

1 STATE OF NEW YORK : COUNTY OF ULSTER  
TOWN OF MARLBOROUGH PLANNING BOARD

In the Matter of

## DIVIESTI TWO-LOT SUBDIVISION

5 Project No. 23-1026  
6-8 DiViesti Drive, Marlboro  
Section 108.4; Block 7; Lot 14

PUBLIC HEARING - SUBDIVISION

17 ALSO PRESENT: GERARD COMATOS, ESQ., PLANNING  
BOARD ATTORNEY

JEN. ELYNN. PLANNING BOARD SECRETARY.

20 APPLICANT'S REPRESENTATIVE: JONATHAN MILLER

24 -----X  
25 Stacie Sullivan, CSR  
26 staciesullivan@rocketmail.com

## *DIVIESTI - PUBLIC HEARING SUBDIVISION*

1 CHAIRMAN BRAND: I'd like to call the meeting  
2 to order with the Pledge of Allegiance to the Flag of  
3 our Country.

## 4 (Pledge of Allegiance.)

5 CHAIRMAN BRAND: Agenda, Town of Marlborough  
6 Planning Board, July 15, 2024. On the agenda this  
7 evening we have the approval of minutes for June 3rd,  
8 2024. We have two public hearings. One for DiViesti,  
9 Michael and Jennifer, a public hearing for their  
10 subdivision at 6-8 DiViesti Drive in Marlboro and  
11 another public hearing for the site plan of Marlboro on  
12 Hudson at Hudson Circle in Marlboro.

Under Ongoing Application Review, we have ELP  
Solar Truncali for a sketch of their site plan on 335  
Bingham Road in Marlboro and John Mazza for a sketch of  
the lot line at 2 Dragotta Road in Marlboro. We also  
have a sketch of a site plan for Buttermilk Falls  
Resort Hotel at 220 North Road in Milton.

21 Can I have a motion for the approval of the  
22 minutes for the June 3rd meeting, please.

23 MR. TRONCILLITO: So made.

24 CHAIRMAN BRAND: Is there a second?

25 MR. CALLO: Second.

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1 CHAIRMAN BRAND: Any discussion?

2 (No response.)

3 CHAIRMAN BRAND: Any objection?

4 (No response.)

5 CHAIRMAN BRAND: First up -- any  
6 announcements from the Board?

7 (No response.)

8 CHAIRMAN BRAND: Jen, no communications?

9 MS. FLYNN: No.

10 CHAIRMAN BRAND: First up we have the public  
11 hearing for Michael and Jennifer DiViesti.

12 Legal Notice. Subdivision Application.

13 Please take Notice: A public hearing will be held by  
14 the Marlborough Planning Board pursuant to the State  
15 Environmental Quality Review Act, or SEQRA, and the  
16 Town of Marlborough Town Code Section 134-9 on Monday,  
17 July 15th, 2024, for the following application:  
18 Michael and Jennifer DiViesti, at the Town Hall, 21  
19 Milton Turnpike, Milton, New York, at 7:00 p.m. or as  
20 soon thereafter as may be heard. The applicant is  
21 seeking approval of a two-lot subdivision application  
22 for lands located at 6-8 DiViesti Drive in Marlboro,  
23 Section 108.4, Block 7, Lot 14. Any interested  
24 parties, either for or against the proposal, will have  
25 an opportunity to be heard at this time. Chris Brand,

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1 Chairman, Town of Marlborough Planning Board.

2 How many mailings were sent out?

3 MR. MILLEN: I don't know.

4 CHAIRMAN BRAND: If you could just give them  
5 to the secretary. Would you like to provide the  
6 audience with just a brief overview of what you have  
7 proposed so that they know.

8 MR. MILLEN: Yes. As you can see on the --  
9 Mr. DiViesti has a single lot, which we are dividing.  
10 It's a single lot with two residences, which we are  
11 dividing into two lots, one for each residence. I  
12 don't know what else to say.

13 CHAIRMAN BRAND: Okay. Is there anyone here  
14 who would like to ask a question or be heard? If you  
15 would, I would appreciate if you'd come up to the  
16 podium and just state your name clearly for the  
17 stenographer. Anyone at all?

18 (No response.)

19 CHAIRMAN BRAND: No. Any comments or  
20 questions from the Board on this?

21 MS. LANZETTA: I'm just -- I have a question.  
22 I'm looking at the 1981 subdivision, and they show a  
23 right-of-way to the parcels 4 and 5, which we  
24 understand are accessing Sandra Drive right now. But  
25 I'm wondering what happens with the right-of-way. If

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1 somebody is not using it, and we were -- let's say we  
2 were to approve this and then somebody decided that  
3 they wanted to be able to use it to access the DiViesti  
4 Drive, then would they be able to do that? Or what  
5 happens to a right-of-way when perhaps it's not being  
6 used, but if somebody purchases the property and then  
7 decides that they want to be able to access that?

8 MR. COMATOS: Usually easements of this sort  
9 are perpetual and run with the land and are not subject  
10 to forfeiture by reason of nonuse. So a person could  
11 purchase the lot and exercise the right to use the  
12 easement for ingress or egress regardless of whether  
13 it's being so used now.

14 MS. LANZETTA: What responsibility does the  
15 Planning Board have for not adding more parcels to a  
16 road that already exceeds the private road regulations?

17 MR. COMATOS: How so?

18 MS. LANZETTA: Well, from the original 1981  
19 subdivision, if even one of those decides that they  
20 want to access the lower road, then we're adding too  
21 many parcels.

22 MR. MILLEN: We're only adding one parcel;  
23 correct? Just one parcel we're adding.

24 MS. LANZETTA: Yes. And that exceeds the  
25 private road regulations.

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1 MR. COMATOS: Which is limited to four, I  
2 believe.

3 MS. LANZETTA: Yeah. Well, my question -- I  
4 have two questions. The first one was, knowing that  
5 there's a right-of-way and access to utilize this  
6 private road, what responsibilities does the Planning  
7 Board have as they allow further subdivision?

12 MS. LANZETTA: So, therefore, it seems to me  
13 that based on that we wouldn't be able to go forward on  
14 this application.

15 MR. COMATOS: Well, I received something from  
16 the applicants which suggests that there are only four  
17 current parcels that utilize DiViesti Drive. And if  
18 this subdivision application is granted, it's going to  
19 create a fifth, and then you're one over the limit.

20 MR. GAROFALO: Does that include the one that  
21 is on the corner of South Street?

22 MR. COMATOS: Yes. Well, that's the parcel  
23 that's being subdivided into two lots now.

24 MR. GAROFALO: No. But there's one on the  
25 opposite side. And is that included in the four?

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1 MR. COMATOS: According to the information  
2 from the applicants' consultant, the tax parcels that  
3 end in numbers 14, 15, 29.1, and 29.2 utilize DiViesti  
4 Drive. It's my understanding that parcel 8 and parcel  
5 number 14 is sought to be subdivided into two parcels,  
6 which would create a fifth parcel.

7 MS. LANZETTA: Yeah. Yes. So even if we  
8 don't include the adjacent parcels that have the  
9 right-of-way, the existing right-of-way, right now we  
10 have -- we would be passing a subdivision that has five  
11 parcels on a private road. And that is not -- that is  
12 not allowed under Town Code.

13 MR. COMATOS: It appears that proposed parcel  
14 B would have a driveway that would terminate at the  
15 edge of DiViesti Drive and not South Street. We tried  
16 to see if a case could be made that one of the proposed  
17 new lots --

18 MS. LANZETTA: That driveway was never part  
19 of the original subdivision. That was added later, and  
20 that driveway accesses onto DiViesti Drive.

21 MR. COMATOS: It appears so. The point being  
22 that it doesn't have access to South Street.

23 MR. GAROFALO: But does the one on the  
24 opposite side -- I think there's a provision if one of  
25 them is a corner lot.

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1 MS. LANZETTA: That's not the corner lot.

2 MR. COMATOS: Which parcel are you referring  
3 to?

4 MR. GAROFALO: I'm talking about the one down  
5 here.

6 MS. LANZETTA: That's not part of the  
7 original subdivision. I think that's actually a  
8 right-of-way for Central Hudson.

9 MR. COMATOS: Mr. Garofalo, what parcel are  
10 you referring to?

11 MR. GAROFALO: (Indicating).

12 MR. COMATOS: I don't know who owns that.

13 MS. LANZETTA: James, that's Central Hudson  
14 underneath there.

15 MR. COMATOS: And I don't know how it  
16 accesses South Street.

17 MS. LANZETTA: So what I'm saying is, you  
18 know, we're looking at one of these creeping  
19 subdivisions that Marlboro seems to get a lot of, and  
20 we're not taking in the original intent of the  
21 subdivision that was -- that this was broken off of.

22 So, right now, the subdivision we have before us would  
23 end up putting five parcels onto a private road. Plus  
24 possibly two more if those property owners decided to  
25 take advantage of their right-of-way on the --

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1                   MR. MILLEN: It would be one more. There's  
2 originally five; correct?

3                   MS. LANZETTA: There's originally five, yeah.

4                   MR. MILLEN: Two of them right now are  
5 accessing --

6                   MS. LANZETTA: Okay. So it would put one  
7 more. So then that would be six.

8                   MR. MILLEN: Right. But of course we have --  
9 two of those parcels are not accessing this drive at  
10 all, and it would be very unfeasible for them to do so  
11 based on grading.

12                  MS. LANZETTA: But they have the right-of-way  
13 is what I'm saying. Like --

14                  MR. MILLEN: I understand. I understand what  
15 you're saying.

16                  MS. LANZETTA: -- when the original  
17 subdivision was passed by the Planning Board, it was  
18 under the assumption that it would be as seen, and now  
19 we've kind of -- you know, we've added. There was  
20 another lot that was added since then that accesses.  
21 And now you want to add an additional lot on top of  
22 that. And, in the meantime, the right-of-way that you  
23 have bisecting the lot A does not even follow the  
24 original right-of-way that went down right into the  
25 private road. So you're really changing the original

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1 1981 subdivision quite a bit.

2 MR. MILLEN: How so? What we're doing is  
3 we're adding a single lot onto what was originally a  
4 five-lot subdivision of which two of those -- one lot  
5 was already subdivided and approved by the Board.

6 Right. But both of those lots are accessing a  
7 different access way into it. So essentially there are  
8 only four lots that are accessing it and we're adding  
9 one now, which would be five.

