

TOWN OF GARDINER PLANNING BOARD

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Public Hearing

SUBDIVISION - SHAFT ROAD LLC

Open Space (Conservation) Major

Subdivision consisting of 10 residential  
building lots, lands situated within the  
RA Zoning District along 85/91 Shaft Road  
and South Mountain Road [S/B/L

#92.3-1-21.1]

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2340 Route 44/55  
Gardiner, New York

May 16 2017  
7:30 p.m.

PLANNING BOARD: PAUL COLUCCI, Chair  
JOHN FRIEDLE  
JOE HAYES  
KEITH LIBOLT  
RAY SOKOLOV  
CAROL RICHMOND  
JOSH VERLEUN  
WARREN WIEGAND

PRESENT: MICHELLE MOSHER, Town Clerk  
JAMES FREIBAND, Planner

APPLICANT: MICHAEL MORIELLO, ESQ.

REPORTED BY: Karen Schmieder, CSR

SMI Court Reporting (845) 452-1988

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1           CHAIRMAN COLUCCI: So next  
2 on the agenda would be the subdivision  
3 Shaft Road LLC, and I'll ask Michelle  
4 to read the legal notice.

5           SECRETARY MOSHER: Notice is  
6 hereby given, due to lack of quorum,  
7 the public hearing --

8           MR. FREIBAND: No. I'm  
9 sorry, that's the wrong one. That was  
10 the earlier one.

11          SECRETARY MOSHER: Notice is  
12 hereby given that an open space  
13 conservation major subdivision,  
14 consisting of ten residential building  
15 lots, land situated within the RA  
16 zoning district along 85/91 Shaft Road  
17 and South Mountain Road. S/B/L  
18 #93.3-1-21.1.

19          CHAIRMAN COLUCCI: Okay, the  
20 first thing I would like to state is,  
21 as you all know, this is the  
22 re-opening of this public hearing.

23                 And as you're aware, I am  
24 vice chairman sitting in for the

1 chairman. We are all lay people here,  
2 and there may or may not be some  
3 missteps here. We are all going to  
4 try to get through this together.

5 I would request that when  
6 you want to speak you raise your hand.  
7 I will acknowledge you. You will give  
8 Michelle your first name, your last  
9 name, and speak clearly so she can  
10 hear you, and we will move forward.

11 We understand that there is  
12 a lot of people here tonight that  
13 would like to comment on it. And  
14 that's all well and good. If  
15 everybody could keep their statements  
16 brief, and try not to reiterate and  
17 duplicate what somebody -- maybe your  
18 neighbor or somebody else has already  
19 said.

20 So with that I would like to  
21 open the public hearing.

22 MR. FREIBAND: The applicant  
23 should --

24 CHAIRMAN COLUCCI: What? Do

1 you want to come forward, Mike?

2 MR. MORIELLO: No, no. I  
3 was just checking to make sure the  
4 stenographer was working.

5 CHAIRMAN COLUCCI: You  
6 should be aware that we have a  
7 stenographer here, so it's important  
8 that you speak clearly.

9 So who would like to speak?

10 Yes, ma'am.

11 MS. LISA LINDSLEY: Good  
12 evening. My name is Lisa Lindsley,  
13 L-I-N-D-S-L-E-Y. I live on Brunswick  
14 Road.

15 I would like to read a  
16 comment on behalf of Tim Hunter who  
17 lives on North Mountain Road.

18 In the February 3rd -- is it  
19 South Mountain Road, Annie?

20 MS. ANNIE O'NEIL: Yes,  
21 South Mountain.

22 MS. LINDSLEY: Correct that,  
23 thank you, South Mountain.

24 In the February 13 memo by

1 James Freiband, the planner, it's  
2 stated the applicant stated -- quote,  
3 the applicant stated they would be  
4 working with the Board's attorney on a  
5 more detailed conservation easement to  
6 ensure that the restrictions on  
7 clearing the development would be  
8 adhered to in the minimum of  
9 procedural delays and court actions as  
10 well as contractual oversight by the  
11 Gardiner Open Space Commission.

12 In Tim Hunter's opinion this  
13 shows how out of touch this whole  
14 application is with regard to  
15 Gardiner. Tim says, as a former  
16 member of the Open Space Commission,  
17 he would like point out that there is  
18 currently no Open Space Commission.

19 Thank you.

20 MR. FRIEDLE: John, do you  
21 agree with that statement, Tim?

22 MR. TIM HUNTER: I do agree  
23 with.

24 Thanks, Lisa.

1                   No, I was going to have to  
2 leave. I didn't know I would be up  
3 first. I have to pick up the kids at  
4 ballet. Thank you very much.

5                   CHAIRMAN COLUCCI: Anybody  
6 else?

7                   Yes, sir.

8                   MR. ELI KASSIRER: My name  
9 is Eli Kassirer.

10                  CHAIRMAN COLUCCI: Excuse  
11 me, could you speak up.

12                  MR. KASSIRER: I'll try.  
13 Eli Kassirer, K-A-S-S-I-R-E-R.

14                  CHAIRMAN COLUCCI: Thank  
15 you.

16                  MR. KASSIRER: North  
17 Mountain Road.

18                  I've been at the public  
19 hearings before about this particular  
20 project and spoke about concerns for  
21 wetlands, water use, wildlife and the  
22 wildlife corridor, which would go  
23 between the river and the Shawangunks.

24                  I get the impression or it

1 seems as if the Planning Board has  
2 become a vehicle for large-scale  
3 development projects, and the Planning  
4 Board has mastered the complex process  
5 of pushing through subdivisions for  
6 residential development. And Shaft  
7 Road development seems to be another  
8 one.

9           I would just like to make  
10 reference to the Town of Gardiner  
11 Comprehensive Plan, which was passed  
12 in December 2012. I'll quote directly  
13 from it: As the Town of Gardiner  
14 grows and develops, the landscape will  
15 contain large areas of open space and  
16 agriculture.

17           Continuing to quote from the  
18 vision of land use, also from the  
19 Comprehensive Plan: Goal A(1) is to  
20 maintain the rural character of the  
21 landscape by preserving significant  
22 large parcels of undeveloped land  
23 and/or agricultural land.

24           It's my sense, and I think

1 it's the sense of other people in the  
2 community, that the Planning Board  
3 clearly conforms to the letter of the  
4 law, but violates the spirit and  
5 intention of the Comprehensive Plan  
6 and open plan. Projects seem to be  
7 pushed through with little concern for  
8 the vision of the Comprehensive Plan  
9 or the Open Space Plan.

10 So I'm asking you to please  
11 say no to this development plan for  
12 Shaft Road, and to please respect and  
13 honor the vision of the Comprehensive  
14 Plan as well as the Open Space Plan.

15 Thank you.

16 CHAIRMAN COLUCCI: Thank  
17 you.

18 Yes, sir.

19 MR. DAVID GORDON: My name  
20 is David Gordon. I'm the attorney  
21 representing neighbors of the project.  
22 I have a very short comment.

23 I was here in December  
24 speaking to you about the proposed

1 conservation easement and the question  
2 as to who would be the holder of the  
3 easement.

4           Again, as Lisa and Tim did,  
5 I refer back to Jim Freiband's comment  
6 in his February 15th memo that it's  
7 now, as of at least three months ago,  
8 the concept was for a contractual  
9 oversight by the Gardiner Open Space  
10 Commission, which doesn't exist.

11           This is an important aspect  
12 of the project. Important to the  
13 citizens. And I would suggest to the  
14 Board that we need to have some  
15 clarity on who the easement holder is  
16 going to be before the Board can move  
17 forward.

18           I would ask the Board to  
19 keep the public hearing open until  
20 there is a proposal on the table for  
21 the holder of the conservation  
22 easement. The developer  
23 has made it clear originally that the  
24 developer wanted some private entity

1 -- an entity associated with the  
2 developer or with the homeowners to be  
3 the holder. That is in conflict with  
4 the town law, and therefore, we would  
5 suggest there needs to be some town  
6 entity. But not the Open Space  
7 Commission, because there is none.

8           And so we'd like to see  
9 clarity on that and before the  
10 Planning Board makes a decision on it.

11           CHAIRMAN COLUCCI: Thank you  
12 for your comment.

13           Yes.

14           MS. ANNIE O'NEIL: My name  
15 is Annie O'Neil, and I live on North  
16 Mountain Road.

17           Friends of the Shawangunks  
18 has in their recent issue done an  
19 article From River to Ridge by Karen  
20 Schneller-McDonald. And one of our  
21 concerns is that since the New York  
22 Natural Heritage Program hasn't  
23 surveyed all sites, it doesn't have  
24 the information to support a

1 definitive statement as to the  
2 presence or absence of all rare or  
3 state listed species.

