

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3 *****

4 THE PROPOSED PROJECT OF ANTOINETTE ESTATES
5 67 CONSAUL ROAD
6 RESIDENTIAL SUBDIVISION

7 REVIEW AND ACTION ON CONCEPT ACCEPTANCE AND FINAL
8 SUBDIVISION PLANS

9 *****

10 THE TAPED AND TRANSCRIBED MINUTES of the above
11 entitled proceeding BY NANCY STRANG-VANDEBOGART
12 commencing on September 14, 2010 at 7:01 p.m.
13 at the Public Operations Center
14 347 Old Niskayuna Road, Latham, New York 12110

15 BOARD MEMBERS:

- 16 CHARLES J. O'ROURKE, CHAIRMAN
- 17 MICHAEL SULLIVAN
- 18 TIMOTHY LANE
- 19 LOUIS MION
- 20 PAUL ROSANO
- 21 MICHAEL SULLIVAN
- 22 PETER GANNON
- 23 ELENA VAIDA, Esq., Attorney for the Planning Board

24 Also present:

- 25 Dan Hershberg, Hershberg and Hershberg
- Brad Grant, Barton and Loguidice
- Joe Romano, Clough Harbour and Associates
- Ned Greeson
- Michelle Marshall
- Patricia Messier
- Bob Murray
- Joseph Nantista
- June Vigars

1 CHAIRMAN O'ROURKE: Tom Nardacci wanted
2 to be here this evening. The importance of the
3 project certainly - he understands. There is a
4 medical issue and he was not able to attend. I
5 just wanted to place that on the record as
6 well, this evening.

7 Onto our first project tonight. It's
8 Antoinette Estates, 67 Consaul Road. It's a
9 13 lot residential subdivision. They are
10 looking for a review and action on both
11 concept acceptance and final subdivision
12 plans, which I will explain after Counsel
13 reads into the record the notice.

14 MS. VAIDA: The Town Planning Board, Town
15 of Colonie, Albany County, New York: Notice is
16 hereby given that pursuant to Section 276 of
17 Town Law, the Town Planning Board of the Town
18 of Colonie, Albany County, New York, will meet
19 and conduct a public hearing at the Public
20 Operations Center, 347 Old Niskayuna Road,
21 Latham, in said Town of Colonie, County of
22 Albany, New York, on the 14th day of September
23 at 7:05 p.m. for the purpose of hearing all
24 persons on the approval, modification or
25 disapproval of a certain residential

1 subdivision plat in the Town of Colonie,
2 County of Albany, known as Antoinette Estates
3 consisting of approximately 7.4 acres of land
4 located at 67 Consaul Road to be divided into
5 13 lots. The notice is dated August 31, 2010,
6 Latham, New York.

7 CHAIRMAN O'ROURKE: We are looking for an
8 action from the Board on both concept and
9 final. The reason is because this project did
10 go beyond the one-year concept and after the
11 review, the Board will hear both concept and
12 final tonight.

13 Mr. Hershberg, please explain your
14 project.

15 MR. HERSHBERG: Thank you, Mr. Chairman.
16 My name is Daniel Hershberg from the firm of
17 Hershberg and Hershberg. I'm here today
18 representing Nancy Gabriel, the owner, and
19 Anthony Guidarelli, the developer.

20 This project, from the first time that it
21 got concept approval, is basically the same.
22 We spent most of a year trying to resolve the
23 issue of stormwater management. The disturbed
24 area on this site is going to be 4.88 acres.
25 If you disturb more than five acres, we would

1 be obligated to treat the stormwater rather
2 than just store the stormwater. So, we went
3 back and forth with a whole bunch of
4 definition issues where DEC concurred with our
5 interpretation that when the builder clears
6 the lots and puts in the infrastructure and
7 develops the lots, if he does not clear more
8 than five acres, you do not have to do the
9 stormwater. We'll actually hold a 100 year
10 storm as required in the Lishakill area. We
11 have designed the system that meets the Town's
12 stormwater management regulations, but is not
13 required to meet what is called GP-010-01
14 which is law that New York State DEC enforces.

15 We had one issue that was originally
16 shown on the highway connection from Carol
17 Street down to Antoinette Lane. We turned it
18 into a pedestrian sidewalk only. We made some
19 changes in regards to sewer connections and
20 water connections at the apartments. Other
21 than that, this plan is identical to a
22 previous plan which got concept approval 14 or
23 15 months ago. It was quite awhile ago.

24 We'd be happy to answer any questions
25 from the Board so that they might give us

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1 concept and final approval.

2 CHAIRMAN O'ROURKE: Thank you,
3 Mr. Hershberg.

4 Joe?

5 MR. ROMANO: As Dan said with some of our
6 previous comments, we were discussing
7 stormwater and how they were going through the
8 various properties. We issued a couple of
9 letters before our last letter of August 16th
10 and really just had some minor items which
11 Hershberg and Hershberg responded to in an
12 August 27th response. We concurred with their
13 responses. It still requires some action with
14 regard to the engineer report and Latham
15 Water.

16 MR. HERSHBERG: Latham Water did issue a
17 report -

18 CHAIRMAN O'ROURKE: Is that the report by
19 Dan Seaver?

20 MR. HERSHBERG: We prepare what's called
21 an engineer's report for the water retention.
22 Latham Water will make some comments on that
23 and then we'll make a final report. We updated
24 our report a couple of times based upon later
25 figures.

1 There was one thing that we were
2 still waiting for and we're not certain has
3 ever been done. That was a flow test on a
4 hydrant.

