

Appendix A
Public Hearing Transcript

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2 STATE OF NEW YORK
TOWN OF CLARKSTOWN

3 -----X

4 Minutes of
The Clarkstown Planning Board
5 May 10, 2006 - 7:30 p.m.
6 at
City Hall
10 Maple Avenue
7 New City, New York 10956-5099
8 -----X

9

10 B E F O R E:
11 SHIRLEY J. THORMANN, Chairwoman
12 RUDOLPH J. YACYSHYN, Vice Chairman
13 GILBERT J. HEIM, Member (Not present.)
14 MARVIN S. BAUM, Member
15 GEORGE A. HOEHMANN, Member
16 RICHARD SHOBERG, Member (Not present.)
17 ROBERT D. JACKSON, Member

18 P R E S E N T:
19
20 JOSE C. SIMOES, Town Planner
21 ROBERT GENESLAW, Planning Consultant
22 CHARLES MANERI, Building Plans Examiner
23 DENNIS M. LETSON, Deputy Director
24 Environmental Control
25 DANIEL KRAUSHAAR, Board Attorney

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HOWARD BRESHIN REPORTING
8 Edsam Road
Valley Cottage, New York 10989
(914) 686-1652

MAY 23 2006

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2 I have with me tonight the project
3 applicants, Barry R. Price and Andrew
4 S. Atzl, Atzl, Scatassa and Zigler, the
5 project engineers. In and out the
6 microphone goes.

7 Ms. Chairman, can I tell a little
8 bit about the project? As Chairman
9 Thormann said, the proposed project is
10 on the east side of Mountainview Avenue
11 between Forest Ridge and Mountainview.
12 The project proposal is for 12
13 single-family houses on two cul de
14 sacs.

15 The project is approximately 10.3
16 acres in size. It is zoned R-22, meets
17 the minimum lot size after taking
18 appropriate deductions for areas of
19 steep slope and wetland which must be
20 22,500 square feet which is roughly
21 half an acre.

22 The project meets the Zoning Code
23 and no variances are being requested.
24 The project has a single access to
25 Mountainview Avenue, 935 foot road

XPB, ADE
XBI, XOI
JDE
COPY
TO
A. Price
&
R. Scatassa
&
J. Zigler
7.11.11

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2 MS. THORMANN: The meeting of the
3 Planning Board of May 10th is now in
4 session. Please rise and we shall
5 salute the flag.

6 (Salute of the flag.)

7 MS. THORMANN: The first item
8 tonight deals with the Draft
9 Environmental Impact Statement, public
10 hearing under the provisions of SEQRA
11 and preliminary: Kury Homes, Valley
12 Cottage, 59.20-3, 4 and 5, proposed 14
13 lot subdivision of 10.29 acres, R-22
14 zoned land, east side of Mountainview
15 Avenue, 150 feet north of Forest Ridge
16 Road abutting Mountainview Condos.
17 Would you please come forward, identify
18 yourselves for the record.

19 MS. CUTIGNOLA: My name is Ann
20 Cutignola. I represent Tim Miller
21 Associates. I am with the
22 environmental planning consultant with
23 the project. I have with me tonight
24 Barry R. Price. You can't hear me? Is
25 this not working? Is this any better?

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2 going to the east ending in a cul de
3 sac, and a shorter cul de sac to the
4 north. There is a schematic of the
5 project over-- we should probably bring
6 that closer since everybody is down at
7 this end of the room.

8 The roads will be built to town
9 standards and offered for dedication to
10 the town upon completion of the
11 project. Approximately 8.5 acres will
12 be graded to accommodate the 12
13 single-family residences.

14 The roads and the proposed lawn
15 areas of this 8.5 acres-- 2.8 acres
16 were previously disturbed by the three
17 residences that had been removed from
18 the project site. There is 4.14 acres
19 of slopes over 15 percent of which 3.4
20 acres will be graded.

21 There is a wetland area on this
22 site which is basically the dark green
23 area there. As you can see, the
24 wetland is on the site, then off the
25 site, then on the site.

2 There is approximately a half acre
3 of wetland on the site. The wetland
4 area, for the most part, has been
5 avoided with the exception of the road
6 crossing.

7 Wetland disturbance will be less
8 than one tenth of an acre and will be
9 subject to an Army Corps. nationwide
10 permit.

11 The 12 single-family houses are
12 proposed as four bedrooms. They will
13 connect to existing public water and
14 sewer.

15 We are projecting a population
16 increase of 44 persons including 10
17 school aged children. The project is
18 located in the Nyack Union Free School
19 District.

20 After paying the cost to educate
21 these children, we project an annual
22 budget surplus to the school district
23 of approximately \$35,000. We are also
24 projecting a surplus revenue to the
25 Town of Clarkstown of approximately

2 They are spaced differently, and it
3 does result in two lots that have long
4 driveways.

5 The purpose of the public hearing
6 is so the Planning Board can benefit
7 from public comment on the project to
8 ensure they take all points of view
9 into consideration in evaluating the
10 relative merits and impacts of the
11 project. I look forward to having your
12 comments tonight. I assume there is no
13 microphone there, how are the people --

14 MS. THORMANN: There is.

15 MS. CUTIGNOLA: There you go.
16 Please come to the microphone, state
17 your name.

18 MS. THORMANN: No, no, we are not
19 going-- I am running the meeting, I am
20 sorry.

21 MS. CUTIGNOLA: That's okay.

22 MS. THORMANN: Because I want the
23 people to understand where we are
24 going.

25 At the Planning Board meeting of

2 \$40,000. All of this information is
3 detailed in the DEIS. The DEIS is
4 available at Town Hall at the Nyack
5 Library, and on line at Tim Miller
6 Associates under public review and on
7 the Town of Clarkstown web site. I am
8 hoping everybody has had an opportunity
9 to find a copy or see a copy.

10 Per the scope of the DEIS, we have
11 also evaluated two separate
12 alternatives, a standard alternate
13 layout and an average density layout.
14 The standard alternate layout is very
15 similar to the project proposal but the
16 setbacks are slightly different.

17 The average density layout is
18 slightly different. There is a single
19 cul de sac instead of two cul de sacs.
20 The average density layout has a 50
21 foot open space buffer on the east end
22 of the property, and 20 foot open space
23 buffer to the north.

24 The lots are smaller. Some of
25 them are less than 22,000 square feet.

2 March 22nd, 2006, the DEIS was deemed
3 complete for public review and a public
4 hearing was set for today, and so what
5 we are going to do is, we are going to
6 have the consultants respond to the
7 DEIS, the Planning Board members will
8 respond to the DEIS, and then the
9 public will have its opportunity to
10 respond.

11 If at the end of the meeting, all
12 right, we have any big holes that the
13 applicant has, they will then have to
14 fill those in, and then we will go for
15 the Final Environmental Impact
16 Statement.

17 I do not intend to close the
18 public hearing tonight with the
19 permission of the Board, but to keep it
20 open, which means that there will be,
21 we are not going to be under the gun
22 for the 45 days. Do I have your
23 permission, Board?

24 MR. JACKSON: Yes, ma'am.

25 MR. HOEHMANN: Yes.

2 MS. THORMANN: Do you have any
3 questions?

4 MS. CUTIGNOLA: No, that's fine.

5 MS. THORMANN: All right, then I
6 am going to have the consultants
7 respond.

8 MR. MANERI: We have no comments
9 from the Building Department.

10 MS. THORMANN: All right.

11 MR. LETSON: From our standpoint
12 our review is continuing, although is
13 there are a couple of items in I guess
14 what you would refer to as the
15 executive summary of the document that
16 I will comment on it at this point.

17 One has to do with the initial
18 storm water management plan where the
19 narrative indicates an infiltration
20 basin to be on a separate lot, but also
21 indicates that there would be a
22 maintenance agreement to allow
23 municipal access for maintenance. So
24 that is a discrepancy to be resolved.
25 That basin should be on a lot to be

2 anybody else?

3 MR. SIMOES: No.

4 MR. LETSON: The proposed
5 mitigation measures on geological
6 impacts indicate the test holes
7 excavated on the site, there is
8 information on that included in
9 Appendix D and it should be referenced
10 in the text of the narrative.

11 The jurisdictional determination
12 from the Army Corps. of Engineers, as
13 the document indicates, was issued in
14 January of 2001 and will expire in June
15 of 2006 so that wetland, given the time
16 schedule and issues related to this
17 review and the subdivision approval, I
18 would suggest that you get it reflagged
19 and request a new JD from the Corps.

20 The narrative also indicates the
21 nationwide permit 39 coverage for the
22 10th of an acre to be filled of
23 wetland. Nationwide permit 39-I also
24 calls for a postconstruction notice
25 indicating what compensatory wetlands

2 transferred to the town in fee.

3 The summary section indicates 40.2
4 percent of the site with slopes in
5 excess of 15 percent. The Zoning Code
6 Section 290-21D calls for bulk
7 reductions for slopes between 30
8 percent and 50 percent and for slopes
9 over 50 percent, so those slope
10 criteria should be shown on the maps
11 and they should be reflected within the
12 narrative of the document.

13 Our copy of the document is
14 compromised. The figures that are
15 referenced in the narrative Sections
16 3.1-X and various numbers, I have to
17 assume were on 11 by 17 pages. In the
18 copy that I have, they were all copied
19 on a 8 and a half by 11, so the
20 documents that are out in circulation
21 will also need to be checked to
22 determine whether or not they are
23 correct and accurate, and I am going to
24 need a new set of figures.

25 MS. CUTIGNOLA: Did that happen to

2 were created in order to fill the 10th
3 of an acre and obtain coverage under
4 that nationwide permit, so that should
5 be indicated on the drawings and in the
6 narrative as well as to what measures
7 will be taken to provide that
8 compensatory wetland.

9 The vegetation survey and some of
10 the wildlife survey should have the
11 individual who performed those surveys
12 and their credentials provided in a
13 document, and some of the, in one of
14 the sections relative to biological
15 impacts and biological mitigation, the
16 document refers to erosion control
17 measures and storm water management
18 measures which should be directly, more
19 directly related to the mitigation of
20 biological potential impacts, flora and
21 fauna impacts rather than just stating
22 that they are erosion controls and
23 storm water management controls.

24 Our review, detailed review is
25 continuing, and as comments are

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2 developed and generated, they would be
 3 forwarded to the Board.

4 MS. THORMANN: Thank you, Mr.
 5 Letson. Mr. Geneslaw.

6 MR. GENESLAW: Yes, I have a memo
 7 from our office dated May 4th and
 8 largely I will read it. I will
 9 paraphrase where I can.

10 The applicant will need to prepare
 11 a Final Environmental Impact Statement
 12 as a response to comments on the DEIS.
 13 After the Board makes the determination
 14 to file an FEIS, there is a 30-day
 15 period in which the Board must file a
 16 written findings statement.

17 The Board cannot make a decision
 18 on the underlying action until after
 19 the conclusion of the environmental
 20 review process. Under SEQOR, no other
 21 agency may issue an approval until the
 22 FEIS has been filed and the findings
 23 have been issued by the lead agency.

24 On page 1-12, the paragraph
 25 relating to fire indicates that the

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2 that the interior of the project site
 3 would be visible from the vantage point
 4 illustrated on 3.4-9.

5 Figure 3.4-17. The Planning Board
 6 has been particularly interested in
 7 protection of long range views of
 8 proposed development at or near ridge
 9 lines and other higher elevations.

10 View 11s, several pages following
 11 page 3.4-3 shows a long range view from
 12 Route 59 at Crosfield Avenue. The
 13 visual impact could be reduced by
 14 shifting the homes on lots 1 and 12 to
 15 the east to retain more of the natural
 16 vegetation, although this would require
 17 greater disturbance of somewhat steeper
 18 slopes, or through the use of natural
 19 materials and colors on the homes,
 20 particularly for the western exposure.

21 Page 3.5-7. The section on
 22 proposed noise mitigation measures
 23 describes four situations that are
 24 completely irrelevant to the subsection
 25 title and concludes that "no other

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2 Central Nyack Fire Department serves a
 3 population of about 82,082 people, and
 4 establishes a personnel to population
 5 ratio. The population figure refers to
 6 the entire Town; this figure and the
 7 analysis should be revised.

8 Page 2-3. It would be helpful for
 9 the applicant to discuss the
 10 administrative procedures to allow
 11 connections to water and sewer, and
 12 have the necessary permits been
 13 acquired from the appropriate agencies
 14 or applied for?

15 Page 3.4-3. The applicant
 16 indicates that the interior of the
 17 project site is not visible from the
 18 Mountainview condominium development
 19 looking south; however, figure 3.4-8
 20 illustrates some homes would be
 21 partially visible. This should be
 22 clarified.

23 Page 3.4-3. The views from Forest
 24 Ridge Development. Contrary to the
 25 applicant's statement, it would appear

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2 mitigation measures are proposed."

3 This section proposes no
 4 mitigation measures relevant to the
 5 applicant's project.

6 Page 3.7-3,4. In several places,
 7 the DEIS confuses mitigation with the
 8 payment of taxes or fees. Those costs
 9 would apply whether or not an
 10 environmental review is conducted and
 11 are unrelated to mitigation.

12 Page 4-2. The discussion in 4.2.1
 13 Standard Alternate Layout, indicates
 14 that variances would be required for
 15 smaller front yard setbacks. An
 16 alternate plan should not be considered
 17 that requires variances, particularly
 18 when there is not significant public
 19 benefit.

20 Page 4.4-5. The DEIS notes that
 21 the Town's subdivision regulations
 22 allow the Architecture and Landscape
 23 Commission to require the planting of
 24 new trees, which can help to soften the
 25 appearance of the subdivision.

2 This function could also be
3 handled by the Planning Board as part
4 of visual impact mitigations. We
5 recommend that the Board request the
6 applicant prepare a map showing
7 existing trees with a caliper of eight
8 inches or more indicating species,
9 size, condition and ability to adapt
10 construction activities.

11 This can serve to help establish
12 locations of homes, driveways and other
13 features and areas acceptable for
14 grading. Proposed landscaping should
15 be shown to reduce visual impact.

16 We would ordinarily suggest the
17 Board give consideration to the cluster
18 or average density proposal because of
19 the reduction in on-site impacts.

20 However, the purpose of the
21 cluster provision, Town Law Section 278
22 is to enable and encourage flexibility
23 of design and development of land in
24 such a manner as to preserve the
25 natural and scenic qualities of open

2 memo.

3 At the last Planning Board meeting
4 on the completeness of the document, it
5 was discussed that the remaining two
6 substantive issues would be addressed
7 during the formal review of the
8 completed DEIS. Those comments are as
9 follows:

10 1. The one time fee-in-lieu of
11 recreational land would ordinary apply
12 to additional residential dwelling lots
13 over and above the dwelling lots that
14 currently exist on the site.

15 However, in this situation, the
16 applicant voluntarily demolished the
17 residences that existed on the site.
18 It would seem that the fee-in-lieu of
19 recreational land should be paid for
20 all twelve of the new residences being
21 proposed, not just nine.

22 2. The Alternative Subdivision
23 Plan section discusses a "Standard
24 Alternate Layout" and after "Average
25 Density Alternative." The document

2 lands.

3 Since the latter will be difficult
4 to achieve, we suggest that the Board
5 request that the applicant work toward
6 providing modifications to the plan
7 that will reduce on-site impacts and
8 improve the visual relationship with
9 Mountainview Condominiums.

10 We anticipate that the Department
11 of Environmental Control and Town
12 Planner will report independently to
13 the Board.

14 MR. SIMOES: From my memo dated
15 May 5, 2006. All of the minor comments
16 raised in previous memo to the Planning
17 Board dated January 18, 2006 and my
18 letter to Ann Cutignola, Transportation
19 Planner for Tim Miller Associates,
20 Inc., dated March 15, 2006 on the
21 completeness of the DEIS have been
22 addressed.

23 The document has also been changed
24 to address three of five substantive
25 comments made in my January 18, 2006

2 incorrectly refers to "cluster
3 development" as an "average density
4 subdivision."

5 The Planning Board should consider
6 that according to Town Law Section 278,
7 as mentioned by Mr. Geneslaw, "the
8 purpose of a cluster development shall
9 be to enable and encourage flexibility
10 of design and development of land in
11 such a manner as to preserve the
12 natural and scenic qualities of open
13 lands.

14 Section 4.2.1, Standard Alternate
15 Layout discusses a subdivision with
16 smaller front yard setbacks. The
17 "Standard Alternate Subdivision Plat,"
18 Drawing SA-1, varies more than just the
19 front yard set back.

20 It varies almost all of the R-22
21 bulk requirements: reducing the front
22 the front yard from 35 feet to 20 feet,
23 side yard from 20 feet to 15 feet, and
24 total side yard from 50 feet to 45
25 feet, and increasing the floor area

ratio from 0.20 to 0.30.

Granting of these variances by the Zoning Board of Appeals could result in a precedent for varying yards and FAR in undeveloped lots throughout the Town. The bulk table on Drawing SA-1 has asterisks that indicate "requested change per average density." This may be a typographical error. The layout could be considered a cluster subdivision if the Planning Board were to determine that the standard layout conformed to the requirements of the Zoning Ordinance and the "Standard Alternate Subdivision Plat" configuration protected open space and unique environmental features on the site. However, the impacts of this layout are similar to those on the proposed action.

Section 4.2.2, Average Density Alternative, discusses a cluster development of 12 single-family detached dwellings. The "Average

to the requirements of the Zoning Ordinance. Such a cluster development would be similar to the 7-unit townhouse the Board recently approved north of this site on Mountainview Avenue, known as Mountainview north and south.

MS. THORMANN: Counselor.

MR. KRAUSHAAR: Nothing at this time.

MS. THORMANN: All right, Planning Board members.

MR. BAUM: Madam Chair, if I can take a moment while other members are discussing, I would like to put some pictures on.

MS. THORMANN: Put the pictures on. I don't want the discussion to continue.

MR. HOEHMANN: I just have a couple of comments. The comment that she only expected 10 children in the 12 houses, I don't think is accurate. How did you get that figure?

Density Subdivision Plat," Drawing AD-1, reduces the front yard on the proposed road from 35 feet to 30 feet and the minimum lot area from 22,500 square feet to 18,000 square feet and increases the FAR from 0.20 to 0.30.

The new Average Density Layout, while eliminating a cul de sac, proposes three flag lots and protects only a small amount of open space.

As I stated previously, a more practical alternative should be studied. This site is between two existing multi-family developments and has wetlands and steep slopes.

A clustered town house development of 12 units could protect the environmental features of the site and also be in keeping with the adjacent multi-family developments.