4           We have asked for experts to  
5 really go out onto the property and  
6 make a study, rather than the usual  
7 plug-in that is done for projects like  
8 this.

9           So I just think that there  
10 are people here who have to speak for  
11 the environment. It is something that  
12 is finite, and once it's destroyed --  
13 and this is in the Shawangunkill  
14 corridor, which has many stressors, as  
15 you know right now.

16           So I think that really this  
17 project has a lot more work to do in  
18 terms of looking at wetlands and  
19 natural resources.

20           And also, I don't remember  
21 if you have a complete stormwater plan  
22 for this. Very critical to this  
23 property.

24           Thank you.

1                   CHAIRMAN COLUCCI: Thank  
2 you.

3                   MS. JENNIFER MAROSY: My  
4 name is Jennifer Marosy, and --

5                   CHAIRMAN COLUCCI: Excuse  
6 me --

7                   MS. MAROSY: -- I am a  
8 resident Gardiner. I live on  
9 Brunswick --

10                  CHAIRMAN COLUCCI: -- What  
11 did you say your name was?

12                  MS. MAROSY: Marosy,  
13 M-A-R-O-S-Y.

14                  CHAIRMAN COLUCCI: Got it.

15                  MS. MAROSY: S as in Sam.

16                  Thank you. Let's try it  
17 again.

18                  And I want to say that I  
19 concur with what Eli had to say, that  
20 the spirit of Gardiner is about open  
21 space. It is about rural space. It's  
22 not about looking like where used to  
23 live, which is East Rutherford, New  
24 Jersey and Clifton, New Jersey or

1 north New Jersey, probably where these  
2 developers are from.

3           It is a suburban place. All  
4 of the beautiful wetlands of East  
5 Rutherford still exist because it is  
6 protected, thank God. But the  
7 suburban sprawl that's all around  
8 there, that's not what we want in  
9 Gardiner. That's not why we live here  
10 in Gardiner. I hope that the Planning  
11 Board knows that and knows how  
12 passionate the residents are about  
13 that and will choose their  
14 construction projects wisely and based  
15 on those principals.

16           As Annie said as well, no  
17 one that lives in those wetlands right  
18 now can speak for themselves. There  
19 is not a salamander out there that's  
20 going to be able to walk here to Town  
21 Hall and say to you protect me,  
22 protect my family, I am a valuable  
23 part of Gardiner. So I'm here to say  
24 that for the salamander and for all of

1 the other wildlife that are living  
2 will, that pass through there.

3 I wish our developers would  
4 have the heart and take the time to  
5 come work up projects that can wisely  
6 use that land. Why can't an  
7 educational facility, for instance, or  
8 a place that helps people learn, bring  
9 people up from the city, bring them  
10 there and show them what that's all  
11 about and why we need to preserve it.  
12 Can't you find a way to make money off  
13 it in that way?

14 That's what I have to say  
15 about it. Thank you for hearing me  
16 out, and thank you for hearing the  
17 rest of the public.

18 If anybody else has  
19 something to say, please, I encourage  
20 you to say it. Now is the time. So  
21 speak up, because these living  
22 creatures, the beauty of our city  
23 can't speak for itself. It needs your  
24 voice. Thank you.

1           CHAIRMAN COLUCCI: All  
2 right, thank you.

3           I just wanted to state one  
4 thing in response to the young lady's  
5 comment --

6           MS. O'NEIL: Which young  
7 lady?

8 [ CHEERS AND LAUGHTER ]

9           CHAIRMAN COLUCCI: You got  
10 me. All of you. How's that?

11           It's important to  
12 understand, however, this is the  
13 public hearing, and at some point this  
14 public hearing will be closed so that  
15 the Board can then deliberate.

16           However, there is still  
17 going to be one more public hearing  
18 after this public hearing is closed,  
19 which will come up at the time of the  
20 final plat. So there will still be  
21 another opportunity after all of the  
22 information is compiled, and the  
23 deliberations of the Planning Board,  
24 comments from all of the professionals

1 that have worked on this application,  
2 along with all of the public input.  
3 You also have 30 days to have written  
4 comment after this public hearing is  
5 closed.

6 So I just want to make sure  
7 you all understand that. The  
8 statement she said this is your last  
9 opportunity. This is not your last  
10 opportunity.

11 Yes, Annie.

12 MS. O'NEIL: I would like to  
13 ask a question. Has this application  
14 been completed? I mean, it seemed to  
15 us there was still a stormwater plan  
16 that they had to do, and Central  
17 Hudson, the DEP.

18 MR. FREIBAND: As I pointed  
19 out in the February memo, those  
20 particular reviews are a product of  
21 the final engineering. So we don't  
22 see, for example, stormwater pollution  
23 plan. It is a detailed plan that  
24 looks at the construction and

1 excavation. This is a preliminary  
2 narrow plan. It's literally focused  
3 on the general layout of the  
4 subdivision only.

5 MALE SPEAKER: Excuse me,  
6 are there maps available?

7 CHAIRMAN COLUCCI: Excuse  
8 me. Could you speak your name?

9 MR. SALVATORE RICCOBONO:  
10 Salvatore Riccobono, Inn At the Ridge  
11 Bed and Breakfast --

12 CHAIRMAN COLUCCI: Hang on  
13 one second.

14 MR. RICCOBONO:  
15 R-I-C-C-O-B-O-N-O.

16 MR. FREIBAND: There is a  
17 map on the table back there.

18 MR. RICCOBONO: There is,  
19 okay. Thank you.

20 CHAIRMAN COLUCCI: Thank  
21 you.

22 Any other comments?

23 Yes, sir.

24 Please speak your name.

1                   MR. JEAN GAUTIER:  Jean  
2   Gautier, G-A-U-T-I-E-R.  I am a  
3   resident on the corner of Shaft Road  
4   and South Mountain Road.

5                   Unfortunately, I never had  
6   the opportunity to be here before, so  
7   I might be saying things that have  
8   been discussed.  So I do concur with  
9   the concern about the wetlands.

10                  I have maybe more pragmatic  
11   issues, because I'm right adjacent to  
12   the property.  And I had sent a letter  
13   with several questions to the Planning  
14   Board that I was told from Margaret  
15   Wagner was distributed to the Board,  
16   but I haven't heard back from that.

17                  So some of the issues that I  
18   have is about the financial plan.  For  
19   example, how this property is going to  
20   be built, altogether or sold one at a  
21   time?  Meaning the construction is  
22   going to last for a year or ten years,  
23   depending on the financial ability of  
24   the company.  So this is the kind of

1 issue that might have been discussed,  
2 and it might be documented and I  
3 apologize if don't know that. But  
4 that's one of the major issues that I  
5 have.

6 Also in terms of more  
7 specific aspect of the development, a  
8 lot of development tends to flatten  
9 the land and cut all the trees. Is  
10 that going to -- you know, do we have  
11 details of that sort to see how it's  
12 going to look like when it's going to  
13 be developed. Thank you.

14 CHAIRMAN COLUCCI: Thank  
15 you.

16 Yes, ma'am, if you want to  
17 stand up and speak your name.

18 MS. ALICIA MASK: My name is  
19 Alicia Mask.

20 CHAIRMAN COLUCCI: I  
21 couldn't hear you. Can you spell your  
22 last name?

23 MS. MASK: M-A-S-K.

24 CHAIRMAN COLUCCI: Thank

1 you.

2 MS. MASK: I live on South  
3 Mountain Road, right across the street  
4 from where the subdivision will take  
5 place. And I just want to agree with  
6 my neighbors. And I'm concerned about  
7 the wildlife, how that it will affect  
8 just in general the overall ability of  
9 the ecosystem.

10 We've only lived here a few  
11 short months, but we really value this  
12 space. We think that it's really  
13 important space, so I just wanted to  
14 say that. Thank you.