5 CHAIRMAN O'ROURKE: Did Latham Water get
6 back to you?

7 This goes back a couple of months,
8 correct?

9 MR. ROMANO: They had reviewed them
10 before. It's just a matter of getting the data
11 on that.

12 CHAIRMAN O'ROURKE: Peter?

13 MR. GANNON: I'm just looking through
14 this packet. I just want a comfort level. Once
15 the homebuyer purchases their plot, it is
16 established that there will be no clear
17 cutting for the stormwater process, or any
18 other environmental repercussions.

19 MR. HERSHBERG: While it's under a single
20 control and while a developer owns it, we're
21 holding the five acres. I think that if the
22 homeowner wants to come in and clear more of
23 the lot - if they add any impervious area,
24 there would have to be adjustments made to
25 that in doing some stormwater detention of

1 their own. If somebody wanted to clear out the
2 back of their lot and put in a pool and a
3 deck, they would have to apply for a building
4 permit and do whatever is required to satisfy
5 the Town's stormwater management. It will not
6 impact the system. We have made an allowance
7 for additional paved areas over and above
8 that.

9 Theoretically if all 13 lots decided to
10 clear their entire lots and put a basketball
11 court on it or something like that, they may
12 very well exceed that. That's why each grading
13 on each lot would be a subject to an
14 individual permit by each owner.

15 MR. GANNON: I guess what I'm getting at
16 is if there is a reasonable expectation of
17 that and a lot of the people want to clear
18 area, is there going to be a suitable setback
19 on the front or the rear of the house?

20 MR. HERSHBERG: The minimum area was
21 25 feet. People that are familiar with this
22 site know that a lot of this is a clear area
23 anyway. With the exception of woods down on
24 this site here (Indicating), it is a big
25 cleared field, anyway.

1 Also, these are small dwellings and
2 obviously the most populous group in our area
3 is senior citizens 45, 55 - people who don't
4 have a lot of children at home that would
5 really have to have new play areas in the back
6 yard, new pools and that sort of stuff. Our
7 goal here would be to try to have people that
8 could live within the confines of these areas.
9 Once we turn it over to the homeowner, neither
10 ourselves or the developer control what they
11 might try to do. However, the Town will have
12 an opportunity to review any permit that they
13 are applying for.

14 CHAIRMAN O'ROURKE: Mike?

15 MR. SULLIVAN: In reading through the
16 packet, I noticed that there was some mention
17 of adding signs on Consaul Road and reducing
18 the speed to 25 miles an hour and also
19 restricting the owners of lots one and two
20 from putting up fences due to limited sight
21 distance. Can you run through that for us and
22 give us a history of what's needed?

23 MR. HERSHBERG: There currently is an
24 advisory sign and not a speed limit sign.
25 There is a difference here. An advisory sign

1 is 25 miles an hour on the curve here and
2 there is an advisory sign down here
3 (Indicating). The goal here is that to have
4 both signs in place at the proper distance so
5 we can add a sign here (Indicating). This sign
6 here is not visible because there is foliage
7 growing over it. We would intend to open that
8 up and make it visible. Both lots will have
9 restricted driveways. There will be no
10 driveways coming out onto Consaul Road.

11 MR. SULLIVAN: And 25 miles an hour is
12 used as the design speed, as per your
13 calculations. There is adequate site distance,
14 then?

15 MR. HERSHBERG: Yes. When we checked it
16 against the average speed for Consaul Road,
17 which actually exceeds the speed
18 limit -- every time we do the 85th percentile,
19 it always exceeds the speed limit. In this
20 case, it was about eight miles an hour. We do
21 not meet the site distance. We could use the
22 actual speed and the advisory signs with the
23 curb.

24 As I said, there is an advisory sign here
25 and one here indicating that there is an

1 intersection up ahead (Indicating). We intend
2 to install that sign here (Indicating) subject
3 to the approval by the Town.

4 MR. SULLIVAN: Thank you. That's all I
5 had.

6 CHAIRMAN O'ROURKE: Thanks, Mike.
7 Tim?

8 MR. LANE: I don't have any particular
9 concerns, but the walkway between Carol - is
10 that going to be dedicated as well along with
11 the road to the Town for maintenance? That's
12 going to be like a walk or bike path?

13 MR. HERSHBERG: Yes. There already was
14 going to be an easement for the water
15 connection and we're going to come down here
16 (Indicating). That will also include an
17 easement to allow the path to exist between
18 Antoinette and Carol. This will be within an
19 easement that's shown on the map here at about
20 35 feet wide to accommodate both the path and
21 the pipe.

22 MR. LANE: Would that be emergency
23 accessible as well?

24 MR. HERSHBERG: No. Although I imagine
25 that if someone decided to go down there, they

1 could probably make it. Whether or not they
2 make it out again is another story. It's
3 intended for pedestrians.

4 MR. LANE: Thank you.

5 MR. MION: I don't have any questions.

6 CHAIRMAN O'ROURKE: Paul?

7 MR. ROSANO: No questions.

8 CHAIRMAN O'ROURKE: I have couple along
9 the same lines as Tim.

10 I don't think the Town has an interest in
11 the path and maintaining that. I thought that
12 we had touched on that at concept. Certainly
13 the residents didn't want a road connection
14 and I believe that the Board was also along
15 those same lines. We want to certainly be
16 respective of the homeowners presently there.
17 That said, I'm not sure that it's in the
18 Town's interest to own 35 feet of nothing.

19 MR. HERSHBERG: We proposed to grant an
20 easement, but the fee title will still remain
21 with the owner of this lot. The fee title
22 remains and we'll grant an easement for both
23 the water connection and the path.

