and everything is  
21 the same, that would be one way to handle it.

22 CHAIRMAN STUTO: Right, I hear what  
23 you're saying.

24 MR. GARRIGAN: So, if I understand it  
25 right that we could go through and establish

1           that the project as you see it, is the same as  
2           was evaluated then - there are still no  
3           environmental impacts associated with this  
4           project and we're still compliant with the  
5           SEQRA determination that's been given.

6           CHAIRMAN STUTO: That's what she is  
7           suggesting. That's a possibility.

8           MS. QUINE: I just wanted to get  
9           clarification what you mean about the  
10          environmental assessment - that you want him  
11          to do.

12          MS. VAIDA: This falls within the generic  
13          environmental -

14          MS. QUINE: Is this the airport area GEIS  
15          and the findings - I think it was 1991.

16          MS. VAIDA: I don't have a date on that.  
17          It does go through in quite a bit of detail  
18          whether or not this project is consistent with  
19          the GEIS.

20          MS. QUINE: That's not going to reflect  
21          things that have changed since 2005?

22          MS. VAIDA: That's why I'm asking that.  
23          We would want to establish that there hasn't  
24          been a change or there has been a change; I  
25          don't know.

1 MS. QUINE: In the environmental setting  
2 or the environmental conditions?

3 MS. VAIDA: Whether or not it would still  
4 be consistent with the GEIS. If the GEIS has  
5 not changed, there is no update. The only  
6 thing that was brought out was the traffic. If  
7 it wasn't consistent there might need to be a  
8 supplement to the GEIS regarding the traffic.  
9 In fact, whenever this was done, it concluded  
10 that there was not.

11 MS. QUINE: So, you would need to update  
12 for 2011 or 2012?

13 CHAIRMAN STUTO: Or satisfy ourselves  
14 that things are still the same.

15 MS. QUINE: So, there would be something  
16 added to the record then, by the applicant?

17 CHAIRMAN STUTO: I think that she is  
18 suggesting that we back through what we have  
19 in our record here and see if that satisfies  
20 us, or if we need to make further  
21 investigation.

22 MS. VAIDA: Yes.

23 MS. QUINE: I would not concede that -

24 MR. ROSANO: Are you representing this  
25 group as legal counsel?

1 MS. QUINE: No, I live in the  
2 neighborhood.

3 CHAIRMAN STUTO: Okay, your comments are  
4 well taken. We're going to talk more about  
5 environment before we get done.

6 MR. MYERS: Mr. Chairman, can I speak?  
7 I've heard several comments as to the  
8 creativity of this subdivision and how simple  
9 this plan may appear. My name is Jeff Myers.  
10 I'm the owner of the property.

11 Back prior to our conceptual approvals,  
12 prior to 2001, Peter Platt, as Planning Board  
13 Chairman had visited a site and I was building  
14 in the City of Saratoga Springs. It was a  
15 cluster development with sidewalks, curbing,  
16 antique lampposts so forth and so on. He came  
17 back here and suggested that he wanted to see  
18 this put on this site. To do that required a  
19 zone change from the Town Board.

20 We presented that to the Town Board for a  
21 zone change. We were knocked down on that. We  
22 were told to come back; no clustering, no  
23 change in zone and to adhere to the existing  
24 zone on this.

25 I do want everyone to know that we did

1 attempt to do this prior to any of these  
2 plans.

3 CHAIRMAN STUTO: Thank you, that's  
4 helpful.

5 Tammy Weingarten, 14 Tulip Tree Lane.

6 MS. WEINGARTEN: We live on this end of  
7 Tamarack on Tulip Tree. While I agree with  
8 previous speakers about environmental impact  
9 and it's a great concern of mine, my immediate  
10 concern is my children and the other children  
11 in the neighborhood. I can see easily that a  
12 dozen children live on just this end of  
13 Tamarack alone. With only Branchwood Way and  
14 Walnut Lane as the so-called only entrances  
15 and egresses, I'm concerned about people going  
16 through Tamarack down to Tulip Tree and around  
17 Oak Tree down to Route 7. I know that I've  
18 read that there was a traffic study done, but  
19 from what I've read the traffic study was done  
20 from Tamarack down Walnut and down to Ash  
21 Tree. That makes no sense at all. Why would  
22 you study Ash Tree when the direct route is  
23 Tamarack down to Tulip Tree? I think that in  
24 itself needs to be investigated. We can't have  
25 children playing on a hill with tremendously

1 blind corners.

2 When you come up Tulip Tree - the other  
3 part of Tulip Tree, going onto Tamarack - at  
4 sunset, it's blinding. It's a horrible blind  
5 corner. Neighbors are often very worried about  
6 the kids that play nearby. They're playing on  
7 the sidewalk, the grass or their front lawns.  
8 The ball rolls in the street and it's  
9 blinding. You cannot see the kids playing.  
10 It's a big concern and now we're talking about  
11 how many new houses and how many more cars?  
12 Double the number of cars per house, because  
13 everyone has two cars now. That's a huge  
14 impact on the neighborhood and this is  
15 existing neighborhood over here (Indicating).  
16 We can't forget about this neighborhood  
17 either. I haven't heard that mentioned at all.  
18 I just want to make sure that everyone is  
19 aware of that. At least a dozen kids right  
20 here and now we're talking Ash Tree and Oak  
21 Tree and the surrounding streets, as well  
22 further down.

23 As we approach Route 7, it's a whole  
24 other problem when it comes to traffic impact.  
25 Thank you.

1                   CHAIRMAN STUTO: Thank you.

2                   Karen and Stuart Denike.

3                   MR. DENIKE: In this book that we  
4                   presented to you - on the inside front pocket  
5                   there are the responses that we received from  
6                   the September 28<sup>th</sup> meeting. I just want to  
7                   make it clear that meeting was not just for  
8                   the Birchwood Neighborhood Association. That  
9                   was a meeting open for the residents. We  
10                  finally, as was mentioned early, got the  
11                  responses back from that September 28<sup>th</sup>  
12                  meeting on December 9<sup>th</sup>. We went through it as  
13                  best we could. We didn't have much time, but  
14                  you'll see that we responded again to this in  
15                  red. There are a lot of issues in there that  
16                  would be considered either not answered at all  
17                  or not properly answered. I would ask you as a  
18                  Board to go through this and consider it.

19                  Mr. Chairman, the other thing you said  
20                  earlier, in essence, if you're going to do it,  
21                  do it right. That's all we're asking. We're  
22                  not saying that we're necessarily against the  
23                  development, but we want it done right. So far  
24                  I think that there are way too many issues  
25                  that still have to be addressed. Thank you.

1 CHAIRMAN STUTO: Thank you.

2 Robert Schlieman.

3 MR. SCHLIEMAN: When did the park  
4 location get moved from the FEGIS specified  
5 location?

6 CHAIRMAN STUTO: Joe, are you able to  
7 address that?

8 MR. LACIVITA: I know that we met with  
9 Kevin DeLaughter and I think that it was Jim  
10 Zambergino or Donny Myers who was head of  
11 Parks and Recreation. We actually sat down  
12 with the Oak Hill plan at the time and the  
13 Ridgewood development. When we met with  
14 Mr. Myers and Melissa, we looked for the plot  
15 of land that would actually be best fit for  
16 the park. That was the land that was  
17 designated at that time.

18 Correct me if I'm wrong, Jeff or Melissa,  
19 I think that dates back to about 2008 or early  
20 2009.

21 MS. COURIER: I think it was 2008. We did  
22 get a Parks and Rec letter in 2002 that they  
23 didn't want it on this parcel. That's when we  
24 decided to look at alternate location across  
25 the street. At the conceptual approval of

1 Ridgewood - that's when we showed it there. It  
2 was 2008 when we had those discussions and  
3 meetings.

4 MR. SCHLIEMAN: What was the PEDD's  
5 justification for moving it? Why did they not  
6 want in that area where the FGEIS wanted it?

7 MR. LACIVITA: I believe that it was when  
8 they talked to Parks and Recreation. They  
9 looked at land that was best suitable to be  
10 maintained and used as a passive park. I  
11 believe that's why the recommendation was made  
12 by Planning and Economic Development at that  
13 time.

14 MR. SCHLIEMAN: Have you looked at the  
15 land contours to get to that park?

16 MR. LACIVITA: That was a recommendation  
17 made by Donny Myers at the time, who had  
18 walked the site. I think it was Mr. Cunningham  
19 who was Assistant Park Superintendent and they  
20 made the recommendation to us.

21 MR. SCHLIEMAN: If I remember correctly,  
22 the Ridgewood Subdivision was intended to be  
23 cluster development for older people that  
24 didn't want to maintain their properties. So,  
25 if now there is children, that means that the

1 children in the neighborhoods, both the future  
2 children in this project neighborhood and the  
3 existing neighborhoods would have to cross  
4 over the heavily traffic road and climb up a  
5 steep hill to get to this park. It doesn't  
6 make a lot of sense.

7 I submit that the FGEIS was valid in its  
8 choice of putting it between Vly Road and  
9 Denison and I would sure like to understand  
10 the rationale formally that was used to select  
11 this area.

12 MR. LACIVITA: Melissa, if you could?

13 MS. COURIER: Ridgewood is not a 55 and  
14 older development. It was actually a single  
15 family residential development. It is cluster  
16 based on the 2007 conservation zone. So, there  
17 is a lot of area of open space that remains.  
18 The lots are smaller than what you would see  
19 on this side of this parcel and they're  
20 clustered together, but it isn't an age  
21 restricted limited subdivision and neither is  
22 Londonderry.

23 MR. SCHLIEMAN: I didn't say that it was  
24 age restricted. I said that it was intended  
25 for and that was the way that it was expressed

1 in public meetings that we went to way back  
2 when.

3 My next comment: Did this change in the  
4 FGEIS to move the park out of it at a location  
5 specified go through any statutory process  
6 that would be required to modify an FGEIS?