15 CHAIRMAN COLUCCI: Thank  
16 you.

17 Yes, sir.

18 MR. CHRIS O'CONNELL: Chris  
19 O'Connell, O-C-O-N-N-E-L-L -- South  
20 Mountain Road, on an adjacent  
21 property.

22 And I want to say I agree  
23 with Jennifer and Annie Murphy on  
24 their comments.

1           There is an awful lot of  
2 wildlife that comes through these  
3 properties on a daily basis. Deer,  
4 bear, turkey. There is snakes of  
5 course, woodchucks. The list goes on  
6 and on. I am not sure where they go.  
7 They do pass through on a daily basis,  
8 and it's a pretty regular schedule  
9 morning and evening.

10           In addition, at least the  
11 property that I am on, there are two  
12 pristine springs that I've tested, and  
13 the water is absolutely potable and  
14 incredible. And I'm not sure what  
15 this project will do to impact the  
16 quality of that water and the water in  
17 this area, which comes down from the  
18 Preserve, from Minnewaska and Mohonk.

19           Thank you.

20           CHAIRMAN COLUCCI: Thank  
21 you.

22           Yes, sir.

23           MR. KEN BAUSERT: My name is  
24 Ken Bausert, B-A-U-S-E-R-T, and I live

1 on Shaft -- I'm sorry, I live on South  
2 Mountain. I live on South Mountain,  
3 and I, along with the rest of my  
4 neighbors, want to go on record as  
5 opposing the project on environmental  
6 grounds and also for the peace and  
7 tranquility of the neighborhood and  
8 red fox that live in that section that  
9 run across the road every evening.

10 So thank you.

11 CHAIRMAN COLUCCI: Thank  
12 you.

13 Awful quiet. Anybody else?

14 Yes, ma'am, state your name.

15 MS. KELLY JORDAN: Kelly  
16 Jordan. I live on Brunswick Road, and  
17 I agree with everybody.

18 I just don't want it become  
19 like Long Island, Nassau. Like I came  
20 up here for the beauty, and the  
21 country, and I don't want it to get  
22 overbuilt.

23 CHAIRMAN COLUCCI: Thank  
24 you.

1                   Yes, sir.

2                   MR. RYAN KIERNAN: Ryan  
3                   Kiernan, Brunswick Road, adjacent  
4                   property.

5                   I grew up on the farm so I  
6                   played in the back woods since I was  
7                   two years old. Knowing the land and  
8                   personally being able to explore it, I  
9                   find it to be really important, just  
10                  like most of our townspeople have  
11                  spoken about, in regards to  
12                  responsible care of the land.

13                  As a future steward of  
14                  Kiernan Farm, I really hold that dear  
15                  to my heart, and I'd really like it  
16                  for our townspeople's voices to be  
17                  heard.

18                  In regards to, will I care  
19                  or my father care for details, but a  
20                  lot of people have spoken about the  
21                  animals that are around. And just  
22                  last week I've seen two eagles through  
23                  the trees and land in the trees right  
24                  on the aquifer, right on the deer pond

1 there. And so there is wildlife  
2 there. I really find it important  
3 that it needs to be protected as far  
4 as the land itself for all of us, the  
5 townspeople. And if there is  
6 something that can be done, I hope to  
7 see you go in that direction.

8 CHAIRMAN COLUCCI: Thank  
9 you.

10 MR. FREIBAND: Just a  
11 housekeeping item for the Board.

12 Between the time of the last  
13 public hearing and this public hearing  
14 the Board has received about 20 pieces  
15 of correspondence. The Board should,  
16 by resolution, incorporate that into  
17 the record of this hearing so that we  
18 have a complete and accurate record of  
19 all the comments.

20 MS. RICHMOND: Have they all  
21 been sent to us?

22 MR. FREIBAND: No, just as,  
23 you know, a general principle, all the  
24 correspondence that came in that

1 period should be --

2 CHAIRMAN COLUCCI: What was  
3 the period, time frame?

4 MR. FREIBAND: It was from  
5 the 30th of December to date.

6 CHAIRMAN COLUCCI: December  
7 of '16 to May 16th.

8 MR. FRIEDLE: We should make  
9 that after we close the hearing?

10 MR. FREIBAND: Actually,  
11 because there is a record being made,  
12 this is a good time to have it in the  
13 transcript.

14 MR. FRIEDLE: So you want to  
15 put it in this?

16 MR. HAYES: Go ahead.

17 CHAIRMAN COLUCCI: Well, it  
18 should be noted that for the Board  
19 that we have received volumes of  
20 correspondence and comments from the  
21 public from December of 2016 through  
22 May 2017.

23 MR. HAYES: I am not clear if  
24 we should continue with the public

1 hearing -- I see a hand up -- or make  
2 the resolution to incorporate.

3 MR. FREIBAND: At some point  
4 before you close the hearing.

5 CHAIRMAN COLUCCI: Before we  
6 close the hearing.

7 MR. HAYES: I see your hand  
8 up, but let's make a motion to  
9 incorporate that correspondence that  
10 we have received regarding the Shaft  
11 Road subdivision into our official  
12 file record.

13 CHAIRMAN COLUCCI: You're  
14 making a motion?

15 MR. FRIEDLE: Second.

16 MR. HAYES: I am making that  
17 motion.

18 CHAIRMAN COLUCCI: John  
19 seconded it. All in favor?

20 (Board members vote aye.)

21 CHAIRMAN COLUCCI: Any  
22 opposed?

23 (None).

24 CHAIRMAN COLUCCI: Motion

1 carried.

2 Does anybody else that  
3 hasn't spoke yet have a comment?

4 The young lady here, Annie  
5 O'Neil again.

6 MS. O'NEIL: Have you  
7 received a report from the ECC?

8 CHAIRMAN COLUCCI: We just  
9 received a report, I believe it's  
10 dated -- I'll give you the exact -- it  
11 was dated --

12 MR. FREIBAND: The 15th.

13 CHAIRMAN COLUCCI: May 16th.  
14 I have it here in front of me. It was  
15 received in my email this morning.

16 MS. O'NEIL: So no one from  
17 the ECC is here to summarize?

18 CHAIRMAN COLUCCI: Well, May  
19 15th, so that was yesterday. It was  
20 received in my email this morning. So  
21 it is here, and it will be entered  
22 into the record, and it will be  
23 information that we'll be going  
24 through after we close the public

1 hearing.

2 Yes, sir, you had another  
3 comment?

4 MR. ELI KASSIRER: Yeah, hi.  
5 I am still Eli Kassirer, and I still  
6 live at North Mountain Road.

7 Just the comments that were  
8 made just triggered some other  
9 thoughts.

10 In going through the  
11 Comprehensive Plan, one of the really  
12 important factors is that open space  
13 is an economic consideration here in  
14 Gardiner. People come to Gardiner, as  
15 was mentioned, for the open space. So  
16 it's not -- as much as you care about  
17 the animals and the wildlife corridor,  
18 there is also an economic factor in  
19 terms of maintaining open space which  
20 pertains to the survival and growth  
21 and the thriving of Gardiner as a  
22 community.

23 Just lastly, open space, as  
24 was mentioned before, once it's gone,

1 it's gone. It never comes back. So  
2 every time we give up the open space  
3 to a large development like this, it's  
4 something that will never come back.

5 So I just ask that the  
6 Planning Board please keep that in  
7 mind when making their decisions.

8 Thank you.

9 CHAIRMAN COLUCCI: Thank  
10 you.

11 Yes, ma'am.

12 MS. LISA LINDSLEY: Lisa  
13 Lindsley. Still living on Brunswick  
14 Road. Speaking for myself.

15 Further, to what Ryan and  
16 Eli say, I think we know that this  
17 parcel is an important -- it's in the  
18 middle of two very important parcels  
19 forming a corridor, so it's between  
20 the Kiernan Farm and the Majestic  
21 horse farm, which is a wildlife  
22 corridor.

23 I want to read from the 2006  
24 Open Space Plan. The plan is about

1 sustaining the community's aquifer  
2 resources. It talks about the aquifer  
3 recharge area, including the  
4 Shawangunkill and Wallkill River.

5 This plan is about  
6 Gardiner's fiscal health. Simply put,  
7 cows cannot go to school or drive our  
8 roads. For every dollar that's  
9 received, farmland requires 36 cents  
10 in service,s. While residential  
11 development requires \$1.16 in  
12 services.

13 More locally a 2005 study  
14 commissioned by the Town of Rochester  
15 came to a similar conclusion. For  
16 every dollar received, the town spent  
17 \$1.17 in services for residential  
18 development, while for every dollar of  
19 revenue received for open space, the  
20 town spent just 18 cents.