24 CHAIRMAN O'ROURKE: What I want to make
25 sure is that we don't mislead the public that

1 somebody is going to plow that in the winter
2 for their kids to walk to the next door
3 neighbor's or anything along those lines. I
4 think that everybody was satisfied with the
5 walking path, as you're calling it. I just
6 want to assure that the taxpayers don't end up
7 footing the bill for anything extraordinary.

8 Can you explain it again?

9 MR. HERSHBERG: My assumption is that the
10 Town wanted a permanent easement for that
11 walkway and a permanent easement to
12 accommodate the water main - actually the
13 sewer. The water main is on the other side.
14 So, we have all the utilities within a common
15 easement. We would assume that the Town would
16 like a permanent easement to own the sewer and
17 the water main and actually the easement that
18 we file with the Town will have to clarify any
19 maintenance -

20 CHAIRMAN O'ROURKE: Water main breaks and
21 those kinds of issues are obviously our
22 infrastructure and our responsibility, as a
23 Town. I just want to make sure that it's
24 deeded in such a manner that the homeowners
25 have it with the easement attached.

1 MR. HERSHBERG: Like I said, our goal
2 here was to satisfy granting an easement or
3 title; whatever the Town wanted.

4 CHAIRMAN O'ROURKE: The next question
5 that I had was with regard to the mitigation
6 fees. Do you have a dollar amount on this
7 project?

8 MR. HERSHBERG: The letter just said that
9 it was subject to mitigation fees.

10 MR. LACIVITA: At this point, we have not
11 heard back on a final number from CDTC. We
12 estimated it to be about \$39,240 but we're
13 just waiting on that final number from CDTC.

14 CHAIRMAN O'ROURKE: The last issue that I
15 had - the restricted covenants. A copy of
16 those should have been submitted. Do you have
17 that right now?

18 MR. HERSHBERG: I don't. I thought that
19 was post-hearing.

20 CHAIRMAN O'ROURKE: Actually, it says
21 prior to issuance of final. We were looking
22 for a copy of the restricted covenants. They
23 must include the stormwater management system,
24 and detention treatment basins that will
25 contain periodic resistant standing water. No

1 grading or clearing will be done beyond the
2 limits delineated on the plans of Antoinette
3 Estates. Lots one and two shall have no access
4 to Consaul Road. No trees, shrubs, fences or
5 other obstructions shall be placed on lots one
6 and two.

7 You did touch on those.

8 MR. HERSHBERG: We actually have those
9 notes directly on the plan. All the notes
10 appear on the final for the plan.

11 CHAIRMAN O'ROURKE: And the final one
12 which we mentioned in the prior hearings were
13 that we, as a Board, would like the notices to
14 be provided to perspective buyers with each
15 contract of sale. Do you have any opposition
16 to that?

17 MR. HERSHBERG: No, we do not.

18 CHAIRMAN O'ROURKE: So that language is
19 actually on the plan?

20 MR. HERSHBERG: It's on the plat. Even
21 though it appears on the plat, the Town
22 insists that we put them on respective notice
23 by giving them on the contract of sale notice.

24 CHAIRMAN O'ROURKE: Well, I think as we
25 go forward after we hear from the public, if

1 we were to make a motion, one of the
2 contingencies certainly would be the language
3 to be reviewed by Counsel.

4 Is there anything from the Town
5 Designated Engineer?

6 MR. ROMANO: No.

7 CHAIRMAN O'ROURKE: Anybody in the
8 audience like to speak on this project?

9 Ma'am, could you state your name for the
10 record?

11 MS. MARSHALL: Hi, my name is Michelle
12 Marshall and I live at 25 Crosby Street. This
13 is my first meeting so please forgive me. I'm
14 not familiar with protocols here. I have some
15 general questions and I have some specific
16 questions.

17 The storm drainage basins are 15 feet
18 from my property line. That is three times my
19 height. I understand that it's going to be an
20 open top drainage area that will have some
21 sort of grass covering on it.

22 I have looked at the drainage basin that
23 was put in on Sarah Court and it looks like a
24 swamp. I don't know understand how this
25 drainage basin is going to work. What is the

1 estimated time frame for water draining out of
2 this basin?

3 CHAIRMAN O'ROURKE: Why don't you tackle
4 that, Mr. Hershberg?

5 MR. HERSHBERG: This is a dry basin.
6 There is no standing water in it. The bottom
7 of this is three feet above the groundwater
8 table. There is no possibility of this turning
9 into a swamp. There is positive drainage out
10 of it. The time that the water will stand is
11 if you have a one year storm - probably less
12 than an hour. If you have a ten year
13 storm, about two hours; if you have a 100 year
14 storm, probably a maximum of five hours of
15 standing water in there. Because of that
16 potential for that five hour standpoint, the
17 Town insisted that we use a six-foot chain
18 link fence with a vinyl coating on it.

19 MS. MARSHALL: Do you have any plans for
20 any aesthetic shrubbery or anything like that?

21 MR. HERSHBERG: We intend to leave any
22 trees or shrubs between the end there and the
23 property line. We can't really plant shrubs or
24 trees within the limits of the basin.
25 Everything from the fence in will be graded

1 down. It will be grass and it will be
2 maintained by the Town as a grass basin.

3 MS. MARSHALL: How much maintenance is
4 the Town going to take with this? How long
5 does the grass get before it gets cut?

6 CHAIRMAN O'ROURKE: Joe, you want to go
7 over that?

8 MR. LACIVITA: What I've seen in my own
9 neighborhood, C.J., is at least twice a year
10 that is maintained. I don't have an actual
11 time frame as to when DPW goes out and handles
12 all the maintenance on it.