A 12 unit townhouse would be permitted, of course, only if the standard 12-lot subdivision was first found by the Planning Board to conform

MS. CUTIGNOLA: Those figures are based on multipliers from the Urban Land Institute based on four bedroom single-family houses, specific to the northeast.

MR. HOEHMANN: So you are saying we will have these brand new houses, 12 of them if the plan was approved, and there will only be 10 kids, two of the houses will have no kids?

MS. CUTIGNOLA: What tends to happen is, you know, somebody will move in with no children and those people will get pregnant and raise children, and some people will move in with middle school, high school students, and by the time the pregnant woman delivers her baby, the students, they are established multipliers, and they are based on a lot of studies of actually how many students are standing at the school bus.

MR. HOEHMANN: Okay. I would like to look at that again. But that's

2 okay. Some of your photo simulations I
3 think are completely inaccurate and
4 misleading.

5 I think when you look at the
6 distance photos, the area arrow that
7 you put in is off. If you look at the
8 photo, the photo that was up there, the
9 site is clearly-- I am referencing here
10 on 3.4-15, you're showing it behind. I
11 don't believe that's accurate. I
12 believe it's adjacent to and would
13 create a sea of homes or a view from
14 anywhere in the town.

15 I also think you don't indicate
16 when you get closer to the site on
17 figure 3.4-16, you don't have an arrow
18 indicated, but I think if you did have
19 an arrow indicated, it would point home
20 even further, that it would create a
21 sea of homes on the ridge overlooking
22 the rest of the town.

23 I want to follow up on 4-17. I
24 think again your arrow is over too far
25 to the left and it should be over

2 know the numbers in Mountainview, but
3 certainly some of your photos from
4 Mountainview are just not accurate.

5 One of them is absolutely, you are
6 taking a photo and not identifying that
7 there is a lot in between Mountainview
8 and your lot which is, you know,
9 parkland with very tall evergreen
10 trees.

11 MS. CUTIGNOLA: Can you just be
12 specific about what photo you are
13 talking about?

14 MR. HOEHMANN: The before and
15 after in photo 3.4-8, those trees are
16 part of the path. That's not
17 Mountainview's property, that is county
18 park property. That's totally
19 inaccurate. You are not indicating
20 that the park is there. It's not a
21 realistic view. You know--

22 MS. CUTIGNOLA: Do I get an
23 opportunity to respond?

24 MS. THORMANN: Of course, always.

25 MS. CUTIGNOLA: When you say the

2 probably an eighth to a quarter of an
3 inch, and again, you will see from that
4 angle, it will create a view of a sea
5 of homes overlooking the town, and I
6 also think, I don't have the number in
7 front of me, but having walked the site
8 several times extensively and looking
9 at your views from the condo complexes
10 to the north, at least one of those
11 photos is inaccurate. It is taken
12 across parkland and it's not accurate.
13 It's actually too far to the north, and
14 you should indicate that you are taking
15 it over parkland which presents a
16 buffer of trees. That's nowhere
17 indicated within the photo, and it's
18 misleading, because if you actually,
19 you know, were to be over Mountainview
20 and look across, look at what your
21 build-out plan is, you will be looking
22 straight into these houses.

23 Even if you put in trees, you will
24 be looking straight into these houses
25 from some of the buildings. I don't

2 park--

3 MR. HOEHMANN: There is county
4 owned property.

5 MR. BAUM: Town owned.

6 MR. HOEHMANN: There is town owned
7 property up there with those tall
8 trees, and that's the view that you are
9 presenting, but you are not indicating
10 that's park or town owned property.

11 MS. CUTIGNOLA: This little-- you
12 live there, is that an accurate
13 statement?

14 MR. BAUM: It's the former Farian
15 property that was acquired by the Town
16 of Clarkstown as part of its open space
17 program. So this particular photo was
18 taken in the parking area of
19 Mountainview East Phase III, so you are
20 looking at a whole bunch of parkland
21 trees.

22 MS. CUTIGNOLA: This is way down
23 when you first come in.

24 MR. HOEHMANN: No, it's not, it's
25 up. I thought the same thing until I

2 walked it.
 3 MR. BAUM: The is a tudor style
 4 building. When you first come in, all
 5 the buildings in the beginning are of a
 6 California style, so this is showing
 7 that it's at the top of the ridge, and
 8 it's showing where the homes are going
 9 to be over kind of cater-corner over
 10 that way.

11 MR. KRAUSHAAR: Did you take these
 12 pictures?

13 MS. CUTIGNOLA: I did.

14 MR. HOEHMANN: I stood by that
 15 building, oriented myself and I
 16 realized what was in between, you know,
 17 it's not an accurate rendering. You
 18 need to kind of go further down and you
 19 will see there needs to be some
 20 additional mitigation, because you will
 21 be looking straight into houses if that
 22 plan works.

23 MS. CUTIGNOLA: This right here--
 24 may I come up?

25 MS. THORMANN: Of course.

2 that we have seen come in here, so I do
 3 credit you, but again, perhaps --

4 MR. HOEHMANN: Can I look at
 5 yours? I walked this site.

6 MS. CUTIGNOLA: In my opinion,
 7 these people are going to be the most
 8 directly affected by what goes on in
 9 this lot. This is Mountainview.

10 MR. HOEHMANN: Right.

11 MS. CUTIGNOLA: This is our site.

12 MR. HOEHMANN: Right.

13 MS. CUTIGNOLA: And the largest
 14 impact will take place right in this
 15 area.

16 MR. HOEHMANN: You are saying you
 17 took the photo right here. I walked
 18 out there. Show me where those tall
 19 pine trees are. I don't see them
 20 there. The tall pine trees are up
 21 here.

22 MS. CUTIGNOLA: Sir, I wasn't back
 23 here, I was over here.

24 MR. HOEHMANN: That building that
 25 you are referencing, actually, it looks

2 MR. BAUM: This appears to be from
 3 there.

4 MS. CUTIGNOLA: You see this
 5 little building, that's the building.

6 MR. HOEHMANN: Then there is an
 7 absolute other building.

8 MR. BAUM: It shows a lot more
 9 trees and stuff here.

10 MS. CUTIGNOLA: I took the photos.
 11 When you stand in this little parking
 12 area, this building, it's partly why I
 13 used the building, because then it was
 14 easy to identify.

15 MR. BAUM: Actually it can't be.
 16 I am sorry, it can't be. Here you will
 17 you have the tall pine trees. The tall
 18 pine trees are back here.

19 MS. CUTIGNOLA: This building is
 20 right here. You are welcome to verify
 21 it. If I made an error, I apologize,
 22 but I don't believe so. I believe --

23 MR. BAUM: If I can make one
 24 comment. The presentation of the DEIS
 25 was one of the more professional ones

2 like the building over here. If you
 3 say you took it--

4 MS. CUTIGNOLA: I will be happy to
 5 go out there together and check. I
 6 understand.

7 MR. HOEHMANN: Maybe one of us is
 8 mistaken, but I don't see any tall pine
 9 trees in that figure.

10 MR. BAUM: I have additional
 11 pictures. I apologize, these quite
 12 aren't in the order that I intended,
 13 but I want to point out, can people see
 14 that?

15 MS. THORMANN: Yes.

16 MR. BAUM: This is the view from
 17 Route 59 looking towards Mountainview
 18 where the proposed construction is
 19 going to take place.

20 If you see over here is the Forest
 21 Ridge development that was put in
 22 several years ago, and it begins to
 23 impact the mountain which has generally
 24 been very green despite a very high
 25 population density.

2 There is a senior citizen home.
 3 There is, of course, Forest Ridge that
 4 went in there. There is Mountainview
 5 Condominiums. There are several other
 6 developments that are in there, and the
 7 Warren Hills apartments are also
 8 located there.

9 When you are looking, this
 10 particular view you see from all over
 11 the county. You can see it as far away
 12 from Suffern, the Ramapo Ridge, Blue
 13 Hill Plaza.

14 What is in this area here is the
 15 Mountainview Condominiums, and when it
 16 snows, you begin to see the roofs of
 17 the Mountainview Condominiums.

18 The reason they are not visible,
 19 because there is a tree buffer in here
 20 which is where the proposed development
 21 is going to be taking place.

22 As those trees come down, what is
 23 going to happen is, is that this Forest
 24 Ridge will continue from the homes,
 25 from the Kury Homes development as

2 that's the piece-- you really, where
 3 you are looking at there, it's almost
 4 kind of a southeastern exposure.

5 The previous photo, if you go back
 6 to the previous photo for just one
 7 second, if I might respond?

8 MR. BAUM: Sure.

9 MS. CUTIGNOLA: You can see Forest
 10 Ridge clearly. You can barely see the
 11 tops of the Mountainview Condominium
 12 primarily because the roofs are dark.
 13 The Kury Home site, I mean, the photo
 14 that we have provided, they do sit
 15 right in there. Forest Ridge is a
 16 continuous line of buildings.

17 The Kury Homes will be 12 spots of
 18 roof, and I do feel that the photos do
 19 not misrepresent what it will
 20 potentially look like.

21 MR. BAUM: Again, as you look at
 22 it and you have some simulations that
 23 are provided in the DEIS, and I am
 24 looking at 3.4-17 right, now and it
 25 puts in the Kury Homes, but it's just

2 proposed, then the Mountainview
 3 Condominiums begins to open up, and we
 4 will see other pictures as we go along
 5 here, that show where it is going to
 6 open up and what the views would
 7 potentially be.

8 Here is another view. This is
 9 taken from Crosfield Boulevard, also in
 10 West Nyack. Again another view. It's
 11 very clear, you can see these homes
 12 here. You see a bit of lawn here, and
 13 these are all the trees that would come
 14 down, and based on my reading, and
 15 perhaps I am incorrect, but there is
 16 going to be significant trees taken
 17 down, if not almost everything taken
 18 down because of the significant
 19 regrading of the part of the proposed
 20 project. It's a very steep parcel with
 21 wetlands and steep slopes.

22 MS. CUTIGNOLA: There will be a
 23 buffer along Mountainview Avenue, and
 24 there will be a small buffer on the
 25 southern piece of the property, and

2 putting in little white spots where the
 3 homes are going to be. It doesn't take
 4 into full account what it will look
 5 like as the trees are taken down, and
 6 again, I think in terms of the buffers
 7 you are talking about, what is the
 8 total percentage of trees that will be
 9 removed from the site, approximately?
 10 What is the total disturbed area of the
 11 site going to be?

12 MS. CUTIGNOLA: 80/20, roughly.

13 MR. BAUM: So it's going to be
 14 fairly significant. So you are putting
 15 the homes in your simulations, and the
 16 problem that I see is, that often-- in
 17 3.4-4, there we have a simulation, and
 18 quite honestly, when I look at this
 19 particular simulation, there doesn't
 20 seem to be a huge environmental impact.
 21 You don't see much else going on, a
 22 couple of nice homes and that's pretty
 23 much what we see.

24 As I show you as we go along, and
 25 I am not sure where I have it in the

2 position here, I will just point this
3 out here. This is taken from the top
4 of the Forest Ridge development right
5 at the very border of the proposed
6 development.

7 You see down here to Mountainview
8 Avenue, some of the homes over there,
9 so all of the trees that are in here
10 would be gone, and so looking from down
11 below along Mountainview Avenue here,
12 all of this would become much more
13 visible, changing the character of the
14 neighborhood, I believe.

15 Again, this is another view going
16 out from the top. You can see the
17 broad range across here, and I don't
18 think this is the Ramapo mountains, I
19 believe this is New Jersey that becomes
20 visible from this area with the impact
21 potentially on the viewshed.

22 MS. CUTIGNOLA: Can you go back?

23 MR. BAUM: Okay.

24 MS. CUTIGNOLA: Where you are
25 standing right here? This is Kury

2 more from the beginning to even it out.
3 MS. CUTIGNOLA: The cut and fill
4 goes from the high part of the
5 property, am I right, basically goes
6 from the properties higher over here
7 than it is over here.

8 MR. BAUM: You have to do a lot of
9 drilling?

10 MS. CUTIGNOLA: Not drilling,
11 cutting and filling, right.

12 MR. BAUM: What does that mean, so
13 we understand.

14 MR. ATZL: Will be cutting soil.

15 MR. BAUM: I thought three feet
16 under the ground there is rock.

17 MR. ATZL: In some areas there may
18 be, so they have to hammer the rock.

19 MR. BAUM: There is a lot of
20 hammering potentially to move this
21 stuff around?

22 MR. ATZL: Not necessarily. It
23 would depend exactly where the rock is
24 located.

25 MR. PRICE: We didn't hit lot or

2 Homes. The view of Kury Homes is over
3 there. It's not this way, it's over
4 there.

5 MR. BAUM: That I disagree with.
6 This is taken from the top of the
7 ridge. This is the property kind of
8 starting over here close to it looking
9 down that way, and I have some pictures
10 in here that actually takes some views
11 from inside the property.

12 This is just a view showing a
13 steep slope coming off down to Forest
14 Ridge down here, and I am assuming
15 based on what is being proposed here,
16 if you are going to have to elevate the
17 road significantly, how far would the
18 road have to go in order to conform to
19 town standards?

20 MS. CUTIGNOLA: It would come up
21 as high. There is a road there now,
22 and there is a very deep incline there
23 now. It will not come up any higher
24 than the existing road.

25 MR. BAUM: You will be digging out

2 rock.

3 MR. BAUM: Rock throughout the
4 entire parcel, because I thought in the
5 early environmental information that I
6 have seen--

7 MS. THORMANN: Excuse me, can you
8 go one at a time, because the Court
9 Reporter is having difficulty.

10 MR. YACYSHYN: Maybe they ought to
11 identify themselves.

12 MR. PRICE: Barry Price. We dug,
13 I think, eight test holes at various
14 locations. We didn't hit any rock. In
15 fact, we went down nine feet down and
16 we didn't find rock.

17 MR. BAUM: Because further down
18 Mountainview Avenue there are new
19 developments, new homes and
20 Mountainview North and South, and we
21 had one of the neighbors from
22 Mountainview North and South come in as
23 well as other people in the
24 neighborhood, including myself, hearing
25 for at least six months, Saturdays,

2 Sundays, weekdays, late, early
3 drilling, the banging, banging,
4 constantly banging.

5 I thought it was coming from
6 Tilcon and I was mistaken, it was
7 coming from these other developments,
8 and the neighbors were complaining they
9 were having cracks in the walls and
10 things falling down, and even I believe
11 the gentleman said his wife was hit in
12 the head with something.

13 I know you can deal with that, but
14 again, when we evaluate the entire
15 thing. We have to look at what are the
16 environmental impacts going to be?

17 I live in the neighborhood. I
18 don't live next door. There are people
19 who live close to it on both sides,
20 Forest Ridge and this development that
21 could potentially be impacted by noise
22 of a loud level for six months, because
23 if you are going to have to move a lot
24 of stuff around, there is going to be
25 work to make that move around.

2 MS. CUTIGNOLA: As you go up,
3 there is not nearly as much digging.
4 You will be moving the dirt from the
5 high part into the low part.

6 MR. BAUM: That's what we need to
7 know, what would the walls look like
8 that people will be facing.

9 MS. THORMANN: Marvin, do you want
10 to get on with your presentation,
11 please?

12 MR. BAUM: I want to show here
13 again, some of these trees start coming
14 down in a substantial way where you
15 will see more than just the roofs of
16 the buildings.

17 This is looking from Mountainview.
18 This is part of the proposed
19 development area, and then there is the
20 proposed development here on the other
21 side.

22 I want to show the height of the
23 building. You have no control of the
24 existing building, but that is the
25 condition as exists today.

2 MR. PRICE: Anything is possible.

3 MS. THORMANN: I don't want a back
4 and forth. Let him finish, then you
5 can have an opportunity.

6 MR. BAUM: My belief is, that
7 there needs to be a pretty significant
8 retaining wall on this side here,
9 otherwise you will have a steep slope
10 going towards the houses, but the
11 houses are being put relatively close
12 to the property line which is over
13 here. It looks like the houses really
14 does go down pretty well as part of the
15 impact, part of the impact that the
16 people from Forest Ridge would see.

17 MS. CUTIGNOLA: This is
18 undisturbed area. Where you are
19 speaking about is proposed as
20 undisturbed. The lowest part of the
21 site, the road is coming up, not
22 higher, and the existing road is, this
23 area will not be touched.

24 MR. BAUM: Okay, how about the
25 areas on lots nine, ten?

2 Again, here is another prospective
3 looking out and you can see the views
4 in the distance, Kury Homes Development
5 proposed over here on the left side and
6 down below here.

7 Now, in this particular picture I
8 referred to earlier, figure 4.3-4, it
9 shows again what I would have to admit
10 looks like a relatively minimal type of
11 impact on Mountainview Avenue, but if
12 you look at this picture here and
13 imagine these trees cut down, you see a
14 massive development at Forest Ridge
15 Townhomes, an existing condition that
16 is there.

17 Now just moving a few feet around,
18 this is still on Mountainview Avenue.
19 You see the mailbox from the original
20 homes that were in this location.
21 Suddenly you will see this massive
22 development here. So when we see only
23 a couple of homes there and lots of
24 trees around it, it does not to me
25 appear to represent what the actual

2 condition is. That's what my colleague
3 member Hoehmann was talking about. It
4 does seem to be much more significant.

5 I want to show this. This is from
6 Forest Ridge Drive at night, and you
7 see a couple of lights shining through
8 here. That is from Mountainview. As
9 these trees come down, you will begin
10 to see going out to Mountainview Avenue
11 and Forest Ridge, you will see lights
12 from each of the developments back and
13 forth.

14 The concern, and this is one of
15 the things I want to see addressed, is
16 that if this becomes all one big
17 development, Forest Ridge, Kury Homes
18 and Mountainview, it's going to have a
19 dramatic impact on the neighborhood as
20 well as the viewshed.

21 Here is another prospective, and I
22 shook the camera. This is in the small
23 blue and white office building adjacent
24 to your property, and I just want to
25 show again with all the trees there

2 cover that was left in front of the
3 Forest Ridge Development, and in fact
4 the developer of this particular
5 property had donated 15 acres,
6 approximately, of land to the county as
7 part of this development, working with
8 the Board here, and as a result there
9 is new parkland, an opportunity to add
10 a hiking trail through the area, so
11 again, there is protection from the
12 road. It helped to preserve the
13 character of the area.

14 I think some things could have
15 been done better on the viewshed areas
16 on that project, but that's why it
17 becomes that much more important that
18 similar things don't happen in the
19 future.