21 Thank you.

22 CHAIRMAN COLUCCI: Thank  
23 you.

24 Yes, ma'am.

1 MS. BERNETTA CALDERONE:

2 Bernetta Calderone, C-A-L-D-E-R-O-N-E.

3 I live on South Mountain Road.

4 It may sound like a  
5 ridiculous question or comment, but  
6 the house at end of Shaft Road and  
7 Brunswick has been vacant for such a  
8 long, long time based on the drilling  
9 of the well that had methane gas. And  
10 if that area along where you're  
11 talking about, if methane gas exists  
12 in that wetland, and you're doing more  
13 drilling, has that been talked about  
14 or addressed? Or is it even a  
15 concern?

16 CHAIRMAN COLUCCI: Thank  
17 you.

18 MS. CALDERONE: Okay.

19 CHAIRMAN COLUCCI: Somebody  
20 over here. Yes, sir.

21 MR. ISAAC FOSL-VANWYKE:

22 Yes, my name is Isaac Fosl-Vanwyke.

23 F-O-S-L V-A-N-W-Y-K-E. Sorry to --

24 anyway, it's a long name.

1           I live in Gardiner. I live  
2 on Military Lane. I am here  
3 representing my two partners at Second  
4 Wind CSA, Four Winds Farm.

5           Yeah, I just want to go on  
6 record opposing the project on  
7 environmental, moral, economic, and  
8 social grounds. I can go into  
9 details, but I feel like people have  
10 said a lot of beautiful things  
11 already. And yeah, I just wanted to  
12 have my voice heard.

13           CHAIRMAN COLUCCI: Thank  
14 you.

15           Okay. Jim, do we want to --

16           MR. FREIBAND: Well, I had  
17 some memos. I don't know if you want  
18 to just enter them in or read them?

19           CHAIRMAN COLUCCI: I would  
20 say before we read them, do we want to  
21 determine if we want to hold the  
22 public hearing open, close the public  
23 hearing, read your documents; how do  
24 you want to do that?

1           MR. FREIBAND:  If there is  
2 no further comments, I would recommend  
3 that you close the public hearing, so  
4 we can move onto the next item.

5           CHAIRMAN COLUCCI:  Okay.

6           MR. FRIEDLE:  I make a  
7 motion to close the public hearing.

8           MS. RICHMOND:  Can we  
9 discuss that or --

10          CHAIRMAN COLUCCI:  Well, we  
11 make the motion, then I'll ask for  
12 discussion.  How's that?

13          MS. RICHMOND:  Sounds good.

14          CHAIRMAN COLUCCI:  So we  
15 have a motion on the table to close  
16 the public hearing.  I would like to  
17 ask, does anybody want to have  
18 discussion on it?  Obviously Carol.

19          MR. FRIEDLE:  You need a  
20 second, right?  You need a second?

21          CHAIRMAN COLUCCI:  Second on  
22 the motion.  Do we have a second on  
23 the motion to close the public  
24 hearing?

1 MR. SOKOLOV: Second.

2 CHAIRMAN COLUCCI: Ray  
3 seconds.

4 Okay, now we will have  
5 comments.

6 MS. RICHMOND: I have  
7 concerns that the public is entitled  
8 to see the comments from ECC. They  
9 haven't seen that yet.

10 FEMALE SPEAKER: Carol,  
11 could you speak up.

12 MS. RICHMOND: I said I have  
13 concerns that the public is entitled  
14 to see the comments made by the ECC,  
15 which was just received so they  
16 obviously haven't had a chance to look  
17 at that.

18 There are other things that  
19 I think are outstanding that I think  
20 the public might be interested in.  
21 One of the things that came up at a  
22 previous meeting was the details of  
23 the conservation easement, for  
24 instance. Mr. Hayes said he was

1 concerned about whether light traps  
2 would be included. So I think that we  
3 need to have a concise -- or I should  
4 say a definitive statement from the  
5 applicant as to what will be in the  
6 conservation easement, and the public  
7 should be allowed to comment on that.

8 I think that there are some  
9 other outstanding issues that the  
10 public -- well, I won't get into that.  
11 But those two things alone I think are  
12 reasons to keep the hearing open.  
13 Because the public has stated their  
14 concern about the environmental  
15 impact, which goes beyond just  
16 endangered and threatened species. It  
17 goes to biodiversity in an area that  
18 has been deemed critically sensitive.

19 CHAIRMAN COLUCCI: I am just  
20 making some notes, Carol, so that I  
21 can -- for myself.

22 So you were stating that you  
23 feel that we should release the ECC  
24 comments letter to the public, right?

1 MS. RICHMOND: Yes.

2 CHAIRMAN COLUCCI: And you  
3 also want to have more information  
4 from the applicant on the conservation  
5 easement that's proposed?

6 MS. RICHMOND: Yes. Because  
7 I think we discussed that the last  
8 time, that that would be good to know  
9 what exactly is in it. Also maybe  
10 some further discussion about whether  
11 the applicant is going to be -- or I  
12 should say how the Planning Board is  
13 going to deal with the fact that the  
14 applicant wants each landowner to have  
15 the easement --

16 CHAIRMAN COLUCCI: Which is  
17 the easement document what you're  
18 referring to?

19 MS. RICHMOND: Yes, yes.

20 CHAIRMAN COLUCCI: Right.

21 MS. RICHMOND: So I think  
22 there is some details that are still  
23 outstanding.

24 CHAIRMAN COLUCCI: I can

1 appreciate your comments. I have  
2 similar sentiments.

3 I would say to you that we  
4 did receive the ECC letter on May  
5 15th, which was obviously yesterday.  
6 And I'm aware that the public still  
7 will have opportunity to make written  
8 comments.

9 However, I'm not opposed to  
10 leaving the public hearing open. And  
11 obviously, we all need to deliberate  
12 further on this ECC document.

13 So that's my comments on it.

14 MR. WIEGAND: Paul, even if  
15 we were to close the public hearing  
16 tonight, the public will have a chance  
17 down the road several other times to  
18 talk in a public hearing situation, is  
19 that right?

20 CHAIRMAN COLUCCI: Well,  
21 like I stated prior to the meeting, I  
22 met with Jim, and he conferenced me on  
23 and brought me up to educate me on the  
24 fact -- again, like I stated earlier,

1 that the public will have an  
2 opportunity prior to the when the  
3 final plat is offered, as well as a  
4 30-day written comment period from  
5 when we close the public hearing. So  
6 there is still plenty of opportunity,  
7 to your point.

8 MR. WIEGAND: So, Carol, are  
9 you against closing the public hearing  
10 for tonight?

11 MS. RICHMOND: I think it  
12 should be continued. Because we do  
13 know that there will be one public  
14 hearing in the future. We don't know  
15 that there will be more than that.  
16 And at that point it will be a whole  
17 different set of things to review.  
18 Whereas, this is stuff that sort of is  
19 pouring in at the moment, and these  
20 are issues that the public seems very  
21 concerned about, that are still  
22 outstanding.

23 CHAIRMAN COLUCCI: So I want  
24 to go to Jim for some understanding

1 here now.

2 MR. FREIBAND: If I could  
3 just comment on the two things that  
4 you brought up.

5 CHAIRMAN COLUCCI: Yes.

6 MR. FREIBAND: This is the  
7 preliminary plat hearing. The  
8 applicant was advised and is required  
9 to submit covenants and conservation  
10 easements, which he did. The Board  
11 has indicated that they want a chance  
12 to see that. Those are typically done  
13 as part of the final lot review.  
14 That's where these things are  
15 finalized.

16 You have something now to  
17 discuss. We have comments from the  
18 public that are concerned that, for  
19 example, the Board was considering the  
20 Open Space Commission as the party to  
21 manage this, and it's clear that  
22 that's not going to happen. So that's  
23 what's supposed to happen between now  
24 and the final plat.

1                   Same thing with agency  
2 referrals. They will not start  
3 reviewing any of these matters until  
4 the Board has acted on the preliminary  
5 plat. So you shouldn't assume that  
6 because what you have in front of you  
7 isn't to your liking, it's where you  
8 start in terms of perfecting it for  
9 the final plat.

10                   MS. RICHMOND: Okay. Well,  
11 as far as the ECC comments, that's --

12                   MR. FREIBAND: Same  
13 situation.

14                   MS. RICHMOND: How is that  
15 the same? I mean maybe it's a  
16 question of whether there should be a  
17 biologist assigned to do its own  
18 review of that area.