13 CHAIRMAN O'ROURKE: Can we get this woman
14 an answer on the maintenance of the stormwater
15 basin?

16 MR. LACIVITA: Sure.

17 MS. MARSHALL: In addition to that, I
18 noticed that at the end of Crosby Street there
19 is going to be more turning space so that
20 allow the Town more pavement. How does that
21 effect snow removal and the placement of snow
22 out from the street? Currently, they push it
23 all towards the dead-end there.

24 CHAIRMAN O'ROURKE: Again, they won't be
25 maintaining this stormwater detention basin

1 during the winter months.

2 MS. MARSHALL: Okay. So, it's just mowing
3 the grass and taking care of that aspect.

4 CHAIRMAN O'ROURKE: Yes, ma'am.

5 MS. MARSHALL: And there is no plans for
6 anything else? I'm just thinking while I was
7 looking at this fence. Why is there no fence
8 at the end of Sarah Court?

9 CHAIRMAN O'ROURKE: I can't answer that
10 because it didn't come before this Board while
11 I was on it. I don't know. There are many
12 different ways to handle stormwater and they
13 have evolved certainly over the last ten
14 years. Again, as Mr. Hershberg stated, the
15 reason that the fence has to go up on this is
16 because at a 100 year storm, the possibility
17 for standing water over a certain amount of
18 time has to be fenced to protect children and
19 animals.

20 MS. MARSHALL: Does the Town property for
21 the basin extend out to Consaul Road? That
22 little section right there in the corner - the
23 triangle?

24 MR. HERSHBERG: Yes. It extends out
25 there, but there are no implements out there.

1 The trees stay in place here (Indicating).
2 This is a lot that will have the stormwater
3 management facility on it. Even though it's
4 13 lots, there is a 14th lot that holds the
5 stormwater system and it will be dedicated to
6 the Town. So the Town does own it all the way
7 out to Consaul Road, but there is no clearing
8 or grading to be done on the first 40 or
9 50 feet of that area.

10 MS. MARSHALL: Could the access road be
11 changed so that it's not at the dead-end and
12 it could access Consaul Road?

13 CHAIRMAN O'ROURKE: We'll let the Town
14 Designated Engineer field that question.

15 MR. ROMANO: I would think that it would
16 be safer that they access it from a dead-end
17 street, rather than have the vehicles pull off
18 of Consaul Road. They're going to have a gate
19 there.

20 MS. MARSHALL: Is this gate in question
21 going to be right at the end of Consaul Road,
22 or is there going to be two gates; a gate for
23 access to the property and then a gate that is
24 surrounding the actual basin?

25 MR. HERSHBERG: I can show you the line

1 on the plan. The fence goes here (Indicating),
2 and there is a gate at the end about 12 feet
3 from the end of the pavement. All around here
4 is going to be the fence. The fence doesn't go
5 over the property line. It doesn't go down
6 towards Consaul Road. It's strictly around the
7 basin. It's not to delineate the town
8 property.

9 MS. MARSHALL: So, it would be a straight
10 line in there?

11 MR. HERSHBERG: Actually, it jags out so
12 that a portion of the roadway is in there. It
13 was people in the Town's Department of Public
14 Works that indicated the alignment that they
15 wanted for the fence. The fence is from that
16 48-inch pipe - which is where those two catch
17 basins are at the end. The fence is 10 to
18 12 feet from that location. That was set so
19 that these gates could be swung in to the
20 site. They'll open and swing into the site. A
21 Town truck would pull up and park partially
22 off the pavement, get out and open the gate,
23 swing the gate in and then have access to
24 drive their access in. The only reason to
25 bring anything other than a pick-up truck to

1 inspect it, would be a time when they
2 determine that they want to clean out the
3 system.

4 Clearing out the system is something that
5 has to be done periodically. A system like
6 this, given the size of the facility, you
7 normally don't clean out until you accumulate
8 six-inches with the sediment at the bottom of
9 it. You're probably talking on a 10, 15 to
10 20 year interval. It's not something that has
11 to be done regularly. When I say clean that
12 out, they'll go in there with a small loader
13 and load things up on a truck and truck the
14 dirt away. What accumulates that the bottom of
15 these systems is silt, or dirt, for a lack of
16 better term. In order to clean it out and
17 maintain the capacity in there, periodically,
18 they have to go in and clean it out. Because
19 of the size of the facility, we don't think
20 that it's going to happen very often.

21 MS. MARSHALL: And is all building access
22 for this drainage basin going to be from
23 Antoinette Road, or will they need to be
24 coming down Crosby Street to install this
25 gate? What type of work will be done on

1 Crosby Street?

2 MR. HERSHBERG: I would assume that the
3 developer is going to develop everything from
4 the inside out and work in this area here
5 (Indicating). They do have to get out into
6 Crosby Street because the connection from here
7 goes into one of the catch basins. To build
8 this driveway, they'll have to get out onto
9 Crosby Street, but the main excavation - all
10 the work that will be done inside - we do have
11 what is called an erosion control and we have
12 to put up what we call a sediment fence around
13 our entire site.

14 MS. MARSHALL: What is a sediment fence?

15 MR. HERSHBERG: It's a fabric type fence
16 that you see around construction sites. It
17 prevents dirt from washing off the site and up
18 on the adjoining property. That doesn't stay
19 permanently. As soon as everything is
20 stabilized, a sedimentation fence gets taken
21 down. A sedimentation fence is temporary.

22 MS. MARSHALL: And then there will be a
23 chain link fence all around there?

24 MR. HERSHBERG: Yes.

25 MS. MARSHALL: What happens if I have a

1 problem with my property as they develop this?