10 MS. LANZETTA: There will be five. And  
11 that's not --

12 MR. MILLEN: Well, five is the limit; right?  
13 It was approved for five.

14 MS. LANZETTA: Pardon me?

15 MR. MILLEN: Five was the original limit.

16 MS. LANZETTA: No. There's been changes over  
17 the years of limits.

18 MR. MILLEN: No. What I'm saying, the  
19 subdivision required five lots maximum; right?

20 MS. LANZETTA: No. Four now.

21 MR. MILLEN: Four now.

22 MS. LANZETTA: Yes.

23 MR. MILLEN: But originally, when the  
24 subdivision was created, there were five.

25 MS. LANZETTA: Well, when it was created --

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1 there was eight at one time. I'm saying that now the  
2 law is -- the Town Code says only four on a private  
3 road. And you're asking us to create a fifth, and  
4 that's even knowing that there could be additional and  
5 then another additional one that has the right to  
6 access because they've already got the subdivision  
7 saying that they have the right to access that road.

8 MR. MILLEN: I understand that. However,  
9 there are only four lots now which are accessing  
10 that -- well, actually, there's only three lots that  
11 are accessing that right-of-way at this point. The  
12 other three are already using the other road. I have  
13 a -- something here which indicates that these -- all  
14 these parcels are coming in either through South Street  
15 or through this alternate road here. And all you have  
16 is one, two, three, and this would be four coming in.

17 MR. COMATOS: So a solution would be if one  
18 of those three owners extinguished its right to use the  
19 DiViesti Drive.

20 MS. LANZETTA: There would have to be two  
21 owners that would have to extinguish their  
22 right-of-way. Because even if we go according to what  
23 he's saying, we are still putting -- if we approve  
24 this, we will be putting five lots on the private road,  
25 and these people are using that private road.

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1                   MR. MILLEN: But there's only three that are  
2                   actually using it at this time, and there doesn't  
3                   appear to be any reason why any of the other ones  
4                   would, because they're already --

5                   MS. LANZETTA: Because there's no house on  
6                   the fourth one.

7                   MR. MILLEN: Pardon me?

8                   MS. LANZETTA: There's no house on the fourth  
9                   one.

10                  MR. MILLEN: Right.

11                  MS. LANZETTA: But that's not going to stay  
12                  like that. So we can't as a Planning Board say, oh,  
13                  there's no house on that, so we don't have to make  
14                  believe that they have the right to use that.

15                  MR. MILLEN: But, on the other hand, adding a  
16                  single parcel to access this road in the whole scheme  
17                  of things and to deny this person their right to  
18                  subdivide the property which meets the Zoning Code --

19                  MS. LANZETTA: It doesn't meet the Code if it  
20                  doesn't meet the private road regulations.

21                  MR. GAROFALO: I think what he's arguing is  
22                  it doesn't meet the Code in the fact that there are two  
23                  houses --

24                  MS. LANZETTA: But that was a self-imposed  
25                  situation. That happened after 1981.

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1                   MR. MILLEN: Yes.

2                   MR. GAROFALO: I have a separate question. I  
3                   hope you can answer it. That is, is Coletta Drive  
4                   private or public?

5                   MR. MILLEN: Coletta I believe is private.

6                   MR. GAROFALO: Okay. Thank you.

7                   MS. LANZETTA: Could they go before the  
8                   Zoning Board of Appeals?

9                   MR. MILLEN: I'm surprised that all this time  
10                  we've been hearing -- this gentleman's been here for  
11                  quite some time and that this hasn't come up before.

12                  MS. LANZETTA: I have proof in the minutes  
13                  that it came up. The very first time you came in, I  
14                  raised the issue that I thought --

15                  MR. MILLEN: So it's not something --

16                  MS. LANZETTA: And Pat Hines also raised the  
17                  issue that, in his opinion, there were too many houses  
18                  on the private road.

19                  MR. MILLEN: So there's no variances allowed  
20                  for that? Are you saying there wouldn't be a variance  
21                  allowed for that?

22                  CHAIRMAN BRAND: I don't believe so. What if  
23                  the parcel 4 had a note that they weren't going to  
24                  build on it?

25                  MS. LANZETTA: They would have to --

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1 MR. COMATOS: Simply because there's no  
2 structure on the property doesn't mean the owner would  
3 not want to utilize DiViesti Drive for ingress and  
4 egress.

5 MR. GAROFALO: There is a section there where  
6 you note that there's an adjacent deed overlap, and  
7 maybe that could be cleared up and the driveway moved  
8 directly onto South Street. That might be something  
9 that you might want to think about.

10 MR. MILLEN: Well, for all intents and  
11 purposes, neither of the houses on our parcel are  
12 actually accessing the DiViesti Drive right-of-way.  
13 They're both coming in right off the street there. So  
14 neither of them are using DiViesti Drive, per se, as  
15 access. That access there is coming right off of South  
16 Street for all intents and purposes. And that's the  
17 reality of that. They're not using DiViesti Drive at  
18 all. And as far as what type of impact this would have  
19 on the neighborhood or the people, were the person who  
20 buys this other property to decide that rather than go  
21 the easy way, I'm going to make my right-of-way go  
22 through there because I have the right to do it, I  
23 don't really see how that would create some type of  
24 major infringement on the rights of the people that are  
25 living in these lots.

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1                   MR. GAROFALO: We don't make the laws. We  
2 have to kind of follow what's been written.

3                   MR. MILLEN: I understand.

4                   MR. GAROFALO: And that's why I'm looking at  
5 this and seeing if there's another way to approach  
6 this.

7                   MS. LANZETTA: I assume the parcel B house  
8 got a building permit?

9                   MR. MILLEN: Pardon me?

10                  MS. LANZETTA: Was there a building permit  
11 for the parcel B house?

12                  MR. MILLEN: Building permit, I really don't  
13 know. I don't know. It was built a long time ago. I  
14 don't know. The owner's not here. I would think so,  
15 but I don't have any documentation saying that it had a  
16 building permit.

17                  MS. LANZETTA: Because if they got a permit  
18 to put the driveway where they put it, then you might  
19 be able to have the highway superintendent say that he  
20 considers that a driveway where it intersects at South  
21 Street.

22                  MR. MILLEN: Well, again, it's very obvious  
23 that both of those houses are getting their access  
24 directly from South Street. Both of those houses are  
25 coming directly off of South Street.

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1                   MS. LANZETTA: Well, technically, the  
2 subdivision says that the access is on DiViesti Drive,  
3 on the private drive.

4                   MR. MILLEN: I agree.

5                   CHAIRMAN BRAND: I think you're going to need  
6 to address this with the property owners to figure out  
7 a different access for them, because this Board can't  
8 approve that, if there's five on the private road.

9                   MR. MILLEN: So if, in fact, the access is  
10 directly off of South Street for this parcel, that  
11 would eliminate the situation?

12                  MS. LANZETTA: Well, again, we get back to  
13 the right-of-way. You would have to clear up that  
14 right-of-way issue that goes over to parcel 4, which is  
15 currently accessing Sandra, but has the right to --  
16 right now has the right to utilize DiViesti Drive. So  
17 you would have to get them to extinguish that  
18 right-of-way and then get access to the parcel B  
19 directly onto South Street. That's basically what you  
20 have to do.

21                  MR. MILLEN: So, as an alternative, if we  
22 were to get any of the landowners to vacate this  
23 right-of-way, then we wouldn't have an issue?

24                  MS. LANZETTA: Gerry?

25                  CHAIRMAN BRAND: Did you hear the question?

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1 MR. COMATOS: No, I did not.

2 CHAIRMAN BRAND: Could you repeat the  
3 question?

4 MR. MILLEN: Yes. If, for example, if tax  
5 lot 29.2 were to vacate the right to use that  
6 right-of-way, which would eliminate one of the  
7 parcels -- I mean, it's a right-of-way and the people  
8 who have the rights to the right-of-way could certainly  
9 elect to give up those rights.

10 MR. COMATOS: And what would, then, be their  
11 means of access to the nearest public street, or a  
12 public street, for that matter? How would they get to  
13 and from a public street?

14 MR. MILLEN: They'd have to share a driveway  
15 going out to the other street leading there.

16 MR. COMATOS: Well, if that's feasible, yes.  
17 You could reduce the number of users by one if that  
18 particular owner extinguishes its right to use DiViesti  
19 Drive.

20 MR. GAROFALO: You would also have to make  
21 sure that Coletta Drive was under a similar -- would be  
22 under a similar restriction on the number of units  
23 that -- houses that could access it.

24 MR. MILLEN: So there is also -- I'm just  
25 throwing ideas out. Parcel 15 is currently owned by

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1 the bank from what I understand. If Mr. DiViesti was  
2 to purchase that parcel and -- see, that parcel has  
3 access to the access easement that goes right through  
4 Mr. DiViesti's parcel right now. So the parcel in the  
5 back there, all the way to the left, the most southerly  
6 parcel, is currently owned by the bank is our  
7 understanding. If Mr. DiViesti were to purchase that  
8 parcel, he could have the right-of-way rights  
9 extinguished for that parcel, because the access is  
10 already going through Mr. DiViesti's property right  
11 now.

12 MS. LANZETTA: Okay. Say that you could  
13 purchase that new lot, but then you still have to get  
14 the right-of-way on the lot -- original lot 3  
15 extinguished.

16 MR. GAROFALO: The other issue becomes you  
17 can't leave a parcel without any possible access. So  
18 to get what you want, you have to have an access  
19 somewhere else.

20 MR. MILLEN: Well, that's what I'm saying.  
21 In other words, the parcel all the way to the south  
22 already has an access. He's been going through  
23 Mr. DiViesti's property, giving them access to that  
24 parcel. Right. So if they were to extinguish the  
25 access to the right-of-way, it wouldn't affect their

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1 access to their parcel. No?

2 MR. GAROFALO: Well, as long as where they  
3 are accessing, it can access --

4 MR. MILLEN: So right now that parcel number  
5 15 has an access easement which runs right through  
6 Mr. DiViesti's property. So they have an access  
7 easement that allows them access to their property.  
8 Right. So if they were to vacate their rights to the  
9 right-of-way, they wouldn't be hurting themselves at  
10 all. In fact, it would be exactly the same as it is  
11 now.

12 MR. GAROFALO: As long as they have access  
13 somewhere else, which doesn't violate the same --

14 MR. MILLEN: That's what I'm saying. They do  
15 have access right through the access easement.

16 MS. LANZETTA: Yeah, but it goes to the road.

17 MR. MILLEN: It goes to the road.

18 MS. LANZETTA: I mean, it goes to the private  
19 road, the DiViesti road. It doesn't go to South  
20 Street.

21 MR. GAROFALO: But does it go to Colletta --

22 MR. MILLEN: Right. But there's still --  
23 they still wouldn't need to use the right-of-way.

24 CHAIRMAN BRAND: How would they get there,  
25 then?

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1 MR. MILLEN: That would be through  
2 Mr. DiVesti's property.