19                   MR. FREIBAND: That's  
20 something that the Board can do as  
21 part of the final plat. For example,  
22 there is going to be a requirement for  
23 an archeological survey as well.  
24 That's all done between preliminary

1 and final.

2 CHAIRMAN COLUCCI: And then  
3 you have the opportunity to comment on  
4 the findings again, and that would  
5 come when the final plat is offered.  
6 Which doesn't mean that it's just  
7 going to be, you know, a public  
8 hearing, and they close the public  
9 hearing and vote on it.

10 MR. FREIBAND: I listed a  
11 number of things in my memo that the  
12 Board has but has already indicated  
13 not satisfactory for final plat  
14 review.

15 MR. HAYES: If I may make a  
16 comment, another. I did get a chance  
17 to read the ECC report we just got.  
18 One of the recommendations goes right  
19 to preliminary plat versus final plat.  
20 When we recommend lot 10 should be  
21 included in the open space, which  
22 would obviously have economic impacts  
23 on the developer and impacts on the  
24 amount of open space, and it is a big

1 topic we can talk about. But we are  
2 rushing through, shut up the public  
3 hearing. We have to stop this public  
4 hearing to do the discussion in  
5 between and reach the final plat. So  
6 I think that it's not a negative to  
7 close the public hearing and address  
8 all this stuff. That's my comment.

9 CHAIRMAN COLUCCI: Well, we  
10 have a motion on the table -- I am  
11 sorry, John.

12 MR. FRIEDLE: I had a  
13 question. I mean before we do  
14 deliberations, what we've heard, don't  
15 we have to kind close this?

16 MR. FREIBAND: Yes.

17 CHAIRMAN COLUCCI: Yes.

18 MR. FRIEDLE: That's what I  
19 thought.

20 MR. LIBOLT: So if we hold  
21 the public hearing open, the Board can  
22 take no action?

23 MR. FREIBAND: Yes.

24 MR. LIBOLT: I understand

1 that procedurally is it allowable to  
2 hold a hearing open if we feel the  
3 public -- forgive me for asking so  
4 many questions, this is -- I am just  
5 looking around at a room full of  
6 neighbors.

7           Is there anything in this  
8 report that we would want the public  
9 to comment on prior to us making any  
10 action on the preliminary plat?

11           MR. FREIBAND: If there is,  
12 then you should put that in your  
13 resolution on preliminary plat --

14           CHAIRMAN COLUCCI: Well --

15           MR. FREIBAND: -- as a  
16 carry-forward item.

17           CHAIRMAN COLUCCI: I'll jump  
18 in there. You know, I've been on the  
19 other side of this table many times,  
20 and when the public comments -- and  
21 you have a review from, you know, an  
22 environment commission, specifically  
23 we talked about here now, the  
24 applicant should have an opportunity

1 as well as the public should have an  
2 opportunity to weigh in. And I kind  
3 of feel tonight that we're stepping a  
4 little bit at a faster pace than I  
5 think that we need to.

6 In light of the fact that  
7 we've had, you know, a half hour, 45  
8 minutes of public comment, and there  
9 is, like you said, volumes of  
10 documentation and volumes of memos  
11 that have been circulated to the Board  
12 from the public that I think everybody  
13 involved, including the Planning  
14 Board, should have an opportunity to  
15 go through.

16 I think that the -- one the  
17 things that I want to -- moving  
18 forward here as long as I am vice  
19 chairman, I would like to make sure  
20 that the public is aware that all of  
21 this documentation will be available  
22 online eventually as well as at the  
23 meetings when you come to the  
24 meetings, and any documents that can

1 be reviewed by the public that are not  
2 confidential to the Planning Board  
3 will be accessible. So that's my  
4 statement.

5 So we have a motion on the  
6 table, seconded by Ray to close the  
7 public hearing. All in favor?

8 (Board members vote aye.)

9 CHAIRMAN COLUCCI: Opposed.

10 (Board members vote aye.)

11 CHAIRMAN COLUCCI: I'm  
12 sorry, Josh, you can't vote on this.

13 MR. VERLEUN: Why can't I  
14 not vote on this? I am a member of  
15 the Board.

16 MR. FREIBAND: Do you have a  
17 copy of the bylaws?

18 MR. VERLEUN: I've signed  
19 the oath, and I've received the  
20 bylaws.

21 MR. FREIBAND: If you  
22 haven't been at the original hearings,  
23 you're not supposed to vote on this  
24 matter. You have to certify. I am

1 just going to say the bylaws covers  
2 that. You need to look at it.

3 MR. VERLEUN: Okay.

4 CHAIRMAN COLUCCI: Okay,  
5 so--

6 MR. VERLEUN: Can I ask why  
7 I was not provided a copy of the  
8 bylaws prior to the meeting?

9 CHAIRMAN COLUCCI: Well,  
10 regardless of that, we are in the  
11 process here, as you are aware, right?

12 MR. VERLEUN: I was provided  
13 all the other materials prior to the  
14 hearing. I am just a little bit  
15 confused.

16 CHAIRMAN COLUCCI: How about  
17 if we handle that matter at a  
18 different point in the meeting?

19 MR. VERLEUN: I mean I think  
20 the public has a right to know if the  
21 Board has a fully formed quorum here.  
22 I mean I am voting to keep the meeting  
23 open, and I don't know if my vote is  
24 the difference between keeping the

1 meeting open or not, but I mean --

2 MR. FREIBAND: It is not.

3 Four members form a quorum.

4 CHAIRMAN COLUCCI: We have a  
5 quorum.

6 MR. VERLEUN: Okay.

7 CHAIRMAN COLUCCI: All  
8 right, so let's get back to the vote  
9 here. We have a vote of in favor of  
10 the closing the public hearing?

11 MR. HAYES: Aye.

12 CHAIRMAN COLUCCI: In favor  
13 of closing the public hearing?

14 MR. SOKOLOV: Yes.

15 CHAIRMAN COLUCCI: John, in  
16 favor closing the public hearing?

17 MR. FRIEDLE: Yes.

18 CHAIRMAN COLUCCI: Warren,  
19 in favor of closing the public  
20 hearing?

21 MR. WIEGAND: Yes.

22 CHAIRMAN COLUCCI: So we  
23 have a 4:3 vote, right? Paul, Carol  
24 and --

1 MR. LIBOLT: I am opposed.

2 MS. RICHMOND: I am opposed.

3 CHAIRMAN COLUCCI: Warren is  
4 in favor.

5 MR. VERLEUN: So I would be  
6 the tie breaker.

7 MS. RICHMOND: So we can't  
8 vote. We can't even vote.

9 CHAIRMAN COLUCCI: Motion  
10 fails.

11 MR. HAYES: You can't vote.  
12 That's how it is.

13 CHAIRMAN COLUCCI: Motion  
14 fails.

15 MR. LIBOLT: The motion  
16 fails?

17 MR. FRIEDLE: How is it a  
18 tie vote? Only seven members can  
19 vote.

20 MR. FREIBAND: You need four  
21 votes.

22 MR. WIEGAND: I voted in  
23 favor.

24 MR. HAYES: Let's raise our

1 hands.

2 MR. FRIEDLE: I don't  
3 understand what's going on here.

4 CHAIRMAN COLUCCI: Like I  
5 said, 4 to 3. All right, Warren,  
6 John, Ray, and Joe voted to close the  
7 public hearing.

8 Okay, so we've closed the  
9 public hearing, all right. So now I'd  
10 like to ask Jim to read his --

11 MR. FREIBAND: All of them?

12 CHAIRMAN COLUCCI: Excuse  
13 me?

14 MR. FREIBAND: Well, you  
15 have a May 12th memo and you have a  
16 May 2nd memo. There is actually a  
17 third one.

18 MR. FRIEDLE: You did such a  
19 good job, right? What else did you  
20 say you did?

21 MR. FREIBAND: The second  
22 May 12 is actually May 15th. It came  
23 in on the ECC report.

24 CHAIRMAN COLUCCI: Okay.

1           MR. FREIBAND: Okay, the  
2 Board closed the original hearing on  
3 October through December of 2016 with  
4 the advice of the applicant that  
5 revisions to the 10-lot subdivision  
6 under consideration and to respond to  
7 public commentary over the three  
8 months of the public hearing sessions.  
9 After closing the hearing, the Board  
10 assembled public comments to permit  
11 deliberations on many issues. A  
12 separate memo was provided to the  
13 Board to index those comments and  
14 identify applicable documentation.