2 CHAIRMAN O'ROURKE: What kind of problem,
3 ma'am?

4 MS. MARSHALL: What if the erosion
5 doesn't work and I start to have leakage
6 coming onto my land? Now my property is
7 eroding away because of things that are being
8 done to the water table, the ground water, and
9 the erosion in general.

10 CHAIRMAN O'ROURKE: Mr. Hershberg, have
11 you ever had a system fail?

12 MR. HERSHBERG: I have not. However, the
13 question of what happens if during
14 construction something might happen - that's
15 another issue.

16 Sedimentation and erosion control is
17 required on all projects, even if you're
18 subjected to cleaning the stormwater. DEC has
19 strict rules regarding governing erosion and
20 sedimentation. They can fine the developer up
21 to \$37,550 per day for violations. If they
22 come out and do an inspections, and New York
23 State DEC has in fact -- not on projects of
24 this size, but has fined that \$37,500 a day
25 fine against a developer. They would be the

1 enforcement agency, although the Town has a
2 primary enforcement agency under their own
3 stormwater management tool. The Local Law that
4 governs stormwater management in the Town of
5 Colonie - that's what we're designing the
6 system under. The erosion and sedimentation
7 control are locally controlled, but New York
8 State DEC has the ultimate power to enforce.

9 MR. LACIVITA: During the course of
10 construction, a man from our Stormwater
11 Department goes out on site at least once a
12 week, if not more, depending on what they're
13 monitoring. It might be if it rains and how
14 they're sweeping the site and taking care of
15 the site. So, our Stormwater Department is out
16 there quite a bit talking with the developer
17 and talking with the engineers and making sure
18 that everything is working properly.

19 MS. MARSHALL: How long will this all
20 take?

21 CHAIRMAN O'ROURKE: What do you expect
22 build-out to be, Mr. Hershberg?

23 MR. HERSHBERG: Well, the infrastructure
24 is probably a four-month process from start to
25 finish. Again, that would include doing all

1 the utilities, all the clearing, all the
2 grading, and putting in the pavement up to the
3 base course without the top course, and having
4 the area reestablished with grass.

5 The build-out of the houses is anybody's
6 guess. In a market like this, how long will it
7 take to build 13 houses? We're not sure. It
8 depends upon sales. Each lot will already be
9 stabilized. The major work on this site will
10 probably be a four-month duration to do all of
11 the infrastructural improvements. During
12 construction, not only will the Town's
13 stormwater people coming out there, but there
14 is an engineer appointed to supervise the
15 installation of the sewer and water at the
16 developer's expense. The developer has to pay
17 those folks. So, we're not in a vacuum and
18 this Board is not taking my word about how
19 it's going to be done. It's independent and
20 hired by the Town of Colonie and paid for by
21 the applicant to inspect the project.

22 MS. MARSHALL: Is there a notice provided
23 to the residents if my water needs to be
24 turned off or if my power needs to be
25 interrupted? What time frame would they notify

1 those people that would be effected?

2 MR. LACIVITA: I don't know.

3 MR. HERSHBERG: Normally, when we sit
4 down for a preconstruction meeting, we're
5 identifying those instances where any
6 utilities would have to be interrupted. We're
7 directed by the department - either Latham
8 Water or Pure waters or the stormwater people
9 regarding the methodology that they want to
10 see to inform people. The Town takes the lead
11 with regards to informing people. However,
12 they may require that we make up notices and
13 have them ready. The only time that we really
14 have to have any development of systems that
15 may have to be shut off is to the water
16 connection.

17 We're taking out a manhole and putting in
18 a new manhole. The water connection would
19 actually being done with a wet tap. My guess
20 is that there is a potential for downtime, but
21 very little.

22 MS. MARSHALL: How will we be notified to
23 prepare for that downtime?

24 MR. HERSHBERG: Like I said, the Town
25 departments will identify those times at which

1 notification will be required and under the
2 Town departments themselves, take care of
3 notifying the homeowners that might be
4 affected. Sometimes it's a very large area
5 when you have a major water main to attach. I
6 guess we tried to come in on the ends of all
7 the utilities so that there won't be such a
8 significant impact.

9 MS. MARSHALL: Thank you.

10 CHAIRMAN O'ROURKE: Thank you, ma'am.

11 Anyone else?

12 Yes, sir.

13 MR. NANTISTA: I'm Joseph Nantista,
14 17 Carol Street.

15 When you go down to the end of the
16 street, there is a river underneath Consaul.
17 It doesn't matter how dry it is, you can hear
18 water running through those storm drains.

19 I've been living on the street for
20 27 years. My concern is flooding out the
21 street, there. There is a river or a stream.
22 You can hear it. No matter how dry it is, it's
23 24/7.

24 My next question is regarding the walking
25 path. About two years ago it was put in for

1 emergencies. I was here at the meeting. They
2 wanted to make a street for emergency vehicles
3 to get in and out -

4 CHAIRMAN O'ROURKE: No, sir. We never
5 stated that.

6 MR. NANTISTA: My wife was right here
7 with me.

8 CHAIRMAN O'ROURKE: And possibly you
9 might have misunderstood.

10 MR. NANTISTA: Is that going to be a road
11 there?

12 CHAIRMAN O'ROURKE: That is going to be
13 an easement.

14 MR. NANTISTA: Right, an easement, but is
15 it going to be dirt? Is it going to be grass?
16 How are they going to maintain it?

17 CHAIRMAN O'ROURKE: If I were to buy that
18 lot and build my house on that lot, I would
19 want it to be grass. The water is going to be
20 underground. It's just like if you bought a
21 house and there is a sewer line that ran
22 through your property, there would be an
23 easement on that property. That's what this
24 will be.