20 Warren Hills Apartments and the
21 Tappan Zee Manor are all set back
22 significantly. Even Mountainview,
23 which is huge development, is set back
24 from the road and is in a little bit of
25 a dip in the mountain, so from the

2 during the wintertime, and that these
3 lights are visible across, and it will
4 all become much more visible as these
5 trees start to come down.

6 There will be some trees in the
7 wetland area, but will not be nearly as
8 dense as it is currently. I want to
9 show other developments in the
10 neighborhood.

11 This is the development called the
12 Farms of Nyack which is right across or
13 slightly diagonal across from the
14 property, Sugar Hill Road. You can see
15 some of the homes back here in the
16 distance, lots of trees up. There is a
17 little bit of roofs sticking up, but by
18 in large, you don't see much from that
19 particular development the way it was
20 developed.

21 Here is Forest Ridge. Yes, there
22 is an entrance to Forest Ridge and you
23 can see lots of homes that are in
24 there, but basically even in the
25 wintertime, there is a pretty thick

2 Hudson River, from the Ramapo Ridge,
3 from the county in general, from
4 Crosfield Boulevard you don't see it
5 except in the wintertime when you have
6 the roof covered with snow.

7 MS. CUTIGNOLA: Those are
8 multi-family projects.

9 MR. BAUM: Those are multi-family
10 projects, but despite that fact, it
11 doesn't have the visual impact on the
12 neighborhood.

13 Here is another picture of Sugar
14 Hill. This is all you really see, a
15 little bit sticking up there beyond the
16 trees. Again, there was actually some
17 work done in preserving land. Here is
18 Sugar Hill Drive, again Forest Ridge.

19 I want to show this as one of the
20 concerns that I have, and I am not
21 suggesting that your development that
22 you are proposing is like this.

23 As the ridge begins to open up,
24 everyone who drives up the Palisades
25 Parkway on Exit 13 looks up and they

2 say how could this have been done?
3 How could this thing have been allowed?
4 And it's amazing, you stop off the golf
5 course course, you see it all over the
6 place there. And one person who saw me
7 taking pictures said isn't that awful?
8 And I promised myself I would always
9 try to prevent this kind of thing from
10 happening in the Town of Clarkstown,
11 and I am just raising issues of concern
12 to give you, then, the opportunity to
13 address these kinds of issues of the
14 viewshed, and I think anyone who has
15 seen this would agree this is not
16 something that any of us can be proud
17 of in the county.

18 MS. CUTIGNOLA: That has got to be
19 a significant and larger project than
20 10 acres.

21 MR. BAUM: Yes. I am saying,
22 However, by opening up Forest Ridge,
23 Mountainview and this, collectively it
24 becomes a larger project. The impact
25 of one small development could have a

2 land, but the thing is we do need to
3 address all the impacts, and one the
4 impacts is, this is a wildlife corridor
5 and we will be cutting it off, and
6 that's for feeding and breeding and
7 everything else that will make it more
8 difficult because it is one of the last
9 undeveloped parcels in that section
10 that joins the two larger parcels
11 together, and the 15 acres does not
12 include the town park that is up there
13 and other undeveloped land that will
14 never be developed, and that totals
15 about 55 acres.

16 Another issue of concern that I
17 have, and I believe this can be
18 addressed, is the prospective line of
19 sight prospective.

20 If you are in the current
21 driveway, you barely can see. Even if
22 some of the trees are cleared out here,
23 because of the shape of the road and
24 the dip in the road here, you can't
25 really see who is coming and they can't

2 big impact on the entire mountain, and
3 that is the issue that I think need to
4 be addressed.

5 I gave a couple of more views from
6 different angles as to what it is like
7 when you start opening up the mountain.

8 The other point that I mentioned
9 about 15 acres were donated to the
10 county for the Mountainview nature
11 park. There is 70 acres across on the
12 other side which is directly opposite
13 to the opening of the Kury Homes, and
14 here is the entranceway right over
15 here, and there is another entrance off
16 of Sugar Hill Drive.

17 So one of the impacts of this
18 particular project is that two separate
19 sections of the same park, Mountainview
20 Park 70 acres and 15 acres will never
21 be connected, and some of that is
22 unavoidable, because the developer that
23 you are representing bought the land
24 and has a right as landowner, I believe
25 myself, has a right to develop the

2 see you properly.

3 I know that the driveway that you
4 are proposing here for the development
5 is shifted lightly over, it begins at
6 the end of the old driveway, so it does
7 give you a little bit more of a view
8 potentially, but not a lot, and the
9 problem is, Mountainview Avenue in the
10 winter, even if it's raining down
11 below, it could be icing up on top, and
12 I have been there many, many times when
13 cars are off to the side of the road
14 and where there have been accidents,
15 and the potential for accidents is very
16 great because a lot of people do travel
17 on Mountainview Avenue to get to the
18 New York State Thruway as a
19 cut-through, and people coming out of
20 the condominiums and other developments
21 in the area.

22 I can actually tell you what the
23 mitigation for this would be, which
24 would be to shift the roadway closer to
25 this telephone pole that is over there.

2 You can get a good view. People are
3 coming uphill, they have a better
4 chance of stopping than they do when
5 they are coming down hill, and so that
6 would require some change in design to
7 make it safe.

8 I do not believe the way it's
9 proposed right now is safe. It could
10 be made to be safe by doing a shift off
11 the roadway, and I think that is
12 something that my fellow board members
13 should certainly look at and consider
14 also along the way.

15 I just showed this picture here to
16 show how steep the property currently
17 is.

18 Again, a couple of pictures. This
19 is a truck from the county, and you see
20 all the homes over here, so when these
21 trees come down, and most of them will,
22 there will be some little buffer left.
23 It would be very noticeable within the
24 neighborhood, and I believe that would
25 change the character of the

2 MS. CUTIGNOLA: The stream is part
3 of the wetland, and the wetland area --

4 MR. BAUM: This is further up.
5 This is not down here, this is over
6 here, and it seems to be actively
7 running, and here, just looking more
8 where the water seems to be coming
9 from, this is the existing entrance
10 area which is more open of a site, and
11 you can see Mountainview Condominiums
12 through there, and people from
13 Mountainview Condominiums saw the homes
14 that were previously there so that's
15 not a radical change.

16 One of the things that I would
17 like to personally see are other
18 alternatives using cluster that would
19 utilize the area that was already
20 previously-- where homes were located.
21 That we can deal with later. There is
22 more views from where the homes used to
23 be.

24 You had said earlier that the view
25 would not be impacted based on the

2 neighborhood, and again, Mountainview
3 would be visible one way, and Forest
4 Ridge the other way.

5 We looked at the wetlands when I
6 went down there, and one of the things
7 that was of concern, you may have
8 addressed it properly, it seemed like
9 there were wet areas beyond the flagged
10 areas if we are reading the flags
11 correctly, so the wetlands is still a
12 bit of an issue and a concern, and make
13 sure that it has been flagged
14 correctly.

15 Also one of the things that we had
16 seen, and I have been there a number of
17 times, sometimes with colleagues and
18 sometimes on my own, is that there are
19 areas that appear to be almost like
20 springs. Water is coming from various
21 places.

22 MS. CUTIGNOLA: There is a spring
23 there. There is a stream there.

24 MR. BAUM: We don't know what the
25 impacts of that necessarily will be.

2 prospective. What I did was took a
3 picture right in the heart of the upper
4 portion of the plateau approximately
5 from this area here where the cul de
6 sac would be located, and you can see
7 that there is a view out there, once
8 trees start coming down, you are going
9 to have a major impact and it will be
10 visible from miles around, that is from
11 Spring Valley, Nanuet, West Nyack, even
12 the Ramapo Ridge.

13 And this is looking down a little
14 bit towards Forest Ridge. You see the
15 lower part of Forest Ridge, the roofs
16 down there.

17 When we were looking at the
18 pictures from the New York State
19 Thruway, across 59 and Crosfield
20 Boulevard, you saw part of Forest
21 Ridge. It wasn't this part of Forest
22 Ridge, you saw this part of Forest
23 Ridge, and what is going to happen
24 here, because you can see down across
25 the across county there, when the homes

2 are built, people are going to be
3 looking up which means impact on the
4 viewshed.

5 I saw areas where there seems to
6 be wetlands, at least based on the type
7 of plants that were growing there that
8 were not on the lower part.

9 You can see this goes down towards
10 the wetlands that have been flagged
11 down here. I don't technically, and I
12 have to refer that to our DEC about
13 these kinds of plants at other
14 locations which might be a reflection
15 of underground springs which causes it
16 to be wet, and I think that was it.

17 So that was what I wanted to share
18 as some of my concerns. Again, when I
19 look at the figure 3.4-17, I believe
20 that it significantly underestimates
21 what the visual impact is going to be,
22 that you are only putting in a couple
23 of white dots there showing what the
24 homes will be, but it doesn't show the
25 grading and the regrading of the land.

2 would be more over here. Technically
3 it would be in a slightly different
4 location. It would be much closer to
5 the Forest Ridge location.

6 MS. CUTIGNOLA: It has to be of
7 some relationship to Mountainview.

8 MR. BAUM: But Kury Homes would
9 not be in front of Mountainview, it
10 would be to the side of Mountainview.
11 I think it's in the wrong location the
12 way that simulation was done, and
13 that's it for the record. Thank you.

14 MS. THORMANN: Are you finished?
15 Mr. Jackson.

16 MR. JACKSON: Question for Joe
17 Simoes. You mentioned the floor area
18 ratio, the FAR going from .20 to .30.
19 Is that just because of the moving the
20 site and the front yards are smaller?
21 I am confused on that part there.

22 MR. SIMOES: That change in FAR,
23 that change if FAR was for the standard
24 alternate layout and the average
25 density alternative.

2 MS. CUTIGNOLA: I feel comfortable
3 from that distance the photo is not
4 inaccurate of what you are going to be
5 able to see.

6 MR. BAUM: Here is 3.4-15. It
7 shows the Park and Ride sign along the
8 New York State Thruway, and it shows a
9 couple of dots of the Kury Homes, but
10 it appears to be in the wrong location.

11 The Forest Ridge development is to
12 the right-hand side partially covered
13 by the Park and Ride sign, if I am
14 reading that correctly, but I do have
15 similar pictures from that location,
16 and I don't know if I have it on the
17 computer here, but I have pictures from
18 that location which show where Forest
19 Ridge is. I think you can only see a
20 fraction of Forest Ridge over here.

21 MS. CUTIGNOLA: This is Forest
22 Ridge right here. These are the roofs
23 of Mountainview over here, and Kury
24 Homes lies on the ridge in between.

25 MR. BAUM: I think it actually

2 MR. JACKSON: That would give us
3 the flag lot look?

4 MR. SIMOES: The flag lots were
5 being proposed on average density
6 alternative.

7 MR. JACKSON: That goes to the
8 Zoning Board of Appeals, or is that
9 something that we grant here?

10 MR. SIMOES: No. The standard
11 alternate layout that is being proposed
12 would require multiple variances, and
13 if that were to be something put
14 forward, it would have to go to the
15 Zoning Board of Appeals for variances
16 as a standard alternate layout.

17 If that's what the Board would
18 consider in the average density
19 alternative, and that is given that the
20 Board would consider that the standard
21 layout was actually conforming, that
22 you have the 12 lots and this was
23 protecting open space. The lot area
24 could be varied from 22,500 square feet
25 that is necessary for an R-22 zone, to

2 an 18,00 square foot lot, but either
3 one of them, in any type of a layout,
4 to some extent the Board, using a
5 cluster subdivision, could vary lot
6 sizes, could vary side yards, and that
7 might be why there was a reference
8 about requests to change per average
9 density that was actually on the
10 standard alternate layout, but in
11 either situation, there is not much
12 difference.

13 There is some open space that is
14 being preserved, some difference in the
15 amount of cut and fill, but it's not a
16 large change or difference.

17 MR. JACKSON: In your opinion,
18 which layout would give us the less
19 impact on the viewshed, as Marvin calls
20 it?

21 MR. SIMOES: That would be
22 difficult for me to determine without
23 seeing some analysis one way or the
24 other.

25 What we have gotten is a photo

2 MR. BAUM: Madam Chair, if I can
3 just --

4 MS. THORMANN: I don't want this
5 to be a he said she said right now.
6 Mr. Yacyshyn.

7 MR. YACYSHYN: Just a question to
8 Mr. Letson.

9 I think in your report you made
10 mention of the Army Corps of Engineers,
11 a jurisdictional determination is going
12 to be expiring next month?

13 MR. LETSON: Correct.

14 MR. YACYSHYN: It would have to be
15 reflagged in any event, right?

16 MR. LETSON: Absolutely.

17 MR. YACYSHYN: So in the interests
18 of saving time and everything else and
19 for our purposes, wouldn't it be
20 better?

21 MR. LETSON: That was my
22 suggestion, yes.

23 MR. YACYSHYN: Pursue it now?

24 MR. LETSON: Yes.

25 MR. HOEHMANN: Madam Chair, just a

2 analysis of the proposed standard
3 subdivision plat. If the Board wishes
4 to see photo simulations of the
5 alternatives, that is something that
6 you could request.

7 I could determine-- I can see the
8 difficulty in just determining the
9 standard layout, much less the
10 alternatives.

11 MS. CUTIGNOLA: May I say just one
12 thing? It's very likely that a cluster
13 alternative would focus on the area
14 where the previous homes were, which is
15 pretty much at the top of the mountain,
16 so from a visual point of view, I am
17 not really-- it may buy you additional
18 open space to screen the houses, but
19 based on the configuration of the
20 mountain, I am not really positive
21 visually, maybe other things, I am not
22 really convinced that visually it would
23 really do anything to address the
24 concerns that Mr. Baum was talking
25 about.

2 question to either Mr. Simoes or Mr.
3 Letson.

4 The lot count, I am having trouble
5 with this. I am looking at the
6 significant regrading and the clear
7 cutting of the 80 percent of the
8 property, and I am looking at the
9 impact on the wetlands and, you know, I
10 guess I have to look at lot number one.
11 I have concerns about lot 10 as well.
12 I mean, the wetland and steep slopes,
13 the lot lines as well, I have questions
14 if we are losing count of all these
15 lots.

16 In my mind are we set on the
17 standard plan given the wetlands and
18 given the steep slopes that have to be
19 factored out? I didn't have a copy
20 here of Mr. Letson's report, but one of
21 the things that Mr. Letson's report
22 cited 290.21 Paragraph E, rather, and I
23 am just wondering are those figures
24 accurate?

25 Here it is, 40.2 percent of the

2 site with slopes in excess of 15
3 percent. Zoning Section 290-21 (D)
4 calls for bulk reductions for slopes
5 within 30 and 50 percent and for slopes
6 over 50 percent.

7 So the slope criteria should be
8 shown on the maps. I am having a
9 difficult time going through this
10 really ascertaining how many lots would
11 actually count, if you factor in the
12 steep slopes and also the wetlands with
13 lot number one, because it seems to me
14 that that lot is going to drop off
15 precipitously into wetlands.

16 MR. LETSON: Without having the
17 additional information we suggested we
18 require, I can't give you an answer on
19 that. At this point there is a single
20 bulk table on the standard layout
21 subdivision plat that provides the
22 zoning requirements for the R-22
23 District with a note that is there to
24 see Sheet Six for the lot calculations
25 based on the cut and fill plan, so that

2 reductions be taken and shown in each
3 of those individual columns. It would
4 probably be easier to follow along.

5 MS. THORMANN: We need that.

6 MR. HOEHMANN: One last question.

7 I don't want to monopolize time, but I
8 will anyway.

9 Has the applicant considered as
10 part of an alternate, a townhouse or a
11 condominium? It seems to me that as
12 you go up lots two, three and four,
13 there is a natural place that a
14 building could be created, and
15 potentially you might be able to create
16 an additional building for a couple of
17 units up top in that clear area without
18 having really to disturb the trees,
19 that would really fit into the
20 character which is multi-family, you
21 know townhouses.

22 MS. THORMANN: Townhouses.

23 MR. HOEHMANN: And the like over
24 there, and it would have a
25 significantly less invasive impact on

2 would have to be combined, and the
3 areas that are listed here as impeded
4 area with a note that includes the
5 wetland, the hundred year flood plane,
6 overhead utilities, mid rock outcrops
7 and slopes between 30 and 50 percent,
8 you know, I would suggest there are a
9 number of figures in the document with
10 the slope areas and the cuts and fills
11 could be shown and broken out into
12 figures within the document so that
13 they are more easily discernible, and
14 then you can make your determination,
15 and perhaps in this bulk requirements,
16 A, that the bulk table here should be
17 on the subdivision plat, not on the cut
18 and fill plan, and I would suggest that
19 the reductions be broken out, because
20 the reductions are different for the
21 different various lots, and instead of
22 having a total impeded area figure
23 shown, you have slopes 15, or 30 to 50
24 percent, slopes over 50 percent,
25 wetland areas, and that the appropriate

2 the viewshed, and it might also allow
3 with some smart planning, the ability
4 to maintain some type of wildlife
5 corridor or connection in between the
6 county parks which is going to
7 disappear.

8 MS. THORMANN: County.

9 MR. HOEHMANN: I keep saying
10 county, town parks. Have you guys
11 considered that as an alternate?

12 MS. THORMANN: She is not a guy.

13 MR. HOEHMANN: I am sorry.

14 MS. CUTIGNOLA: I don't mind being
15 a guy.

16 We sort of tap danced around this
17 to a degree. The Board, as I remember
18 correctly, is not interested in a real
19 multi-family project on this site, and
20 so what you are proposing are 12
21 oversized, instead of houses, houses
22 that are townhouses.

23 You are not really -- you are not
24 looking for us to make a multi-family
25 proposal on this, is that correct?

2 MR. HOEHMANN: It's not up to us
3 as the Planning Board to change the
4 zone, but it is up to us to ensure that
5 we are considering all the
6 environmental impacts, and I know that
7 the photo that member Baum showed of
8 the Palisades Parkway, what happened in
9 another town, if this is developed the
10 way that you are talking about, these
11 12 homes, it's not the 12 homes per se,
12 it's the 80 percent of the land that is
13 going to be cleared and lifting the top
14 part of the property and bringing it
15 down to reduce the slopes, which is
16 then going to just have a big hole in
17 that area where there is no trees. You
18 are going to put in, I presume, 12 foot
19 trees of mitigation, but everybody in
20 the area is going to see it.

21 If you go ahead with your property
22 and is able to be developed as if, if
23 there are 12 lots, let's just assume
24 for the sake of the argument that 12
25 lots is it, that is what you are

2 clear. There is a multi-family higher
3 density project that we could probably
4 make economically viable, and we could
5 certainly put something together. It
6 was my understanding that's not what
7 your are interest in.