15           The applicant has submitted  
16 an additional addendum to the  
17 Conservation Analysis as well as a new  
18 preliminary plat. The revised  
19 materials include additional material  
20 developed in response to the  
21 commentary from those hearings, as  
22 detailed in my memorandum of February  
23 8th, 2017.

24           The Board also acted to

1 establish lead agency after a  
2 coordinated SEQOR review circulation,  
3 noting statements from the DEC. This  
4 subdivision was referred to the Ulster  
5 County Planning Board for a 239  
6 review, which is still pending.

7 I might add that we had  
8 resubmitted all of the new  
9 documentation from the application to  
10 the Ulster County Planning Board, but  
11 according to an email from Mr.  
12 Liebowitz at the County Planning  
13 Board, they didn't receive it. So  
14 they have not acted on the new  
15 application. They'd have to act on  
16 that before you move forward on any  
17 kind of decision on the preliminary  
18 plat.

19 CHAIRMAN COLUCCI: All  
20 right, so let me stop you right there.  
21 We should then resubmit to the County  
22 Planning Board?

23 MR. FREIBAND: We have to  
24 find out what happened to the stuff

1 that Margaret sent, yeah.

2 CHAIRMAN COLUCCI: Okay.

3 MR. FRIEDLE: Is that a  
4 30-day thing, too?

5 MR. FREIBAND: Well, they  
6 really mucked it up, because -- again,  
7 I don't send them, so I can't, you  
8 know, sign an affidavit that they were  
9 posted, but.

10 CHAIRMAN COLUCCI: We  
11 couldn't just send them by snail mail?  
12 Is that the way it's supposed to be?

13 MR. FRIEDLE: I thought it  
14 was return receipt.

15 MR. FREIBAND: I don't know,  
16 again.

17 CHAIRMAN COLUCCI: All  
18 right, so I will follow up on that.

19 MR. FREIBAND: I think this  
20 time we need to ship it by some  
21 traceable method.

22 CHAIRMAN COLUCCI: Right.  
23 Well, absolutely. I got it. I got  
24 it.

1                   MR. FREIBAND: We are  
2 getting some feedback being they won't  
3 take anything electronically.

4                   CHAIRMAN COLUCCI: I got it.  
5 Tomorrow if I can get a conversation  
6 with you in an email maybe and  
7 instruction on what I need to send  
8 out, all right.

9                   MR. FREIBAND: The Board has  
10 the required Agricultural Data  
11 Statement as requested. The statement  
12 appears to document all affected  
13 agricultural properties and a standard  
14 note is now added on the cover sheet.

15                   At the April meeting the  
16 Board accepted the revised application  
17 materials and set the re-opening of  
18 the hearing to this month.

19                   As an open space subdivision  
20 some of the lots are subject to Ulster  
21 County Health Department septic system  
22 approvals for map signing, to be  
23 submitted prior to Final Plat Review  
24 per Section 188-14. Other agency

1 referrals and approvals are required  
2 at Final Plat submission.

3           The private Declaration of  
4 Covenants and Restrictions listed in  
5 SEQR documents was submitted and will  
6 be subject to evaluation for final  
7 plat processing per 188-26. This  
8 would be helpful in addressing the  
9 comments that have already been  
10 received at the public hearing. And I  
11 wrote this before we had the public  
12 hearing.

13           In addition, I prepared a  
14 detailed documentation for the SEQR  
15 Evaluation of Significance of Impacts  
16 to be reviewed by the Board upon  
17 completion of the public hearing.

18           Recommendations to the  
19 Board: Have the applicant address the  
20 revised application and receive any  
21 public comments and enter into the  
22 record correspondence received in  
23 advance of the hearing. Upon  
24 completion and closure of the hearing,

1 the Board must act within 62 days.

2 I also submitted a  
3 supplemental report concerning the ECC  
4 report of the 15th for the 10-lot  
5 subdivision. The report lists four  
6 specific items: The Short Form  
7 Environmental Assessment Form, now  
8 before the Board. Physical  
9 Disturbance Measurement; they  
10 questioned the source of the data.  
11 The data support, the area is on GSP  
12 1, revision date 3/17/17. I measured  
13 the area shown as permanently  
14 disturbed which totals 5.5 acres; the  
15 applicant reported 7 acres, which may  
16 be due to drainage features that are  
17 not shown on the preliminary plat.

18 Plan references. This is  
19 addressing the SEA addendum and  
20 referred to on Part 3 of the  
21 evaluation and shown on page 24 of the  
22 Master Plan and forced that process  
23 leading to an open space subdivision.

24 Archeological sensitive

1 areas. I concur that the Part 1  
2 Archeological Survey should be  
3 required by the Board. Final plat  
4 review as opposed to construction,  
5 which was the ECC suggestion, since  
6 the final layout will be established  
7 as of the final plat process.

8 The habitat suitability  
9 assessment report. This issue was  
10 addressed in a wetlands and wildlife  
11 addendum on February 17, 2017,  
12 together with the DEC license of the  
13 author. And it may be that when they  
14 reviewed -- when DEC prepared their  
15 review they may not have been working  
16 from that last addendum. Just judging  
17 by the tone --

18 MR. SOKOLOV: Is there  
19 anyone here from the ECC tonight?

20 MR. FREIBAND: I don't  
21 believe they were going to be  
22 available for this. They did submit  
23 the report.

24 MR. SOKOLOV: No, but we

1 could resolve that if they were here.

2 MR. FREIBAND: Well, we are  
3 going to have to resolve it before the  
4 next meeting.

5 MR. SOKOLOV: Okay.

6 MR. FREIBAND: The Board had  
7 three recommendations as follows:  
8 Endangered species habitat follow-up  
9 prior to construction. And as you  
10 noted in item 1-D, there was already a  
11 site follow-up.

12 B, eliminate lot 10 for  
13 continuous open space. The reason for  
14 that was the issue of wildlife  
15 movement. And that statement was not  
16 submitted -- was not supported by the  
17 habitability-suitability assessment  
18 report addendum which was the February  
19 supplement that addressed specifically  
20 habitat biodiversity, aquifer recharge  
21 and wildlife conductivity.

22 This was also addressed  
23 directly to DEC, since they were on  
24 the site as well.

1                   Monitoring and protecting  
2 resources. I concur that this -- and  
3 this is the issue of the covenants and  
4 restrictions. I concur that this  
5 matter remains unresolved at this  
6 stage of the preliminary plat review.  
7 It should be addressed conditionally  
8 on the action on the preliminary plat.  
9 That is when you do your action on the  
10 preliminary plat, one of the  
11 conditions should be the -- they are  
12 required to resolve the matters that  
13 you brought up in connection with the  
14 conservation language, as well as the  
15 private restrictions that go with the  
16 lot, the lots themselves.

17                   The stated concerns  
18 principally focus on the ability of  
19 the Nowicki report and essentially  
20 it's their prior comments from the  
21 September review. Ordinarily, the  
22 Board gives deference to the licensed  
23 professionals and the assessments  
24 being addressed. And that sort of is

1 the keystone of open space,  
2 220-20(a)(2) the Board is supposed to  
3 look at the qualifications of the  
4 people that are submitting technical  
5 information.

6           The other memo I got,  
7 really, was just discussing with the  
8 Board. But the Board received a  
9 revised site plan dated March 13th,  
10 revised Long Form EAF, dated March 31,  
11 and a revised addendum, dated April  
12 4th.

13           In January the Board closed  
14 the hearing upon advice of the  
15 applicant.

16           The conservation analysis  
17 was also supplemented by the addition  
18 of the February Wildlife and Wetland  
19 Addendum offered in response to  
20 matters raised in the prior public  
21 hearing session. These revised  
22 documents were requested, the  
23 modifications addressed in my February  
24 13th memorandum.

1           The Board at the April  
2 meeting scheduled re-opening the  
3 hearing. Part of that hearing will be  
4 consideration of the Short Form EAF  
5 and determination of significance.  
6 The procedure for determination of  
7 significance is dictated in the New  
8 York State DEC SEQR handbook,  
9 including how to cross reference the  
10 findings in Part 2 with the Short EAF  
11 form and its preliminary documents.

12           The essential requirement is  
13 that the Board must take what's called  
14 a hard look at the documentation and  
15 establish whether the listed item  
16 involves a potential moderate or major  
17 impact. Or either no or minor impacts  
18 the Board must evaluate the statement  
19 against the documentation either from  
20 the SEAF or from any other validated  
21 information.