25 MR. NANTISTA: Who will be obligated to

1 cut the grass on that?

2 CHAIRMAN O'ROURKE: Whoever the homeowner
3 is.

4 MR. HERSHBERG: Mr. Chairman, we actually
5 show eight-feet of paved walkway in there.
6 Whether the Town doesn't want to take
7 it -- one of the comments from staff was that
8 they wanted it paved so they clearly
9 identified that it wouldn't become overgrown.

10 CHAIRMAN O'ROURKE: That was not my
11 understanding.

12 Was that your understanding?

13 MR. ROMANO: There were comments brought
14 up during one of the meetings that we had;
15 yes.

16 MR. HERSHBERG: Again, like I said, as a
17 condition of approval if you want us not to
18 pave it, we're comfortable with that.

19 CHAIRMAN O'ROURKE: I'm not going to
20 speak for the entirety of the Board.

21 Was it in the Planning Department
22 possibly, Joe? My understanding of it was that
23 we wanted no paved connection. We wanted no
24 roadway.

25 MR. ROMANO: I think that it was from the

1 concept approval to provide pedestrian access.

2 CHAIRMAN O'ROURKE: Right, and I believe
3 that the Chairman at the time told the
4 residents that a walkway doesn't have to be
5 paved. We didn't want to maintain it.

6 MR. HERSHBERG: There was a comment on a
7 memo of September 4th from Joe Grasso to Mike
8 Lyons.

9 "The eight-foot wide path must be
10 included in the right of way value."

11 Earlier there was a comment, and I don't
12 know at what point the comment was presented,
13 but there was a reference to paving. Like I
14 said, the applicant is not interested in
15 paving if we don't have to.

16 CHAIRMAN O'ROURKE: I, personally, would
17 not like to see it paved. I don't think that
18 it would do any justice to the residents, the
19 homeowners, or the perspective homeowner to
20 have a paved eight-foot path.

21 MR. NANTISTA: What house takes over the
22 basin?

23 CHAIRMAN O'ROURKE: How does that split
24 up, Mr. Hershberg?

25 MR. HERSHBERG: The division line is here

1 so it would be Lot 8.

2 MR. NANTISTA: But that's no guarantee
3 that they're going to pave that path.

4 CHAIRMAN O'ROURKE: No. It's America. If
5 he has four kids and they're out playing
6 football, it might be a football field.

7 MR. NANTISTA: My other concern was with
8 the rain.

9 CHAIRMAN O'ROURKE: Just so you know, we
10 deal with it all the time and drainage is a
11 difficult thing. The number one worry of
12 homeowners is water damage.

13 The SWPPP regulations, which are the
14 stormwater management regulations, are
15 required to maintain every bit of stormwater
16 that hits that parcel. Now, we can't say what
17 may happen, but Mr. Hershberg is responsible
18 for any bit of stormwater run-off that happens
19 on this parcel. So, we can guarantee you
20 through the TDE, which this engineering firm
21 represents the Town and the taxpayers, that
22 this system designed and proposed
23 tonight -- you'll have no effect from any
24 stormwater that happens on this parcel.

25 MR. NANTISTA: We have problems with

1 Dunkin Donuts. When you go out to Consaul Road
2 and every time it rains, it floods. In the
3 wintertime, it's ice. That's my concern. It's
4 been going on for years.

5 CHAIRMAN O'ROURKE: I'm sure that
6 Mr. Hershberg would be happy to sell you the
7 13 lots and then it could stay like that until
8 you pass it on to your kids.

9 MR. NANTISTA: That's not feasible.

10 CHAIRMAN O'ROURKE: Right, but somebody
11 owns the property. Somebody pays their taxes
12 on it and has every right to develop it in
13 accordance with the rules and regulations of
14 the Town of Colonie. We're here to look out
15 for your interests in regard to that.

16 MR. NANTISTA: I appreciate that.

17 CHAIRMAN O'ROURKE: Thanks, and thanks
18 for coming.

19 Anyone else?

20 MS. MESSIER: My name is Pat Messier and
21 I live at 10 Carol Street.

22 We have fire hydrants at the end of the
23 dead-end street. What happens to that hydrant
24 now?

25 MR. HERSHBERG: That hydrant stays. It's

1 not going to get relocated at all.

2 MS. MESSIER: Is that a walkway out
3 there?

4 MR. HERSHBERG: No, this is actually an
5 easement for the Town to get back there. In
6 order to grade this and have the drainage not
7 lay in this wooded area here, we put a swale
8 in so there is a ditch line that carries water
9 back to the catch basin (Indicating). We try
10 to accommodate all the water on our site into
11 a positive drainage situation either through
12 the detention system or thorough a connection.

13 In one area that we did have a low spot,
14 we actually added a drywell and there is a
15 note on here that it will be owned and
16 maintained by the property owner. We did try
17 to provide positive drainage from our entire
18 site to the storm sewer and out. The 40-inch
19 pipe has been here a long time and we are
20 discharging less water to that 40-inch pipe
21 than has been discharged at any time in the
22 past. The reason for this very large basin is
23 that the soil in this area is sandy. An awful
24 lot of water recharges to ground water, so
25 it's not run-off. So we had to use a very low

1 run-off factor for this project. The size of
2 these detention basins are quite large given
3 that there is only 13 lots. Normally, a
4 detention basin would not have to be that
5 large, but based upon a requirement that we
6 store a 100-year storm, which is the most
7 strict storm that any municipality requires,
8 we had to make that basin quite large. At the
9 100-year storm, it builds up, but you'll only
10 have a foot and a half of water for about an
11 hour or so after the storm.