8 MS. THORMANN: You didn't hear
9 him.

10 MR. HOEHMANN: Let's assume it is
11 12 lots. That is what you are entitled
12 to. If the Board says cluster to
13 protect the environment and protect the
14 viewshed, and that's what comes out of
15 it, that's what you are entitled to.
16 The Board can't say cluster and give
17 you 24, that's not the way it works.

18 MS. CUTIGNOLA: I understand that.
19 The other thing I have to say, if you
20 were buying a home on this property --

21 MR. HOEHMANN: I would want the
22 million dollar view. I would want to
23 look into New Jersey, absolutely.

24 MS. CUTIGNOLA: There you go.

25 MS. THORMANN: Have you seen, not

2 entitled to, and the benefit that would
3 enure to you would be, you would have
4 significantly less work to do on the
5 site because you wouldn't have to clear
6 80 percent of it, and you wouldn't have
7 to do, presumably, the cutting of all
8 the trees if you went with the
9 multi-family, and if you did a luxury
10 townhouse approach, those units are
11 selling for great money here in the
12 town, and it seems to me your bottom
13 line would probably be better because
14 of the amount of money that they have
15 to put into the site from an
16 engineering standpoint and from the
17 actual removal of the trees and ripping
18 out a chunk of the mountain is still
19 going to take place. That is for you
20 to decide, but my question is, have you
21 considered that, and in considering
22 that, would you put something together
23 to show us what your idea would be on
24 that?

25 MS. CUTIGNOLA: Well, I want to be

2 that I am telling you, have you seen
3 Mountainview North and South which is
4 at the beginning of Mountainview?

5 MS. CUTIGNOLA: I have seen it and
6 it's nice, but if I was making a choice
7 between a full half acre lot with a
8 house on it, and that, I am not
9 positive what I would pick, and I am
10 not sure that they are comparable.
11 They are really not comparable. There
12 is other tradeoffs, but --

13 MR. HOEHMANN: It seems to me you
14 probably could get six or eight units
15 on the open area down by lots two,
16 three and four as a townhouse, and you
17 can get four or six units up in the
18 center area, if this is what the
19 standard map says after all the
20 calculations, and you would have
21 significantly less impact on the
22 viewscape.

23 MS. CUTIGNOLA: You are still
24 pretty high up on the hill, and the
25 townhouses, they are not going to be

2 less obvious than the single family
3 houses.

4 MR. HOEHMANN: I beg to differ.

5 MS. THORMANN: I don't want to get
6 into this discussion now. The public
7 is here. The public needs to have an
8 opportunity to participate and to make
9 their feelings known, so would you
10 please come up. Do you have the
11 microphone please, identify yourself
12 for the record and say your peace,
13 please.

14 MR. MANGAN: My name is Mark
15 manning, and I live in Mountainview
16 Condominiums, and I would rather not
17 have these built. It would destroy the
18 character of the area, and I would like
19 to have those wetlands preserved
20 because I look over my balcony and it's
21 right over that area. The less up
22 there the better.

23 We have the mosque that is going
24 on the top. We have condos being built
25 in the north section, and you hear that

2 MR. JASON: My name is Jan Chason.

3 I am the President of Forest Ridge
4 Townhouse Condominium, and I note the
5 name of our condominium is Forest
6 Ridge, and we would like to make sure
7 that there is a forest that we are on
8 the ridge of.

9 We are not against any builder,
10 you know, not having his right to
11 develop, but we are concerned. Let me
12 give a preface to this.

13 I lived in the New City
14 Condominiums in the 1970's. I don't
15 know if everyone knows what happened to
16 the New City Condominiums in the
17 1970's. I can congratulate this Board
18 doing a lot better preparation than I
19 think what has happened to the New City
20 Condominiums in the 70's, but there was
21 a concern. There was water, flood, the
22 50 year flood that went through that
23 condominium because there wasn't good
24 planning.

25 I note there was a lot of

2 construction all the time going on for
3 months now, and it's enough.

4 So I think we need to leave it the
5 way it is. The road, as you said, is
6 very dangerous in the wintertime,
7 especially where these homes will be
8 built, so less traffic is much safer to
9 have with the amount of people going
10 back and forth as it is.

11 MR. YACYSHYN: You want no
12 development?

13 MR. MANGAN: Nothing.

14 MR. YACYSHYN: That's not
15 possible.

16 MS. THORMANN: Then you have to
17 buy the property. Mr. Mangan, if you
18 had your druthers, all right, and since
19 they are definitely going to develop
20 something, we cannot deny them the
21 right to develop. What would you like
22 to see there?

23 MR. MANGAN: The less amount as
24 possible. Thank you very much.

25 MS. THORMANN: Okay.

2 discussion of the water. There is a
3 lot of water in that area, so please
4 watch that.

5 Let's get back to the forest.
6 This condominium has spent \$25,000 in
7 the last year putting in new plantings.
8 We are going to spend more because we
9 wanted to bring the tree line down.
10 Maybe we have to create our own new
11 tree line if this plan goes through.

12 We are trying to make this a
13 beautiful area and continue that
14 forest. Please help us to keep that
15 there.

16 I heard concerns here about not
17 only the buffer, I heard about
18 blasting. We are entitled to have
19 quiet enjoyment of our area. Please
20 watch that for us.

21 The water run-off, as I said,
22 there is, you know, I am very
23 concerned. It comes down when they do
24 their construction. Make sure there
25 are safeguards. Make sure whatever

2 they do we are protected, not only
3 during construction, but afterwards.

4 You asked the question what will
5 we prefer. We want to keep the kind of
6 environment there with probably the
7 townhouse continuation so it's further
8 back leaving the tree line, keeping the
9 views of maximum trees.

10 Our sponsor, who is here, gave 15
11 acres to keep a natural area. Continue
12 that. Make the next guy do the same
13 thing. I think that's very important,
14 for not only us in that area, as
15 pointed out anyone driving in the area
16 should deserve to keep that.

17 I heard a comment when asked about
18 would you prefer a half acre home, et
19 cetera, et cetera. In today's world,
20 the people who are buying homes are
21 buying townhouses because they don't
22 want the maintenance issue, so the
23 economics is going to favor a builder
24 who puts in a terrific project, as good
25 or better than we have, because we

2 would like to point out --

3 MS. WORTH: The undisturbed area,
4 how wide, how many feet? What is it
5 going to be at the closest and at the
6 widest? Let's do it that way.

7 MS. CUTIGNOLA: Right over here it
8 will be minimal.

9 MS. WORTH: What is minimal?

10 MS. CUTIGNOLA: Three feet, five
11 feet.

12 MS. WORTH: And what would be
13 there? That square, I am not good at
14 this so just bear with us, all of us
15 here. This square is a lot?

16 MS. CUTIGNOLA: Is a house. This
17 is a 50 foot buffer from the house.

18 MS. WORTH: The closest part to
19 the road, this piece right in here, is
20 that three feet?

21 MS. CUTIGNOLA: This green area.

22 MR. ATZL: That's the property
23 line right here.

24 MS. CUTIGNOLA: It's very close.

25 MS. WORTH: Very close to the

2 think we have a wonderful development.
3 Your planning, whatever you did to
4 encourage them to do nice things, do
5 the next area, and I think everybody
6 will have a good environment in that
7 area. I thank you and congratulate you
8 on the work you are doing.

9 MS. THORMANN: Yes, please.

10 MS. WORTH: My name is Jenny
11 Worth. I am from Mountainview. I am
12 the Vice President of Phase III.

13 Really what I think all of us are
14 interested, whether it's Forest Ridge
15 or Mountainview, meaning east, one, two
16 and three, is how close are those 12
17 units that you are going to be
18 building, 12 houses close to the road
19 of Mountainview, how large is the
20 buffer that you will have there to
21 separate us from your property?

22 MR. ATZL: There is no buffer.

23 MS. CUTIGNOLA: This is
24 Mountainview here. This is the
25 undisturbed area runs along here. I

2 road, to our road.

3 MS. CUTIGNOLA: To your road?

4 MS. WORTH: That we go in the back
5 and up and around.

6 MS. CUTIGNOLA: You built your
7 road right up to your property line.
8 You didn't do it, I know.

9 MS. WORTH: I understand that.

10 MS. THORMANN: All right, you
11 know, let's not --

12 MS. CUTIGNOLA: I want to point
13 that out. Part of the reason there
14 will be a very thin buffer at that
15 point is because this property goes to
16 the property line and your property
17 goes to the property line.

18 MS. WORTH: Absolutely, we know
19 that. Now, if there were going to be
20 12 condominiums, clusters or
21 townhouses, where exactly would they be
22 placed if they were to be built?

23 MS. CUTIGNOLA: We haven't
24 designed that yet.

25 MS. THORMANN: We are not at the

2 site plan stage. We are just
 3 discussing concepts right now.
 4 MR. YACYSHYN: The environment.
 5 MS. WORTH: Your property line,
 6 the two cul de sacs would be close to
 7 our property line, right?
 8 MS. CUTIGNOLA: Yes.
 9 MS. WORTH: Okay.
 10 MS. CUTIGNOLA: The one. No, this
 11 one would be very close. This one
 12 would be far away.
 13 MS. WORTH: This one, that I
 14 understand, like three feet. So what
 15 would you put there to help that
 16 situation? What is your plan?
 17 MS. CUTIGNOLA: Is to put
 18 landscaping there.
 19 MS. WORTH: What do you mean
 20 landscaping?
 21 MS. THORMANN: Excuse me--
 22 MS. WORTH: I am sorry, I just
 23 want to know.
 24 MS. THORMANN: She can't, you
 25 know, one, two, three, one, two, three.

2 like townhouses, it would still
 3 probably be visible for miles? But
 4 it's one thing to have a clump of
 5 townhouses on a mountain as opposed to
 6 raising and denuding the whole
 7 mountainside, so I come up the Thruway
 8 every night west, from the west facing
 9 east, and even from Suffern you can see
 10 Forest Ridge. In the wintertime you
 11 can see Mountainview. In the
 12 summertime you can't, so if you were to
 13 do townhouses or condos there, if you
 14 could make the roofs brown as
 15 Mountainview is, that would at least be
 16 a big help, and also my unit, my second
 17 point, my unit actually abuts the
 18 parkland that was created when Forest
 19 Ridge was created, and I can tell you
 20 that there is abundant wildlife back
 21 there, and it would be-- there is not
 22 many places in Rockland County or in
 23 Clarkstown at all that you can see
 24 that, and it would be a real shame to
 25 destroy that habitat back there, so if

2 MS. WORTH: Trees, shrubs.
 3 MR. YACYSHYN: You are being
 4 recorded. You have to speak slower and
 5 be able for him to take it down, and
 6 let her finish, you know, when she
 7 talks.
 8 MS. CUTIGNOLA: Ornamental
 9 landscaping, probably two to three foot
 10 wide could potentially be placed in
 11 that area to provide the same type of
 12 screening that if we were neighbors and
 13 we shared a side property line and you
 14 didn't feel like watching my barbeque,
 15 that we would put between us. It will
 16 be that type of a situation?
 17 MS. WORTH: I just wanted to know,
 18 and thank you for your suggestions.
 19 THE COURT: Anyone else wishes to
 20 speak? Please come forward and
 21 identify yourself.
 22 MS. LIVZI: I am Virginia Livzi.
 23 I live in Mountainview, and I have two
 24 points. First of all, it is true that
 25 even if you did a more clustered thing

2 you could keep the corridor like Marvin
 3 mentioned, that would really be a
 4 beautiful thing for Clarkstown and for
 5 the area, and not something that is
 6 really not around much anymore. Thank
 7 you.
 8 MS. THORMANN: Is there anyone
 9 else in the audience who wishes to
 10 speak?
 11 Do you wish to respond to anything
 12 that was said?
 13 MS. CUTIGNOLA: I do have a few
 14 things to say, if that is not a
 15 problem.
 16 We have done our best, I think, if
 17 I am correct in hearing what everybody
 18 is saying, that the visual impact is
 19 probably one of the most controversial,
 20 most difficult issues.
 21 If we made any errors in doing the
 22 photo simulation, they were simply
 23 errors. There is nothing to be gained
 24 by misrepresenting something and having
 25 it not be right.

2 MS. THORMANN: I don't think that
3 was inferred.

4 MS. CUTIGNOLA: I understand.

5 MR. HOEHMANN: That wasn't
6 implied.

7 MS. CUTIGNOLA: If that was a
8 mistake, we will correct the mistake.

9 I would like to point out that
10 both Mountainview and Forest Ridge, I
11 understand Forest Ridge made some
12 accommodations in terms of other lands,
13 but in terms of visual screening, I
14 think Forest Ridge is very obvious from
15 many viewpoints in the town, and partly
16 because it's on the hill.

17 You know, to say that our project
18 should bear the responsibility for
19 shielding Forest Ridge and Forest Ridge
20 didn't do anything to shield itself, I
21 am not positive that that's there.

22 When you analyze visual impacts,
23 it's not just that you can see
24 something, but that you can see it and
25 it's a sensitive receptor, that it's a

2 develop it.

3 Now, we are totally sympathetic
4 with trying to do it as environmentally
5 friendly a manner as is practicable,
6 but based on the slope of the mountain,
7 I think it's fair to say between the
8 trees that need to be removed and the
9 location of the project, that there
10 will be some visual change.

11 That's what an Environmental
12 Impact Statement does. Let's look at
13 what the changes are going to be.
14 Let's look to see what can be done to
15 minimize those changes and then
16 implement that as part of the project.

17 I do think the aerial sort of
18 speaks for itself. When you are over
19 here at Crosfield and you are looking
20 up that way, when you are in the camera
21 lens you see what is there, but there
22 is a lot of other things in your
23 eyesight as you are looking at that
24 view.

25 This is a smaller aerial that is

2 real problem.

3 Now, that's a very subjective
4 statement, you know, because if you
5 wished that it was all mountain and now
6 you are seeing houses, possibly to you
7 that is a sensitive receptor and we
8 will take that into account as best as
9 we can.

10 The views, this is an aerial of
11 the overall site. The ariel is
12 included in the DEIS.

13 This is the view from Crosfield.
14 It's actually over here. The area was
15 only so big, but to look over toward
16 where the mountain is, there is a lot
17 of other stuff in between. It's not as
18 though you are driving in a virgin
19 forest and looking and you see Forest
20 Ridge on this side and the snow on
21 Mountainview in the winter and then,
22 you know, virgin forest. There is a
23 small piece of property between these
24 two projects, and that's the property
25 that my client purchased in order to

2 also included in the DEIS. It shows
3 our property outline. Just what the
4 woman said, the Mountainview property,
5 the pavement goes right up to our
6 property line. You can't even plant a
7 shrub on their side of the line.

8 For Forest Ridge, there is
9 topography here that will separate us.
10 This area back here, there is somewhat
11 of a buffer provided by Forest Ridge
12 towards the rear, not to shield the
13 project, but as you go up the mountain.

14 Other than that, we thank you all
15 for your time.

16 MS. THORMANN: Before you go, I
17 haven't said anything because I like to
18 get the general picture before I say
19 anything, and what strikes me is the
20 80/20 percent, that you are going to be
21 disturbing 80 percent of the topography
22 there and that is rather substantial,
23 and I am not naive in the sense that I
24 expect no visual change, and I also
25 subscribe to the notion that a man has

2 a right to develop his property. That
3 goes back to the days of the
4 anglo-saxons, but we have flora and
5 fauna up there, as that one lady said.
6 We have wetlands. We have steep
7 slopes, so personally, what I would
8 like to see is, confined to the least
9 amount of destruction as possible, and
10 I am not sure how many units you can
11 get up there, but once you do your --

12 MS. CUTIGNOLA: We were at 14 lots
13 to begin with. I am comfortable. We
14 have done the calculations. We would
15 be happy to provide the--

16 MS. THORMANN: Mr. Atzl can do his
17 business, but once we have those
18 figures, all right, and then we can see
19 the number you are entitled to, and as
20 one member of the Board, I would like
21 to see it confined.

22 MS. CUTIGNOLA: To more
23 clustering?

24 MS. THORMANN: Right.

25 MS. CUTIGNOLA: Can I ask a

2 the record straight?

3 MR. YACYSHYN: Excuse me, this
4 must be avoided. It is not our
5 position, and we have very good legal
6 authority that indicates that coming in
7 with a subdivision, however it is
8 configured, doesn't entitle you to more
9 than you would be allowed under that
10 provision of the ordinance, okay, which
11 includes whether or not you need a
12 variance.

13 A variance should be for other
14 reasons that is beyond your control,
15 not made through your control, do you
16 understand what I am saying?

17 MR. KRAUSHAAR: Can I clarify that
18 point? You have to show that you
19 comply with all the municipal
20 ordinances on a standard layout without
21 the need for a variance.

22 MS. CUTIGNOLA: Right.

23 MR. KRAUSHAAR: That forms the
24 basis for the number of units.

25 MS. CUTIGNOLA: Right.

2 question?

3 MS. THORMANN: Absolutely.

4 MS. CUTIGNOLA: We talked about
5 the project proposal which is your
6 typical subdivision, then we talked
7 about a cluster, and with the concept
8 of cluster comes the concept of a
9 townhouse.

10 MR. KRAUSHAAR: Not necessarily.

11 MS. CUTIGNOLA: That's my
12 question. It could also be clustered
13 houses.

14 MR. KRAUSHAAR: That's correct.

15 MS. CUTIGNOLA: The cluster is the
16 point.

17 MS. THORMANN: Absolutely, you got
18 it, yes.

19 MR. YACYSHYN: With the caveat,
20 with the cluster of the so-called
21 alternate layout or whatever, the
22 alternate clustering require a number
23 of variances. This is the thing that
24 must be avoided.

25 MS. CUTIGNOLA: May I please set

2 MR. KRAUSHAAR: At that juncture,
3 clustering can be applied either in the
4 form of a townhouse or in a single
5 family residential setting.

6 In either case, the Planning Board
7 has the authority, the discretion to
8 vary the requirements on setbacks and
9 other requirements under the code in
10 order to allow for the clustering, with
11 the intent to save as much of the open
12 space and all the other environmental
13 impacts that we have been talking
14 about.

15 So the first layout, the standard
16 layout has to meet all requirements
17 without the need for variances.

18 MS. THORMANN: Okay.

19 MR. BAUM: Madam Chair, if I can
20 offer to the applicant's engineer and
21 consultants a copy of these pictures, I
22 would be happy to leave this with you
23 to review. You just have to click on
24 the icon when you see it on the CD and
25 it will bring up the presentation. If

2 you have any problems, you can call me
3 and e-mail me.