3 MR. JENNISON: Is there any way for parcel B  
4 to go straight to South Street by itself?

5 MR. MILLEN: Right now parcel A and parcel B  
6 and the parcel to the south of it are all going through  
7 this access easement.

8 MR. JENNISON: Correct. But can't parcel B  
9 be directed to South Street by itself?

10 MR. MILLEN: I think so. Yeah, I think it  
11 could.

12 MR. GAROFALO: There isn't enough room --  
13 there isn't enough frontage for them to put a driveway  
14 directly onto South Street. Now, there is a wedge in  
15 there where the plan says adjacent deed overlap, and  
16 maybe if they settle that, they could settle it with a  
17 positive note giving them more frontage on South Street.  
18 and would be able to make it an access on South Street.  
19 But right now it looks like that's a very narrow  
20 frontage. I mean, it looks like it might be a couple  
21 of feet, certainly not enough for a driveway to have  
22 direct access. The other issue would be how far are  
23 you separating the driveways and getting approval for  
24 that.

25 MR. JENNISON: Is that because you're saying

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1 DiViesti Drive itself is a separate parcel?

2 MR. GAROFALO: No. What I'm saying is that  
3 their physical frontage of the proposed parcel B looks  
4 like it's only a couple of feet.

5 MR. JENNISON: Gotcha. So they would need to  
6 figure that out on the DiViesti Drive parcel.

7 MR. GAROFALO: Or the other adjacent parcel.

8 MR. JENNISON: I think we should continue  
9 with the public hearing and then --

10 MR. MILLEN: I would like to mention, though,  
11 that the deed overlap really is just a mistake in the  
12 deeds. The deed overlap doesn't actually exist. It  
13 was -- there was a deed that was written that  
14 eliminated the deed overlap, and then the later deed  
15 was written that didn't take into account that there  
16 was a deed correction and reverted back, which was a  
17 mistake in the deeds.

18 MR. GAROFALO: But you're saying there's no  
19 real deed overlap --

20 MR. MILLEN: Correct.

21 MR. GAROFALO: -- and that is actually part  
22 of parcel B?

23 MR. MILLEN: Yes. That is correct.

24 But, now, the other possibility is whether or  
25 not Mr. DiViesti can purchase some property from the

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1 tax lot that's all the way to the north, enough for  
2 him -- that would be tax parcel 13 -- to give them  
3 enough frontage to get onto parcel B from South Street.

4 CHAIRMAN BRAND: I'm going to recommend that  
5 you do some homework on this and come up with some type  
6 of alternate access or some type of extinguishing of  
7 the right-of-way for the other parcel owners, and then  
8 come back to us at a later date.

9 MR. MILLEN: Okay.

10 CHAIRMAN BRAND: I will ask one more time if  
11 there's anyone from the public here who would like to  
12 have an opportunity to ask questions or speak about  
13 this project before we close the public hearing.

14 (No response.)

15 MS. FLYNN: Can we just add that 31 went out  
16 of the notices?

17 CHAIRMAN BRAND: Thirty-one mailings?

18 MS. FLYNN: Yes.

19 MR. JENNISON: I make a motion to close the  
20 public hearing.

21 CHAIRMAN BRAND: Second. Any objection?

22 (No response.)

23 CHAIRMAN BRAND: All right. So you will do  
24 some homework and let us know when you come up with a  
25 solution.

*DiVIESTI - PUBLIC HEARING SUBDIVISION*

1 MR. MILLEN: All right.

2 CHAIRMAN BRAND: Thank you.

3 Time noted: 7:29 p.m.

4

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

6

7 Certified to be a true and accurate transcript.

8

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Stacie Sullivan

10 Stacie Sullivan, CSR  
Court Reporter

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1 STATE OF NEW YORK : COUNTY OF ULSTER  
2 TOWN OF MARLBOROUGH PLANNING BOARD

2 -----X  
3 In the Matter of

4 MARLBORO ON HUDSON

5 Project No. 24-2006  
6 Hudson Circle, Marlboro  
7 Section 108.12; Block 8; Lot 23

8 -----X

7 PUBLIC HEARING - SITE PLAN

9 Date: July 15, 2024  
10 Time: 7:30 p.m.  
11 Place: Town of Marlborough  
12 Town Hall  
13 21 Milton Turnpike  
14 Milton, New York 12547

15 BOARD MEMBERS: CHRIS BRAND, CHAIRPERSON  
16 FRED CALLO  
17 JAMES GAROFALO  
18 STEVE JENNISON  
19 CINDY LANZETTA  
20 JOE LOFARO

21 ALSO PRESENT: GERARD COMATOS, ESQ., PLANNING  
22 BOARD ATTORNEY

23 JEN FLYNN, PLANNING BOARD SECRETARY

24 APPLICANT'S REPRESENTATIVE: CONNOR McCORMACK

25

26

27

28

29 -----X  
30 Stacie Sullivan, CSR  
31 staciesullivan@rocketmail.com

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1 CHAIRMAN BRAND: Next on the agenda we have a  
2 public hearing for the site plan of Marlboro on Hudson  
3 at Hudson Circle in Marlboro.

4 Legal Notice. Site Plan and Special Use  
5 Permit Reapproval Application. Please take notice a  
6 public hearing will be held by the Marlborough Planning  
7 Board pursuant to the Town of Marlborough Town Code  
8 Section 155-31 and 155-32 on Monday, July 15th, 2024,  
9 for the following application: Marlboro on Hudson,  
10 completion of project, at the Town Hall, 21 Milton  
11 Turnpike, Milton, New York, at 7:00 p.m. or as soon  
12 thereafter as may be heard. The applicant is asking  
13 for a site plan approval and special use permit for  
14 multiple dwellings to allow completion of a previously  
15 approved project on lands located at Hudson Circle,  
16 Marlboro, New York, 12542, Section 108.12, Block 8, Lot  
17 23. Any interested parties, either for or against the  
18 proposal, will have an opportunity to be heard at this  
19 time. Chris Brand, Chairman, Town of Marlborough  
20 Planning Board.

21 Do you have the mailings that you sent out as  
22 well?

23 MR. McCORMACK: I do. I just handed them to  
24 Jen

25 CHAIRMAN BRAND: Excellent. Can you please

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1 just provide an overview for the people in attendance?

2 MR. McCORMACK: Sure. I'll keep this as  
3 brief as I can. So the project is Marlboro on Hudson.  
4 For the record, my name is Connor McCormack. I'm with  
5 Colliers Engineering & Design.

6 The project is located on Tax Lot  
7 108.12-8-23. The lot is 6.2 acres in size. It's  
8 located on the corner of Highland Avenue and South  
9 Street. It's residentially zoned. The existing and  
10 proposed use is multiple dwelling units. Currently the  
11 site is partially constructed. There's -- 12 units  
12 have been constructed. A lot of Hudson Circle has been  
13 constructed.

14 CHAIRMAN BRAND: Jen, can you put it on the  
15 screen for us? Sorry.

16 MR. McCORMACK: A lot of the utilities are  
17 already installed, the water and sewer mains, the pump  
18 station.

19 The proposed site plan that we're looking to  
20 get reapproved here is to build the remaining 24  
21 additional units. Full build out, there will be 36  
22 units, 116 parking spaces, three stormwater basins, a  
23 pool and clubhouse, as well as other site improvements,  
24 including landscape and lighting.

25 Last time we were here, the Board did a

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1 circulation of County planning, and I guess tonight  
2 what we're looking for is just to take comments from  
3 the Board and the members of the public.

4 CHAIRMAN BRAND: Great. Thank you. Is there  
5 anyone here who would like to ask question? If you  
6 could just come up to the podium and state your name  
7 clearly for the stenographer.

8 MS. FLYNN: Can I just say there was 52  
9 mailings.

10 MS. BODINE: Hi, I'm Suzanne Bodine, and I'm  
11 from 10 Anna Place.

12 And the last time I was here was in 2019,  
13 when they got final approval to finish the project,  
14 which first they had to put in a pool and a pool house.  
15 So as we are now, it's not complete. My concern is --  
16 one is, if we're here for approval, is there any rule  
17 that says that they are not allowed to do any site work  
18 whatsoever?

19 CHAIRMAN BRAND: I'm not sure I understand  
20 the question.

21 MS. BODINE: Well, there was excavating,  
22 water, electric, all put in, in anticipation in the  
23 last two and a half months of this being completed. So  
24 I already assumed, since they were doing the site work,  
25 that it was already approved again, and I just -- until

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1 I got the letter in regard to this evening.

2 CHAIRMAN BRAND: Most of those go through the  
3 building department, so they can do site work without  
4 having approval first.

5 MS. BODINE: And then I have a concern about  
6 drainage, which I've had for quite a few years.  
7 Unfortunately, the drainage that comes through where  
8 Noto and my land connect, and my neighbor behind me,  
9 has a -- huge two drains. I brought this back up in  
10 2021. I don't know if Mr. Brand remembers the few  
11 emails we had back and forth, because I went to every  
12 single apartment that I could think of in Marlboro, and  
13 they could not help me. I did not call the DEC. Back  
14 then, the water and drainage was an issue. Now it's  
15 way issue. The land in between has eroded. And I  
16 don't understand how someone else can have drainage  
17 onto somebody else's property. I don't care if it's  
18 rainwater or whatever. It's eroding that area. I  
19 don't know who gave permission for those drainage.

20 CHAIRMAN BRAND: I believe at that time our  
21 engineer went out and did a site evaluation at the  
22 time.

23 MS. BODINE: Yes, he did. But even if  
24 it's -- okay. So you went out one time after it  
25 rained, but if monsoons come and other rain comes, it

*MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN*

1 pours out of there. If you -- I'm the homeowner. I  
2 know that the side of my hill is eroding. There's --  
3 you know, and my back lawn is lower than my home, and  
4 it also shares another land that they have a garage  
5 down there. It's all swamp. You can't mow it. I  
6 can't maintain it anymore. Because why would I go down  
7 there and just do all that work and have it, you know,  
8 full of water? So I don't know if it's coming from --

9 CHAIRMAN BRAND: They will have to do -- one  
10 of the comments from our engineer, who is not here this  
11 evening, but it does require coverage under the New  
12 York State Department of Environmental Conservation  
13 Construction Stormwater Permit. So they will be  
14 looking at that again, the drainage.

15 MS. BODINE: That's my biggest concern,  
16 because the drainage from, you know, even the extra  
17 buildings that they're putting there, then you have  
18 your runoff, and, yes, you do have the retention ponds,  
19 but it's not helping my property.

20 MR. McCORMACK: Can you just identify the  
21 property for me? Is it to the north of this site?  
22 Because if it's the one up here, I went up and looked  
23 at it with the town engineer as well (indicating).

24 MS. BODINE: This here (indicating).

25 THE COURT REPORTER: I'm sorry. I can't hear

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1 what you're saying.