7 MR. LACIVITA: I don't have the answer to  
8 that.

9 MR. SCHLIEMAN: Elena, would you comment  
10 on that?

11 MS. VAIDA: No, but I'm just making notes  
12 on what you're saying. You're saying that the  
13 GEIS called for a park in a certain location  
14 and that's not where it's being proposed.

15 MR. SCHLIEMAN: That's right.

16 What is the condition of the  
17 grandfathering that, in addition to going  
18 through the Planning process with the Planning  
19 Board? It also had to be filed as the final  
20 document had to be filed with the Albany  
21 County Clerk's office.

22 CHAIRMAN STUTO: Can you repeat the  
23 question?

24 MR. SCHLIEMAN: Wasn't there a condition  
25 on grandfathering that in addition to the

1 Planning process by the Planning Board on the  
2 concept approval and final plan approval, it  
3 was required to be filed with the Albany  
4 County Clerk's office?

5 MS. VAIDA: It calls for the final plan  
6 to be on file. The final plan hasn't been  
7 approved yet.

8 MR. FRANCIS: Or concept approval.

9 MR. SCHLIEMAN: It's not an "or"  
10 statement it's an "and" statement.

11 MR. FRANCIS: It says the project or  
12 subdivision plan which has been granted  
13 concept approval or acceptance as of the date  
14 of adoption of Local Law 1 and for which the  
15 final subdivision plans are filed.

16 So, we've achieved the first part of it.

17 MR. SCHLIEMAN: But the objective there  
18 says that there is a part that hasn't been  
19 done yet. So, the grandfathering isn't valid;  
20 at least that's the way that an ordinary  
21 person might read what that and refers to.

22 You say that the length of the Tamarack  
23 stub is 1,200 feet.

24 CHAIRMAN STUTO: That's was estimated;  
25 yes.

1 MS. COURIER: That was an estimate of  
2 1,200; yes.

3 MR. SCHLIEMAN: How many houses are there  
4 on that stub?

5 MR. FRANCIS: Approximately 31.

6 MR. SCHLIEMAN: So, there is 15 or 16  
7 houses that have road frontages in excess of  
8 100 feet, right?

9 MR. FRANCIS: Road frontage; yes.

10 MR. SCHLIEMAN: I thought I added up once  
11 and came up with 2,200 feet.

12 I submit that is excessive. Isn't there  
13 some kind of a Planning requirement for the  
14 maximum length of a stub?

15 MR. FRANCIS: There is no written code  
16 for the maximum length of a cul-de-sac in the  
17 Town of Colonie. There is a recommendation -

18 MR. SCHLIEMAN: And that is?

19 MS. COURIER: I think that it's 900 by  
20 Fire Services.

21 MR. FRANCIS: But it's merely a  
22 recommendation by Fire Services. There is no  
23 written code that limits the length of a  
24 cul-de-sac in the Town of Colonie.

25 MR. SCHLIEMAN: In any case, it exceeds

1 the recommendation by Fire Services with the  
2 length of a stub.

3 When we had our meeting on September 15,  
4 do you remember that at our request to look at  
5 what could be done to make the Vly Road  
6 entrance work, Jeff instructed you to do an  
7 engineering analysis of what it would take to  
8 mitigate that. Those were the words.

9 MR. FRANCIS: No, he did not.

10 MR. SCHLIEMAN: Oh he didn't?

11 MR. MYERS: And he asked if you were  
12 willing to pay for an extended study and you  
13 said that you weren't.

14 We said that we'd look into the variables  
15 and to prove out the distance and information  
16 because we didn't know about the numbers at  
17 that meeting.

18 MR. SCHLIEMAN: We didn't talk about  
19 distances. We said what would it take to  
20 mitigate that issue? That's what we wanted.  
21 Here is a case where there may be mitigation  
22 possible. I know that there are several ways  
23 to do it.

24 MR. LANE: You mean to open it up? We  
25 actually discussed another alternative and it

1 doesn't appear that mitigation is a  
2 possibility. We don't want to get into a back  
3 and forth argument. You're going into a little  
4 side bar.

5 MR. ROSANO: Keep addressing this Board,  
6 please.

7 MR. LACIVITA: I'm looking back at my  
8 notes. I was in that meeting of September 15,  
9 2011 where we were all at that meeting and I  
10 have 24 talking points of that meeting. Not  
11 one talked about the length of a cul-de-sac or  
12 the additional study.

13 MR. SCHLIEMAN: You left the meeting  
14 before then.

15 MR. LACIVITA: No.

16 MR. SCHLIEMAN: I'm glad to see that  
17 you've decided to have a Town Designated  
18 Engineer look at these issues.

19 I've heard people say that every house  
20 now a days has two cars now. Yet the CDTC  
21 report was based on 1.4. That was ridiculous.

22 Thank you. I appreciate it.

23 CHAIRMAN STUTO: Lawrence Palleschi,  
24 58 Denison Road.

25 MR. PALLESCHI: Larry Palleschi,

1           58 Denison Road. I'm Vice President of the  
2           Birchwood Neighborhood Association.

3                   Let me take two seconds and kind of  
4           reshape a little bit of a picture that  
5           everyone is looking at for the Board's view of  
6           what's happening.

7                   What you have from the Birchwood  
8           Neighborhood Association today - we worked on  
9           well through last night. They are comments to  
10          responses that were given to us - a group of  
11          questions that were presented to a meeting  
12          that thankfully Joe had put on back in  
13          September. Those questions were not only  
14          Birchwood Neighborhood Association questions  
15          but they were questions that we went out and  
16          asked all of our neighbors. You may ask why  
17          would you want to ask questions of your  
18          neighbors regarding this subdivision. Well  
19          that's one of the problems that we're looking  
20          at tonight is the length of time that this has  
21          been on the boards. Bear with me. This is

22                   Mr. Krawitzky's house here (Indicating).  
23          This is my house. From Wallace's house, a new  
24          neighbor, new neighbor, new house, new house,  
25          I think that's an old neighbor, new neighbor,

1 new neighbor, new neighbor, new neighbor. So,  
2 it's been a long time and there are a whole  
3 lot of people that don't have a lot of history  
4 about this project whatsoever. That is why you  
5 see in those questions things that has been  
6 asked 10 years ago, maybe it was asked five  
7 years ago. Maybe some of us did, but those  
8 questions are representative of that  
9 neighborhood. I think that the best way to  
10 explain it from a movie that says I think that  
11 there is a failure to communicate here because  
12 unfortunately we got the answers too late to  
13 really enable you to respond to anything  
14 beyond that. I think that what maybe should  
15 have happened was a follow up meeting to  
16 explain a lot of the questions.

17 Again, CT Male assured you that all the  
18 questions were answered. I can assure that all  
19 of those questions were not answered. They  
20 weren't answered because they weren't meant  
21 for CT Male to answer. They were meant for the  
22 Town to answer. If you look through a lot of  
23 those questions, you'll understand why we  
24 asked them. They had to do with Town  
25 procedures and Town interpretations. So,

1           again, when you look at that book, please  
2           realize that it's not a BNA book. BNA put it  
3           together for the purpose of discussing the  
4           subdivision. BNA, in no way, shape or form is  
5           against development of this area. We've worked  
6           with the developer on this whole other half.  
7           Mr. Myers has been very cooperative with  
8           everything that we've done. He's come through  
9           and actually said to us that he will do  
10          whatever the Town tells him to do to be able  
11          to put these items together

12                 One of the big problems that we're having  
13                 is a problem with sedimentation. That's  
14                 exactly what's going on with this subdivision.  
15                 The SEQRA process is put together so that you  
16                 can get a picture of the impact of the  
17                 entire -- it's supposed to be a project, but  
18                 in this case we have a situation where a  
19                 single owner has divided a single property  
20                 into two pieces, covered by two different  
21                 SEQRAs. Those pieces have been subdivided to  
22                 other pieces and they've probably been broken  
23                 up into five or six different areas now. In  
24                 addition to that, this is the kind of thing  
25                 that we really need to be looking at. What is

1 the effect of this? That's why the Birchwood  
2 Neighborhood Association was formed in the  
3 first place; to look at this. That's where the  
4 issues that we have with this is that we keep  
5 breaking this down and down into smaller  
6 pieces when in fact the whole group of the  
7 subdivisions is where the problem is. How can  
8 I stand here and say that the SEQRA is wrong?  
9 Well I can give you a couple of quick reasons.  
10 First is the traffic.

11 There was a study done in the early  
12 1990's and when the one subdivision  
13 disappeared there was another traffic study  
14 done specifically for that intersection where  
15 we talked about the roundabout. The study that  
16 was done was based on some engineering  
17 documents or engineering design references  
18 that recommended that generation of traffic  
19 for each house was based on 1.4 cars per  
20 house. That is totally ludicrous. That means  
21 that two out of every three houses has one  
22 car. I would ask Mr. Myers how many of these  
23 houses are going to have one car garages? Not  
24 one, I bet. More effective number might have  
25 been two or two and a half.

1                   Unfortunately Stu and I, between the two  
2 of our houses, had 13 cars because of the kids  
3 there. There certainly isn't 1.4.

4                   Now the roundabout area described in the  
5 minutes of the meetings with Mr. Jukins that  
6 day said that while there is no anticipating  
7 impact from the 1.4 cars per house, that it  
8 probably wouldn't need a traffic controlling  
9 device. In this case we talked about traffic  
10 circles. If you use anything other than 1.4  
11 cars, you're going to come to the conclusion  
12 that yes, you do need a traffic circle.