12 MS. MESSIER: Will our existing water
13 lines be interrupted?

14 MR. HERSHBERG: No. We added another
15 manhole here (Indicating). You have a sanitary
16 sewer that's out in the middle of the woods.
17 We added a manhole and tied it in at that
18 location, so that it could pick up the sewer.
19 The water main is tied in at another location.
20 It comes right off the end of that water main,
21 beyond where that hydrant is. The hydrant
22 stays in place, but the valve at the end will
23 connect into the end of the pipe and extend it
24 down to this area here (Indicating). That all
25 empties here into a water main out on

1 Consaul Road. This should all help to increase
2 your pressure.

3 Being part of a loop would reduce an
4 issue that normally happens on dead-ends. It's
5 called a water hammer where the water pressure
6 builds up. By being a part of a loop, it will
7 reduce that possibility. Of course, there
8 could be an age issue with the pipe. We're
9 going to have all new iron pipe in this
10 project.

11 MS. MESSIER: I've lived in that
12 neighborhood for years and there are mosquito
13 issues that are really terrible. Who cleans
14 these things?

15 MR. HERSHBERG: If the drainage is
16 holding water, then it wasn't designed right.
17 If there was an issue with it being cleaned,
18 the applicant would have to clean it. After it
19 was turned over to the Town, the Town would be
20 called. That water should really drain out
21 fairly quickly after a storm.

22 MS. MESSIER: Is there any way to put a
23 fence in there?

24 MR. HERSHBERG: The maximum height that
25 the Town allows for a chain link fence and

1 permits to use as a security purpose is four
2 feet. New York State says that you have to
3 have a four-foot fence around it. We would put
4 a six-foot fence around here because it could
5 be considered an attractive nuisance. Someone
6 could go out there and try to fool around with
7 it. It's designed to be as benign as possible.
8 There are pipes that are large enough that
9 people could actually get caught in them in a
10 big storm. In our case, it would be very hard
11 for a child to get trapped in. We do have a
12 catch basin over it.

13 CHAIRMAN O'ROURKE: Anyone else?

14 MR. MURRAY: My name is Bob Murray and I
15 live up on Consaul Road. I have been in there
16 for many years. There is definitely a water
17 problem. I want to know if they are going to
18 put foundations in these houses.

19 CHAIRMAN O'ROURKE: Mr. Hershberg?

20 MR. HERSHBERG: Yes, there will be
21 foundations in the ground.

22 MR. MURRAY: How are you going to keep
23 them dry?

24 MR. HERSHBERG: As a matter of fact, we
25 do have structures on our pipe that set the

1 foundation range.

2 MR. MURRAY: I run two sump pumps,
3 24 hours. I can't keep my basement dry. If
4 I've got a problem one block away, you're
5 going to have a problem.

6 MR. HERSHBERG: Actually, we did test it
7 to determine the elevation of the water table
8 before we even started the project. What we
9 have done with this plan is we've raised the
10 grade in that area.

11 CHAIRMAN O'ROURKE: Anyone else?

12 MS. MARSHALL: You said that there would
13 be some kind of maintenance schedule that is
14 going to be done on that? How would somebody
15 know that it was clogged up?

16 CHAIRMAN O'ROURKE: That's what you pay
17 your taxes for, ma'am.

18 MR. HERSHBERG: Water would be in that
19 basin for more than four or five hours after a
20 major storm. If you see water, it's a signal
21 to call the Town - the stormwater office and
22 tell them that they have a clogged pipe. It's
23 as simple as that.

24 CHAIRMAN O'ROURKE: Just so you know the
25 way that this works, the applicant is

1 responsible for all those infrastructure
2 items, until which time that the Town takes
3 them over. So, when they build this out and
4 Mr. Guidarelli doesn't sell one house, they're
5 going to own this system until the Town takes
6 it over. They need full build-out, in most
7 instances for the Town to take the road, the
8 water, the sewer, and all the infrastructure
9 items. Those will be owned by the Town.

10 MS. MARSHALL: Until that time, would the
11 applicant be scheduling the maintenance of
12 cleaning these basins?

13 CHAIRMAN O'ROURKE: He better be. He's
14 liable.

15 MS. MARSHALL: How do we enforce that?

16 CHAIRMAN O'ROURKE: We have departments
17 in the Town that do that. Again, we're using
18 your tax money pretty well. We have some
19 departments in the Town that take care of
20 that.

21 Joe, can you give this woman John
22 Dzialos' phone number? I'm sure that the
23 developers will be happy that you bother him
24 as much as he bothers them.

25 MR. LACIVITA: I will call you tomorrow.

1 I have a phone number that goes to an
2 extension 216; is that you?

3 MS. MARSHALL: Yes.

4 MR. LACIVITA: I will call you tomorrow
5 with all that information.

6 CHAIRMAN O'ROURKE: And if that doesn't
7 happen ma'am, I'd like to know.

8 Yes, sir.

9 MR. GREESON: Ned Greeson, 51 North Erie
10 Street. I have some concerns with flooding.
11 There was a development put in that ended up
12 flooding everyone in Cohoes -

13 CHAIRMAN O'ROURKE: Sir, do you have a
14 particular question in regard to this project?

15 MR. GREESON: We were assured that you
16 were going to take care of these problems.
17 There were calls put in to John Dzialo, Joe
18 LaCivita and there was still flooding. They
19 had to repave all the road and we had to pay
20 for it out of our tax dollars.