2 CHAIRMAN BRAND: The stenographer has to --

3 MS. BODINE: I'm sorry. I said that, yes,

4 Mr. Noto did put dirt from the second duplex, that's

5 correct. The neighbor that lived there also had

6 complaints, but they have since moved. The new

7 neighbor has the same issue with the water as well.

8 But the reason why I'm questioning is because -- yes,

9 they also have drains that come off of the roof down to

10 the ground, and that's -- they're this big

11 (indicating). They're not this big (indicating). And

12 they're not this big (indicating). So there's two of

13 them that are going into there, and like I said, it's

14 all eroded. You know, I'm losing my hill, and my

15 house -- you know, I don't need that to get worse --

16 CHAIRMAN BRAND: Right.

17 MS. BODINE: -- from the water. So if it's

18 coming from here, then I don't understand how it was

19 approved to put water on someone else's property.

20 That's what I'm questioning.

21 CHAIRMAN BRAND: Is there a drain there in

22 the street? Where is that water going?

23 MR. McCORMACK: Give me one second.

24 CHAIRMAN BRAND: Sure.

25 MR. McCORMACK: If it's the issue that I saw

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1           in 2021, that was definitely not caused by us. One  
2           thing I will say is part of what we're doing here is  
3           we're -- the only new impervious are the couple of  
4           buildings that we hadn't built. Most of the roads are  
5           already in. What we're doing is we're expanding the  
6           stormwater facility and adding a third one, so it will  
7           provide more detention than is currently there.

8           Yes, there is a pipe that discharges off over  
9           here (indicating). I believe that's the only outlet.  
10           So there is -- this catch basin actually drains into  
11           that, and then the other half of the site does go into  
12           this ditch (indicating).

13           MS. BODINE: Yeah.

14           MR. McCORMACK: But, you know, part of  
15           stormwater management and the design is we mimic  
16           existing conditions. So before this site was  
17           developed, the runoff from this site did go to this  
18           corner and did go to this corner (indicating), and the  
19           purpose of the Stormwater Pollution Prevention Plan is  
20           you mimic those existing conditions. So that's what we  
21           did here with the design of these stormwater --

22           MS. BODINE: You might have mimicked it, but  
23           you didn't realize that it was gonna put so much water  
24           onto somebody else's property.

25           MR. McCORMACK: No. You mimic it to reduce

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1 from existing conditions to proposed conditions. So  
2 after development, it's the same.

3 MS. BODINE: Well, it didn't work. I mean,  
4 you've gotta avert it some other way.

5 MR. McCORMACK: The Town engineer reviewed  
6 the report in 2006, 2019, and then again this time  
7 around, and had no comments. It's to the standards.  
8 We even updated it, the permit in 2015. Then it was  
9 updated again in 2021. So the mitigation that's  
10 proposed today is more intensive than what would have  
11 been constructed if it were built under the 2026 --  
12 excuse me, 2006 approval.

13 MS. BODINE: What you're saying is the rules  
14 and the law state that you can just put water on  
15 somebody else's property?

16 MR. McCORMACK: If you're reducing the  
17 existing conditions, that is the case.

18 MS. BODINE: So that their property erodes.

19 MR. McCORMACK: What's that?

20 MS. BODINE: I said so I have a swamp in my  
21 backyard and the side hill is eroding because of that  
22 drainage.

23 CHAIRMAN BRAND: I just made a note. Our  
24 engineer is not here, but I will ask him to go check  
25 out what's there as well.

*MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN*

1 MR. McCORMACK: I walked this with the Town's  
2 engineer personally in 2002 [sic], so I know what the  
3 problem was and it was not --

4 CHAIRMAN BRAND: Is there any way to help  
5 mitigate her concerns?

10 CHAIRMAN BRAND: The existing runoff will be  
11 rerouted to the new stormwater prevention?

12 MR. McCORMACK: It won't be rerouted. The  
13 existing facilities are going to be expanded.

14 CHAIRMAN BRAND: Right. But the water that's  
15 going into her yard will still continue to go to her  
16 yard then.

17 MS. BODINE: But maybe not as much if the  
18 retention ponds are bigger; is that what you're saying?

19 MR. McCORMACK: The peak flow will be  
20 reduced. The volume -- I would have to look at the  
21 calculations. I wouldn't speak to that right now.

22 CHAIRMAN BRAND: Anything else, Ms. Bodine?

23 MS. BODINE: Yeah. Back when this first was  
24 in -- the inception of it, Mr. Diorio stated that there  
25 would be a berm -- a large berm going across here with

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1                   trees so that you could not -- kind of take away the  
2                   sound and the noises and whatever. But there's nothing  
3                   there but weeds now, a couple little pine trees. But  
4                   this side does have trees. Right now, going through  
5                   here, I get bicycles, dirt bikes, quads, vehicles  
6                   actually come up and say it's a dead end road, but I'm  
7                   going to go through anyway. So I'm questioning that as  
8                   well. I don't know what your plans are.

9                   MR. McCORMACK: I wasn't involved in that  
10                  approval, but I can look into that, the berm and the  
11                  access.

12                  CHAIRMAN BRAND: Is that all?

13                  MS. BODINE: Yeah. Thank you.

14                  CHAIRMAN BRAND: Anyone else here have a  
15                  question or comment? Mr. Gerentine.

16                  MR. GERENTINE: Good evening, everybody. My  
17                  name is Richard Gerentine. I am a taxpayer in this  
18                  town. I'm also a developer in this town. I'm just a  
19                  little confused. This project, does this project have  
20                  a permit to build right now?

21                  CHAIRMAN BRAND: I answered Mrs. Bodine when  
22                  she asked that question. That goes through the  
23                  building department. That's not part of what we do.

24                  MR. GERENTINE: All right.

25                  MR. GAROFALO: In other words, there are

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1           certain things that it may be permitted to do by the  
2           Building Department, but to get approval to build all  
3           the buildings, they need to get our approval.

4           MR. GERENTINE: I totally understand the  
5           process. I've been involved many times in many  
6           different ways, but, there again, let me ask you  
7           another question. If there was past fees that were  
8           incurred during this project, have they been paid?

9           CHAIRMAN BRAND: Which fees?

10           MS. FLYNN: Yes, I believe they have. All  
11           the Rec fees and everything, I believe those were paid.

12           MR. GERENTINE: The Rec and engineering fees,  
13           attorney fees, all those fees from past years?

14           MS. FLYNN: Yes, they're up to date on all of  
15           that. They couldn't have started again without doing  
16           that.

17           MR. GERENTINE: Well, that's my question.  
18           How did they start without any permit at all? I mean,  
19           I understand what you can do without permits. They are  
20           digging foundations. They have concrete walls,  
21           precast, already there. They're not installing them,  
22           but they're there. The question becomes, if you have  
23           rules, everybody should follow the rules. I mean,  
24           believe me, I would love to develop and not have any  
25           rules to follow. There are certain DEC requirements

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1           that they must comply with, which I'm sure they're not  
2           complying with the SWPPP. You have a SWPPP in action  
3           right now?

4           MR. McCORMACK: The SWPPP has been reviewed  
5           by the engineer, but we don't have a permit.

6           MR. GERENTINE: In essence, how are you  
7           proceeding to do any work without a SWPPP permit?

8           MR. McCORMACK: I'm not doing the erosion  
9           sediment control inspections personally, so I don't  
10           know how much open soil areas there are. So I don't  
11           know if it's required right now.

12           MR. GERENTINE: I can assure you, it's  
13           required to some degree. It might not be total, all  
14           encompassing. What you have built already might not be  
15           encompassed in that area, but the rest of the area  
16           definitely should have a silt fence and bales of hay,  
17           not just one going around one of the buildings. I'm  
18           not against the project, don't get me wrong, but, I  
19           mean, if you or, you know, agencies that are running  
20           the Town, and, you know, the rules should be the same  
21           for everybody concerned here. And, you know, being a  
22           taxpayer, you know, if they have to do certain things,  
23           they should be required to do certain things, and they  
24           should have those done before they commence  
25           construction. So I suggest strongly that you look into

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1 what stage they're at, what they're doing, what they  
2 have done already, what's required, and if they're not  
3 following the rules, by all means, I don't see how they  
4 can continue construction.

5 MR. TRONCILLITO: Rich, I've got a question.  
6 It's something to ask. I will follow up myself. What  
7 did our building inspector allow them to do and not do  
8 which we don't know? We don't get communication back  
9 and forth.

10 MR. GERENTINE: All right. I'm not --  
11 listen, I'm not trying to direct anything towards this  
12 project or anything else. But if a project is, you  
13 know, not following the proper rules. They don't have  
14 a building permit. I mean, they can't start  
15 construction.

16 MR. TRONCILLITO: I agree. But I don't know  
17 what -- what did Tommy allow them to do? We don't  
18 know. If he told them they can't do a damn thing, then  
19 they shouldn't be doing it. It's as simple as that.

20 MR. GERENTINE: Well, it's not what Tommy  
21 says. It's what you have in the rules of your Building  
22 Code. There are certain things that they have to have  
23 in place before they start construction.

24 MR. TRONCILLITO: When they go to Tommy,  
25 Rich, he is the one that tells them, yeah, go ahead and

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1 start your infrastructure. That, we don't know.

2 That's all I'm saying.

3 MS. LANZETTA: Yeah. You really need to  
4 raise these issues with the building inspector, and the  
5 building inspector will only take action if somebody  
6 comes in and does a formal complaint.

7 MR. GERENTINE: Well, I'm talking as a  
8 taxpayer of the Town of Marlborough here. If you have  
9 rules, and you have a whole book of --

10 MS. LANZETTA: We agree with you completely,  
11 but we're not the agency that's in charge of --

12 MR. JENNISON: We're not the enforcement  
13 agency.

14 MR. GERENTINE: But, I mean, I'm not standing  
15 up here, making a complaint. All I'm saying is that I  
16 developed in many different ways, and, you know, I  
17 developed in other towns, and you have to provide  
18 certain things before you start construction, and I  
19 don't think that's the case in this particular project.

20 MS. LANZETTA: But it's the building  
21 inspector who oversees that.

22 CHAIRMAN BRAND: I'll definitely check.

23 MR. GERENTINE: Whatever. Thank you very  
24 much.

25 CHAIRMAN BRAND: Thank you. Any other

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1 comments or questions --

2 MR. GAROFALO: And thank you for your public  
3 service.

4 CHAIRMAN BRAND: Any other comments or  
5 questions?

6 (No response.)