4 MS. THORMANN: Here is the piece
5 of paper I promised you.

6 MS. CUTIGNOLA: And Mr. Geneslaw's
7 letter?

8 MS. THORMANN: That is Mr. Letson.
9 Mr. Geneslaw's and Mr. Simoes.

10 May I have a motion to continue?

11 MR. HOEHMANN: I will offer a
12 motion to continue.

13 MR. GENESLAW: Mrs. Thormann,
14 before you do, just for the record,
15 there is at least one other letter from
16 an agency. We got a letter from the
17 Drainage Agency dated May 4. There may
18 be others in the record.

19 MS. THORMANN: I am sorry. It was
20 contained where they said it is not,
21 that the RCDA does not have
22 jurisdiction over it and referred them
23 to the Army Corps.. Check with the Army
24 Corps., and that was already contained
25 in Dennis' memo.

2 to look at alternatives, and the two
3 alternatives to the standard that you
4 looked at are really very minor
5 modifications of the standard.

6 You can ask them to look at a
7 townhouse cluster alternative as part
8 of the environmental process. That
9 allows you to measure the difference in
10 the various impacts between
11 conventional subdivision and a
12 townhouse alternative.

13 It does not commit you or them for
14 the selection of that alternative at
15 the end of the line, but you have the
16 opportunity to ask them to do it.

17 MS. THORMANN: Mr. Geneslaw, that
18 is what I was referring to when I said
19 that, and then she asked about the
20 single family homes, so it would be
21 both, I would like to see.

22 MR. GENESLAW: So it's clear to
23 the applicant.

24 MS. THORMANN: I think she
25 understood.

2 MS. CUTIGNOLA: I actually have a
3 copy of the Drainage Agency's letter.
4 May I ask a question?

5 MS. THORMANN: Yes, of course.

6 MS. CUTIGNOLA: Where are we in
7 the process? We are not going to close
8 the public hearing?

9 MS. THORMANN: No, we are not
10 closing, and I told you we are going to
11 go now for the FEIS.

12 MR. GENESLAW: No, no, you are
13 not, no. First of all, you need to
14 close the public hearing and allow --

15 MS. THORMANN: Before the FEIS?

16 MR. GENESLAW: Absolutely. It's
17 not even -- you don't have a choice.

18 MS. THORMANN: Sorry, somebody
19 gave me misinformation. Too many cooks
20 spoil the broth. Go ahead.

21 MR. GENESLAW: Before you get to
22 that point, I would like to make two
23 other observations. One is, as part of
24 the environmental process, you have the
25 opportunity and probably the obligation

2 MR. KRAUSHAAR: Let's make it
3 clear why the public hearing can't be
4 closed right now.

5 MS. THORMANN: We have too many
6 outstanding--

7 MR. KRAUSHAAR: Those open issues
8 are a review of the exhibits,
9 particularly the pictures that were
10 submitted.

11 MS. THORMANN: Photo simulation.

12 MR. KRAUSHAAR: Photo simulation,
13 the comments in the memo of Dennis
14 Letson including, but certainly not
15 limited to, reflagging of those
16 wetlands in light of the fact that they
17 are going to be expiring in June, the
18 memo of Bob Geneslaw.

19 MS. THORMANN: And Joe.

20 MR. KRAUSHAAR: And Joe Simoes.
21 And to make it clear, the submittal of
22 a standard layout which doesn't require
23 variances along with some other
24 potential clustering type layouts with
25 the intent of saving as much of the

2 open space and mitigating the other
3 environmental issues that have been
4 promulgated here tonight.

5 MS. THORMANN: You had steep
6 slopes and other things in there.

7 MR. LETSON: We also need to find
8 out whether any of the other copies of
9 the document didn't have the complete
10 figures attached to them.

11 MS. THORMANN: That we will do
12 tomorrow. That I will do tomorrow when
13 I come in. It went to the libraries,
14 didn't it?

15 MR. LETSON: It needs to be
16 checked. The other copies that have
17 been distributed to the libraries and
18 the other agencies for review, we need
19 to verify whether they did or didn't
20 get the proper photocopies of those
21 exhibits.

22 MR. KRAUSHAAR: If we can also
23 make it clear to the public, if you
24 really are board, you can check out a
25 copy of the DEIS on the Town's web

2 MR. GENESLAW: I wanted to make
3 another observation. I am happy that
4 Mr. Baum is providing a copy of the
5 graphic material that he had, but I
6 want to ask Ms. Cutignola a question,
7 and that is do you need some narrative
8 accompanying each of those so that you
9 can respond to them? And the purpose
10 of the FEIS will be to respond to
11 comments, and in a form in which they
12 have been offered, it may be difficult
13 for the applicant to remember the
14 commentary that went with each image.

15 MS. THORMANN: We can ask Mr. Baum
16 to provide the narrative.

17 MS. CUTIGNOLA: Do I need to
18 respond to each image? If I need to
19 respond to each image, I need the
20 narrative.

21 MS. THORMANN: Mr. Baum, you can
22 make a narrative.

23 MS. CUTIGNOLA: Select which
24 photos on there.

25 MR. KRAUSHAAR: Proving once again

2 site. There is a link right to it, so
3 you can actually read it even after you
4 leave here tonight.

5 MS. THORMANN: You want to give
6 them the web site for the Town, please,
7 gentlemen?

8 MR. KRAUSHAAR: Joe has it.

9 MR. SIMOES: WWW--

10 MS. THORMANN: Wait.

11 MR. SIMOES: Too many W's too
12 quick?

13 MS. THORMANN: No, you can't hear,
14 and I am sorry these gentleman are
15 talking.

16 MR. SIMOES:
17 WWW.TOWN.CLARKSTOWN.NY.US/HTML/PLANNING
18 HTML, or it might be easier just to go
19 to Tim Miller Associates.com.

20 MS. THORMANN: Now may I?

21 MS. CUTIGNOLA: I have one more
22 question.

23 MS. THORMANN: Yes, you want to
24 say something? I can't take the motion
25 to continue yet.

2 that no good deed goes unpunished.

3 MR. CUTIGNOLA: Could he leave
4 them all on there and select the most
5 demonstrative ones and provide a
6 narrative of those?

7 MR. BAUM: I can either e-mail you
8 or provide on CD an original copy of
9 the images themselves that is not on
10 CD. Only the presentation that you saw
11 is on the CD. I can actually provide
12 them to you if you want to do photo
13 simulations or anything else with those
14 images. I can certainly provide that
15 to you.

16 MS. CUTIGNOLA: Why don't you
17 write a memo of what you would like me
18 to respond to, and I will ask you if I
19 need something to do that.

20 MR. BAUM: Okay. It will take me
21 a couple of days to get it to you. I
22 am dealing with a family medical issue
23 that I am dealing with.

24 MS. CUTIGNOLA: I have one
25 comment. It is our understanding, and

2 I understand why you need more
3 information to prove it, but you said
4 when we have a proposal that meets the
5 zoning, we are confident that our
6 proposal does meet the zoning.

7 We will provide the information to
8 support that, and that was my question,
9 is where we are in the process? We are
10 not prepared at the point of putting
11 together the FEIS, but I would like the
12 opportunity for somebody to say yes,
13 now we are satisfied, this meets, you
14 know, I would like some sort of--

15 MS. THORMANN: You see that
16 gentleman over there, Mr. Letson, he
17 has raised the issues that have to be
18 satisfied. He is our engineer.

19 MS. CUTIGNOLA: So from my point
20 of view, in order to move forward, I
21 would like the opportunity to work with
22 him and get him to agree or disagree
23 that we have met --

24 MS. THORMANN: That is between you
25 and Mr. Letson.

2 MR. KRAUSHAAR: I don't know how
3 we would do it otherwise.

4 MR. GENESLAW: I want the Board to
5 recognize, you have to set a date
6 certain for the continuation or
7 readvertise.

8 MS. THORMANN: That is why I did
9 that before.

10 MR. LETSON: I think readvertise.

11 MR. HOEHMANN: We are asking for a
12 lot of material.

13 MS. THORMANN: We are asking for a
14 lot of material. I would rather
15 readvertise.

16 Moved by Hoehmann, second by
17 Jackson. All in favor?

18 (A chorus of ayes.)

19 MS. THORMANN: Thank you. I ask
20 that we take a five men recess just to
21 give everybody the opportunity to do
22 whatever they need to do, and that's
23 it. Five minutes, please.

2 MS. CUTIGNOLA: That's okay to
3 work with him? You have to be careful
4 with what you wish for.

5 MS. THORMANN: And Mr. Atzl knows,
6 he is the gentleman that has to be
7 satisfied because you can't deal with
8 steep slopes. You can't deal with any
9 of that without Mr. Letson's approval.

10 MS. CUTIGNOLA: And that's fine.
11 I would like the opportunity to
12 continue to work with him until we get
13 to a point that he is satisfied and
14 then come back, and then how are we
15 going to get back before the Board?

16 MS. THORMANN: You are going to
17 call.

18 MS. CUTIGNOLA: I am going to
19 call. All right.

20 MR. HOEHMANN: A motion to
21 continue.

22 MS. THORMANN: A motion to
23 continue.

24 MR. GENESLAW: If you don't want
25 to readvertise--

2
3 STATE OF NEW YORK)
4) ss.
5 COUNTY OF WESTCHESTER)

6 I, HOWARD BRESHIN, a Court Reporter
7 and Notary Public within and for the State of New
8 York, do hereby certify:

9 That I reported the proceedings that
10 are hereinbefore set forth, and that such
11 transcript is a true and accurate record of said
12 proceedings.

13 I further certify that I am not
14 related to any of the parties to this action by
15 blood or marriage, and that I am in no way
16 interested in the outcome of this matter.

17 IN WITNESS WHEREOF, I have hereunto
18 set my hand.

19
20
21 _____
22 HOWARD BRESHIN,
23 SENIOR COURT REPORTER

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2 STATE OF NEW YORK
3 TOWN OF CLARKSTOWN

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5

Minutes of
The Clarkstown Planning Board
June 10, 2009 - 7:30 p.m.

6

at

7

City Hall
10 Maple Avenue
New City, New York 10956-5099

8

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9

10

B E F O R E:

SHIRLEY J. THORMANN, Chairwoman
RUDOLPH J. YACYSHYN, Vice Chairman
GILBERT J. HEIM, Member (Not present.)
PETER E. STREITMAN, Member
JOHN L. SULLIVAN, Member
RICHARD SHOBERG, Member (Not present.)

14 P R E S E N T:

ROBERT GENESLAW, Planning Consultant
CHARLES MANERI, Building Plans Examiner
DENNIS M. LETSON, Deputy Director
Environmental Control
DANIEL KRAUSHAAR, Deputy Town Attorney

18

19

20

HOWARD BRESHIN REPORTING
8 Edsam Road
Valley Cottage, New York 10989
(914) 426-2400

21

22

23

24

25

♀

1

Proceedings 2

2

THE COURT: Please rise and we'll
salute the flag.

4

(Pledge of Allegiance.)

5

(Roll called.)

6

MS. THORMANN: The first hearing

7 06-10-09 Public Hearing.txt
8 tonight is a continuation of a Public
9 Hearing under the provisions of SEQRA
10 and Preliminary: Kury Homes, Valley
11 Cottage, 59.20-1-3, 4 and 5 (FKA 135D16,
12 16.1 and 16.2)(Proposed 14 lot
13 subdivision (12 building lots) of 10.29
14 acres R-22 zoned land. An alternative
15 plan has been developed for an 11
16 building lot cluster subdivision,
17 pursuant to Section 278 of Town Law.
18 Property located on the east side
19 Mountainview Avenue, 150' north of
20 Forest Ridge Road (abutting
21 Mountainview Condos).

22 Would you please identify
23 yourselves for the record.

24 MR. ATZL: Andrew Atzl for the
25 applicant.

26 MS. CUTIGNOLA: Ann Cutignola from

♀

1 Proceedings 3
2 Tim Miller Associates for the
3 applicant.

4 THE COURT: Thank you. Background
5 information. Court stenographer
6 present for Planning Board meeting of
7 June 25th, 2008. We have a verbatim
8 attached. TAC Review on February the
9 11th, 2009.

10 Is there something you would like
11 to say, either one of you?

12 MS. CUTIGNOLA: Yes.

13 THE COURT: It's yours.

14 MS. CUTIGNOLA: There you go. We
15 had been before the Board several
16 times. Just to refresh the Board's
17 memory, we made a major breakthrough
18 with this project.

19 When we reduced the project to 11
20 lots, we moved all the development off
21 of Mountainview Avenue to preserve the
22 steep slopes and critical drainage
23 areas, we established conservation
24 easements of between 10 and 40 foot
25 along the perimeter of the property to

♀

1 Proceedings 4
2 assist with the visual impact of the
3 project.

4 The project avoids on-site
5 wetlands disturbance except for the
6 road crossing, and per the Board's
7 suggestion we provided an emergency
8 access to the Mountainview Condominium
9 Association.

10 We are here tonight specifically
11 to discuss the FAR calculation for this
12 property. We were before the Board
13 almost a year ago, and in developing
14 the average density application, the
15 applicant is willing to do the average
16 density which seems to be the Board's
17 preference, but he is looking to build
18 similarly sized houses to the houses he
19 that he would have been able to build
20 under the as of right proposal.

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In our submission dated May 15th
several pages back, there is a table
that refers to the FAR calculation, and
what that shows is under the standard
lot under a .2 FAR, the size of the

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Proceedings 5
house that would be allowable, and then
it provides an additional table under
the cluster 11 lot layout of the lot in
descending order of the proposed FAR's.

The Board was concerned if they
allowed the applicant a general .3,
FAR, some of the lots are quite large
and that would allow for really
significantly oversized houses, so we
have developed this table of varying
FAR and that is specifically what we
are here to get your consent to
tonight.

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The FAR, the plans that you had
that we submitted show the FAR per lot,
and that will be included on the site
plan that will be signed, so there
won't be any discussion later on down
the road of what is allowable and what
is not, the FAR be approved on a per
lot basis, and we are here to address
questions and to hopefully gain your
approval for that concept.

25

MS. THORMANN: You wish to say

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Proceedings 6

06-10-09 Public Hearing.txt
2 something?

3 MR. ATZL: No.

4 MS. THORMANN: All right.

5 MS. CUTIGNOLA: One further thing.

6 We have provided the actual -- because
7 the Board was concerned how will that
8 look? What will that FAR-- first one
9 other point to make is, when you look
10 at the FAR that is approximately six
11 thousand foot. We would like the Board
12 to realize that is really a 38, 39
13 hundred square foot house.

14 When you count the way the Town
15 calculates the garage and the basement
16 area, these are the total FAR numbers,
17 and these equate to how you have
18 approximately 38, 3,900 square foot of
19 floor area.

20 MR. ATZL: Of the actual
21 footprint.

22 MS. CUTIGNOLA: The other thing we
23 have provided in your packet, this is
24 very similar to the way the Camelot--
25 these sized lots and these sized houses

♀

1 Proceedings 7

2 are very similar to the way the Camelot
3 project was developed, and we have
4 simply representative houses for the
5 purposes of how they will fit into the
6 site and how they will fit into the
7 landscape.

8 One additional consideration

9 that's not shown on these houses that
10 we have committed to using natural
11 tones and brown roofs, that is not
12 shown on these, but these photos show
13 specifically how the houses will sit
14 onto the lot, so we hope we provided
15 enough information to get your
16 approval.

17 MS. THORMANN: We'll ask for it if
18 we feel there isn't enough.

19 Mr. Maneri.

20 MR. MANERI: We have no comment at
21 this time.

22 MR. LETSON: No new comments. The
23 FAR issue and the alternate layout is
24 what is on the table that has to be
25 decided on by the Board, and then at

♀

1 Proceedings 8
2 that point we'll go through the
3 technical issues relative to any
4 development for the property.

5 MS. THORMANN: Okay. Mr.
6 Geneslaw, the floor is yours.

7 MR. GENESLAW: Well, no specific
8 comments with respect to the FAR as
9 shown on the drawing, but I had the
10 opportunity to read the recent
11 communication from Mr. Baum in which he
12 pointed out that there are claims that
13 there is a row of large evergreens on
14 the easterly end of the project which
15 helped to protect the view from below,

06-10-09 Public Hearing.txt
16 and he used the examples of the homes
17 in Pomona that we can all see from the
18 Palisades Parkway is something that
19 would be desirable not to see.

20 The trees are not shown in any of
21 these maps. They may be shown in some
22 of the earlier ones because the project
23 has been before the Board for quite a
24 long time, but I would suggest as part
25 of the review process the Board take a

♀

1 Proceedings 9

2 look at the location of those trees and
3 if necessary, modify the front yards of
4 lots seven and eight so the homes can
5 be closer to the street and to leave
6 more room to the rear which will be to
7 the east and the south in order to keep
8 the forested buffer along the ridge.

9 MS. CUTIGNOLA: I have two things
10 to say to respond to that, and we are
11 not in disagreement, that is the area
12 where a 20 foot buffer has already been
13 proposed, and there is additional
14 landscaping planting shown on the
15 landscape plan. I have color large
16 scale copies for the Board in case
17 anybody can't see the further reduced
18 copy.

19 The other thing I would like to
20 point out is, that this is not a new
21 issue. This is not a new project. We
22 have been working on it for a long

06-10-09 Public Hearing.txt
23 time, and I believe that this is the
24 project that Mr. Geneslaw is referring
25 to as you drive north on the Palisades,

♀

1 Proceedings 10
2 and first off that is a significantly
3 larger project than our project, and
4 the other thing I would like to point
5 out, this is representative somewhat of
6 a site under construction.

7 This is a similar view as you
8 drive westbound over the Tappan Zee
9 Bridge of an area that has had the
10 benefit of years of growth and in-fill
11 from the landscaping.

12 We have proposed an extensive
13 amount of landscaping to definitely get
14 to this eventually. We will not be
15 nearly this size to begin with, and we
16 are done you will not be looking at
17 this. Even when these people will be
18 done you won't be looking at this.

19 I assume there will be some
20 landscaping on their project, but we
21 have designed our project. There will
22 be in-fill of vegetation, and the roofs
23 of the houses will be the roofs, the
24 roofs and exteriors will be of earth
25 tone materials such that the visual

♀

1 Proceedings 11
2 impact will be significantly less than
3 what we have shown here.

4 MS. THORMANN: Did you see it, Mr.
5 Geneslaw?

6 MR. GENESLAW: What was the
7 example on the top of the Board?

8 MS. CUTIGNOLA: This is as you
9 drive northbound on the Palisades.

10 MR. GENESLAW: Houses in Pomona?

11 MS. CUTIGNOLA: That is a photo of
12 that area, and this is a photo
13 westbound right before you go around
14 the curve of the Tappan Zee Bridge, but
15 they had years of vegetative growth to
16 in-fill, and it's a completely
17 different situation.