13                   There are other questions like what about  
14 the traffic on Denison Road? What about other  
15 traffic calming measures on Denison Road?  
16 Again, it's not a question for the builder;  
17 this is for the Town. How do you expect to  
18 handle the traffic from all these areas? This  
19 piece of Denison Road has had a bus go off the  
20 road here (Indicating) and a car flip over on  
21 its roof here. A certain member of a local  
22 surveying company was clipped over here  
23 (Indicating) when they were measuring traffic.  
24 This is not an inconsequential piece of road.  
25 There is a lot of traffic that comes down here

1 at a very high rate of speed and I would  
2 assume that the Town would like to look into  
3 traffic calming measures. To say that the  
4 SEQRA - the conditions have not changed since  
5 that SEQRA was written is again totally false  
6 because of the traffic study that was done for  
7 Breckenridge is different than the traffic  
8 study that was done for Vly Road and Denison  
9 Road. It's going to be different for the fact  
10 that these are not one garage houses. The fact  
11 that the water that's being pumped up  
12 here -- all of our neighbors here have very  
13 poor water pressure. Let me tell you that for  
14 27 years we've been told just wait for that  
15 water tower to be built and we're going to fix  
16 your water pressure. Now they're telling me  
17 well maybe or maybe not. It's a case by case  
18 basis. That is unacceptable. Twenty seven  
19 years of waiting, my neighbors and I -- you  
20 can run 60 psi, 70 or 80 psi to that house, I  
21 don't care. I'll use it. Right now I'm running  
22 on a pump and I will gladly trade my electric  
23 bill and pump for a pressure reducing valve  
24 from whatever pressure you'll give me. For the  
25 Latham Water District to say that they are not

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1 going to service these houses is a travesty.

2 CHAIRMAN STUTO: Thank you.

3 Jill Knapp, Director of Mohawk Hudson  
4 Land Conservancy.

5 MS. KNAPP: Thank you. I think that I  
6 don't want to say too much. I think that it's  
7 all pretty much been said. I just want to make  
8 a few cases here.

9 In this plan it's acknowledged that open  
10 space protection has fiscal benefits as well  
11 as environmental benefits. On the open space  
12 plan map there is an area that is identified  
13 that should be protected and this is exactly  
14 where the development is planned. It also  
15 encompasses MHLC's Ashford Glen which is  
16 specifically mentioned and the plan states:

17 "The Ashford Glen Preserve is already a  
18 preserve area and the opportunity exists to  
19 expand the open space resources here to create  
20 a design of development and conservation  
21 easements."

22 On page 59 it also says:

23 "Organizations such as the Albany County  
24 Land Conservancy, which is now the Mohawk  
25 Hudson Land Conservancy is willing to work

1 with communities to achieve meaningful open  
2 space protection. I would like to reiterate  
3 that we are willing to help you with this.  
4 When you ask about conservation easements, if  
5 you would be willing to hold them, we would be  
6 more than happy to talk to you with helping  
7 with some of those things.

8 To really protect space, the easements  
9 must be written carefully and they must be  
10 recorded. It came to my attention very  
11 recently as of last week that not all  
12 municipalities are doing this. To be a legal  
13 conservation easement in New York State, they  
14 must be filed with the DEC and many  
15 municipalities are not aware that recording  
16 with the County Clerk is just the first step.  
17 They also must be recorded with the DEC in  
18 order to be legally binding. That's under  
19 Article 49 of the Conservation Law.

20 You heard about the benefits that could  
21 be achieved.

22 CHAIRMAN STUTO: Who would be the logical  
23 grantee of the easement?

24 MS. KNAPP: The grantee could be the  
25 Mohawk Hudson Land Conservancy.

1                   CHAIRMAN STUTO:  Would you consider those  
2                   15 acres?

3                   MS. KNAPP:  We do have some criteria.  
4                   First of all they have to have a public  
5                   benefit and they must have conservation  
6                   values.  Those are requirements of the IRS  
7                   code.  We will not take easements that don't  
8                   meet IRS conditions.  Those would be conditions  
9                   that we'd have to consider.

10                  CHAIRMAN STUTO:  At first blush you  
11                  wouldn't reject them, would you?

12                  MS. KNAPP:  I don't make those decisions.  
13                  They do have criteria which are relevant and  
14                  they do have some of the criteria we would  
15                  require.

16                  CHAIRMAN STUTO:  Can you speak to her  
17                  later?  I'm asking the applicant.  Can we  
18                  coordinate with this woman with respect to the  
19                  conservation easement?

20                  MR. FRANCIS:  Absolutely.

21                  MS. KNAPP:  Just going on with some of  
22                  the goals that are listed in your Comp  
23                  Plan - all of these can be accomplished with  
24                  conservation design.  I was pleased to hear  
25                  that you were at least considering some kind

1 of conservation development on your other  
2 areas.

3 Page 9 of your Comp Plan says:

4 "Environmental and open space  
5 conservation goals are accomplished where  
6 development is focused on these compact areas  
7 rather than spread out across the landscape."

8 On page 63:

9 "It's recommended that the Town revise  
10 its zoning regulations to require these  
11 conservation subdivision design in  
12 conservation areas as illustrated in the open  
13 space recreation map."

14 That is exactly this area.

15 "Utilizing conservation subdivision will  
16 allow development to occur and still provide  
17 opportunities to conserve open space and  
18 trails. This form of development will permit  
19 flexible lot sizes, facilitate creative design  
20 and harmony with the landscape. In addition to  
21 the environmental and scenic benefits of  
22 allowing homes to be sited in a creative way,  
23 a network of conserved open lands can be  
24 created in this process."

25 I have no doubt that there will be some

1 impacts to Ashford Glen.

2 When you start developing this, there is  
3 likely to be tree removal, you're going to  
4 have an increase in impervious surface. As  
5 little as 10 percent increase in impervious  
6 surface does effect run off, so you're likely  
7 to find more runoff. All of that does carry  
8 down into the streams. It may also increase  
9 some of the wetness in your wetlands. There is  
10 no question that we have concerns about the  
11 impact on Ashford Glen. The Land Conservancy  
12 is asking that you consider the  
13 recommendations in your own Comprehensive Plan  
14 and require the type of development that will  
15 protect some of your last remaining open  
16 space, provide a quality of life to the  
17 neighbors and allow the developer a reasonable  
18 use of his land.

19 CHAIRMAN STUTO: Thank you.

20 Dave Rettig, 5 Tamarack Lane.

21 MR. RETTIG: I have to say first that I  
22 much prefer standing on this side of the mic  
23 than where you are. You all have a very tough  
24 job to do. Obviously, everybody has a right to  
25 develop their property. They need to make sure

1           that they do it in a responsible manner. I  
2           guess what I'm focused mostly on is the  
3           traffic situation.

4                     First of all I'll start with something  
5           that was said earlier about CDTC and federal  
6           funding and state funding. They really don't  
7           control state funding. They only control the  
8           federal funding. There are a couple of things  
9           that I'm not sure about, actually. I'm not  
10          sure that Denison Road and Vly Road are on the  
11          federal aid system. So, I don't even know that  
12          CDTC has any role in getting funding for these  
13          particular projects. I'm not sure whether they  
14          are or they're not, but I'm going to guess  
15          that they're probably not. The way that the  
16          federal transportation law is going, they  
17          might be shrinking the federal aide system for  
18          what's eligible for federal aid. So, thinking  
19          that someone is going to come in on a white  
20          horse and save the day with a lot of funds  
21          that are not coming from the Town is probably  
22          unlikely.

23                     So, I did hear that there were some  
24          mitigation fees here. There is some money. I'm  
25          sure that the Town probably has some money.

1 But one of the things that I wanted to focus  
2 on is that we're hearing a lot of things here  
3 that raise questions in my mind. I don't know  
4 what final approval means. There are a lot of  
5 questions before you get final approval with  
6 this many questions.

7 The questions that I have are to do with  
8 the traffic studies that have been done. They  
9 have to do with the sight distance problem on  
10 Vly Road, supposedly. If they studied the  
11 intersection and stopping sight distance, did  
12 they look at what mitigation could be done? I  
13 didn't have a lot of confidence from what I  
14 heard here that there is someone in this room  
15 that knows the answer to those questions. I  
16 think that the study is probably done by  
17 others. Whether they are valid traffic counts  
18 or not, I don't know that's true, so it's kind  
19 of hard for me to imagine giving final  
20 approval on something where there are  
21 questions like this out there.

22 I'm hoping that Tom Johnson is not there  
23 for just tonight and that he's here to look at  
24 something - that someone refreshes the study  
25 that was done that looks at the sight distance

1 at Vly Road. Obviously, one of the things is  
2 that there are new standards. What does that  
3 mean? What are the other intersections on Vly  
4 Road? Do they meet those standards? Does every  
5 intersection in the Town meet those standards;  
6 probably not. You don't want to build  
7 something that is going to create a problem;  
8 that's for sure. Are you directing people to  
9 intersections that would be worse because they  
10 can't get out onto Vly Road? You want to  
11 spread out where the traffic is going to go to  
12 limit the impact so it's a little bit  
13 everywhere? I'm just hoping that there is a  
14 little more analysis done in the traffic  
15 situation before you make a final decision.

16 MR. AUSTIN: Sir, I believe that in  
17 reference to Old Vly Road, we as a Board were  
18 discussing about an hour and a half ago, the  
19 whole emergency access. That was rather than a  
20 public access.

21 MR. RETTIG: I was just talking about  
22 public access.

23 MR. AUSTIN: I think that we kind of  
24 addressed that earlier. I think that the  
25 public access thing is going to be something

1           that we're really thinking about.

2           MR. RETTIG: I guess I'm asking why.  
3           Where are you sending these people that aren't  
4           going out there? Are they going by  
5           intersections that are actually worse than the  
6           one that you would be creating? I don't know  
7           the answer to that.

8           MR. AUSTIN: They're not creating an  
9           intersection. We're creating an emergency  
10          access.

11          MR. RETTIG: If you did create an  
12          intersection, it might have actually less of  
13          an impact then where you're sending all these  
14          people. I know the intersection. I know that  
15          Tammy, who was the one up here with the baby,  
16          worried about an intersection at the corner of  
17          Tulip Tree and Tamarack. So, if these people  
18          come in from the development that aren't going  
19          out on Vly -- some of them go out on Denison,  
20          but some of them will come down Tamarack. The  
21          intersection that she is talking about at  
22          Tulip Tree - I don't come that way when I come  
23          home from work because I'm worried about kids  
24          playing at that corner because it is blinding.  
25          You come around the corner and you can't see a

1           thing. I don't even go that way anymore and  
2           we're going to be sending more people through  
3           that intersection. Is that an issue? I'm just  
4           saying are we creating more of a safety issue  
5           by not having that intersection or by having  
6           it? I understand that you're saying that  
7           you're not considering it, but is that a  
8           reasonable place to have an intersection if  
9           it's mitigated? I don't know the answer to  
10          that. I don't think that anyone here knows the  
11          answer to that.