22           This process is rather  
23 lengthy and detailed, given the myriad  
24 comments to date.

1           I've completed a draft Part  
2 2 with notes and documentation  
3 received today, which did not, by the  
4 way, include the ECC when I wrote this  
5 memo. It's also a little bit behind.

6           This is attached in the  
7 workbook format, including law  
8 references, and I request that your  
9 members examine and be prepared to  
10 address each item in preparation for  
11 your findings after the public  
12 hearing.

13           CHAIRMAN COLUCCI: So Jim,  
14 just for housekeeping, due to the fact  
15 that we're short on staff here --

16           MR. FREIBAND: I think  
17 you're well -- well --

18           CHAIRMAN COLUCCI: --  
19 temporarily. I mean after the  
20 meeting, okay, so no offense.

21           MR. FREIBAND: You're  
22 digging a hole there.

23           CHAIRMAN COLUCCI: The  
24 question I have, Jim, is to get to the

1 point is the -- this memorandum, where  
2 you address the ECC's letter, that  
3 should be forwarded to the ECC  
4 directly, or they would -- how would  
5 they obtain that?

6 MR. FREIBAND: Well, you're  
7 not -- that's for the Board to discuss  
8 what -- you know, you have a report,  
9 just like other information provided  
10 to you. You need to discuss it and  
11 determine whether you want to, you  
12 know, inquire further, or are you  
13 satisfied with what was said, or --

14 MR. SOKOLOV: You're saying  
15 we don't have a regular mechanism for  
16 it?

17 MR. FREIBAND: There is no  
18 response required from you. They are  
19 offering this information, and it is  
20 supposed to help guide you in terms of  
21 laying out the open space subdivision.

22 CHAIRMAN COLUCCI: All  
23 right.

24 MS. RICHMOND: But these are

1 your recommendations?

2 MR. FREIBAND: These are the  
3 information that we presented, yes.

4 MS. RICHMOND: So really we  
5 should discuss whether we want to  
6 adopt your recommendations or not.

7 MR. FREIBAND: No, you need  
8 to discuss the actual documents, not  
9 my recommendations. My  
10 recommendations are for you to chew  
11 on.

12 MS. RICHMOND: Right. But  
13 for instance, in number three, you're  
14 saying that ordinarily the Board gives  
15 deference to licensed professionals.  
16 That's sounds like a recommendations.

17 MR. FREIBAND: It is not.  
18 It's a statement that there is a  
19 section in the code that for open  
20 space conservation analysis review  
21 that establishes a priority in terms  
22 of information on the conservation  
23 analysis.

24 MS. RICHMOND: Right.

1 Forgive me, but it also is very  
2 explicit that it invites the Planning  
3 Board to hire its own professionals.

4 MR. FREIBAND: Um-hmm.

5 MS. RICHMOND: Okay. So you  
6 think that that's just only -- that  
7 part of the zoning law just whereas we  
8 have to weigh that with the fact what  
9 we are doing also tilts us to hire our  
10 own professionals?

11 MR. FREIBAND: That's  
12 correct, but then I go to my other  
13 memo and say that's what is called the  
14 hard look.

15 MS. RICHMOND: Okay.

16 MR. FREIBAND: You're not  
17 supposed to take my recommendations;  
18 you're supposed to chew on my  
19 recommendations.

20 MS. RICHMOND: Okay.

21 MR. FREIBAND: I am trying  
22 to get you to focus on the things that  
23 the Board has to address. Not me.

24 MS. RICHMOND: Right. So

1 maybe we should discuss that amongst  
2 ourselves.

3 MR. FREIBAND: Well, you  
4 don't need to bring that up tonight.  
5 You have other things on your agenda.  
6 You're going to have to have it now as  
7 old business. That's when you're  
8 going to dig into all of this.

9 MR. FRIEDLE: So maybe we  
10 should all like take time to go over  
11 the ECC and then bring it up next  
12 meeting?

13 MR. FREIBAND: Right. All  
14 this is next meeting.

15 MR. FRIEDLE: Yeah.

16 MR. HAYES: Did I get from  
17 the conversation it appeared to you  
18 the ECC report didn't include this  
19 second addendum, the addendum to the  
20 conservation analysis, this June 7th?

21 MR. FREIBAND: No, it's a  
22 February addendum. It was not.  
23 That's what I mean, I think -- this  
24 one right here.

1           MR. WIEGAND:  It's dated  
2 February 17th?

3           MR. FREIBAND:  Judging by  
4 the comments, some of the things they  
5 brought up, which are specifically  
6 answered in here --

7           MR. WIEGAND:  I actually  
8 couldn't find that either in my files.

9           MR. FREIBAND:  It's actually  
10 right on the front page.

11          MR. WIEGAND:  That deals  
12 with the mitigation for wildlife, Jim?

13          MR. HAYES:  The title is  
14 Wetland and Wildlife Habitat Addendum  
15 for Conservation Open Space  
16 Subdivision, so yeah, it addresses  
17 that.  I don't see a date on it.

18          MR. FREIBAND:  It was under  
19 a cover letter.

20          MR. HAYES:  Okay.  
21 That's the kind of thing we  
22 should be able to find online?

23          MR. SOKOLOV:  We're actually  
24 not -- somehow or other we're not

1 discussing any of this tonight.

2 MR. FREIBAND: There is no  
3 need to, I mean --

4 MR. SOKOLOV: We don't have  
5 to.

6 MR. FREIBAND: This is a  
7 public hearing.

8 MR. WIEGAND: Well, the  
9 public hearing is closed now. I  
10 thought that's why we closed the  
11 public hearing, so we could do some of  
12 this work ourselves.

13 MR. FREIBAND: I agree. But  
14 you have -- what I'm asking you to do  
15 now is to go and look at all the cross  
16 references and see if they make sense  
17 to you so that you can make your  
18 finding of significance. SEQOR is the  
19 next step in this. And even that step  
20 is not final.

21 Under the ECL, if there is  
22 new information presented at any time  
23 during the process of this, you can  
24 reopen that determination.

1           MR. SOKOLOV: One thing that  
2 I can't get straight, we received this  
3 document. There seems to be an  
4 anomaly as to what the people -- what  
5 the ECC actually had in front of it  
6 when it wrote the document. And so  
7 just as a minimal courtesy toward a  
8 fraternal organization here in town,  
9 it seems to me we should forward your  
10 remarks to them and with a  
11 recommendation maybe on the covering  
12 letter that they address this  
13 particular issue so that it gets  
14 clarified.

15           MR. FREIBAND: Right.

16           MR. HAYES: I second that  
17 motion.

18           CHAIRMAN COLUCCI: Yeah,  
19 well, that's kind of what I was  
20 asking. We have got documentation; we  
21 have a memo from you here, and like  
22 you say, that addendum. So I need to  
23 understand how it gets it them.

24           MR. SOKOLOV: I mean,

1 exactly, since we can't, you know,  
2 resolve directly at this moment, let's  
3 send it to them and get a response.

4 MR. WIEGAND: Send to them  
5 along with this February 17th  
6 document.

7 MR. FRIEDLE: I was going to  
8 say if you don't make sure they have  
9 the document --

10 MR. SOKOLOV: Exactly,  
11 somehow this has to get to them to get  
12 a rational response to people we are  
13 taking seriously and wanting to get  
14 together, so we're actually having  
15 some kind of discussion, even if they  
16 are not here to discuss it, to speak.  
17 Okay.

18 MR. FREIBAND: Can we ask  
19 them to get us a cleaner copy?

20 CHAIRMAN COLUCCI: I was  
21 going to say that. This copy is  
22 almost -- it's hard to read.

23

24 MR. FREIBAND: This is the

1 electronic version.

2 CHAIRMAN COLUCCI: This is  
3 the electronic version?

4 MR. FREIBAND: Want to see  
5 it?

6 CHAIRMAN COLUCCI: It's hard  
7 to read. But let's get past it.  
8 Would you just send me or send it  
9 directly to --

10 MR. FREIBAND: I think  
11 somebody's printer was dying.

12 CHAIRMAN COLUCCI: If you  
13 send it directly to me --

14 MR. FREIBAND: It could have  
15 been our scanner.

16 CHAIRMAN COLUCCI: You can  
17 send it electronically to me, and copy  
18 Jim Freiband.

19 MR. FRIEDLE: Then you can  
20 send it to him electronically.

21 CHAIRMAN COLUCCI: I'll send  
22 it to the rest the Board, and then  
23 I'll get it to the ECC, along with the  
24 memo that Jim generated with respect

1 to the response to the ECC's letter of  
2 April 15th.