7 CHAIRMAN BRAND: No. All right. I'd like a  
8 motion to close the public hearing.

9 MR. TRONCILLITO: I'll make the motion.

10 MR. LOFARO: I'll second it.

11 CHAIRMAN BRAND: At this time the engineer  
12 did say that if the project is shown consistent with  
13 its intent of the original designs and purpose, it's  
14 recommended that the Planning Board authorize the  
15 attorney prepare a draft determination based on the  
16 previous Negative Declarations for the project. So can  
17 I have a motion --

18 MS. LANZETTA: Can I just make a comment,  
19 because we did get information back from Ulster County  
20 Planning Board, and one of the comments was really  
21 directed towards the Town Board. It's nothing that you  
22 can do anything about. But the one thing that they  
23 would like to see, and we would too, is they're  
24 concerned about meeting sustainability, you know, with  
25 the different codes. And, in particular, they were

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1                   wondering if you were going to use any types of passive  
2                   solar or geothermal or heat pumps in your new project.

3                   MR. McCORMACK: I don't know the answer to  
4                   that. I don't believe -- solar is not proposed on the  
5                   site plan. Geothermal is definitely not proposed. And  
6                   the heat pump is more of a Building Department  
7                   question. Without having the final architecturals, I  
8                   don't know the answer to that.

9                   MS. LANZETTA: Can you check into that?  
10                  Because in order to really pass this project, we have  
11                  to show that you've looked at these issues in meeting  
12                  the New York Stretch Code.

13                  MR. McCORMACK: They are using heat pumps.  
14                  They just said that.

15                  MS. LANZETTA: Pardon me?

16                  MR. McCORMACK: They're going to be  
17                  installing heat pumps in the units.

18                  MS. LANZETTA: Okay. And then the other  
19                  thing that they wanted you to look at is to develop  
20                  electric vehicle charging stations. Even if you don't  
21                  do a station itself, you know, to install the  
22                  infrastructure.

23                  MR. McCORMACK: Yes.

24                  MS. LANZETTA: If you could just make note of  
25                  that, then Ulster County is fine with the project.

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1 MR. McCORMACK: Okay.

2 MR. GAROFALO: I have one question before  
3 we --

4 CHAIRMAN BRAND: Mr. Garofalo, go ahead.

5 MR. GAROFALO: That is, if we close the  
6 public hearing, does that set a clock for us?

7 CHAIRMAN BRAND: No.

8 MR. COMATOS: No. There's no clock upon  
9 closing the public hearing.

10 CHAIRMAN BRAND: So I started to say can I  
11 have a motion to authorize the attorney to draft a  
12 SEQRA Determination and Negative Declaration and  
13 Resolution of Approval for the next meeting?

14 MR. JENNISON: I'll make that motion.

15 CHAIRMAN BRAND: Is there a second?

16 MR. LOFARO: I'll second.

17 CHAIRMAN BRAND: Any discussion?

18 (No response.)

19 CHAIRMAN BRAND: Any objection?

20 (No response.)

21 CHAIRMAN BRAND: All right. We will see you  
22 at the next meeting.

23 MR. COMATOS: I have one point. Mr. Hines'  
24 Comment Number 3 referred to condominium documents.  
25 I've seen them. I see that the condominium is managed

## MARLBORO ON HUDSON - PUBLIC HEARING SITE PLAN

1 by a Board of Managers, but I've also seen the draft  
2 stormwater facilities maintenance agreement, and the  
3 party to that agreement is an entity called Marlboro on  
4 Hudson Condominiums HOA, Inc. I'm trying to find out  
5 why the other party to the agreement is not just the  
6 Board of Managers. I don't know anything about this  
7 entity that in the draft agreement is the grantor.

8 MR. McCORMACK: Let me get you an answer to  
9 that.

10 MR. COMATOS: Thank you.

11 MR. McCORMACK: So as far as where we're at  
12 in the process, we would have to come back to a meeting  
13 for you to vote on the documents you're --

14 CHAIRMAN BRAND: Correct.

15 MR. McCORMACK: Understood.

16 CHAIRMAN BRAND: Thank you.

17 Time noted: 7:50 p.m.

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

19

20 Certified to be a true and accurate transcript.

21

22 Stacie Sullivan

23

Stacie Sullivan, CSR  
Court Reporter

24

25

1 STATE OF NEW YORK : COUNTY OF ULSTER  
2 TOWN OF MARLBOROUGH PLANNING BOARD

2 -----X  
3 In the Matter of

4 ELP SOLAR TRUNCALI

5 Project No. 24-2004  
6 335 Bingham Road, Marlboro  
7 Section 108.3; Block 8; Lot 21

8 -----X  
9 SKETCH - SITE PLAN

10 Date: July 15, 2024  
11 Time: 7:51 p.m.  
12 Place: Town of Marlborough  
13 Town Hall  
14 21 Milton Turnpike  
15 Milton, New York 12547

16  
17 BOARD MEMBERS: CHRIS BRAND, CHAIRPERSON  
18 FRED CALLO  
19 JAMES GAROFALO  
20 STEVE JENNISON  
21 CINDY LANZETTA  
22 JOE LOFARO

23  
24 ALSO PRESENT: GERARD COMATOS, ESQ., PLANNING  
25 BOARD ATTORNEY

26 JEN FLYNN, PLANNING BOARD SECRETARY

27  
28 APPLICANT'S REPRESENTATIVES: EVAN YOUNG  
29 RYAN LOUCKS  
30 JOEL TRUNCALI

31  
32  
33  
34 -----X  
35 Stacie Sullivan, CSR  
36 staciesullivan@rocketmail.com

# ELP SOLAR TRUNCALI - SKETCH SITE PLAN

1 CHAIRMAN BRAND: Next on the agenda, under  
2 Ongoing Application Review, we have ELP Solar Truncali  
3 for a sketch of their site plan at 335 Bingham Road in  
4 Marlboro. How are you this evening?

5 MR. YOUNG: Good. How are you? Good  
6 evening, Board. My name is Evan Young. It's been two  
7 months since we last met. We also have Ryan Loucks  
8 with us tonight. Ryan is with Crawford & Associates as  
9 well. It's unlikely I will be here next month, so he  
10 will be filling in for me next month.

11 CHAIRMAN BRAND: I'm assuming you got a copy  
12 of the engineer's technical review comments as well.

24 MS. FLYNN: Control Point only gave us one  
25 map. They said that you said only one map.

*ELP SOLAR TRUNCALI - SKETCH SITE PLAN*

1                   MR. YOUNG: Yeah. We should have -- so we  
2 dropped off 12 copies of documents, including that map.

3                   MS. FLYNN: Okay. Their office sent me this  
4 one and said that you said it's just one.

5                   MR. YOUNG: We asked them to drop off I think  
6 one. That's probably an original seal, but the one  
7 that we had was a pdf copy that we printed. That was  
8 included in your materials.

9                   In addition to that, we revised the plan to  
10 removal panels in areas of 15 percent slope or more.  
11 We've added some proposed landscape features for the  
12 landscape architect's design. And we incorporated the  
13 wildlife friendly fence as requested by the Planning  
14 Board.

15                  We have provided you a copy of the landscape  
16 plan that was prepared by Adam Hubbard of Hubbard Land  
17 Design. He's a registered landscape architect. We've  
18 also provided a copy of the interconnection agreement  
19 and a brief summary of the improvements that are  
20 expected along Bingham Road.

21                  It is anticipated that the improvements  
22 required to facilitate the interconnection would  
23 include 0.7 miles of single-phase, upgraded to  
24 three-phase power along Bingham Road. And the  
25 single-phase recloser will also be required -- upgraded

ELP SOLAR TRUNCALI - SKETCH SITE PLAN

1 as a part of the three-phase upgrades.

2 We submitted a slope analysis.

3 Decommissioning plan cost breakdown. Visual analysis.

4 CHAIRMAN BRAND: What was that cost estimate  
5 for the decommissioning?

6 MR. YOUNG: The cost estimate for the  
7 decommissioning -- I do not have that on me. I do not  
8 have that on me. I believe it was somewhere in the  
9 range of 125,000, not including salvage, I believe. I  
10 can verify that.

11 CHAIRMAN BRAND: Okay.

12 MR. YOUNG: We submitted the visual analysis,  
13 including line-of-sight drawings from a few specific  
14 locations. A glare analysis. Correspondence from  
15 OPRHP speaking to the lack of or no impact on  
16 archeological historic resources. And that's it. We  
17 did receive the MHE comment letter.

18 CHAIRMAN BRAND: Could you address Comment 9  
19 for me, the orchard trees?

20 MR. YOUNG: Sure. Okay. "It is unclear if  
21 the proposed orchard trees to remain are to be  
22 maintained. Issues regarding lack of maintenance of  
23 orchard trees can cause pest and disease issues with  
24 nearby orchards. In addition, unpruned orchard trees  
25 often become unsightly. The Planning Board should

*ELP SOLAR TRUNCALI - SKETCH SITE PLAN*

1 discuss the use of the orchard trees and the operation  
2 and maintenance of the orchards."

3                   From what I understand at this point, the  
4 orchard trees as part of this project that are to be  
5 maintained include that two rows of vegetation around  
6 the outside of the fence to support, you know, some  
7 visual screening, try to reuse the existing vegetation  
8 as much as we can. You know, outside of that, I'm not  
9 really sure what's going to happen to the trees.  
10                  That's something that I'll certainly need to discuss  
11 with the property owner. You know, the leased area for  
12 the most part for this project is going to include the  
13 facility and then, you know, the vegetation that we are  
14 utilizing for screening purposes. You know, I think we  
15 can certainly -- if the Planning Board would like to  
16 discuss that or would like further information on that,  
17 I could probably get that to you.

18                  CHAIRMAN BRAND: Please do.

19                  MR. YOUNG: So we're looking for more  
20 information as to if the remainder of the orchard is  
21 going to be maintained and continue to be farmed or  
22 not, and, if not, what are we going to do?

23                  CHAIRMAN BRAND: Pretty much, yes.

24                  MR. YOUNG: Okay.

25                  MR. GAROFALO: Can I pipe in here one second?

*ELP SOLAR TRUNCALI - SKETCH SITE PLAN*

1           Under 155-32.2 (I), it specifically talks about not  
2           clear-cutting trees that are outside the -- where  
3           you're doing the work.

4           MR. YOUNG: Sure.

5           MR. GAROFALO: So that's one thing that we  
6           have to think about, as well as the opposite thing,  
7           which is all of the problems that come from the trees  
8           if they are not tended. So I just wanted to bring that  
9           portion of the Code to your attention. Both E and F  
10          and -- E talks about the evergreens. Certainly we are  
11          in favor of native species being planted. At least  
12          indicate which ones are and aren't. If you could, that  
13          would be appreciated.

14          MR. YOUNG: I believe all of the proposed  
15          screening is native. I can confirm that, but that's my  
16          understanding at the time.

17          MR. TRONCILLITO: Mr. Chairman, I think Joel  
18          can answer that question in regards to the orchards.