21 CHAIRMAN O'ROURKE: Sir, this Board
22 didn't approve that project. What your
23 addressing isn't project specific for
24 tonight's project. I'm sorry, I'm going to cut
25 you off. I'd be happy to sit down with you on

1 my time, but not on these folks' time.

2 Yes, ma'am.

3 MS. VIGARS: June Vigars,
4 47 Consaul Road. What's going to happen to
5 those big tall trees between our property
6 there and theirs? Are they going to take them
7 all down? If they build there and make the
8 land unsettled, those trees are all going to
9 come down on our property. Are they going to
10 take them all down so that we'll be safe?

11 CHAIRMAN O'ROURKE: Mr. Hershberg will
12 answer that for you.

13 MR. HERSHBERG: This area here, about 45
14 to 50 feet from your line - we're obligated
15 not to clear it except to remove dead or
16 diseased trees. We're exposing our homes to
17 the same sort of danger from trees that come
18 down. I know the trees that you're talking
19 about. There are very large pine trees. My
20 guess is that we're going to clear those by
21 doing selective clearing. We're not going to
22 clear the land. We're just going to
23 selectively take down dead and diseased trees.

24 MS. VIGARS: But they're going to
25 interrupt the soil and they're not going to

1 hold the trees up.

2 MR. HERSHBERG: You're talking about the
3 steep slope in the back here (Indicating).
4 Again, we're actually going to be filling at
5 the base of that slope to make it more stable.
6 We intend to remove the debris in there. We
7 are going to remove that and this span of
8 trees (Indicating). We're told not to cut down
9 anything that's live and healthy. Any tree
10 that poses a danger to your property - we'll
11 go in there and cut down.

12 CHAIRMAN O'ROURKE: Are there specific
13 trees, ma'am, that you're looking for? I'm
14 sure that Mr. Guidarelli would meet with you
15 and walk the property with you.

16 Would the applicant be willing to do
17 that?

18 MR. HERSHBERG: Sure. Obviously, as I've
19 said, the applicant doesn't want to build a
20 new house and have a wind storm come and blow
21 a tree down on that house. It's in his best
22 interest to clear out anything that's there.

23 CHAIRMAN O'ROURKE: Anything else?

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

25 CHAIRMAN O'ROURKE: Okay,

1 Mr. Hershberg is looking for review and
2 action.

3 MS. VAIDA: If I could just ask,
4 Mr. Hershberg, if you could just state for the
5 record with regard to the SEQRA submission and
6 that there have been no changes that would
7 affect your answers and responses from the
8 SEQRA form.

9 MR. HERSHBERG: The SEQRA form that we
10 pulled out previously - there are no issues or
11 changes at all.

12 CHAIRMAN O'ROURKE: Do I have a motion on
13 accepting concept? We need to do that first.

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

15 CHAIRMAN O'ROURKE: do I have a second?

16 MR. ROSANO: Second.

17 CHAIRMAN O'ROURKE: All those in favor?

18 **(Ayes were recited.)**

19 CHAIRMAN O'ROURKE: Opposed?

20 **(None were opposed.)**

21 CHAIRMAN O'ROURKE: So moved on concept.

22 Mr. Hershberg is also looking for a final
23 site plan approval. I would like to make that
24 motion contingent upon the language in the
25 restricted covenant being submitted to Counsel

1 and approved and that the notices must be
2 provided to protect perspective buyers for
3 contract of sale in each deed.

4 MS. VAIDA: And also the covenants to be
5 in reportable form and that the applicant will
6 record them.

7 MR. SULLIVAN: C.J., do you want comments
8 from Latham Water?

9 CHAIRMAN O'ROURKE: And to follow all
10 comments not addressed by the Town Designated
11 Engineer.

12 Before I enter that in, let me poll the
13 Board with regard to the grass or pavement.

14 Peter?

15 MR. GANNON: It makes no different me.

16 CHAIRMAN O'ROURKE: Mike?

17 MR. SULLIVAN: If we have gravel, do we
18 need to have a path?

19 CHAIRMAN O'ROURKE: Whoever owns it is
20 ultimately going to do with it what they
21 want - whoever owns Lot 8.

22 MR. LANE: It's an easement, but if it's
23 also going to be walkway, you're going to have
24 a piece of property that people can pass
25 through and it's not delineated -

1 CHAIRMAN O'ROURKE: That's my main point.
2 Mr. Guidarelli will own that Lot 8 himself
3 because nobody is going to buy it with an
4 8-foot sidewalk across it.

5 MR. LACIVITA: We have many easements
6 like that in the Town where we don't put that
7 type of restriction on it. Normally, they're
8 grass easements.

9 MR. SULLIVAN: If we don't need a
10 walkway, I'm fine with grass.

11 CHAIRMAN O'ROURKE: Tim?

12 MR. LANE: Grass.

13 CHAIRMAN O'ROURKE: Paul?

14 MR. ROSANO: Grass.

15 MR. MION: Grass.

16 CHAIRMAN O'ROURKE: Make it grass,
17 please.

18 With the motion in place -- Joe, do you
19 have all that?

20 MR. LACIVITA: Yes.

21 CHAIRMAN O'ROURKE: Do I have a second?

22 MR. GANNON: I'll second it.

23 CHAIRMAN O'ROURKE: All those in favor?

24 **(Ayes were recited.)**

25 CHAIRMAN O'ROURKE: Opposed?

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(None were opposed.)

CHAIRMAN O'ROURKE: Good luck,
Mr. Hershberg and Mr. Guidarelli.

*(Whereas the proceeding concerning the above
entitled matter was concluded at 8:03 p.m.)*

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CERTIFICATION

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

NANCY STRANG-VANDEBOGART

Dated October 11, 2010