12                   CHAIRMAN STUTO: Wallace Krawitzky,  
13           9 Walnut Lane East.

14                   MR. KRAWITZKY: I'm Wallace Krawitzky and  
15           I live at 9 Walnut Lane East. I'm a resident  
16           of Colonie for 24 years now and I think that  
17           I've seen it all. When I first moved here I  
18           asked the Town tax people. I anticipated  
19           development behind me. They said guaranteed  
20           for the next five years they won't be  
21           developing. Five years was right because five  
22           year later, Breckenridge came. But you've  
23           heard all of this and I will tell you that my  
24           concern is traffic.

25                   Every spring it rains. I have water

1 coming into my basement. I can't control that.  
2 I get water in the back yard and it comes into  
3 my basement. In the past with this development  
4 there was talk about getting an access point  
5 at Ash Tree, but they said that there was too  
6 many wetland areas there. Ash Tree would be  
7 over here as a stub (Indicating) and in the 24  
8 years that I've lived there, this spring was  
9 the first time that I saw water rushing out of  
10 the storm sewer right at the stub there at Ash  
11 Tree. In 24 years, I've never seen water come  
12 out rushing like a river. This is before we  
13 had the Hurricane issues. I don't know what's  
14 going to happen when they start moving earth  
15 and putting in -- I would think that with all  
16 these houses they're all going to be pumping.  
17 The water has to go somewhere.

18 As for Denison and the sight distance  
19 problem, I remember in the very beginning of  
20 these hearings when Chairman Platt would say,  
21 I think that this problem started when we  
22 opened up Denison. I guess at one time it was  
23 never connected. There were a few houses here  
24 (Indicating) and then Denison was not  
25 connected to Vly. By opening it up, it allowed

1 people to go from Route 7 to Route 5.

2 In the early 90's they did a resurfacing  
3 or widening of Route 7 and people realized  
4 that they found this road and they said, this  
5 is great, we can go straight to Route 5 and  
6 from that time on, people have been using it.

7 When I looked at the developments in the  
8 very beginning, in early 2000, one of the  
9 problems that I had with the previous  
10 predecessors -- I would say to them, you have  
11 to look at the whole area because a lot of  
12 time Planning Departments - not just this  
13 department, but other ones would look at a  
14 development by itself. Here you have a unique  
15 situation where you have three developments.  
16 Originally, this was one whole development but  
17 you have three and I brought up that they have  
18 to look at the traffic from all three at the  
19 same time.

20 It's the responsibility of the Planning  
21 Board to make sure that they have this. Right  
22 now what you have is a situation where traffic  
23 at Denison Road and Vly Road -- the only  
24 control that you have is a stop sign at Vly  
25 going south.

1           In talking about sight distance problems,  
2           if you ever pulled up to that stop sign, it's  
3           very difficult to look both ways. You can see  
4           south, but you can't see north on Denison. You  
5           have to inch out where I live on Walnut Lane  
6           East and for me to go south on Denison, I have  
7           to look both ways and the sight distance is  
8           also very poor. How they could allow that?  
9           Only recently they had some new houses that  
10          were built here. They cleared up some of the  
11          woods. Still, the sight distance problem is  
12          there.

13           When I talk about going back to the Vly  
14          Road and Denison intersection, again, that's a  
15          situation that the Town allowed. I don't know  
16          how they created it. The owner on the corner  
17          recently put up a railing fencing so that you  
18          can see a lot better. Still, it's very  
19          difficult to go through there.

20           What's going to happen in the future with  
21          these developments? I'll tell you right now  
22          Peter Platt said we're not going to put a  
23          traffic signal in there. It didn't warrant it.  
24          There are certain warrants. I don't know how  
25          many people have to die before you warrant it.

1           In 2002 the BNA met with the Town with  
2           Mary Brizzell and the Chairman of the Director  
3           of the Planning and Economic Development, Phil  
4           Pearson. Kevin DeLaughter was there, also. We  
5           talked about how we could correct the problem  
6           of that intersection of Denison and Vly. I  
7           asked about the roundabout. Now, this is 2002  
8           and roundabouts were not popular here. They  
9           heard about them in Europe and I saw them in  
10          Florida and they were thinking about it.

11           Now, recently in the 2009 meeting in  
12          March I think that we had a transportation  
13          study and looked at all the traffic in this  
14          Vly area and there was talk about the  
15          roundabout. As previous speakers have said,  
16          who is going to pay for it? We're not going to  
17          ask the developer to pay for it. There are  
18          usually mitigation fees collected for  
19          developments. Who knows how much money is  
20          used? We've read the paper in the past that  
21          money has been used for other things other  
22          than what it was supposed to be used for. I  
23          live here and the reason that we wanted the  
24          access from Tamarack to Vly is because you  
25          have so many houses here with the number of

1 cars. You've only given these people two ways  
2 of going anywhere. If you want to go north,  
3 you can come out Branchway which is your main  
4 driveway. You turn right.

5 I don't know if you're familiar with this  
6 road or if you've been through it in the past.  
7 First of all, it's very heavily traveled. You  
8 can see the patchwork that the Town recently  
9 put down. I've seen over the years parts of  
10 Vly Road, south of Denison, resurfaced several  
11 times. This road - I don't remember the last  
12 time they really did a resurfacing.

13 When you have two access points, the main  
14 road here (Indicating) and Tamarack, as the  
15 woman Tammy said, Tamarack Lane north of this  
16 intersection is a small lane and there is at  
17 least a dozen or more families with young  
18 children that play in the streets. I have  
19 walked my dog and a lot of people walk their  
20 dogs. There are kids on bicycles. There is a  
21 basketball hoop on the street or on a curb and  
22 the sight distance is poor. I can tell you  
23 right now that in the winter time, that part  
24 of Tamarack gets icy and school buses use that  
25 road.

1           Two ways of getting in is not enough. If  
2           these people want to go east on Route 7 to  
3           Latham, they're going to go through Tamarack  
4           or they're going to go through Denison.  
5           Denison Road becomes Birchwood Lane in the  
6           Town of Niskayuna. Birchwood School is located  
7           there and there is a restricted speed of 20  
8           miles an hour from 7 a.m. to 5 p.m. What  
9           people learn eventually is that they can turn  
10          right onto Walnut Lane and then turn left onto  
11          Ash Tree. From that point on there is no  
12          traffic control. They can go straight to Route  
13          7. The reason why we wanted to open up  
14          Tamarack is because now the people that live  
15          here will have a way of bypassing this  
16          intersection, the one that's heavily congested  
17          now, by going out this road here (Indicating)  
18          instead of going north. For the most part, the  
19          people that are going through this point are  
20          only the people that live in here.

21                 The developer said that this map has not  
22                 changed from the beginning of 2002 when it had  
23                 conceptual approval. That's not really true  
24                 because there are two parcels of land that  
25                 were moved from this plan that are not on this

1           thing. There is a parcel that's off Tulip Tree  
2           and that's 15.5 acres. So, things have  
3           changed. If you're going to be specific - you  
4           moved two pieces of land from a plan, so you  
5           can't say that nothing has changed. Things  
6           have changed.

7           I apologize that all the members have not  
8           gotten copies of the booklet. We worked last  
9           night feverously. We sent some by e-mail and  
10          we made copies. There is a lot of stuff there.  
11          We tried to get it to you guys by this  
12          morning. Again, I apologize. We do have the  
13          material and a lot of it is on our website, if  
14          you want to check it out. It's at bnaonline.us  
15          So, it's for everyone to see. I don't know if  
16          all the attachments are part of it. I know  
17          that they will be.

18          CHAIRMAN STUTO: Obviously, you did a lot  
19          of work.

20          MR. KRAWITZKY: I've worked with Joe.  
21          He's been very good. He arranged this meeting  
22          on the 28<sup>th</sup> to have everyone come and talk and  
23          it was open to everybody. It was just  
24          surprising that all of the sudden we got the  
25          results back so fast. I saw the pink notices

1 and the pink notices means that there is a  
2 public hearing scheduled. So, we worked to get  
3 this together and if we had more time, you all  
4 would have a copy and more time to read it.  
5 Thanks very much.

6 CHAIRMAN STUTO: Thank you.  
7 Shawn Palleschi.

8 MS. PALLESCHI: I have a quick question  
9 and a couple of comments.

10 The question that I have is: Do all of  
11 these areas have to be developed before the  
12 Town will be taken over and then they can get  
13 our water pressure?

14 CHAIRMAN STUTO: I'm not sure that I  
15 understand your question.

16 MS. PALLESCHI: We were told that when  
17 this area is -

18 CHAIRMAN STUTO: When are the other  
19 houses going to get their water pressure?

20 MS. PALLESCHI: Well, yes, I just want a  
21 clarification. Does that mean that all of  
22 those houses have to be built?

23 CHAIRMAN STUTO: I'll let the applicant  
24 address that to the extent that they can.

25 MS. PALLESCHI: This is Branchwood. Isn't

1           that awfully close to Birchwood? You were  
2           worried about the Oak Hill and all these other  
3           oak things. That's an awfully close name to  
4           Birchwood.

5           CHAIRMAN STUTO: That can probably be  
6           worked out.

7           MS. PALLESCHI: Also the traffic - I know  
8           that everyone has talked about that. I have to  
9           back my car in so I can get out in the  
10          morning. If I'm lucky enough to get there when  
11          the school bus - they stop traffic so I can  
12          get out. One morning I was delighted because  
13          there was like six people in the neighborhood  
14          and we all came out at the same time. I felt  
15          like it was Leave it to Beaver. We're all  
16          leaving. It was nice, but it's very difficult  
17          to get out of the neighborhood. The developer  
18          said that it's not his problem. That's  
19          paraphrasing, but it's not his problem. It's  
20          the Town's problem. Now it's your problem. I'd  
21          appreciate it if you thought about that, too.  
22          Thank you.