19          MR. TRUNCALI: We're going to continue to  
20          take care of the trees that are not involved in the  
21          project. The rest of them will still be -- we're still  
22          going to continue farming those. And that  
23          clear-cutting law I don't think applies to farming.

24          MR. COMATOS: I had a question germane to  
25          what you just said. According to what you said, the

*ELP SOLAR TRUNCALI - SKETCH SITE PLAN*

1                   two rows of trees are part of your leased area, so is  
2                   there anything in your lease regarding, you know,  
3                   maintenance of the overall site and the landscaping  
4                   portion of it, in particular?

5                   MR. YOUNG: I can look into that. I think  
6                   that's a good point. And if not, I think there should  
7                   be, you know, because we're telling you here tonight  
8                   that, you know, this project is going to utilize those  
9                   two rows of trees. We can confirm that -- or look into  
10                  that. I assumed that the Town would like to see  
11                  maintenance of those two rows of trees in the  
12                  agreement.

13                  MR. COMATOS: I think that if the owner of  
14                  the facility undertook by contract the obligation to  
15                  maintain and properly prune those trees, I think that  
16                  mitigates the problem.

17                  MR. YOUNG: Okay.

18                  CHAIRMAN BRAND: Great. Any other comments  
19                  or questions from the Board?

20                  MS. LANZETTA: Yes. I just was at the County  
21                  Board meeting, and there was a similar project that is  
22                  coming up on Ohioville in Clintondale. It's an  
23                  orchard, and they're going to be clear-cutting a good  
24                  portion of the orchard, and the County is going to  
25                  require them to do soil testing, especially if there's

*ELP SOLAR TRUNCALI - SKETCH SITE PLAN*

1 going to be any grading work done. So I want to give  
2 you a heads-up on that, that that's very likely to come  
3 down from them as well if there is going to be any  
4 grading.

5 MR. YOUNG: Okay. I mean, right now grading  
6 is limited to installation of the access driveway and  
7 concrete equipment pads. It's very minimal, if any, at  
8 this point. We can certainly discuss that if the  
9 County has comment.

10 MS. LANZETTA: Okay.

11 CHAIRMAN BRAND: Any other comments or  
12 questions from the Board?

13 (No response.)

14 CHAIRMAN BRAND: So the recommendation was to  
15 send this back up to County with your recent  
16 submissions.

17 MR. YOUNG: Sure.

18 CHAIRMAN BRAND: So we'll wait until we hear  
19 back from them and then get you on the next agenda.

20 MR. YOUNG: Okay. Would the Board consider  
21 scheduling a public hearing for a time in August?

22 CHAIRMAN BRAND: Yes. Jen, what would be the  
23 next date?

24 MS. FLYNN: Well, the County meets on the  
25 7th, so then our next meeting would be the 19th, unless

*ELP SOLAR TRUNCALI - SKETCH SITE PLAN*

1 you wanted to come before County, which is the 5th.

2 CHAIRMAN BRAND: I guess I would prefer to do  
3 it after we get the County. So what was the date?

4 MS. FLYNN: The 19th.

5 MR. COMATOS: Is there also going to be a  
6 referral to the Town of Newburgh?

7 CHAIRMAN BRAND: Yes. That was also part of  
8 Pat's comments; that a 239 review should be submitted  
9 to the Town of Newburgh due to the proximity of the  
10 municipal boundary.

11 MR. YOUNG: Yep.

12 CHAIRMAN BRAND: You're familiar with that?

13 MR. YOUNG: Yep. When it comes to the public  
14 notice, I assume the applicant will coordinate with Jen  
15 to get those notices out?

16 MS. FLYNN: Yes. Once I have it written up,  
17 I have the lawyer check it to make sure everything is  
18 okay, and then I'll send it to you to mail out to  
19 anyone within 500 feet --

20 MR. YOUNG: Certified mail and all that?

21 MS. FLYNN: Yes, certified mail, but no  
22 return receipts.

23 CHAIRMAN BRAND: Yes. That was recently  
24 changed.

25 MR. YOUNG: Okay.

## ELP SOLAR TRUNCALI - SKETCH SITE PLAN

1 CHAIRMAN BRAND: Anything else on this?

2 (No response.)

3 CHAIRMAN BRAND: We'll see you on August 19th  
4 for the public hearing.

5 MR. YOUNG: Thank you for your time.

6 MS. FLYNN: I'm sorry, before they leave, am  
7 I sending everything I have now, or am I waiting until  
8 they give me all the updated stuff from Pat's comments  
9 to County?

10 CHAIRMAN BRAND: Will you have additional  
11 updated materials to send to County? Pat's comments  
12 indicated that there was new materials.

13 MS. FLYNN: Am I waiting to send it to  
14 County, or am I sending everything I have right now to  
15 County?

16 CHAIRMAN BRAND: Do you have other things  
17 that we can include to send to County?

18 MR. YOUNG: Right now, no.

19 CHAIRMAN BRAND: So just send what we have.

20 MS. FLYNN: Thank you.

21 Time noted: 8:03 p.m.

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

23 Certified to be a true and accurate transcript.

24 Stacie Sullivan Type text here

25 Stacie Sullivan, CSR  
Court Reporter

1 STATE OF NEW YORK : COUNTY OF ULSTER  
2 TOWN OF MARLBOROUGH PLANNING BOARD

2 -----X  
3 In the Matter of

4 MAZZA - TWO-LOT SUBDIVISION

5 Project No. 24-2007  
6 2 Dragotta Road, Marlboro  
7 Section 108.4; Block 6; Lot 5.100 and 5.200

6 -----X

7 SKETCH - LOT LINE

8  
9 Date: July 15, 2024  
10 Time: 8:04 p.m.  
11 Place: Town of Marlborough  
12 Town Hall  
13 21 Milton Turnpike  
14 Milton, New York 12547

15  
16 BOARD MEMBERS: CHRIS BRAND, CHAIRPERSON  
17 FRED CALLO  
18 JAMES GAROFALO  
19 STEVE JENNISON  
20 CINDY LANZETTA  
21 JOE LOFARO

22 ALSO PRESENT: GERARD COMATOS, ESQ., PLANNING  
23 BOARD ATTORNEY

24 JEN FLYNN, PLANNING BOARD SECRETARY

25 APPLICANT'S REPRESENTATIVES: CARMEN MESSINA  
26 JOHN MAZZA

27

28

29

30 -----X

31 Stacie Sullivan, CSR  
32 staciesullivan@rocketmail.com

MAZZA TWO-LOT SD - SKETCH LOT LINE

1 CHAIRMAN BRAND: Next on the agenda we have  
2 John Mazza for a sketch of a lot line at 2 Dragotta  
3 Road in Marlboro. How are you tonight?

4 MR. MESSINA: For the record, my name is  
5 Carmen Messina. I'm the surveyor for the project.

6           Sitting next to me is John Mazza, trustee for the Mazza  
7           Trust.

## MAZZA TWO-LOT SD - SKETCH LOT LINE

1 nonconforming use of two houses on one lot. These two  
2 lots are designated on the project as lot number 1,  
3 which would be 10,606 square feet and lot number 2,  
4 which would be 10,001 square feet.

5 CHAIRMAN BRAND: Thank you. I see that you  
6 did get the variances required from the Zoning Board of  
7 Appeals.

8 Gerry, Pat's comment number 2 says, "This  
9 office has received information that the Town of  
10 Marlborough is no longer interested in receiving  
11 dedications of land for highway purposes in accordance  
12 with the Town Code." I was wondering if you could  
13 clarify that, to the best of your understanding, where  
14 that leaves us.

15 MR. COMATOS: The Code provision in question  
16 refers to a reservation of land for the purposes of  
17 highway widening. The policy in the past has been to  
18 interpret that language as requiring dedication of a  
19 sufficient amount of land to widen the road  
20 sufficiently. There's been a debate as to the proper  
21 interpretation of the Code provision, and the consensus  
22 appears to be that the words "dedication" and  
23 "reservation" are not interchangeable, and that because  
24 of the presence of the word "reservation" in the Code,  
25 that the practice of requiring applicants to offer and

## MAZZA TWO-LOT SD - SKETCH LOT LINE

1 actually convey land to achieve the sufficient width is  
2 no longer to be imposed.

3 MR. GAROFALO: I would like to address that,  
4 Mr. Chairman.

5 CHAIRMAN BRAND: Please, Mr. Garofalo.

6 MR. GAROFALO: You know, there's a couple of  
7 different aspects. This is a very complicated issue  
8 dating back to 1909 when the State decided to have  
9 three rods, 49.5 feet, as part of all of the town,  
10 county, state roads.

11 And I think what we've been doing is slightly  
12 incorrect, but I do want to address a number of  
13 aspects; one of which is the laws have already been  
14 upheld saying that you cannot do adverse possession,  
15 take hold of that property away from the municipality.

25 Interestingly enough, on this particular

## MAZZA TWO-LOT SD - SKETCH LOT LINE

1 property, there is an encroachment agreement on the  
2 garage onto the public road, and what we probably  
3 should have been doing in other cases is where we ran  
4 into these kind of encroachments is to have that  
5 right-of-way and set an encroachment agreement on those  
6 different buildings.

7 Now, there's a difference between a fee  
8 simple taking of property, which is what is normally  
9 done to take property. For instance, my property, the  
10 State wanted to put in a traffic signal. They paid me  
11 money for a piece of my property. They physically own  
12 that piece of property. I have no rights to that  
13 property. When you have a dedication for right-of-way  
14 purposes, my understanding is you're not giving up all  
15 your rights to that property. You are giving up rights  
16 which would interfere with the right of passage on --  
17 along that street. So that even if you -- it looks  
18 like you own to the center line of the street, you  
19 can't disrupt travel on that street.

20 So this is a very complicated issue, and the  
21 fact that the setbacks are measured from 25 feet back  
22 is an indication that in many cases this is not --  
23 changing this is not going to benefit the applicants.  
24 Where the Town, I think, is looking at it is thinking,  
25 gee, by taking these properties we're going to reduce

## MAZZA TWO-LOT SD - SKETCH LOT LINE

1 the amount of taxes on these properties. And the fact  
2 of the matter is, I don't think they really looked at  
3 how much change there actually is in the value of the  
4 property for these small dedications of right-of-way,  
5 which is really not a dedication. It's really  
6 recognizing the fact that the municipality owns that  
7 right-of-way, and it's just showing it on a plan. So  
8 there's no real difference in the sense that they  
9 should not be allowed to put up a building. They  
10 should not be allowed to put up a fence or anything  
11 within that right-of-way. But they certainly can walk.  
12 They certainly -- if they have a building next to it,  
13 they would be able to use that to maintain that  
14 building.