18 One, we are going to preserve the
19 trees that can be preserved. We
20 provided a landscaped buffer and we
21 have provided additional landscaping,
22 but to evaluate a project based on this
23 situation is really not representative
24 of what a built community will look
25 like.

♀

1 Proceedings 12

2 MR. GENESLAW: You noted-- Looking
3 at the aerial photo, it looks as if
4 those evergreens are very close to the
5 property line.

6 MS. CUTIGNOLA: Ah-hah.

7 MR. GENESLAW: The plan shows a 20
8 foot landscape buffer. Has anybody
9 looked at those trees carefully enough
10 to know whether a 20 foot buffer will

06-10-09 Public Hearing.txt
11 be enough to protect them?

12 MS. CUTIGNOLA: I would be happy
13 to do that so that we will have an
14 answer as to whether they are in the
15 buffer or not. That is no problem.

16 The one issue with this project as
17 we move forward is that we are way into
18 almost site plan issues on a project
19 that is part of the FEIS and we still
20 have not closed the DEIS hearing, so I
21 am anxious to take it one step at a
22 time.

23 We are looking to your consent for
24 the variable FAR. I went through all
25 my notes of the many meetings we have

♀

1 Proceedings 13
2 been through, and if I am not mistaken,
3 there are several small things that you
4 want added to the plan that were not on
5 them as they were submitted to you
6 previously.

7 One was the height limit of the
8 houses on the bulk table. One was the
9 height of the stone retaining walls
10 shown on the grading plan for the 11
11 lot cluster, identification of the town
12 property that was formerly the Afarian
13 property.

14 I have had Andy today, that is the
15 maps that he brought with him, take
16 care of those three simple items. I
17 had the new jurisdictional

18 06-10-09 Public Hearing.txt
determination on the wetlands with me,
19 it's complete and I have it in my hand,
20 and I have a speed study and a sight
21 distance analysis for the proposed site
22 access driveway.

23 First I would like to get your
24 consent about the FAR, and when we get
25 that FAR I am hopeful that with the

♀

1 Proceedings 14
2 submission of these items tonight we
3 can simply get a date certain to
4 continue. I think at that point we
5 could be prepared to close the DEIS
6 hearing and move on to the FEIS stage
7 showing where those trees fit in the
8 landscape buffer is certainly an item
9 that we will address in the FEIS.

10 MS. THORMANN: Anything else, Mr.
11 Geneslaw?

12 MR. GENESLAW: No thank you.

13 MS. THORMANN: Mr. Simoes.

14 MR. SIMOES: Just to add to the
15 discussion on the pine trees, I had
16 checked previous plans and found that
17 Andy had identified 13 pine trees in a
18 tree location plan. Eventually we are
19 going to need a tree preservation plan,
20 depending on the layout of the
21 subdivision, and that will show how
22 they are going to protect those trees
23 during construction, and if you look at
24 the second sheet that you have before

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Proceedings 15

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comparison to the areas, you see how

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most of the-- most of those pines are

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in the corner where there is not

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grading, and perhaps additional buffer

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can be supplied there so that there is

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not an impact to those pine trees.

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MS. CUTIGNOLA: I think we can

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probably accommodate that.

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MR. ATZL: Definitely with the

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tree preservation plan we will be

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showing how the protection limits for

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those individual trees.

14

MS. THORMANN: Anything else?

15

MR. SIMOES: Is this going to be

16

read into the record?

17

MS. THORMANN: Would you like to

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read it into the record, Mr. Simoes?

19

MR. SIMOES: Certainly.

20

MS. CUTIGNOLA: Is that Marvin's

21

letter?

22

MR. SIMOES: Yes. He specifically

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requested it be read into the record.

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MS. THORMANN: He requested it be

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read, and we usually accede to requests

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Proceedings 16

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for the public.

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MS. CUTIGNOLA: We will

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incorporate his letter as though he was

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standing here reading it.

6 MS. THORMANN: That doesn't negate
7 our responsibility.

8 MR. SIMOES: Sent June 8th, 2009.
9 My name is Marvin Baum. I reside at
10 550 Sierra Vista Lane and I am a member
11 of the Mountainview East Condominium
12 Board of Managers.

13 I want to thank the Planning Board
14 and the developers for the progress
15 that has been made on dealing with the
16 various environmental issues that were
17 raised throughout this process.

18 My main ongoing concern relates to
19 viewshed impacts, as this project will
20 be removing a large number of trees
21 from the property, which can be seen
22 from miles around.

23 The removal of these trees will
24 also open up the Mountainview
25 condominiums to surrounding views,

♀

1 Proceedings 17
2 which will greatly impact the
3 appearance of the Palisades ridge and
4 surrounding county parkland, which
5 looks surprisingly undeveloped in its
6 current state.

7 Of course the residents of the
8 Mountainview Condominiums want to
9 prevent what has happened to the
10 mountain in Pomona, as can be seen from
11 the vicinity on the Palisades Parkway
12 near Exit 13, from happening to our

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mountain.
I appreciate the fact that the developer has an absolute right to develop this property. The use of earthtone colors on the homes and roofs, as specified in the DEIS, will certainly help, as will the planting of various trees.

However, most of the trees planned on the south-facing side of the property and lining the street are deciduous trees, which will lose their leaves in the fall.

Proceedings 18

I understand that the developer wants to maintain relatively open views from the homes on the south side of the street, but I think that strategically adding some tall-growing evergreen trees, perhaps near property lines, in addition to those trees already planned, would not impact the views from the homes and would help to soften the visual impact year-round.

Overall, the addition of some pine trees throughout the property, not just along the border with the condominiums, in addition to those deciduous and evergreen trees already planned, would be beneficial.

I also would like to request that the tall pine trees at the back side of

20 the property be preserved, as well, to
21 protect the ridgeline.

22 In conclusion, I would like to
23 request that the Planning Board give
24 consideration to the addition of some
25 evergreens to this development project

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1 Proceedings 19

2 and that all reasonable efforts be made
3 to protect the appearance of this
4 mountain and surrounding parklands.

5 Thank you. Sincerely, Marvin.

6 MS. THORMANN: Fire Inspector. No
7 comment on layout, but emergency access
8 must be provided which you have.

9 MR. ATZL: I think he was
10 referring to the standard layout, that
11 won't be a problem.

12 MS. THORMANN: Clarkstown Highway
13 Department reserves comment. Please
14 forward prints and specs with proposed
15 road widths, construction specs, et
16 cetera.

17 Mr. Kraushaar, we couldn't have
18 planned it better. It's your turn, Mr.
19 Kraushaar.

20 MR. KRAUSHAAR: Nothing at this
21 time.

22 MS. THORMANN: Nothing at this
23 time. Board members, Mr. Streitman.

24 MR. STREITMAN: Open it up to the
25 public first?

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MS. THORMANN: You want to go to the public first? They may have the benefit of our questions.

MR. STREITMAN: Sure. First question I guess is, you mentioned the zoning or the Kury Homes first development that you had done in New City. What was the zoning on that?

MS. CUTIGNOLA: Camelot. Camelot is an already constructed development, built by this particular applicant.

MR. STREITMAN: This is Kury Homes too, that you are calling it?

MS. CUTIGNOLA: No. This is and has been Kury Homes. Sometimes when I get nervous I misspeak, and if I did I apologize.

The previous development known as Camelot located off of Lady Godiva Way, and you can go there and get a sense of what it will basically look like.

MR. STREITMAN: What was that zoning, as you said, I guess, on the FAR on that, what did you want to do?

MS. CUTIGNOLA: It was developed under average density, R-22, the same as this project is zoned today.

MR. STREITMAN: It started at one acre zone.

MS. CUTIGNOLA: No, it started at

8 half acre zoning, and R-22 refers to
9 lots that are 22,000 square foot in
10 area. This is basically --

11 MS. THORMANN: It was R-40.

12 MR. YACYSHYN: R-40 is one acre
13 zoning.

14 MS. CUTIGNOLA: R-40 is one acre
15 zoning. We have to check the records.

16 MR. PRICE: The lots--

17 MS. THORMANN: You want to come
18 up?

19 MR. PRICE: It was R-22 and the
20 lots were reduced under average density
21 to about 18,750 square feet. They
22 started out as 22,000.

23 MS. CUTIGNOLA: We will have to go
24 back to the record.

25 MS. THORMANN: We'll do it.

♀

1 Proceedings 22

2 MR. PRICE: Sir--

3 MS. THORMANN: It was average
4 density, but we are talking about the
5 original zoning.

6 Mr. Streitman.

7 MR. STREITMAN: That is how you
8 got the FAR calculations. You are
9 making a lot of references to the FAR
10 calculations on that property that you
11 are able to build a certain size home,
12 and you want to try to do it with this
13 development as well, is that correct?

14 MS. CUTIGNOLA: Well, yes and no.

15 We developed this plan with 18,000
16 square foot lots based on the lands
17 that we were trying to preserve and the
18 number of units that we were
19 considering building that resulted in a
20 2,000 square foot lot.

21 MR. ATZL: Originally We came in a
22 12 lot subdivision standard layout. We
23 reduced that to eleven lots, provided a
24 standard lot area and determined lot area.

25 MS. THORMANN: Could you speak a

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1 Proceedings 23

2 little louder, the people can't hear
3 because they are straining to hear.

4 MR. ATZL: Originally we had done
5 a 12 lot standard layout subdivision,
6 then when we were asked to do a average
7 density, and at some point during that
8 process we were asked to reduce it to
9 11 lots, so for a comparison basis, we
10 did a standard layout with 11 building
11 lots. That gave us an opportunity to
12 sit here and demonstrate the FAR for
13 what we would get for a standard layout
14 based on an 11 lot count.

15 We then sat there and approached
16 the average density to produce a
17 similar floor area for each of the
18 proposed lots based on the standard
19 layout, the 11 lot layout.

20 MS. CUTIGNOLA: We did not start
21 out to emulate the Camelot development.

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After we got through all of our
calculations, then realized that the
Board asked many questions about how it
would look, and then --

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Proceedings 24

MR. STREITMAN: The question I am
asking is, some precedence seems to be
set in the Camelot subdivision based on
those lots were originally R-22, you
were able to build, I guess, on R-18
lots in the zoning and be able, somehow
you were able to get the FAR on those
to accede or be similar to what you are
proposing here.

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MR. PRICE: Well, because the
rules were different then. Now we are
not asking for any change of rules,
other than we are looking for the exact
same size houses on these lots as we
would have had on this project under
the standard layout.

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The only reason Camelot is being
asked, the Board is saying what will it
look like.

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MR. STREITMAN: Camelot was
allowed to do it the way it was because
it was under different rules back then.

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MR. PRICE: That's right.

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MS. CUTIGNOLA: Slightly

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Proceedings 25

different, but different

3 MR. ATZL: The floor area was
4 actually determined, I have to go back
5 and check on that.

6 MS. CUTIGNOLA: The net result is,
7 the houses that you have there are very
8 similar to what our proposal is.

9 MR. PRICE: Some of the smaller
10 houses, there are bigger lots in
11 Camelot that resulted in much bigger
12 houses. I am talking about some of the
13 houses, and we show them on the plan,
14 that are more like 3,800, and there are
15 houses that go to 4,500 hundred square
16 feet, but those are no what were shown.

17 MR. STREITMAN: Another question,
18 I guess between the two layouts, and I
19 think it was answered based on the
20 standard layout seemed like a lot less
21 impervious area with the roads compared
22 to the cluster, but maybe that was
23 designed for the emergency access.

24 MS. CUTIGNOLA: When you say
25 standard--

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1 Proceedings 26

2 MR. STREITMAN: The standard map.

3 MS. CUTIGNOLA: Even lot layout
4 does not have less impervious.

5 MR. STREITMAN: When you look at
6 the map, the cul de sacs are smaller?

7 MR. ATZL: We shortened the one
8 cul de sac and that would be the only
9 decrease overall. I believe it will

06-10-09 Public Hearing.txt
run the same as far as the overall
impervious surface.

MR. STREITMAN: That was designed
based on the emergency access or
whatever.

MS. THORMANN: The town wants it.

MS. CUTIGNOLA: We have been at
this plan a long time, and I think the
cul de sac was the same size when they
started, and the town made a request to
make the cul de sac slightly larger and
we did, but only on the one that we are
actually working on, but that's that
type of difference.

The impervious surface of this 11
lot standard is 2.2, whereas of the 11

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Proceedings 27

lot cluster it's 2.0, so it is
slightly-- we have to go back and
double check that. It's either equal
to or less.

MR. ATZL: It was based on
different homes. Some had front
drives, some had other minor changes
that would affect that.

When we recalculated the
impervious for the cluster layout, we
had actual proposed homes based on the
FAR that we are proposing at this
point.

Originally the houses were
slightly different in size, structure.

17 Some were front entry, some were side
18 entry, and the proposed 11 lot standard
19 layout does have a shorter cul de sac,
20 but that didn't really have any bearing
21 on the actual total impervious surface.

22 MR. STREITMAN: Okay. The last
23 question I guess is, the site is able
24 to be viewed basically from where, on
25 the Thruway maybe up high when you are

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1 Proceedings 28

2 up on the Palisades, is that the only
3 area?

4 MR. ATZL: Probably the only area.

5 MS. CUTIGNOLA: I can emphasize
6 that you are coming in-- they are great
7 questions. There is no problem. We
8 prepared this aerial that shows the
9 different views that we had looked at,
10 what you can see from-- I can get you a
11 copy and you can take a look at these
12 pictures where you can see-- truthfully
13 what you can see is the Forest Ridge
14 development, but there is an angle from
15 the bridge where 9W goes over 287. We
16 took a view from there, took an
17 exceptionally long view from past
18 Costco and there is nothing.

19 The one place that there is a view
20 is, as you are driving down the Thruway
21 right at about Exit 13 you can see that
22 it's there, but it's there,
23 Mountai nview Condomi ni ums is there,

24 Forest Ridge is there, and it's clear,
25 in my opinion, at that point that you

♀

1 Proceedings 29
2 don't have-- you don't actually see
3 Mountainview because they are all
4 darker houses, whereas the
5 Chicklets (Ph) at Forest Ridge,
6 although it's a very pretty development
7 when you are in there because of the
8 white, they clear-cut the site and they
9 are all white, and that is a visible
10 development and we'll not be building
11 that, but these are the places that
12 were looked at. I can provide those
13 photos to you and we'll not be
14 replicating Forest Ridge.

15 MR. STREITMAN: Got you. Thank
16 you.

17 MR. ATZL: No whites.

18 MS. THORMANN: Mr. Simoes wants to
19 say something.

20 MR. SIMOES: We checked not only
21 the file, but we have our handy GIS
22 here so we can tell you what the zoning
23 is. It is, it's R-22 in that Camelot
24 subdivision, they run from .43 acres--

25 MS. THORMANN: Can you enunciate

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1 Proceedings 30
2 so everybody can hear?

3 MR. SIMOES: The zoning district in
4 the Camelot subdivision is R-22 and the

5 06-10-09 Public Hearing.txt
acreage is approximately .43, .44 which
6 is 18, 19,000 square feet. The
7 subdivision shows that the minimum lot
8 area was brought down to 18,000 square
9 feet. The FAR was .2, but if I am
10 correct, at that point the basements
11 were not counted.

12 MR. PRICE: Or garages.

13 MS. CUTIGNOLA: That is the
14 difference in the calculation, that's
15 the difference and that's exactly the
16 difference.

17 MR. PRICE: The basements and
18 garages were not counted, now they are.

19 MS. CUTIGNOLA: Right, to
20 calculate.

21 MR. STREITMAN: None of the
22 basements, not even half?

23 MR. PRICE: That's right, no
24 basement, no garage, just living space.

25 MS. CUTIGNOLA: Which resulted in

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1 Proceedings 31
2 a .2 FAR, and now because the basement,
3 half the basement and the garage are
4 calculated, we need a higher FAR.

5 MR. PRICE: That's where the big
6 number of 6,000 bulk comes from. It's
7 is not 6,000 worth of house.

8 MS. CUTIGNOLA: That's correct.

9 MS. THORMANN: I apologize, Mr.
10 Yacyshyn and I were wrong.

11 MR. PRICE: You can't remember

06-10-09 Public Hearing.txt
12 everythi ng.

13 MS. CUTIGNOLA: You made a
14 mi stake? A l i t t l e a l i t t l e you are
15 both human.

16 MR. STREITMAN: One more questi on
17 while that came up. What was the
18 reasonality or what was the reason to
19 change the FAR and include the basement
20 now as half and the garge? There had
21 to be some sti pul ati on.

22 MR. PRICE: I ' m gl ad you asked.

23 MR. KRAUSHAAR: He wi ll agree wi th
24 you.

25 MS. CUTIGNOLA: Mr. Letson asked

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1 Proceedi ngs 32

2 me to keep i t short here toni ght.

3 MS. THORMANN: I t was the town.

4 MR. PRICE: I ' ll gi ve you a qui ck
5 one. What they di d i s, they deci ded
6 that, some of the footprints became bi g
7 because they weren' t counti ng the
8 basement, they bui lt bi g ranches wi th
9 ten garages. So the town then changed
10 i t to .3 i ncl udi ng the basement and
11 garage, and that was a better method
12 because i t eli mi nated the footprint,
13 and then the Board deci ded they wanted
14 to go back to the ol d method so they
15 changed i t back from .2 from .3 but
16 forgot to change the method, so we are
17 stuck wi th the method of .3 wi th a .2,
18 so they ki lled everybody i n the town

06-10-09 Public Hearing.txt
19 with that, much more restrictive than
20 it ever was in history, and I have been
21 trying to get everybody to understand
22 this because it doesn't make sense. I
23 am glad you asked.

24 MS. THORMANN: Mr. Yacyshyn.

25 MR. YACYSHYN: I think a lot of

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1 Proceedings 33

2 the questions I had were already
3 approached by Mr. Streitman.

4 There is no question that in my
5 view, the cluster, the 11 lot cluster
6 presents a very workable, under the
7 current circumstances, a very workable
8 design, and for me at this point with
9 some additional tweaking and everything
10 else later on, but at the SEQRA level I
11 think it pretty much meets, if we can
12 get past some of the screening that has
13 been raised previously and reiterated
14 by Mr. Baum in his letter.