23          CHAIRMAN STUTO: Thank you.

24          Can the applicant answer whether all of  
25          the developments have to be built-out before

1 Latham Water comes in?

2 MR. FRANCIS: I was going to say no.

3 CHAIRMAN STUTO: Can you explain a little  
4 bit? You're saying no that they don't have to  
5 develop all of that?

6 MS. COURIER: No, not all of the houses.

7 CHAIRMAN STUTO: What is the most likely  
8 scenario of what's going to happen?

9 MS. COURIER: I'm Melissa Courier of CT  
10 Male Associates. The water tank has to go in  
11 first before any houses can be built. I think  
12 that you all understand that. It's not  
13 required that all of the homes and all the  
14 homes in these three phases of development  
15 have to be serviced prior to any existing  
16 homes going in. However, there is no  
17 indication on the timeline of when the  
18 existing homes would be brought in. Latham  
19 Water is going to make that decision on a case  
20 by case basis.

21 As the neighbors have said, it's a very  
22 rough terrain all along these roads and these  
23 areas. So, that's why they have to do it that  
24 way. Some homes wouldn't be able to handle it  
25 while some homes would benefit from it.

1           CHAIRMAN STUTO:  Would they have to do a  
2           significant engineering study?

3           MS. COURIER:  I'm not sure how they would  
4           do it.  They would have to approach homeowners  
5           on an individual basis and do that study.

6           MR. LACIVITA:  It's a calculation.  There  
7           are issues based on grade.

8           CHAIRMAN STUTO:  They would have to put a  
9           valve or something -

10          MS. COURIER:  A pressure reducing valve.

11          CHAIRMAN STUTO:  They would have to tie  
12          in somewhere and that would affect a certain  
13          number of houses, right?

14          MS. COURIER:  Absolutely.  The way that  
15          this has been set, it would be phased the way  
16          that it's designed.

17          CHAIRMAN STUTO:  Phased for your  
18          development.

19          MS. COURIER:  Phased for everybody.

20          CHAIRMAN STUTO:  What are the likely  
21          scenarios?

22          MS. COURIER:  They don't all have to be  
23          built before the existing residences can be  
24          brought in.  I think that was her direct  
25          question.

1                   CHAIRMAN STUTO: That's about as specific  
2 as we can get, I guess. Thank you.

3                   Christopher Emr.

4                   MR. EMR: I live over at 44 Oak Tree down  
5 in this neck of the woods here (Indicating).  
6 I'm not quite sure where to begin; I have so  
7 many issues with this whole project. There  
8 have been so many good comments that came up  
9 tonight. It's given me lots of things to think  
10 about.

11                   One of the things that I'd like to point  
12 out as far as the grandfathering goes, I think  
13 that there is a little bit of sympathy that I  
14 have for the developer considering all of  
15 these grandfathering provisions that we've  
16 granted over the years. I think that largely  
17 it's due to the fact that we have pressured so  
18 hard to make changes to accommodate all of us  
19 over and over again. However, my sympathy is  
20 very limited because I think that he's put  
21 himself in this situation by driving these  
22 projects to the absolutely limit of what the  
23 neighbors will tolerate as far as building and  
24 development. By doing that, he's very  
25 gradually scaling back little bit by little

1 bit to just barely meet the accommodations of  
2 the neighbors and that's why this thing drags  
3 on and on and on.

4 The trouble is that this was granted  
5 provisional approval in 2001 and this is 2011  
6 and we are living in a very, very different  
7 world today than we were in 2001. It seems  
8 very surreal to me to sit here and discuss  
9 things like traffic and water pressure when we  
10 have the worst housing crisis that we've ever  
11 had in the country. We have one of the worst  
12 economic downturns that we've ever seen and we  
13 have 300 houses sitting in front of us for  
14 approval. We're talking about water pressure  
15 and things like that.

16 If you look at the census data, the  
17 population of the capital region hasn't  
18 changed. We just barely surpassed our  
19 mid-century high water mark as of the last  
20 census we are just barely coming back to where  
21 we were in the middle of the 20<sup>th</sup> century. And  
22 yet look at all the development that we've had  
23 over the last 50 years. We've build houses, we  
24 build town house complexes, we build  
25 apartments and we build out of our shoes.

**Legal Transcription**

1 We've had no new residents in support of all  
2 that development.

3 I just saw a statistic. I went back and  
4 looked the other day. We have the dubious  
5 distinction of now being the top 15 in the  
6 country as far as vacancy rates in this area.  
7 That's not really a good position to be in.  
8 We're looking at approving a 75 unit  
9 subdivision, which if it's given approval,  
10 basically tell me that there is no objection  
11 to doing all the other ones. I don't think  
12 that you can look at this without looking at  
13 all three together. I think that the Planning  
14 Board has to take a real serious look at the  
15 current demographic economic housing situation  
16 that we're in now and rethink dinosaurs like  
17 this. This is business as usual. This is the  
18 way that we've always done things. We got  
19 slapped in the face over the last five years.  
20 We got kicked in the butt over things like  
21 this; speculation, overbuilding and now we're  
22 bound to approve 75 new houses to be built.  
23 You're going to approve that in the worst  
24 housing market that we've ever had.

25 What's our builder's incentive to build

1           quality homes here? Why is he not going to go  
2           out and cut as much cost out of these homes as  
3           he can; between the siding and the drywall and  
4           build basically garbage homes to unload on  
5           people. They're going to have to deal with the  
6           consequences of that 10 or 20 years down the  
7           road. I live in a quality home. A luxury home  
8           built by Amedore at the end of the 80's and I  
9           have about \$10,000 into that house trying to  
10          fix all the areas that he short-cutted when he  
11          built that house. It's a piece of garbage and  
12          that's when the housing market was good. So,  
13          what's going to happen when we allow them to  
14          build 75 houses here and he has to cut every  
15          penny out of these houses to be competitive  
16          with a market that is going to take decades to  
17          rebuild? This whole project doesn't jive with  
18          our Comprehensive Town Plan. It's not  
19          creative.

20                 Somebody else said here that we are not  
21                 opposed to the project. We just want to make  
22                 sure that it's done right. I don't think  
23                 that's a fair assessment of sediment for all  
24                 of the residents of this area. I certainly  
25                 don't agree with this at all and most of my

1 neighbors don't agree with any kind of  
2 development going on here. I'm really  
3 disappointed that they don't show up to these  
4 meetings because I talk to them all the time.  
5 There is no discussion about if we want it or  
6 don't want it. The discussion is whether we  
7 don't care or we don't want it. Nobody wants  
8 it. There is nobody that wants this program.

9 CHAIRMAN STUTO: You understand that we  
10 have no power to tell somebody that they can't  
11 develop their property.

12 MR. EMR: I understand completely. So,  
13 I'm not totally unreasonable. But I think that  
14 there is an opportunity here to do something a  
15 little more creative. I'm sure that in 2001 if  
16 they came with a plan to put five houses along  
17 Denison, this would be signed, sealed and  
18 delivered 10 years ago. There would be no  
19 issue. But we're talking about 300 houses and  
20 that's the problem here.

21 If the developer came back tomorrow and  
22 said, I've changed this. I'm going to put a  
23 few houses along here and that's the end of  
24 it. He'd make his money back, he'd have the  
25 houses, the approval and we'd all be good. But

1           there is an opportunity with this being a  
2           conservation overlay to insist on some kind of  
3           green building practices. There are so many  
4           agencies out there that certify homes to the  
5           green standards; zero energy homes, net zero  
6           homes. There are a lot of new things going on  
7           out there.

8           You can insist that we scale back the  
9           number of homes in here. You could insist that  
10          every home have a south facing exposure so  
11          that the residents could put solar panels on  
12          their roofs eventually if they wanted to. You  
13          could insist that as you built this thing,  
14          that they put geothermal in the ground, which  
15          is cheap to do at the beginning of a  
16          development, but expensive to do after the  
17          fact. You could insist on following or  
18          certifying to some kind of best practices  
19          standard instead of just building to the state  
20          building code, which is what most people do.  
21          There are a lot of creative ways. I would buy  
22          into a project like that in a heartbeat if we  
23          had some kind of different way of going about  
24          it.

25                 My issue is business as usual. We can't

1 do business as usual anymore. What have we  
2 learned from the last couple of years in the  
3 economy that we've seen? How are we going to  
4 apply that? Approving this certainly isn't  
5 showing that we've learned from it. If you  
6 approve this, you're approving everything  
7 really. Besides that, I can't think of one  
8 benefit to the Town for these programs. I  
9 think that you mentioned three.

10 CHAIRMAN STUTO: I'm sure increased taxes  
11 are one of them.

12 MR. EMR: These are a net loss for the  
13 Town.

14 CHAIRMAN STUTO: You don't have to answer  
15 that right now, Skip.

16 Please finish your presentation and we'll  
17 ask the questions as it's appropriate.

18 MR. EMR: I believe that the first one  
19 was that he claimed that building 75 houses  
20 would be a benefit to our house values - that  
21 we'd all benefit. I don't understand how in a  
22 market where we've got more supply than we  
23 know what to do with, where we have a building  
24 that's totally out of line with the population  
25 growth - why putting 75 more units of

1 inventory on the market would benefit anybody.  
2 As far as I'm concerned, my house value has  
3 gone down and down since I moved into the  
4 neighborhood and this is just going to  
5 continue to depress it. I'm very, very  
6 concerned about that. I think that you guys  
7 can help protect us from that kind of  
8 irresponsible development as part of the  
9 Planning Board.