15 So this is both an economic issue, but I  
16 think if the Town were to actually look at the loss of  
17 revenue from this, they would find out that it's very  
18 small. And part of the reason why we don't go and have  
19 all of these lot lines changed for everyone is  
20 because -- simply because of cost. And what we're  
21 doing by doing it as part of the subdivision  
22 application is we're already going through the process.  
23 So this is a much more minor cost than to actually go  
24 out and tell everybody, oh, by the way, you have to  
25 redraw your lines now.

## MAZZA TWO-LOT SD - SKETCH LOT LINE

1                   So it comes also to consider what's going to  
2 happen in the future if there is a necessity to move  
3 the road or to do some maintenance or whatever and the  
4 cost of coming back and redoing those lines. So I  
5 think that this Town may be overestimating the actual  
6 value in terms of what kind of tax revenue they're  
7 going to get.

8                   Now, I can understand the applicants wanting  
9 to be able to say their property is X number of square  
10 feet or X number of acres, because that may look to  
11 somebody to be a little bit more sellable, but the fact  
12 is, is that they still have the same limitations on  
13 their ability to develop the property based on this  
14 restriction of the lot line being measured from 25 feet  
15 from the center line of the road.

16                  So when we get into this, I think we really  
17 need to take a very close look at some of these  
18 regulations. This specifically says the setback or  
19 building line will be defined between the enclosed  
20 structure and the adjacent right-of-way. Okay. It  
21 doesn't say -- it's the adjacent right-of-way. So this  
22 would apply also to other cases where there are  
23 rights-of-way adjacent to properties. So, again, here  
24 is something that we need to be very careful of, but I  
25 think we've been taking the wrong direction in not

## MAZZA TWO-LOT SD - SKETCH LOT LINE

1 seeking encroachment agreements where these properties  
2 have encroached on the legitimate right-of-way of the  
3 municipality, and one would hope that those  
4 encroachment agreements would provide the owner with  
5 the ability to use it, but at the same time recognize  
6 that at some point, if that were destroyed, then they  
7 might not get the ability to rebuild on that property.

8 I don't want to go over all of the other  
9 aspects of this, but there are many, and it's detailed  
10 legalese, and I think it needs to be very thoroughly  
11 reviewed before we set this down.

12 MR. CALLO: They went in front of the ZBA and  
13 got approval already. Aren't we ready to move on?

14 MR. TRONCILLITO: Yes.

15 MR. GAROFALO: Well, there's another aspect  
16 here, and one of the approvals I think may not be  
17 correct also, but I'll get into that afterwards. So I  
18 think we need to have a decision that if the Town wants  
19 to do it that way, then that is something that they may  
20 have to change the laws, and I think if they really  
21 look at the cost of this, they will change their minds.

22 MR. LOFARO: Scott told us the other day this  
23 is what we're doing, so I think we gotta do what Scott  
24 says.

25 MS. LANZETTA: Yeah, but he's not following

## MAZZA TWO-LOT SD - SKETCH LOT LINE

1 the law.

2 MR. LOFARO: I disagree.

3 MS. LANZETTA: Well, can I back up? We had  
4 asked -- Mr. Hines had said that Gerry and he were  
5 going to put together a letter with a reasoned opinion  
6 on these two sections of the Code that were discussed  
7 at the last time we discussed this, and I haven't seen  
8 anything written down in regards to how they came to  
9 this decision. And it's my opinion by what -- the way  
10 that this is worded, and we are going to run into this  
11 again when we get to Buttermilk, and I don't think Pat  
12 Hines is in agreement necessarily with what has been  
13 decided by the Town Board.

14 MR. GAROFALO: I think the difference here is  
15 that it's not -- that it's a dedication of the  
16 right-of-way in the sense that they are moving the  
17 line, recognizing that this is what the law says. So  
18 it's not really --

19 MS. FLYNN: I'm sorry. We're charging the  
20 applicant for discussing the law.

21 CHAIRMAN BRAND: Gerry, have you made any  
22 determination? Has any progress been made on you and  
23 Pat figuring that out?

24 MR. COMATOS: Well, I haven't spoken to Pat  
25 since I found out that there's been this shift in

## MAZZA TWO-LOT SD - SKETCH LOT LINE

1 policy, but I did tell the supervisor that I would  
2 draft an opinion.

3 CHAIRMAN BRAND: We'd like to see that.

4 MR. COMATOS: I can probably draft it  
5 tomorrow.

6 CHAIRMAN BRAND: Great.

7 MR. COMATOS: And you should be seeing it I  
8 would say fairly soon.

9 MR. GAROFALO: Can I have permission to send  
10 in some of the materials that I've already sent?

11 CHAIRMAN BRAND: Please.

12 MR. GAROFALO: With regard to the ZBA, lot 2,  
13 the rear lot line variance is for 11.9 feet, and on the  
14 plan it looks to me like there's six feet to the  
15 existing garage. I'm not sure where the 11.9 feet  
16 comes from.

17 MR. MESSINA: That comes from -- the existing  
18 single-family house on that lot number 2 is 6.1 feet  
19 from the rear yard, and, therefore, we needed a  
20 variance of 11 -- 8.1, I'm sorry -- 11.9 feet to make  
21 it the required 20. And that's what the ZBA granted  
22 us.

23 MR. GAROFALO: So the variance -- the  
24 distance that they're allowing -- this is the distance  
25 that you're permitted to have?

## MAZZA TWO-LOT SD - SKETCH LOT LINE

1                   MR. MAZZA: That they're allowing.

2                   MR. MESSINA: We're getting a variance of  
3                   11.9 feet because we are 11.9 feet short of the rear  
4                   requirement.

5                   MR. GAROFALO: Thank you.

6                   CHAIRMAN BRAND: Anything else from the Board  
7                   on this one?

8                   MR. JENNISON: I would move that we have a  
9                   public hearing.

10                  MR. LOFARO: I'll second that motion.

11                  CHAIRMAN BRAND: Jen, what is the next date,  
12                  the first meeting in August?

13                  MS. FLYNN: August 5th.

14                  CHAIRMAN BRAND: August 5th. You'll be ready  
15                  for that?

16                  MR. MESSINA: Yes. Thank you.

17                  MS. LANZETTA: Can I also see a copy of the  
18                  encroachment agreement for Dragotta Road?

19                  MR. MAZZA: One was submitted with the  
20                  package.

21                  MR. COMATOS: I have a copy. I can send it.

22                  MS. LANZETTA: If somebody could send it to  
23                  me electronically, that would be helpful.

24                  CHAIRMAN BRAND: We'll see you again on  
25                  August 5th.

*MAZZA TWO-LOT SD - SKETCH LOT LINE*

1 MR. MESSINA: Thank you very much.

2 Time noted: 8:21 p.m.

3

4

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

6

7 Certified to be a true and accurate transcript.

8

Stacie Sullivan

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Stacie Sullivan, CSR  
Court Reporter

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1 STATE OF NEW YORK : COUNTY OF ULSTER  
2 TOWN OF MARLBOROUGH PLANNING BOARD

2 -----X  
3 In the Matter of

4 BUTTERMILK FALLS RESORT HOTEL

5 Project No. 23-2019  
6 220 North Road, Milton  
7 Section 103.1; Block 2; Lot 12,200, 13,  
8 11.200, 10, 11.100, 75, 71, 72

7 -----X

8  
9 SKETCH - SITE PLAN

10 Date: July 15, 2024  
11 Time: 8:22 p.m.  
12 Place: Town of Marlborough  
13 Town Hall  
14 21 Milton Turnpike  
15 Milton, New York 12547

16 BOARD MEMBERS: CHRIS BRAND, CHAIRPERSON  
17 FRED CALLO  
18 JAMES GAROFALO  
19 STEVE JENNISON  
20 CINDY LANZETTA  
21 JOE LOFARO

22 ALSO PRESENT: GERARD COMATOS, ESQ., PLANNING  
23 BOARD ATTORNEY  
24 JEN FLYNN, PLANNING BOARD SECRETARY

25 APPLICANT'S REPRESENTATIVES: BARRY MEDENBACH  
26 ROBERT POLLOCK

27

28

29 -----X  
30 Stacie Sullivan, CSR  
31 staciesullivan@rocketmail.com

*BUTTERMILK FALLS RESORT HOTEL - SKETCH SITE PLAN*

1 CHAIRMAN BRAND: Finally this evening we have  
2 the Buttermilk Falls Resort for a sketch of their site  
3 plan at 220 North Road in Milton.

6 MR. MEDENBACH: We resubmitted plans that I  
7 believe addressed all the comments that your engineer  
8 had come up with at the last meeting. We also had  
9 comments from the County Planning Board that pretty  
10 much have all been addressed. And I see that Patrick  
11 put out a new memo today, which I think is very  
12 favorable to us, just outlining some of the issues that  
13 are still outstanding.

24 There's some we're just sitting on. I mean,  
25 we still need a permit from the Health Department and

*BUTTERMILK FALLS RESORT HOTEL - SKETCH SITE PLAN*

1 DEC for the waste water. You know, this right-of-way  
2 issue came up too in this letter, saying -- now,  
3 there's a situation where it really doesn't affect the  
4 project at all as far as setbacks. You know,  
5 right-of-way, we show a half width. We could call it a  
6 dedication. Surrender. However the language you want  
7 us to call it, we'll be happy to call it that. We're  
8 establishing the bounds of the highway at 25 feet off  
9 the center line.

10 And quite often -- you know, we come into  
11 this problem all the time in other towns, and we quite  
12 often just refer to it as assumed highway bounds. So  
13 however the Planning Board wants us to address this,  
14 we'll be happy to do that.

15 CHAIRMAN BRAND: Great. I just wanted to  
16 have a motion to have the Planning Board act as lead  
17 agency for this project since apparently that may or  
18 may not be outstanding.

19 MR. TRONCILLITO: I'll make that motion.

20 CHAIRMAN BRAND: Is there a second?

21 MR. LOFARO: I'll second.

22 CHAIRMAN BRAND: Any discussion?

23 (No response.)

24 CHAIRMAN BRAND: So moved. Also, we need a  
25 public hearing for this. Jen, the 5th or 15th?

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1 MS. FLYNN: August 5th.

2 CHAIRMAN BRAND: August 5th, does that work  
3 for you guys for a public hearing?

4 MR. POLLOCK: Yes.

5 MR. MEDENBACH: We're ready.

6 CHAIRMAN BRAND: Is there a motion for a  
7 public hearing?

8 MR. LOFARO: I'll make a motion for a public  
9 hearing.

10 MR. JENNISON: Second it.

11 CHAIRMAN BRAND: Any discussion?

12 (No response.)

13 CHAIRMAN BRAND: Any objection?

14 (No response.)