3 MR. SOKOLOV: Asking them to  
4 respond in time so that we can  
5 actually deal with this at the next  
6 meeting?

7 CHAIRMAN COLUCCI: Exactly,  
8 exactly.

9 MR. WIEGAND: Paul, can I  
10 ask a question of Jim on his memo on  
11 the ECC?

12 CHAIRMAN COLUCCI: As long  
13 as it's not very long.

14 MR. WIEGAND: This point  
15 that you make 2-B, eliminate lot 10  
16 for continuous open space. What's  
17 your point here, Jim?

18 MR. FREIBAND: Okay, if you  
19 look at their --

20 CHAIRMAN COLUCCI: At the  
21 report, he's on the report.

22 MR. WIEGAND: Right.

23 MR. FREIBAND: Their  
24 reasoning for getting rid of lot 10

1 had to do with environmental issues  
2 that are addressed in some detail in  
3 this other document.

4 MR. WIEGAND: And the point  
5 is that if one does what the ECC is  
6 suggesting it will cut off the  
7 opportunity for the migration?

8 MR. FRIEDLE: No, no, no.

9 MR. FREIBAND: The ECC is  
10 suggesting that the lot 10 will cut  
11 off that migration.

12 MR. SOKOLOV: And Jim is  
13 saying that there already is reason to  
14 doubt that.

15 MR. FREIBAND: Right.

16 MR. SOKOLOV: So that's what  
17 Jim is saying.

18 MS. RICHMOND: Well, that's  
19 only -- you're saying that by the  
20 habitat sustainability assessment  
21 report, which was done by the  
22 applicant, correct?

23 MR. FREIBAND: By Mr.  
24 Nowicki.

1 MS. RICHMOND: So the ECC  
2 has a different point of view.

3 MR. FREIBAND: But they are  
4 basing that on an earlier -- I  
5 believe -- on an earlier version of  
6 the addendum, which didn't go into  
7 detail. Their report back was that --

8 CHAIRMAN COLUCCI: I think  
9 they --

10 MR. SOKOLOV: We don't need  
11 to get onto this.

12 CHAIRMAN COLUCCI: Here's  
13 the thing, folks, I appreciate all the  
14 comments, all right, it's 8:45. I  
15 believe that we can solve some of  
16 these problems by forwarding the  
17 documents to the ECC and asking them  
18 to comment. I will do that tomorrow  
19 in the email and copy everybody on it  
20 and then move forward.

21 MS. RICHMOND: Sound good.

22 CHAIRMAN COLUCCI: If there  
23 are any other comments that you want  
24 to address now, not related to this

1 particular statement?

2 MR. HAYES: Yes.

3 MR. VERLEUN: I do too,  
4 sorry.

5 MR. HAYES: Go head, Josh.

6 MR. VERLEUN: Given that we  
7 closed the hearing and the 30-day  
8 comment period for the public is  
9 commencing, would it be possible to  
10 make sure all these supplementary  
11 studies and everything are posted  
12 online so the public has an  
13 opportunity to review during the  
14 30-day period. If they are not  
15 already.

16 CHAIRMAN COLUCCI: Well,  
17 they are not already. And bear in  
18 mind one thing, okay, we do not have  
19 an acting secretary to the Board,  
20 okay. We are -- the Town is in the  
21 process of hiring one. I don't know  
22 when that's going to take place. They  
23 are relying on me as the Vice Chairman  
24 to, you know, try to locate all of

1 these documents. However, if they  
2 come to the Town Hall -- the public  
3 can come to the Town Hall and request  
4 a review of the file, and we can set  
5 up a time to give them copies of it.

6 MR. VERLEUN: Okay, in lieu  
7 of getting it online right now?

8 CHAIRMAN COLUCCI: But my  
9 goal is eventually here that there  
10 will be a lot more available to the  
11 public online as soon as we come up to  
12 speed with a new assistant.

13 That's why I started out by  
14 saying there are going to be a few  
15 missteps here in the next couple of  
16 months, but bear with us.

17 MR. VERLEUN: That  
18 completely addresses my comment.  
19 Knowing people can come into the Town  
20 Hall and review the file at any time.

21 CHAIRMAN COLUCCI: That's  
22 always the case. We don't make -- I  
23 know myself, I wouldn't require  
24 somebody to make a FOIA request.

1 Joe.

2 MR. HAYES: How can we as a  
3 Board ask the applicant for more  
4 information on what will be contained  
5 in the covenant agreement,  
6 specifically enforceable limitations  
7 on the activities that deal in the  
8 open space area. Because I think that  
9 goes to us completing SEQOR and saying  
10 what's the impact. And to know that,  
11 we would like to know some of the  
12 things that are allowed and not  
13 allowed, we discussed before.

14 CHAIRMAN COLUCCI: Michael.

15 MR. MORIELLO: Mike  
16 Moriello, attorney for the applicant.

17 I just spoke to one of my  
18 clients; we will be responding before  
19 the next meeting and try to get things  
20 in before the next submittal date to  
21 have it ahead of time.

22 We intend on addressing the  
23 conservation easement itself and the  
24 mechanism for holding at that time.

1 So that certainly will be part of the  
2 submission.

3 MR. FREIBAND: It was also  
4 the covenants and restrictions, you'd  
5 asked. Remember they are two separate  
6 documents, Joe.

7 MR. HAYES: Really, I was  
8 getting at what are the rules of what  
9 can and can't occur within the open  
10 space area.

11 MR. FRIEDLE: Well, I don't  
12 think we established everything.

13 MR. HAYES: No, that's why I  
14 am asking. I'm waiting to see what  
15 they give us.

16 MR. SOKOLOV: And that seems  
17 to be happening.

18 CHAIRMAN COLUCCI: And that  
19 was, to Carol's point, that was what  
20 she was asking, one of the reasons she  
21 wanted to leave the public hearing  
22 open, so the public had an opportunity  
23 to comment.

24 However, for the public's

1 understanding, is that when we receive  
2 the documents, the conservation  
3 easement and the further ECC comments,  
4 again, they will be made available  
5 after the meeting.

6 MR. FREIBAND: Well, they  
7 are actually available as of the date  
8 the publication of the meeting.

9 CHAIRMAN COLUCCI: Okay. So  
10 again, clarification. A misstep.

11 So all right, moving along,  
12 does anybody else have any other  
13 comments on this?

14 MR. FREIBAND: In your  
15 response to ECC, please request they  
16 also respond ten days in advance.  
17 They are also supposed to respond ten  
18 days before the June meeting for the  
19 Heartwood and --

20 MR. SOKOLOV: That's  
21 already --

22 MR. FREIBAND: Yeah, that  
23 was from February.

24 MR. FRIEDLE: Just on that

1 one part. They don't have to redo the  
2 whole thing, just whatever.

3 MR. FREIBAND: Whatever is  
4 fine.

5 CHAIRMAN COLUCCI: Okay. So  
6 do you have any further comments on  
7 this Shaft Road issue?

8 MR. FREIBAND: I am done.

9 CHAIRMAN COLUCCI: I am  
10 going to move onto the next item on  
11 the agenda. If there is anybody that  
12 wants to leave before we move onto the  
13 agenda, if you would exist quietly and  
14 as soon as possible. Thank you.

15 (Whereupon, the public  
16 hearing in the above-captioned matter  
17 concluded at 8:55 p.m.)

18 \* \* \* \* \*

19

20

21

22

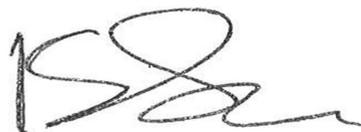
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## C E R T I F I C A T I O N

I, Karen Schmieder, a  
Certified Shorthand Reporter,  
Certificate No. 768, and Notary  
Public, do hereby certify that I  
recorded stenographically the  
proceedings herein at the time and  
place noted in the heading hereof, and  
that the foregoing transcript is true  
and accurate to the best of my  
knowledge, skill and ability.

IN WITNESS WHEREOF, I have  
hereunto set my hand this 29th day of  
May 2017.



Karen Schmieder  
KAREN SCHMIEDER  
Certified Shorthand Reporter

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