10 I think that you mentioned tax revenue as  
11 one of the benefits.

12 MR. FRANCIS: I did not.

13 MR. EMR: The second one was the water  
14 tower?

15 CHAIRMAN STUTO: You have to address the  
16 Board, sir.

17 MR. EMR: The second one was the water  
18 tower issues. I know a lot of people suffer  
19 from water pressure issues around here, but  
20 the first thing that they stated was that we  
21 are building this to service these three  
22 units. That's essentially it. This is closed  
23 system. Then Latham Water, at their  
24 discretion, if they follow through with it,  
25 can hook up individuals. They stated clearly

1           that the water tower is a benefit to the  
2           community and I don't really see that. It's  
3           not a benefit that they are necessarily  
4           providing. I think that if there is an issue  
5           with water pressure - there's seriously an  
6           issue with people getting the proper water  
7           flow and pressure, we shouldn't have to agree  
8           to a 300 unit development in order to get that  
9           problem fixed. That's something that should  
10          have been addressed by the Latham Water  
11          District to the residents of the Town. It  
12          shouldn't be a quid pro quo between agreeing  
13          to this to get your water pressure to where it  
14          should be.

15                 Honestly, I can't remember what the third  
16          benefit was, but the bottom line is that I see  
17          a laundry list of negatives to the Town. I  
18          feel that it's not exactly fair to approve  
19          something that benefits one person and has a  
20          detrimental effect on everybody that lives  
21          around it, has a detrimental effect to the  
22          Town.

23                 You're adding all this infrastructure  
24          that needs to be maintained by the Town down  
25          the road. We can't keep up with our paving

1 plan now. We don't have enough money to  
2 maintain the infrastructure that we have now.  
3 We have trouble keeping up with all these  
4 things. So, we're just agreeing to add more  
5 infrastructure that we have to maintain that  
6 we're going to take over the cost of owning  
7 and that's going to come out of your taxes.

8 There is an issue with school districts  
9 as well. The Planning Board has no obligation  
10 or responsibility to manage the growth of the  
11 school districts. It's not what you guys do,  
12 as far as I understand. At the same time, I  
13 also understand that the school districts  
14 don't look at plans like this or plans from  
15 Towns until they have something more concrete  
16 from a Board, or until they get some kind of  
17 permit approval for development like this,  
18 they don't address the issue of increased  
19 students and increased class sizes. So, there  
20 is like a big gap where nobody is really  
21 driving the growth of our schools. We're just  
22 kind of letting people migrate out of the  
23 inner city to the suburbs and taking it on the  
24 chin when it comes to increased class sizes  
25 and increased populations of the schools. I

1 don't see anybody stepping up and saying what  
2 can we actually support? You've got 300 houses  
3 here. How many kids is that between the school  
4 districts? We're talking about adding 300 more  
5 kids to the school districts? I can't believe  
6 that's not a bigger issue compared to things  
7 like water pressure.

8 I just have tons and tons of problems  
9 with this program. If you came back and said  
10 we're not putting in any infrastructure, we're  
11 not putting in any roads, we're just building  
12 along here, I can get on Board with that. It's  
13 up for you guys to decide. I just hope that  
14 it's not business as usual when it comes to  
15 this kind of stuff. Thank you.

16 CHAIRMAN STUTO: Thank you.

17 MR. LACIVITA: Peter, may I just comment  
18 on something here? I've been sitting here now  
19 for three hours and what really kind of got me  
20 tonight was just hearing this gentleman speak  
21 about responsible development and the business  
22 practices of the Town of Colonie and what some  
23 of the benefits may not do. Being the  
24 Executive Director of this department since  
25 2008 when this administration changed, I take

1           exception to that comment. This Board and the  
2           members that have rotated through this Board  
3           have been very responsible with what we have  
4           done. Our department has been very responsible  
5           with what we have done.

6           This project probably should have been  
7           built back in 2001 when it took three and a  
8           half years for the Planning Department to get  
9           comments back to this gentleman. We have taken  
10          him through the wringer time and time again.  
11          How many times have we been in a meeting  
12          asking for information so that the developer  
13          could answer those questions? I waited months  
14          and months from the neighborhood association  
15          to get questions. I get the questions that  
16          afternoon and I have a meeting that night. So,  
17          we really have to talk about being responsible  
18          here. This Board has been responsible. We've  
19          been trying to address all the questions,  
20          concerns and comments over time. I think that  
21          when you look at what this development has  
22          done, it has changed to the betterment of the  
23          project. We have done that time and time  
24          again. I think that we're at a point where  
25          this gentleman has asked answered and done

1 everything that the neighborhood associations  
2 have been asking. There's no irresponsibility  
3 here in any way, shape or form. Maybe the  
4 prior administration and the way that they  
5 acted was. Three and a half years is  
6 unacceptable under my watch. Now we're at a  
7 point where the Planning Board has the  
8 information that they need. I've spent a great  
9 amount of time with these neighborhood  
10 association people. We've asked and answered  
11 the same questions that we're hearing again.  
12 Three hours of our time has been talking about  
13 the same questions that we did in October  
14 2008.

15 It's about time that the Planning Board  
16 gets to hear this and decide what they want to  
17 do; seven members to vote on it.

18 CHAIRMAN STUTO: Kevin Laurilliard,  
19 83 Ash Tree Lane.

20 MR. LAURILLIARD: Hi. I'd like to just  
21 say that I very strongly agree with what all  
22 my neighbors have said and all the points and  
23 concerns that they have. I'd like to say that  
24 there is no way that I believe that this  
25 Planning Board tonight can make a fully

1 informed decision. Ten years is a long time.  
2 You're talking 2001. You're talking 10 years.  
3 The facts were a lot different 10 years ago.  
4 As one person has already pointed out, there  
5 is a number of new houses that have been built  
6 on Denison Road. That's one fact. There are a  
7 lot of other facts. We know that the time has  
8 changed over 10 years. The facts have changed.  
9 For this Board to make a fully informed  
10 decision has to look at the current facts and  
11 not the facts as they existed in 2001. Not  
12 only the facts changed, but the law has  
13 changed. There is a Comprehensive Plan that  
14 has been implemented by this Board and I think  
15 that all this grandfathering is unlawful.  
16 That's a different issue and hopefully that  
17 doesn't have to get resolved in Article 78  
18 proceeding. Hopefully this Board is going to  
19 do the right thing. Hopefully this Board is  
20 going to step back -

21 CHAIRMAN STUTO: Where do you practice  
22 law? You're obviously an attorney.

23 MR. LAURILLIARD: I don't have to answer  
24 that. I'm just saying that as a neighbor and  
25 all the facts that exist today, look at the

1 laws that exist today and I think that it's  
2 great that you have gotten an independent  
3 professional to help you evaluate this. I  
4 think that's great. What I would ask this  
5 Board to do is use that independent  
6 professional and make an informed decision  
7 based on the facts of 2011 - the law of 2011  
8 and not 2001 and look at it based upon all of  
9 the three developments and not let them pick  
10 it apart that way. You have to make a fully  
11 informed decision or all of the facts. That's  
12 what I think that you should do using your  
13 independent professional, read the books that  
14 have been given to you and to say that they  
15 were late is offensive. I was here on  
16 September 28<sup>th</sup>.

17 If you want to talk about due process, I  
18 have a concern about not even knowing that  
19 there was a meeting tonight. I would say that  
20 this Board should do the right thing and make  
21 sure that they do due process, look at all the  
22 current facts, the current state of the law  
23 and use their professional and make a decision  
24 after they have evaluated everything;  
25 including the books that were given to them

1           today. I appreciate the Board taking the time  
2           to do that. Thank you.

3           One other thing. I would like to point  
4           out that the previous speaker made a very good  
5           point. I'm not sure how the development is  
6           going to proceed, but I did recently represent  
7           a lender who loaned about five or six million  
8           dollars on a development that went belly up  
9           after about two or three houses were built.  
10          So, my question is: What about knowing the  
11          financial certainty about this development? In  
12          other words, if there is a water tower or some  
13          kind of water project here, I think that many  
14          years ago its projected cost was \$750,000. I  
15          don't know what the cost is now. What is the  
16          Board doing to ensure that doesn't become a  
17          financial burden on the Town. In other words  
18          what kind of bond would be required -

19                 CHAIRMAN STUTO: The Water District would  
20                 require a bond.

21                 MR. LAURILLIARD: So, there would be a  
22                 bond -

23                 CHAIRMAN STUTO: Yes.

24                 MS. QUINE: As was pointed out in our  
25                 submission, there was a representation by the

1 applicant that they were going to be selling  
2 lots for this project and my concern here and  
3 I think the Board's concern should be if the  
4 water tower is never built, how can the  
5 developer sell lots before a water tower is  
6 approved and constructed? How are those  
7 individuals -- you're saying that they can but  
8 there is no representation at all in this  
9 record as to -

10 CHAIRMAN STUTO: It's getting late and I  
11 have an idea of what the question and the  
12 answer is. I will let the applicant answer  
13 that question.

14 How can we ensure that the infrastructure  
15 is done, including the water, if she heard a  
16 rumor or heard somewhere that you're going to  
17 sell individual lots? How can you sell  
18 individual lots when there is no insurance -

19 MR. FRANCIS: You can't.

20 MS. QUINE: I think that in response to  
21 our questions they said that they're able to  
22 sell lots before the water tower is approved.

23 MR. FRANCIS: We can't sell lots before  
24 infrastructure is in place. The tower has to  
25 be up and the infrastructure has got to be in

1 the ground and then you can build a home. You  
2 can't get a CO.

3 MS. QUINE: I think that there was  
4 another response to one of our questions that  
5 you can alter the site for infrastructure  
6 before a house is built. So, you're altering  
7 the site, moving earth around for some type of  
8 road in order to have -- what is going to  
9 happen here?

10 MR. FRANCIS: You have to build a road.  
11 You have to put in the stormwater, the  
12 waterline and the sewer line all before you  
13 put the house on the lot.

14 MS. QUINE: That all has to be done  
15 before the water tower is approved.

16 MR. FRANCIS: The water tower has  
17 essentially been approved. Latham Water  
18 District has agreed with everything that we  
19 have designed so far and all the features that  
20 go along with it. The only thing that remains  
21 is the state permitting associated with that.  
22 The infrastructure has to be in place before  
23 any house can occupy a lot.