15 MS. LANZETTA: What is the status of the  
16 Creighton Manning? Does anybody know?

17 MS. FLYNN: No. Pat has that.

18 MS. LANZETTA: He listed it as a comment, so  
19 he doesn't know.

20 MS. FLYNN: Maybe they didn't send it back  
21 yet. I don't know. But then he does the lead agency  
22 also.

23 CHAIRMAN BRAND: Any comments or questions  
24 from the Board?

25 MR. TRONCILLITO: I have a question for

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1                   Mr. Pollock.

2                   MR. GAROFALO: I have a few questions.

3                   CHAIRMAN BRAND: Mr. Troncillito.

4                   MR. POLLOCK: The Main Street project?

5                   MR. TRONCILLITO: Pardon?

6                   MR. POLLOCK: Is it concerning the Main  
7                   Street project?

8                   MR. TRONCILLITO: No.

9                   MR. POLLOCK: We're going to start on that.

10                  MR. TRONCILLITO: Is the funding in place for  
11                  this project?

12                  MR. POLLOCK: Yes.

13                  MR. TRONCILLITO: Okay. Just wanted to know.

14                  CHAIRMAN BRAND: Mr. Garofalo.

15                  MR. GAROFALO: Thank you. Thank you for  
16                  changing the wayfinding signs and entrance, but I think  
17                  since North Road turns into Main Street, you still need  
18                  another sign so that traffic going that way will know  
19                  to get to Route 9W to turn right onto Milton Turnpike.  
20                  Not a tough thing to do.

21                  The other thing is wayfinding is very  
22                  important inside the site also. Not only for the  
23                  emergency services and your employees, but also for the  
24                  people that will be there so that they know exactly  
25                  which building -- which road to go down for which

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1 building. Like you're in a hotel. You get off the  
2 elevator. There's a sign so you know which direction  
3 to turn to get to your room. It's the same type of  
4 thing, except for the emergency services, those seconds  
5 of not knowing where to go or going the wrong way could  
6 be critical. So I think it's very important to have  
7 those kind of wayfinding signs, particularly to the  
8 cottages.

9 MR. MEDENBACH: I don't think that's a  
10 problem. Just directional signs.

11 MR. GAROFALO: I'm not saying these are big  
12 problems.

13 One of the things that you should look at is  
14 155-16G (3) (b), which talks about structures in front  
15 yards. Now, you moved the gatehouse, and I think it's  
16 much less -- it's not a safety issue as it was where  
17 you originally had it. There's still this issue of  
18 whether or not that's permitted or not, and if you get  
19 around it some way, but take a look at regulations  
20 dealing with that, because it's certainly an accessory  
21 use. It's not the main use.

22 MR. MEDENBACH: I didn't quite follow that.

23 MR. POLLOCK: That has to do with the  
24 gatehouse.

25 MR. MEDENBACH: This is the gatehouse you're

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1 talking about?

2 MR. GAROFALO: Yes. I'm talking specifically  
3 about the gatehouse, because that's clearly in the  
4 front yard.

5 On your earlier plans, your entire site, you  
6 had some very nice drawings showing the areas where you  
7 had 15 to 25 percent slope areas, and I think that I  
8 previously suggested that you put that on the more  
9 detailed plans so that if there are buildings that need  
10 to be shifted a little bit, you'll know. You really  
11 can't see on that eight-and-a-half by 11 sheet the  
12 entire site. I think you really need to look at that  
13 in more detail and look at the regulations dealing with  
14 development in the slope areas.

15 There are a couple of places where you  
16 have --

17 MR. MEDENBACH: Excuse me.

18 MR. POLLOCK: Excuse me, James. On that last  
19 thing where you're talking about slopes and you got --

20 MR. MEDENBACH: Eight-and-a-half by 11, I'm  
21 not sure --

22 MR. POLLOCK: We're using 36 by 24.

23 MR. GAROFALO: Well, it could be that I'm  
24 mistaken on the size. It's just that when I saw a plan  
25 with the entire site, it's really not clear enough

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1 where you're developing, whether you're developing in  
2 these steep slope areas or not.

3 MR. MEDENBACH: I think all the sheets are  
4 large. We haven't submitted any site plan that is  
5 small scale like that. Maybe it was shrunk down, the  
6 copy you have, or something.

7 MR. GAROFALO: It could have been. But my  
8 point is that these other sheets that you're doing,  
9 where you're showing much more detail, that's where you  
10 really should be looking at those steep slopes and see  
11 if maybe you need to move the building a little bit one  
12 way or another to accommodate not developing in very  
13 steep slope areas.

14 There are a couple of places where there's  
15 accessible parking, and it's adjacent to sidewalks, and  
16 I'm not clear if there are curbs there that need to  
17 have a transition or whether the sidewalks are at grade  
18 with the accessible parking. You may just want to take  
19 a look at that.

20 With regard to Building 22, and I mentioned  
21 this before, Regulation 130-12C (2) specifically says  
22 that the maximum driveway width should be 30 feet, and  
23 part of the reason for this is because they really  
24 don't want these wide open curb cuts, and in  
25 particular, with that building, you have people backing

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1                   directly into the road, which is not good.

2                   MR. MEDENBACH: Which building are you  
3                   referring to?

4                   MR. POLLOCK: I think you're referring to the  
5                   Mahoney garage.

6                   MR. GAROFALO: Yes.

7                   MR. MEDENBACH: That's a preexisting  
8                   condition there.

9                   MR. POLLOCK: We've never had problems with  
10                  it. It's always been a garage.

11                  MR. GAROFALO: It may have always been a  
12                  garage. There's plenty of places on Route 9W that have  
13                  these old wide open curb cuts and the Town would like  
14                  to close them down because they're not safe, and I  
15                  can't believe that there isn't somewhere else on the  
16                  site where you could move these parking spaces and to  
17                  have a narrower curb cut or two 30-foot curb cuts.  
18                  Some of the parking I think is so --

19                  MR. MEDENBACH: Well, the garage doors are  
20                  all along there, that whole side of the building.

21                  MR. GAROFALO: Yes. And you have parking in  
22                  front of all of them.

23                  MR. MEDENBACH: Yes.

24                  MR. GAROFALO: But I think with a 30-foot  
25                  curb cut, you could still go in and maneuver into the

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1                   garages.

2                   MR. POLLOCK: The idea is we're using it for  
3                   storage more than for the garage.

4                   MR. CALLO: Don't you store the mowers there,  
5                   Mr. Pollock?

6                   MR. POLLOCK: Excuse me?

7                   MR. CALLO: I've never seen anything outside  
8                   of that building. I've been living over there for 25  
9                   years. And the way you have it all braided off right  
10                  now looks -- I think he keeps mowers in there or  
11                  something like that. That's all that's in there right  
12                  now.

13                  MR. GAROFALO: And they'd still be able to do  
14                  that, but what I'm saying is to have parking in front  
15                  of those buildings where they're backing into the road  
16                  is not safe. It's not a good idea, and maybe no  
17                  accident will happen in ten years, but when something  
18                  does, sure as shoot, people are going to get sued. And  
19                  I think that this is something that you can look at,  
20                  putting those parking spaces in other spots, and I  
21                  think clearly you have enough room to do that.

22                  MR. POLLOCK: Mr. Garofalo, this is valet  
23                  parking over the -- all that area is valet. It's not  
24                  being parked by an individual person, by a guest that's  
25                  staying there. Does that make any difference?

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1 MR. MEDENBACH: Well, we also talked about  
2 with really large events, there may be some self  
3 parking, but that strip there along Mahoney would not  
4 be used for the guests to park in. That would be staff  
5 or other equipment. And, you know, as far as the issue  
6 about backing into the road, I mean, I don't know how  
7 that's any different than parallel parking further down  
8 in the Milton area. You know, it's a slow moving  
9 traffic event. It's a short length of road between 9W  
10 and North Road. It's not like cars are coming down  
11 there 40, 50 miles an hour. We don't see it as an  
12 issue, and it's been a preexisting condition for some  
13 time. It's not a big active area of the proposal.

14 CHAIRMAN BRAND: Point taken. Anything else,  
15 Mr. Garofalo?

16 MR. GAROFALO: Also, on the vegetation  
17 sheets, if you could simply note which ones are native  
18 vegetation. Native they would look at as being  
19 anything from North America.

20 There are some stone walls that are being  
21 removed. Are those being -- do you have any plans to  
22 move those stone walls anywhere?

23 MR. MEDENBACH: I don't know --

24 MR. POLLOCK: I have no idea about stone  
25 walls. We're rebuilding a lot of stone walls.

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1                   MR. GAROFALO: The two entrances.

2                   MR. MEDENBACH: We showed -- that comment you  
3                   brought up at the last meeting, where you're talking  
4                   about crossing North Road over to the gatehouse area,  
5                   the walkway would be along the road and go around the  
6                   wall, which brings it closer to the actual gatehouse  
7                   area. So we're not taking any of those walls down.

8                   MR. GAROFALO: No. The actual accesses are  
9                   shown going through the walls.

10                  MR. CALLO: There's no stone wall there right  
11                  now?

12                  MR. POLLOCK: There's no wall there.

13                  MR. GAROFALO: So the plan is not correct.

14                  MR. MEDENBACH: Well, I can't speak for the  
15                  landscaping plans. We didn't prepare them.

16                  MR. POLLOCK: The idea is to build some stone  
17                  walls.

18                  MR. GAROFALO: Okay. We certainly like to  
19                  see stone walls.

20                  MR. POLLOCK: They're for decorative purposes  
21                  more than realistic. But we will be putting some up,  
22                  as we did for Buttermilk Falls. You know, we rebuilt  
23                  all the walls.

24                  CHAIRMAN BRAND: Anything else?

25                  MR. POLLOCK: Do we get any brownie points

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1 for rebuilding walls?

2 MR. GAROFALO: You get brownie points from  
3 me.

4 MR. POLLOCK: So that's what we did. Come  
5 there one day.

6 CHAIRMAN BRAND: What's next? That's it?

7 MR. GAROFALO: That's it.

8 CHAIRMAN BRAND: Anything else?

9 (No response.)

10 CHAIRMAN BRAND: So we have an August 5th  
11 public hearing. We'll see you gentlemen then.

12 MR. MEDENBACH: Do we have a date?

13 MR. POLLOCK: August 5th.

14 MR. MEDENBACH: Sorry. I didn't hear that.

15 CHAIRMAN BRAND: Motion to adjourn?

16 MR. LOFARO: I'll make the motion.

17 MR. CALLO: Second.

18 MR. POLLOCK: Thank you.

19 MR. MEDENBACH: Thank you very much.

20 Time noted: 8:38 p.m.

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

22 Certified to be a true and accurate transcript.

23

24

Stacie Sullivan

25

Stacie Sullivan, CSR  
Court Reporter