15 I am sure the minds of the
16 neighbors, the issue of the FAR --

17 MS. THORMANN: Can you speak a
18 little louder?

19 MR. YACYSHYN: The issue of the
20 FAR, which was paramount in the Camelot
21 subdivision and it's back and flow is
22 something that I have to grapple with,
23 and I would like to hear from the
24 public if they even know what we are
25 talking about in that regard. It's

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Proceedings 34

something I think that we have to really be very, very careful to, you know, set some kind of design precedent in the future.

MS. THORMANN: I am going to pass except to say I am very glad that you have that emergency access because we all know what happened when they had the fire up at Mountainview, so I think that allays a lot of fears.

MR. CAREY: I have one clarification going back to Mr. Baum's letter. He talked about siting. These are deciduous trees on the ridge line or where the views are. Did I understand correctly that you are going to take his recommendations and put pine trees on that by seven and eight on that side and on the property lines, or are you taking it under advisement?

MR. ATZL: There is existing pine trees right there now that we are planning on keeping in place along the easterly property line along lots seven

Proceedings 35

and eight. I believe that's where he is referring.

MR. CAREY: If I understood what he is saying, that is on one side. The other side he was looking for, if I am

7 reading it correctly, where you
8 currently have deciduous. If I read
9 his recommendation, he would like to
10 see you change out some of the those
11 deciduous to evergreen trees so that in
12 the fall, when they drop their leaves,
13 there will be some screening and you
14 will break up that exposed view, so
15 rather it being a recommendation to
16 you, are you at a point where you are
17 committing to do that?

18 MS. CUTIGNOLA: We will be happy
19 to accommodate that.

20 MR. ATZL: I think it needs to be
21 a little more specific.

22 MS. CUTIGNOLA: The answer to your
23 question, we'll plant pine trees
24 instead of deciduous with us trees as
25 recommended. We are not really at that

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1 Proceedings 36
2 point tonight, that's the problem.

3 MR. CAREY: I am trying to get a
4 sense where you are at.

5 MS. CUTIGNOLA: I have no problem
6 planting pine trees.

7 MR. CAREY: You would relook at
8 the landscape plan with that in mind
9 and come back with another view of
10 that, if I understand correctly?

11 MS. CUTIGNOLA: Right.

12 MS. THORMANN: Let me ask a
13 question. What is the size of those

14 deciduous trees, are they such a size
15 that we wouldn't want them taken down?

16 MS. CUTIGNOLA: What we are here
17 tonight is to get your approval of the
18 FAR.

19 MS. THORMANN: I am just asking a
20 question for information purposes.

21 MS. CUTIGNOLA: Okay, when we get
22 that approval, we will be submitting in
23 my little here, additional information
24 on this site plan and move it into the
25 FEIS.

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1 Proceedings 37

2 One of the things that we will
3 additionally submit is a revision to
4 the landscape plan that includes-- you
5 can make actual comment as to what you
6 would like to see there.

7 MS. THORMANN: I don't want to
8 make any comment. I just asked about
9 the size of those deciduous trees. Are
10 they of such a size in that particular
11 area--

12 MR. ATZL: The ones he is
13 referring in his letter are the
14 proposed deciduous trees that we are
15 proposing for the site, not the
16 existing ones.

17 MS. THORMANN: Okay, that
18 clarified it, that clarified it.

19 MR. CAREY: I assume he is working
20 off of this.

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MR. KRAUSHAAR: Can I try to
crystalize the issue? This is all part
of the SEQRA process, and this can be
characterized as identifying an issue
which needs to be ameliorated through

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Proceedings 38

the SEQRA process, so it's been
identified as a problem and now
something has to be offered to mitigate
the problem.

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The issue that I am hearing is,
that the screening utilizing just
deciduous trees will not act as a
screen when those leaves fall, so
something is going to have to be
developed to mitigate that issue.

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MS. CUTIGNOLA: Which is fine.
The wrinkle is, that we are talking
about the 11 lot cluster that is really
a function of the mitigation to be put
forth in the FEIS and we are still in
the DEIS. I can't change the DEIS
plan, so the answer is, we will
absolutely put the trees where you want
them.

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The process-- we are working on
straightening out the process here, and
as we go forward, we will amend the
landscape plan to provide additional
evergreen screening, so the answer is

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Proceedings 39

06-10-09 Public Hearing.txt
2 yes, and the process is wrinkly.

3 MR. KRAUSHAAR: I don't know
4 exactly where it fits into the process.

5 MS. THORMANN: May I ask Denis
6 Letson on that.

7 MR. LETSON: I will try to
8 crystalize the crystallization.

9 MR. KRAUSHAAR: Go for it,
10 crystal.

11 MR. LETSON: All of these issues
12 have been identified, all right, there
13 is no doubt about that. Visual impact
14 of any development on this property is
15 one of the paramount concerns, and it's
16 the reason after three and a half years
17 we are still at the DEIS public hearing
18 stage.

19 The applicant has come in before
20 this Board to request to utilize
21 average density for an 11 lot alternate
22 development. Their concern, and what
23 they need to know before this thing is
24 going anywhere further, is whether or
25 not this Board is going to authorize

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1 Proceedings 40
2 the larger FAR that they are requesting
3 so that they can build a particular
4 home style.

5 The issues to be mitigated will
6 not change, whether they do the 11 lot
7 or the original standard 12 lot or
8 whatever layout they do, the issues are

06-10-09 Public Hearing.txt
still there.

We are not going to answer how those are going to be mitigated tonight or until this Board decides whether or not you are going to favorably entertain the FAR values that they are asking for.

If you don't favorably entertain those values, everything that we are discussing with the particulars of this 11 lot subdivision goes out the window, and we discuss it based on the 12 lot or a 12 lot average density or whatever else comes in to provide an adequate level of mitigation.

I am not even saying that this may end up being an 11 lot subdivision

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Proceedings 41

coming out the other end of this process, because up until some particular layout is analyzed in a level of detail to determine whether this Board feels that the potential impacts are adequately mitigated, there is no fixed layout.

MS. THORMANN: Any questions?

MR. LETSON: Is that crystalizing?

MS. THORMANN: Any questions?

Do you have any questions, Mr.

Sullivan?

MR. SULLIVAN: No.

MS. THORMANN: I am going to open

16 it up to the public now. Since this is
17 a continuation of a public hearing, if
18 there is anyone in the audience who
19 wishes to speak, please come forward,
20 identify yourself for the record.

21 MR. CHASEN: Good evening, my name
22 is Jan Chasen. I am the President of
23 the Forest Ridge Condominium. I really
24 wanted to talk about Mr. Baum's letter,
25 but I hear a sense of what is going on

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1 Proceedings 42

2 but I still would like to take a moment
3 on that, but before on this chart I am
4 going-- I am an accountant so I look at
5 numbers, and one thing I have to ask,
6 when you look at it, when you does his
7 standard 11 layout on the left, he uses
8 11 units, but they are numbered
9 differently than the ones on the right
10 so you may want to find out are they
11 comparing the same two set of 11.

12 MR. LETSON: Sorry about that,
13 Andy will explain that, but actually we
14 requested that they do it in a
15 particular manner.

16 MR CHASEN: That's my profession,
17 you know, I have do my thing, okay.

18 I will go to Mr. Baum's letter.
19 We are on the south so we are very
20 interested on his comments about the
21 buffer on the south.

22 First of all, south of us is a 50

23 foot buffer. Now all of a sudden you
24 are putting, or they are requesting
25 only a 10 foot buffer, so we question

♀

1 Proceedings 43
2 that depth and whether that is
3 satisfactory, and what happens to the
4 tree lines that are below that property
5 when they start doing their work,
6 because we have invested a lot in
7 maintaining that landscape, and we
8 would like to make sure that he has
9 enough property for a lot of trees and
10 we salvage our trees.

11 We also questioned the fact that
12 the evergreens, very important so that
13 we have that sense of privacy for both
14 sides, as well as people coming up.
15 You know, it doesn't only have to be
16 from the Tappan Zee Bridge you are
17 viewing, you are viewing it from the
18 town, and the tree lines will be very
19 important.

20 MS. THORMANN: Did you get his
21 address?

22 THE REPORTER: Yes.

23 MR. CHASEN: I want to repeat the
24 depth of that area should be considered
25 as 10 feet satisfactory. Also, when

♀

1 Proceedings 44
2 they plant the trees, they put them
3 in-- they can raise them up so that

4 water coming down that hill, if you
5 look at the water flow here, they are
6 going from one property to another
7 property to another property. I don't
8 know where the basins are, maybe early
9 in the process, but it seems like it's
10 all going to end up in Forest Ridge.

11 I used to live in New City
12 Condominiums. We are very sensitive to
13 water flow.

14 MS. THORMANN: We are all aware of
15 what happened there.

16 MR. KRAUSHAAR: Are you saying
17 there is a 50 foot buffer on your side?

18 MR. CHASEN: The south of us going
19 between us and the apartment building.

20 MR. LETSON: If I can answer that,
21 when the Forest Ridge Condominium was
22 developed, it was developed actually
23 under a zone change from a residential
24 district, an R District to an MF
25 District.

♀

1 Proceedings 45
2 As a part of that zone change and
3 a part of the development layout, I
4 believe the long path is now routed
5 along the south side of the Forest
6 Ridge development, and that was the
7 reason the 50 foot was set up, was not
8 that it necessarily buffers Forest
9 Ridge from the existing development to
10 the south, but it was established

11 actually to create an area where the
12 trail would go through and it would
13 minimize the views of both adjacent
14 developments from the trail.

15 MR. CHASEN: We encourage you to
16 keep that natural setting for deer and
17 everyone else.

18 MR. KRAUSHAAR: You are not even
19 doing that I guess on the north side.
20 It look like you guys cut down a ton of
21 trees.

22 MR. CHASEN: We didn't cut
23 anything down, the developer did.
24 That's a different story. We have been
25 putting in more trees.

♀

1 Proceedings 46

2 MR. KRAUSHAAR: There is no buffer
3 on your side?

4 MR. CHASEN: Between us and what?

5 MR. KRAUSHAAR: This property.

6 MS. THORMANN: Kury Homes.

7 MR. CHASEN: We have been putting
8 in a lot of landscaping and we would
9 like to keep the existing trees.

10 We understand when a developer
11 comes in he takes out, and there is
12 some question whether there is dead and
13 everything else. All we are asking is
14 that a buffer be more than 10 foot,
15 especially with a zone plan.

16 On the one side he has 20 and on
17 another one 25. Why between us there

18 is only 10? So we are suggesting in
19 some way or another we be accommodated
20 with a thicker buffer zone, and that it
21 be evergreen and not be the other.

22 MS. THORMANN: Deciduous.

23 MR. CHASEN: I also caution you,
24 putting them in beds will help the
25 water flow from not going down towards

♀

1 Proceedings 47

2 us and away from their homes, as well
3 as watching the basins that are going
4 to be there, because the water flow,
5 the way this thing is set up is all
6 going onto one property, and it could
7 eventually be us.

8 MR. ATZL: If you look at the
9 plan, we provide the swales along the
10 rear of all our homes, and we are
11 directing the water to the west and
12 parallel to the water line.

13 MS. THORMANN: I have extreme
14 confidence in Mr. Letson. He will not
15 let what Mr. Chasen is concerned about
16 happen.

17 MR. KRAUSHAAR: We'll give you his
18 home phone if anything happens.

19 MR. CHASEN: I remind you again
20 about New City Condominiums.

21 MS. THORMANN: We all know it and
22 the two million dollars it cost the
23 town. We are all aware of it.

24 MR. CHASEN: And I think you are

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Proceedings 48

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very encouraged with what is going on

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with the plan, so all we ask is that

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you use a little more foresight in the

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development of this plan, and I think

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that's really-- those are the points I

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would like to make, and I encourage you

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to get them to do these things and

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check the arithmetic.

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MS. THORMANN: Is there anyone

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else who wishes to speak?

12

MS. MC LARTY: Yvette McLarty. I

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live at 256 Mountainview Avenue which

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is directly across the street.

15

The issue is the last meeting I

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was very surprised to see that the

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driveway for the development is

18

directly across from our driveway. Is

19

there any way to change that planning?

20

I don't a lot about reading the

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maps and everything, but that part was

22

disturbing to me. We already have the

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nature trail to one side of our house

24

with a lot of disruption with people

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going there early in the morning and

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Proceedings 49

2

stuff. We can barely back out of our

3

driveway.

4

I don't like the idea that now we

5

are going to have to contend with

6 traffic directly across from our
7 driveway. People speed. They can't
8 see around that curve, and we have to
9 deal with that in addition.

10 MS. THORMANN: It is off to one
11 side?

12 MS. MC LARTY: I can't really
13 tell.

14 MS. THORMANN: You want to come
15 here and take a peak? Show her,
16 please.

17 MS. MC LARTY: That's my issue
18 anyway.

19 MS. THORMANN: Thank you. Is
20 there anyone else? If not. Mr.
21 Letson, there is no one else wishing to
22 speak.

23 MR. LETSON: You must continue.

24 MS. THORMANN: Right.

25 MR. LETSON: You have to make the

♀

1 Proceedings 50
2 decision on the request for FAR values
3 in order for this to proceed.

4 MS. THORMANN: Do you want to make
5 a decision? What is your
6 recommendation, Planner?

7 MR. LETSON: If you make the
8 decision on the FAR, you have to leave
9 the DEIS hearing open because they have
10 to incorporate this into the DEIS.
11 What is your pleasure?

12 MS. THORMANN: What is your

06-10-09 Public Hearing.txt
13 pleasure, gentlemen?

14 MR. KRAUSHAAR: Before you do
15 anything, you don't make a formal
16 decision, it's all in the nature of a
17 recommendation. The actual approval is
18 given by the Town Board.

19 MS. THORMANN: I understand that.
20 I used the word wrong, I am sorry.

21 MR. KRAUSHAAR: For the record.

22 MS. THORMANN: I don't have my
23 thesaurus with me.

24 What is your sense in terms of
25 anything as far as a recommendation?

♀

1 Proceedings 51

2 MR. STREITMAN: I want to go back
3 to, I guess, the FAR.

4 You were saying earlier it was .3
5 I guess prior to the change in the law.

6 MR. PRICE: In the town as a
7 whole, yes.

8 MS. CUTIGNOLA: For R-22.

9 MR. PRICE: It was .2, and then in
10 like early '93 or '94 they changed it to
11 a .3, and incorporated the basement and
12 the garage. It must have been in 2001
13 or 2. They decided to-- people said
14 the houses were too big in the town,
15 they want to go back to the old way and
16 they changed it back to .2 but didn't
17 change the method, so we wound up now
18 with this .2 a, much more restrictive
19 .2 than there used to be in the old

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days.
Just so you understand, what we are looking at here is not to do anything different than just we want to do a cluster plan where we can move the houses to a location, we just want to

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Proceedings 52

build the same houses, not smaller houses on smaller lots because that would hurt us economically, and this chart shows it's exactly the same houses, just where they are sited.

MS. THORMANN: Mr. Geneslaw, this is an unfair question tell me and I will withdraw it.

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Since you are the dean of planners around, what do you think would be the impact, how much of a precedent do you think we would be setting if we accepted this variable FAR?

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MR. GENESLAW: Well, it's probably unique for the town, but it's not unique to all communities. Other communities use a variable FAR or variable lot sizes when they approve cluster developments.

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The whole purpose of the statute is to give the Board more flexibility than conventional zoning would allow in order to protect open spaces, protect views, protect wetlands and you are

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doing that, and your ultimate resolution is going to include those kinds of factors as the reason for doing it.

If anything, I think the Board would be advancing towards a more flexible approach than has been the case for many years by having the variable floor area ratio.

MS. THORMANN: Thank you for your wisdom. So now you have the benefit of Mr. Geneslaw's opinion.

Mr. Yacyshyn.

MR. YACYSHYN: I would be favorably inclined to take the variance of the FAR. I concede the evidence of what occurred in Camelot, and it's a lot more complicated than what was very briefly described, some of the background of that --

A VOICE FROM THE AUDIENCE: Can you use the mic please?

MS. THORMANN: Speak there, please, they can't hear you.

MR. YACYSHYN: I am personally in favor of the variable FAR to be applied here. It can be shown to make sense for the viewscape and everything else, and that I think what happened in Camelot is a lot more complicated than

8 what was very briefly described here,
9 the history of that. It was over some
10 years anyway, but I think in the final
11 analysis what happened there wasn't
12 unfavorable at all. I think it worked
13 to a large degree.

14 MS. CUTIGNOLA: I would just like
15 to remind the Board that there is
16 nothing --

17 MS. THORMANN: They can't hear you
18 either.

19 MS. CUTIGNOLA: There is nothing
20 like looking at something to understand
21 what is going to happen when you make
22 your decision, and the only reason we
23 brought those pictures was so that you
24 can have a good visual sense of how it
25 is implemented.

♀

1 Proceedings 55

2 MS. THORMANN: Mr. Streitman is
3 very familiar with Camelot as is
4 everyone seated at this table.

5 MR. YACYSHYN: You will have to
6 demonstrate that to us.

7 MS. CUTIGNOLA: We were not
8 approaching it from the point of view
9 of a precedence, we are just saying
10 look, when you are done, this is what
11 it will look like.

12 MR. YACYSHYN: Stand on it's own.

13 MS. THORMANN: Mr. Sullivan, what
14 is your feeling?

15 MR. SULLIVAN: I am inclined to
16 agree with Mr. Geneslaw. I think the
17 variable provides the flexibility in
18 this particular case that would address
19 some of the issues that have been
20 identified.

21 MS. THORMANN: Mr. Carey.

22 MR. CAREY: My only concern with
23 it is why this case? Why apply here
24 and not somewhere else? So when the
25 next one does come up, what is the

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1 Proceedings 56

2 rational for applying it here and not
3 somewhere else?

4 MS. THORMANN: That's what we are
5 going to have to justify. I think you
6 were the one who alluded to, or was it
7 you when it comes to the final approval
8 we are going to have to justify why we
9 did this, but you know, a lot of it
10 relates to specific lots.

11 Chris.

12 MS. CUTIGNOLA: I think the answer
13 to your question is, it's only
14 implemented when the applicant requests
15 the cluster regulation.

16 If somebody is going to come to
17 you with a straightforward R-22
18 application, they are not going to be
19 in a situation to be applying variable
20 FAR's. I want you to understand that.

21 When you apply for the average

22 density, it basically gives the Board,
23 just as Mr. Geneslaw described, the
24 flexibility to preserve, you know,
25 preserve the areas up front and to take

♀

1 Proceedings 57

2 your development off the steep slopes
3 and out of the wetlands, and under
4 those, only under that is the variable
5 FAR meaning applied, not everywhere.

6 MR. CAREY: I understand that.
7 Here is my gut feeling, and in an area
8 where the viewshed is very important
9 here, my gut feeling is that smaller
10 buildings are better because they will
11 be less conspicuous.