24 MR. LAURILLIARD: Just to finish my  
25 thought. That's what happened with the

1 development that I was just referring to. What  
2 happened is in order to put the infrastructure  
3 in, all the trees were cleared, this huge lot  
4 of land was cleared and everything was taken  
5 out and destroyed and there were two houses  
6 and I think that there were supposed to be 50  
7 or 60 houses built. Two or three were built.  
8 Sales weren't good and the economy was bad.  
9 That's probably the reason that for the last  
10 10 years this development hasn't been built  
11 was because the economy. Everything was  
12 cleared out and three houses were built.  
13 Everything is baron up there and there is no  
14 development. So, I just have that concern with  
15 this as well.

16 As I said, I hope that we look at all the  
17 facts and we don't look at 1.4 cars because  
18 that's not what people have now and what the  
19 law is. It's got to be based on present data.

20 CHAIRMAN STUTO: Any other members of the  
21 public that would like to speak.

22 ***(There was no response.)***

23 CHAIRMAN STUTO: Do we have a motion to  
24 close the public hearing?

25 MR. MION: I'll make a motion.

1 MR. AUSTIN: Second.

2 CHAIRMAN STUTO: All those in favor?

3 **(Ayes were recited.)**

4 CHAIRMAN STUTO: All those opposed?

5 **(There were none opposed.)**

6 CHAIRMAN STUTO: The ayes have it.

7 We can discuss it among the Board.

8 Elena, do you think that we need to do  
9 more and discuss the environmental impact  
10 more?

11 MS. VAIDA: Yes I do.

12 CHAIRMAN STUTO: Can you help guide us  
13 through that?

14 MS. VAIDA: Did you want to use this long  
15 form?

16 CHAIRMAN STUTO: We can discuss the  
17 various environmental factors and discuss it  
18 with the applicant.

19 MS. VAIDA: How do you want to do that,  
20 Peter? We talked about maybe using and going  
21 through the current long form with the  
22 applicant.

23 CHAIRMAN STUTO: I think that's a good  
24 way to do it.

25 MS. VAIDA: Do we want the applicant to

1 have a copy of that?

2 CHAIRMAN STUTO: Sure.

3 Do you have a copy of the EAF long form?

4 MR. FRANCIS: No.

5 MR. LACIVITA: He can have this one.

6 MS. VAIDA: Do you want to go through it

7 line by line?

8 CHAIRMAN STUTO: You have the form in

9 front of your right?

10 MS. VAIDA: Yes.

11 CHAIRMAN STUTO: We have a neg dec that's

12 in the record. I want to discuss what has

13 changed with respect to impact on land, impact

14 on water, impact on the air, impact on plants

15 and animals, impact on agricultural land

16 resources, etcetera, since the neg dec. Do you

17 think that we can do that? I'm asking the

18 applicant?

19 MR. FRANCIS: We can certainly give it a

20 try.

21 CHAIRMAN STUTO: With respect to impact

22 on land, can you describe the project then and

23 now and what changes in the impact on land

24 that there may have been, and in particular

25 point out anything that might be significant?

1 I know that it's hard at this hour, but I  
2 think that we should do it.

3 MR. FRANCIS: Generally, it has not  
4 changed since 2002. The same lot count is  
5 there. The stormwater management features have  
6 changed some of the lay of the land because we  
7 have endured now three or four changes to  
8 stormwater management regulations over the  
9 course of concept approval. We have stayed  
10 current with each of them as we have gone  
11 through our revisions and so forth.

12 CHAIRMAN STUTO: Would you say that those  
13 changes would have been to the detriment to  
14 the environmental impact or an improvement?

15 MR. FRANCIS: They've definitely  
16 improved. It enhances the quality of the water  
17 run-off and the treatment. The previous  
18 stormwater regulations did not require  
19 treatment, and they now do.

20 CHAIRMAN STUTO: That question also  
21 answers impact on water to some extent.

22 Are there any physical bodies of water?  
23 There are wetlands?

24 MR. FRANCIS: The wetlands have been  
25 delineated. The Army Corps rendered its

1 jurisdictional determination in 2002 and those  
2 still exist. Those will need to be refreshed  
3 before we are issued a joint permit  
4 application. That is a known requirement.

5 CHAIRMAN STUTO: No other significant  
6 changes with respect to impact on water?

7 MR. FRANCIS: No significant changes to  
8 water.

9 CHAIRMAN STUTO: Impact on the air?

10 MR. FRANCIS: No change. No changes to  
11 the impacts.

12 CHAIRMAN STUTO: What impacts on air  
13 would normally be discussed?

14 MS. VAIDA: I know that from reading the  
15 other form that they talk about -- figuring  
16 out if there is going to be any change in the  
17 traffic because traffic could impact the air.  
18 So, you may want to talk about the traffic  
19 before you talk about the air impact.

20 MR. FRANCIS: With respect to traffic,  
21 and the same number of houses, the same number  
22 of vehicles for this particular project has  
23 not changed. If there is any correlation to  
24 air with respect to vehicles, the vehicle  
25 count has not changed.

1 MS. VAIDA: Regarding the traffic, I  
2 spoke with the TDE who did review the traffic  
3 study that is in our packages that was done in  
4 2009 and it appears that we could safely rely  
5 on those numbers for conclusions in that  
6 traffic impact study that those are still  
7 valid as of today.

8 Is that accurate Tom?

9 MR. JOHNSON: From what I was able to  
10 look at so far, yes.

11 MS. VAIDA: Did you want to look at it  
12 further?

13 MR. JOHNSON: No, I believe that it's  
14 accurate.

15 CHAIRMAN STUTO: So, the impact on air is  
16 unchanged because the traffic essentially  
17 didn't change.

18 Impact on plants and animals; any comment  
19 in whether that has changed?

20 MR. FRANCIS: No change. We received a  
21 letter from DEC about threatened and  
22 endangered species dated January 6, 2011. The  
23 PEDD has a copy of this. They have no records  
24 of significance, or the significant natural  
25 communities, or other significant habitats on

1 or in the immediate vicinity of this site.

2 CHAIRMAN STUTO: Impact on agricultural  
3 and land resources. Any farms impacted here?

4 MR. FRANCIS: No farms impacted.

5 CHAIRMAN STUTO: Impact on aesthetic  
6 resources? Any change in the aesthetics from  
7 the original?

8 MR. FRANCIS: No, no changes in  
9 aesthetics.

10 CHAIRMAN STUTO: Impact on historical and  
11 archeological resources? I note that we have a  
12 Phase I cultural resource investigation on  
13 file.

14 MR. FRANCIS: Correct, and there is also  
15 a Phase IB that was done and we have a letter  
16 from OPRHD dated August 26, 2011 where OPRHD  
17 has no further concerns regarding these sites.

18 There was an addendum to the Phase IB  
19 that was performed that encompassed the  
20 stormwater management areas that were due to  
21 stormwater regulation changes. We were outside  
22 the study area and previous archeological  
23 studies. We updated that study to include the  
24 new stormwater basin areas and SHPPO responded  
25 with this letter that they have no further

1 concerns. That letter is dated August 26. So  
2 there are no impacts to archeological or  
3 cultural resources.

4 CHAIRMAN STUTO: Are there any changes in  
5 the impact on open space and recreation since  
6 the negative declaration?

7 MR. FRANCIS: No.

8 CHAIRMAN STUTO: Any impact on critical  
9 environmental areas?

10 MR. FRANCIS: No.

11 CHAIRMAN STUTO: Any impact on  
12 transportation? We talked about traffic  
13 already. You answer is?

14 MR. FRANCIS: Our answer to that is based  
15 on CDTC's study where they say that there is  
16 no impact to the full build-out of this  
17 development.

18 CHAIRMAN STUTO: Impact on energy, is  
19 there any impact on energy since the neg dec?

20 MR. FRANCIS: No.

21 CHAIRMAN STUTO: No odor impacts? Any  
22 change since the neg dec?

23 MR. FRANCIS: No.

24 CHAIRMAN STUTO: Impact on public health?  
25 Any change on that since the negative

1 declaration?

2 MR. FRANCIS: No.

3 CHAIRMAN STUTO: No risk of explosion or  
4 release of hazardous substances.

5 MR. FRANCIS: No.

6 CHAIRMAN STUTO: Impact on growth and  
7 character of the community or neighborhood;  
8 any change in that since the negative  
9 declaration?

10 MR. FRANCIS: No.

11 CHAIRMAN STUTO: So, we haven't  
12 identified any important impacts that weren't  
13 identified back in the negative declaration.

14 MR. FRANCIS: Correct.

15 CHAIRMAN STUTO: Elena, we have a  
16 document with respect to assessment of GEIS  
17 consistency in the packet. It concludes that  
18 the proposed development is consistent with  
19 the pace of development projected in the GEIS  
20 study. The development is consistent with a  
21 policy of concurrence between development  
22 within the study area and implementation of  
23 necessary infrastructure improvements and the  
24 proposed action is in conformance with the  
25 conditions of the threshold established in the

1 statement of findings.

2 MS. VAIDA: Yes. I think that was in our  
3 original package. So, I assume that all the  
4 members have it. We didn't have enough time to  
5 look at that. I don't know if the applicant  
6 can state for the record whether first of all  
7 do you have that document - the Oak Hill  
8 Subdivision assessment of GEIS consistency?  
9 Could you can just take a look and see if  
10 there is anything in there that would be a  
11 different conclusion based upon any change in  
12 circumstances?

13 MR. FRANCIS: Do you have a date on that  
14 document? Is that the Mr. [SIC] Guillard  
15 document?

16 MS. VAIDA: Yes.

17 MR. FRANCIS: I've seen it. I don't have  
18 it with me. I know which one that you are  
19 referring to.

20 CHAIRMAN STUTO: Our staff has concluded  
21 that this is consistent with the GEIS. Do you  
22 have any reason to believe that's different?

23 MR. FRANCIS: I have no reason to believe  
24 that it's different.

25 CHAIRMAN STUTO: Do you have anything

1 else on the environment, Elena?

2 MS. VAIDA: No, I don't think so. Did we  
3 finish discussing the traffic? Is everyone  
4 satisfied that it's not going to have a  
5 significant traffic impact, or if it is, it's  
6 going to be mitigated through the GEIS  
7 mitigation fees? I assume that's going to  
8 happen. There are going to be improvements  
9 required as part of the GEIS. I know that you  
10 have to contribute fees. The growth, I  
11 believe, was anticipated in the GEIS, even  
12 though it's old. I think that we found that  
13 the development Colonie has been actually slow  
14 compared to what was projected.

15 CHAIRMAN STUTO: I have no reason to say  
16 anything other than that.

17 MR. JOHNSON: The only other issue would  
18 be about the access points. There was an issue  
19 brought up about the sight distance at the  
20 other intersections. Whether or not the sight  
21 distances were evaluated for those locations -

22 MR. FRANCIS: They were. The other  
23 locations - yes, they were.

24 MR. JOHNSON: The intersection with  
25 Denison and then the intersection into the

1 existing development.

2 MR. FRANCIS: Down here at Tamarack and  
3 Walnut and at Branchwood and Denison  
4 (Indicating), yes.

5 MR. JOHNSON: What are the results?

6 MR. FRANCIS: I don't have them on this  
7 plan here tonight. They were acceptable. There  
8 were sight distance restrictions and they were  
9 discussed at the concept meeting January 15,  
10 2002.

11 MS. VAIDA: Was that submitted to the  
12 Planning Department?

13 MS. COURIER: At concept they were.

14 MR. FRANCIS: I believe at concept they  
15 were at 2001 or 2002.

16 It's quite possible that they were on the  
17 plans themselves, too.

18 CHAIRMAN STUTO: If we were to vote on  
19 this, we can make it contingent upon  
20 verification that they're within those  
21 engineering standards that we discussed. We'll  
22 have our engineer look at it independently to  
23 verify that they conform to the  
24 current -- what is the resource book you guys  
25 have?

1 MR. FRANCIS: It would be AASTO.

2 CHAIRMAN STUTO: You think that's a good  
3 idea, Tom, in order to go forward?

4 MR. JOHNSON: I would like to do that,  
5 yes.

6 CHAIRMAN STUTO: That would be a  
7 safeguard, right?

8 MR. FRANCIS: We would be willing to  
9 revisit that and present those findings and  
10 coordinate it with the TDE and Planning  
11 Department with those results just to be  
12 refreshed.

13 CHAIRMAN STUTO: If we were going to go  
14 forward, I think that the motion that I would  
15 support would include access to Vly road  
16 through that emergency lock box and  
17 satisfaction of our Town Departments and our  
18 TDE.

19 MR. FRANCIS: Coordinating departmental  
20 review for emergency access connection from  
21 Tamarack to Vly?

22 CHAIRMAN STUTO: Correct.

23 MR. FRANCIS: With the TDE and the Town  
24 DPW Department and Planning - limited to that?

25 CHAIRMAN STUTO: Yes. We want it and it

1 just has to be in conformance with their  
2 approval.

3 The conservation easement is another  
4 condition. It sounds like the Mohawk Hudson  
5 Land Conservancy may be a better option than  
6 having the Town, if they're willing to do it.

7 MR. FRANCIS: Jill left us a business  
8 card this evening, so we will be coordinating  
9 some dialogue with her.

10 CHAIRMAN STUTO: Contingent upon the Army  
11 Corps issuing a letter - or refreshing a  
12 letter and -

13 MR. FRANCIS: Refreshing the  
14 jurisdictional determination by the Army Corps  
15 of Engineers.

16 CHAIRMAN STUTO: Anybody have anything  
17 else?

18 ***(There was no response.)***

19 CHAIRMAN STUTO: Are we ready to go  
20 forward with this?

21 MS. PEMRICK: Are you just going to  
22 ignore everybody's comments and testimony?

23 CHAIRMAN STUTO: I'm not inclined to do  
24 that. I don't know if anybody else on the  
25 Board is.

1 MS. VAIDA: What was her request?

2 CHAIRMAN STUTO: She wants to go more  
3 into everybody else's testimony.

4 MS. PEMRICK: I said are you going to  
5 ignore everybody's comments and testimony?

6 CHAIRMAN STUTO: No. I'm sorry. I didn't  
7 hear your question. No, I've heard all of the  
8 testimony.

9 MS. PEMRICK: Did you read all of the  
10 documents?

11 CHAIRMAN STUTO: I looked through the  
12 thing that was handed in today and I went  
13 through all the other documents, yes.

14 MS. VAIDA: All the Members have been  
15 provided with the booklet.

16 MS. PEMRICK: That was the booklet. There  
17 were also comments -- I haven't heard  
18 responses to my satisfaction. I don't know  
19 about other people.

20 CHAIRMAN STUTO: The hearing is over. I  
21 looked through all the materials.

22 Anybody want to give their thinking on  
23 this?

24 Paul?

25 MR. ROSANO: I think that this project

1 has gone far enough. There is no end in sight  
2 if we continue down this road. I think that  
3 we've covered everything. I apologize to the  
4 developer for what you've gone through in this  
5 Town. I've been here longer than most of these  
6 people in this room and it's a travesty what  
7 you went through. This should have been done  
8 years ago. Maybe it's not perfect. No one is  
9 saying that it is. I will tell you that you've  
10 done due diligence. I've heard a lot tonight  
11 and I've written my notes and I take  
12 everything seriously. We can continue on with  
13 this for another five ears at the rate we're  
14 going, but it's going to stop now.

15 MS. PEMRICK: It should have stopped with  
16 the grandfathering provision.

17 MR. ROSANO: There are a lot of things  
18 that should have happened. We have done our  
19 due diligence. We had our meeting and our  
20 public hearings. We listened to everyone and  
21 we've taken notes. We filled out all the  
22 papers. I don't know how much more you want us  
23 to do, or how much longer you want this to go.  
24 I don't think that there is any end in sight  
25 for you.

1           I make the motion that we go forward with  
2 this with all the conditions that we  
3 discussed.

4           CHAIRMAN STUTO: I'll repeat the  
5 conditions and we'll have more discussions if  
6 the Board wants to say anything.

7           The sight distance conditions would be  
8 that the sight distances be revived, that  
9 they are in conformance with engineering  
10 standards to the satisfaction of our Town  
11 Designated Engineer and Planning Department  
12 and any other relevant Town departments; that  
13 there be an emergency connection to Vly Road  
14 and Tamarack with a lock box or whatever  
15 appropriate mechanism for emergencies as  
16 approved by our Town Departments. It's not  
17 really a contingency. It's part of the plan,  
18 but you have to get approval for the  
19 conservation easement in a form satisfactory  
20 to the Town and maybe explore that with the  
21 Hudson Mohawk Land Conservancy in the first  
22 instance - if you think that they would be a  
23 likely grantee for that conservation easement.  
24 That has to be to the satisfaction of the Town  
25 Attorney's office. And contingent upon the

1 Army Corps refreshing their jurisdictional  
2 letter of determination.

3 Those are the four contingencies.

4 MS. VAIDA: And I think that all comments  
5 by all the various departments -

6 CHAIRMAN STUTO: And all outstanding  
7 comments by the Town Departments.

8 MR. FRANCIS: No, that's one thing that  
9 we can state. We have addressed all the Town  
10 comments to date.

11 CHAIRMAN STUTO: If we find any other  
12 outstanding ones, it will be contingent upon  
13 you addressing those.

14 MR. LACIVITA: That could be verified  
15 through the last submission. We'll go through  
16 the last letter and verify that.

17 CHAIRMAN STUTO: So, those are five  
18 contingencies.

19 If nobody else wants to say  
20 anything -- I appreciate the members of the  
21 public coming out. I know that there is some  
22 frustration. We wish that this land would  
23 never be developed.

24 MS. PEMRICK: That's not at all what we  
25 were saying.

1           CHAIRMAN STUTO: Okay, well the hearing  
2           is closed. Some people wanted a cluster  
3           development. The applicant said he already  
4           went through this. This project is in  
5           conformance with the Town Law. We don't write  
6           the Town Law, but we have to apply it the best  
7           we can and we're doing the best we can with  
8           that. Is there a traffic impact, yes, but the  
9           mechanism that's in place is to do the best  
10          that we can with the layout, collect the  
11          mitigation fees, and then the Town will make  
12          the improvements as they can. We try to  
13          mitigate the impacts as much as we can.

14                 I can't take any more public comment.  
15          We're never going to be done.

16                 MS. VAIDA: We Should also add that the  
17          applicant is also going to obviously pay  
18          whatever the mitigation fees are. I don't know  
19          if we have a total.

20                 MR. LACIVITA: We have a total as of  
21          December 15, 2010 of \$589,789. Those fees will  
22          be revivified by CDTC and made sure that they  
23          are still current.

24                 MS. VAIDA: Peter, we also want to make a  
25          finding on SEQRA -- first of all I think that

1 the Board has shown that we have complied with  
2 SEQRA and I think that the record should show  
3 whether or not there is a change.

4 MR. LANE: Can we just put on record that  
5 there has been no significant changes?

6 MS. VAIDA: Yes, and I think that has  
7 been established.

8 CHAIRMAN STUTO: That's part of this  
9 discussion as we continue here. I agree with  
10 that statement that no significant changes  
11 have been brought to light that I think would  
12 require revisiting SEQRA. That's my opinion.  
13 If anyone disagrees, please speak up.

14 ***(There was no response.)***

15 CHAIRMAN STUTO: Anyone else want to  
16 speak before we vote?

17 ***(There was no response.)***

18 CHAIRMAN STUTO: Tim has made the motion.

19 MR. MION: I'll second.

20 CHAIRMAN STUTO: All those in favor?

21 ***(Ayes were recited.)***

22 CHAIRMAN STUTO: All those opposed?

23 ***(There were none opposed.)***

24 CHAIRMAN STUTO: The ayes have it.

25 Thank you.

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*(Whereas the proceeding concerning the above  
entitled matter was concluded  
at 12:31 a.m)*