12 I just want to hear the rational
13 and explain a little bit economically
14 how you would be injured by having a
15 smaller footprint of a house.

16 MS. CUTIGNOLA: Well, the variable
17 FAR was really to prevent-- being able
18 to build overly large-- some of the
19 lots are regularly shaped and it was
20 really a protection for the oversized
21 lots, so that we reduced the FAR down
22 to the .22 I think is the lowest one so
23 that somebody could not come back later
24 and try to say well, my FAR is .25 or
25 29 and therefore I am allowed, that we

♀

1 Proceedings 58

2 are providing a regulation on the

3 larger lots to limit on the larger lots
4 to a smaller FAR.

5 MR. PRICE: What happens, if we
6 pick one number, then there are some
7 big lots. The houses on those lots
8 would be allowed to be huge, so the
9 only reason we are trying to go with
10 the variables, so that we can get
11 reasonable ones on the smaller lots and
12 the variables limits us on the bigger
13 lots. If we pick one even number, we'd
14 have more space available on the bigger
15 lots. We are not looking to build ten
16 thousand square foot houses, but
17 technically if we picked a .3 for the
18 small lots, we can be able-- we would
19 be allowed to build ten thousand square
20 foot which the Board and we don't want
21 to do, so it protects the Board from
22 the larger lots is the idea behind it,
23 that's why we are stuck with it.

24 MS. THORMANN: I have a question.
25 Andy, perhaps should be the one, what

♀

1 Proceedings 59
2 would be the height of these homes the
3 largest in relationship to the height
4 of Mountai nvi ew Condos?

5 MR. ATZL: Maximum height would be
6 35 feet.

7 MS. THORMANN: Do you know what
8 the height of Mountai nvi ew Condos
9 happens to be?

10 MR. ATZL: Two and a half to three
11 stories, a smaller height, depends how
12 they are set into the hillside where
13 Mountai nview Condos are all slab, two
14 story.

15 MS. THORMANN: I understand that.
16 We are not talking about that. I
17 wanted to know the height
18 di fferentiati on there.

19 Then it comes to me. I believe
20 that lots or plots or plats impact what
21 you put there, and that's why I agree
22 with colleagues to my right, that in
23 order to make it as palatable as
24 possible, to have the impervious
25 service controls, to have the emergency

♀

1 Proceedings 60
2 exit for Mountai nview Condomi ni ums,
3 that I would support the vari ables in
4 thi s instance. But, gentlemen, we have
5 to be sure that when we do the final
6 approval, we support why we have done
7 it on thi s parti cular plot.

8 Chris, are you coming with us?

9 MR. CAREY: I just wanted to hear
10 the rational at the end of this, that
11 is what I am concerned.

12 If I get that at the end of the
13 process that Dennis talked about, I am
14 fi ne.

15 MS. THORMANN: We have to make a
16 recommendati on now, don' t we? Yes, we

17 do. We were told we were to make a
18 recommendation by the attorney.

19 MR. KRAUSHAAR: Not that I told
20 you you had to. It's not in the nature
21 of an approval.

22 MR. GENESLAW: When you get to the
23 point when you have a plan that you
24 like, that is when you should be
25 referring it to the Town Board so there

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1 Proceedings 61
2 may be -- that can be apart from
3 completing the SEQRA process, but there
4 may be other issues that you want to
5 consider that don't directly relate to
6 the floor area ratio question.

7 MS. THORMANN: But I thought we
8 wanted to let them know what we thought
9 about the variable before we go on.

10 MR. GENESLAW: Yes, because they
11 need to know that detail on the plan.

12 MR. KRAUSHAAR: In perfecting the
13 plan, you know, once they get into the
14 detail, if something else arises as you
15 revisit it.

16 MS. THORMANN: It could impact on
17 it. They understand that.

18 MS. CUTIGNOLA: Of course, we
19 understand that.

20 Are we at a point where we can
21 submit this plan and the standard 11
22 lot to Rockland County for -- there had
23 been a previous request by Rockland

06-10-09 Public Hearing.txt
24 County a year ago before the June
25 public hearing.

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1 Proceedings 62
2 Rockland County looked at this
3 plan and they said we have never seen a
4 standard plan to support this average
5 density. We now have that standard
6 plan.

7 Are we in a position to submit
8 that for you to actually submit that to
9 them for their recommendation?

10 MR. GENESLAW: I would say it's up
11 to the Board. If the Board feels it's
12 far enough along, you certainly can,
13 and you may get some responses from
14 County Planning on issues we didn't
15 think about that needs to be addressed
16 before the plan goes too much further.
17 I would encourage it.

18 MS. THORMANN: With any caveats?

19 MR. GENESLAW: I will ask counsel
20 a question. Considering where we are
21 in the process, if the County comes
22 back with recommended modifications, is
23 it the Planning Board or the Town Board
24 that would have to override?

25 MR. KRAUSHAAR: On a standard

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1 Proceedings 63
2 layout?

3 MR. GENESLAW: A cluster. If you
4 want some time to think about it, I

5 don't think we need an answer tonight,
6 but it just occurred to me as we were
7 talking, it could happen.

8 MR. KRAUSHAAR: It will be
9 directed to this Board, that's for
10 sure.

11 MR. LETSON: Although I generally
12 find myself in agreement with the wise
13 planner, I guess my question would be
14 if -- the county may have asked for
15 this plan because they hadn't seen it
16 before, but this is a plan that's only
17 before this Board informally to resolve
18 one issue with regards to the overall
19 process.

20 I think the better alternative
21 would be if the applicant, you know, is
22 choosing to go forth with the plan
23 based on this Board's willingness to
24 entertain a variable FAR, then they
25 should proceed with preparing the

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1 Proceedings 64
2 supplement to the DEIS, and that should
3 be distributed in due course with the
4 County being a part of that
5 distribution list and all agencies and
6 the public get the same opportunity to
7 comment.

8 MR. KRAUSHAAR: I agree with him.

9 MS. CUTIGNOLA: Can I ask a
10 question? Is it absolutely necessary
11 to prepare this as a supplement? Can

12 we not -- could we please prepare this
13 as an alternate in the FEIS? Is there
14 some problem with that?

15 MR. LETSON: Yes, the fact that
16 the DEIS hearing hasn't been closed
17 yet.

18 MS. CUTIGNOLA: We would like to
19 close it.

20 MR. LETSON: I would recommend
21 against it. I think this Board and
22 every other agency and the public are
23 all entitled to a supplement, so that
24 all of the possible alternates can be
25 evaluated in toto and not that the DEIS

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1 Proceedings 65
2 be closed, and this be entertained as a
3 new alternate in the FEIS because then
4 it severely limits the comment period
5 and the comments that could be
6 generated on any layout, and the fact
7 is, at this point it's so far down the
8 road in this process, that to prepare a
9 supplement to the DEIS, with everyone
10 being intimately familiar with the
11 potential impacts and what the
12 mitigations may or may not be, I don't
13 think that there is any loss of time in
14 creating the supplement and having all
15 of the comments evaluated with all of
16 the layouts side by side.

17 MS. CUTIGNOLA: But the
18 supplement -- fine. The supplement is

19 not going to address the comments. We
20 are not going to even begin -- that's
21 my concern. I would actually prefer,
22 and I will defer to whatever your
23 choice is, but I would prefer to be in
24 the FEIS situation such that we could
25 respond to some of the comments when

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1 Proceedings 66

2 the question is asked, can you put
3 evergreen trees along here, we have a
4 comment and we can respond to that.

5 MR. LETSON: I understand that.

6 The fact is, though, what you are
7 proposing is to close the hearing, then
8 utilize an alternate site plan or an
9 alternate development plan that's only
10 been before the Board on an informal
11 basis which severely limits the
12 potential comment on that plan itself.

13 You are telling-- basically what
14 you are looking at doing is closing the
15 DEIS process saying we looked at all of
16 the comments, and this plan is what we
17 are submitting to respond to all of
18 those comments, and this plan may or
19 may not adequately or fully mitigate
20 all of the impacts that have been
21 raised to date, and the same comments
22 relative to impact and traffic and the
23 location of the driveway and screening
24 and buffering are all applicable to
25 this plan in the same manner as they

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Proceedings 67

are applicable to any other plan, it's just this plan now is one of the alternates that you are proposing to provide mitigation.

This Board is going to have to determine whether that level of mitigation is adequate for the site, and I think that really blocks it back into the DEIS process in order to provide an adequate comment.

MS. CUTIGNOLA: So I have the short list of additional things that we are prepared to deliver tonight, then I have a longer list of other items that we have been asked to prepare such as a cut and fill analysis of the 11 lot clusters is a good example.

I am at a loss right now as to how to continue with the process. You want me to prepare a supplement to the DEIS?

MR. LETSON: A supplement to the DEIS that includes the narratives, how you are proposing this as an alternate layout to provide a greater level of

Proceedings 68

mitigation, the charts that you prepared. That's why I say, your preparation of a supplemental DEIS at this point is merely, I don't want to say merely, it's more of an exercise of

06-10-09 Public Hearing.txt
7 repackaging the information that you've
8 generated and formatting it for that
9 document so that all of the elements
10 are in one place and reviewable.

11 MS. CUTIGNOLA: Okay.

12 MS. THORMANN: Anything else?

13 MR. LETSON: I really have to
14 worry now why the attorney is looking
15 so much like the Cheshire Cat.

16 MR. KRAUSHAAR: I am having Joe
17 get a copy of 617 because I think that
18 there are only a few rationales where
19 you do an SEIS, a supplemental.

20 MS. CUTIGNOLA: When new
21 information has come forward.

22 MR. LETSON: Change to the project
23 scope or new information, both of which
24 are sitting at the table in front of
25 you.

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1 Proceedings 69

2 MR. GENESLAW: While we are
3 waiting, according to the regulations,
4 the Board can require a supplemental
5 EIS limited to specific significant
6 adverse environmental impacts not
7 addressed or inadequately addressed in
8 the EIS that arise from changes
9 proposed for the project, newly
10 discovered information, or a change in
11 circumstances related to the project,
12 and my feeling is what we are talking
13 about now marginally fits, it's one of

14 those categories, and I would hate for
15 the Board to do something that it turns
16 out is inconsistent with the
17 regulations, so I am going to suggest
18 we just call it an addendum rather than
19 a supplemental EIS and get the same
20 information when the Board reviews it.

21 The additional information Ms.
22 Cutignola just talked about can also be
23 incorporated into the FEIS with respect
24 to comments, and from my perspective it
25 is a cleaner way to handle it.

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1 Proceedings 70

2 MS. THORMANN: Thank you. Any
3 questions to Mr. Geneslaw on that
4 point?

5 All right.

6 MS. CUTIGNOLA: So what is my next
7 step, to prepare an addendum that looks
8 a lot like this? It's not each DEIS
9 section over again.

10 MR. GENESLAW: No, only the
11 additional information.

12 MS. CUTIGNOLA: This information
13 that I am going to prepare, it will be
14 just a revised cut and fill analysis
15 referring to the background information
16 that is already in the DEIS and then
17 how it relates to this particular plan?

18 MR. GENESLAW: Yes, that would be
19 my suggestion, and I ask the Board to
20 adjourn the hearing, keep it open until

21 the information comes in, the public
22 has had an opportunity to comment on
23 it, then close, and then they can do
24 the FEIS.

25 MS. THORMANN: Right. Is that

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1 Proceedings 71

2 understood by the public, what Mr.
3 Geneslaw just said? Okay.

4 MS. CUTIGNOLA: So I am going to
5 prepare a supplement, then I am going
6 to distribute it to everyone like the
7 DEIS or an FEIS?

8 MR. GENESLAW: At this point I
9 would only suggest you distribute it to
10 the Board and the town staff, not to
11 outside agencies until we have all had
12 a chance to look at it.

13 MS. CUTIGNOLA: Okay.

14 MR. GENESLAW: I have to look at
15 it before you send it on to the Board.

16 MS. CUTIGNOLA: Okay.

17 MR. GENESLAW: That would be okay
18 with me if that's okay with the Board.
19 I don't think it should go to other
20 outside agencies until there has been
21 some internal review.

22 MR. KRAUSHAAR: How long do you
23 think that will take? Don't undersell
24 yourself.

25 MS. CUTIGNOLA: May I read my list

♀

1 Proceedings 72

06-10-09 Public Hearing.txt
of things I think you want in case

there is anything else?

MS. THORMANN: Consultants,
listen.

MS. CUTIGNOLA: Everybody paying
attention?

MS. THORMANN: Listen up in case
there is something that she has--

MS. CUTIGNOLA: The things that we
have with us tonight is, we have added
the height limit on the bulk table of
the 11 lot cluster. We listed the
height of the stone walls, identified
the Afarian property, the town property
that was the Afarian property.

I have the new JD for the wetlands
with me and speed study and sight
distance analysis. I have information
in my hand and I can leave it with you
tonight.

My anticipation was that I would
submit those things, that we would
have -- we would request a date certain
for a continuation of this hearing and

♀

Proceedings 73

then be able to close the DEIS hearing,
and this is the additional information
I thought was going to go in the FEIS,
and now this is the addendum that will
be in the supplement.

A discussion of energy
conservation measures, a photo

9 simulation of the 11 lot cluster from
10 Mountainview at the site access, a cut
11 and fill analysis of the 11 lot
12 cluster, steep slope analysis of the 11
13 lot cluster, a traffic level of service
14 analysis at Mountainview Avenue and the
15 site access drive, definitions of the
16 population of the Nyack Fire District,
17 and a letter of approval from the
18 Mountainview Board of Directors
19 regarding the proposed emergency
20 access.

21 The other things that were
22 mentioned in some of my various notes,
23 there was a request for fire flow
24 calculations and details of the
25 sanitary sewer construction plan.

♀

1 Proceedings 74

2 If I am not mistaken, those are
3 actually part of the plan approval
4 process and those would not be included
5 in the addendum, unless we decide
6 otherwise.

7 MS. THORMANN: All right. Bob,
8 Mr. Geneslaw, I am sorry, those things
9 that she has at the top, those points
10 at the top, shouldn't they be included
11 in the addendum all in one rather than
12 separated?

13 MR. GENESLAW: Yes.

14 MS. CUTIGNOLA: Now they will. I
15 wrote the letter before.

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♀

MS. THORMANN: Any questions?

MR. LETSON: The only thing that I would suggest, again just to confer on this, the list of elements that you generated, Ann, does that also incorporate any of the issues that were raised at the June 25th, 2008 hearing? You have the transcript of that.

MS. CUTIGNOLA: I do.

MR. LETSON: Is there anything in

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Proceedings 75

there that is not on your list?

MS. CUTIGNOLA: It includes the majority of the -- it includes all the items requested by the Board, and I can't promise that, that is really the FEIS.

I went through both hearing transcripts and made this list, so for example, the traffic analysis of a level of service at Mountainview Avenue, that was something that came from the public at the public hearing, that didn't come from the Board.

I believe, but I can't be certain, that this list incorporates virtually everything that was mentioned in those hearings, but I will not promise you that there will be no comment, that won't be addressed. We have to do the work and we have to supply the information, and you know me, I am not

23
24
25

one to hold back information or
presentation, so I will go through it
before we finish, and if there is

♀

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Proceedings 76

2

something else that is critical there,

3

I will either include it or get

4

permission to not include it, all

5

right? Like the sanitary sewer, we'll

6

not be providing that.

7

MS. THORMANN: Okay. How long

8

will it take you to do that?

9

MS. CUTIGNOLA: A lot of the work

10

is done, three or four weeks, maybe

11

sooner.

12

MS. THORMANN: Pardon?

13

MS. CUTIGNOLA: Perhaps sooner. I

14

would say three or four weeks.

15

MS. THORMANN: I need to know.

16

You have to give the consultants time

17

to go through it. We have a meeting on

18

the 24th and then there is not another

19

meeting. You want to give her the

20

dates, the summer schedule.

21

Joe, do you have your book with

22

you, please?

23

MS. CAUTILLO: We have one in

24

July, one in August.

25

MS. THORMANN: One in July, one in

♀

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Proceedings 77

2

August.

3

MS. SIMOES: July 22nd and August

4 26th.

5 MS. CUTIGNOLA: If we submit the
6 information prior to July 1st, would
7 that give the consultants a sufficient
8 amount of time for the July 22nd?

9 MR. LETSON: By when?

10 MS. CUTIGNOLA: July 1st.

11 MS. THORMANN: July 1st. Give us
12 a week to ten days to go through it.
13 It should, it should. Okay.

14 MR. SIMOES: We need the three
15 week lead time on the publication.

16 MS. CUTIGNOLA: Can we set a date
17 certain for that meeting? Can we do
18 that contingent upon us getting you the
19 information by July 1st?

20 MR. KRAUSHAAR: Everyone available
21 on August 26th?

22 MS. THORMANN: The reason I am
23 asking counsel, can we set a date
24 certain with the proviso that the
25 information reaches --

♀

1 Proceedings 78

2 MR. LETSON: You can establish a
3 date certain with a condition that the
4 information be submitted by a
5 particular date.

6 MS. THORMANN: By July 1st. What
7 day of the week is July 1st?

8 MS. CUTIGNOLA: A Wednesday.

9 MS. THORMANN: Okay.

10 MR. CAREY: To meet at the July

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meeting.

MS. THORMANN: July meeting.

MR. KRAUSHAAR: I misspoke, July 22nd.

MR. SIMOES: For us to schedule a meeting July 22nd we would have to submit to the paper a publication that day, the day we received it just to be sure. We have to have that information, and then it would end up in the newspaper a week later.

MR. KRAUSHAAR: If you are continuing tonight, you don't have to readvertise.

MR. SIMOES: Is that the case?

Proceedings 79

MR. KRAUSHAAR: If you are continuing to a time certain.

MS. THORMANN: Right. There are interested parties here, so did you understand the implication of what he said? There will not be another mailing for that meeting since we have established a date certain, so it falls upon you to inform whoever is interested in the area to come to that meeting if you wish to participate.

MR. GENESLAW: Ms. Thormann, for the benefit of the public--

MS. THORMANN: Excuse me, this is for your benefit, the public's benefit.

MR. GENESLAW: In the event the

18 information comes in too late and it
19 can't be reviewed in enough time, the
20 22nd, simply open the hearing and
21 extend it to another date certain for
22 consideration by the Board so people
23 ought to stay tuned.

24 MS. THORMANN: You will be in this
25 seat, Mr. Yacyshyn.

♀

1 Proceedings 80

2 MR. GENESLAW: Thank you.

3 MS. THORMANN: Thank you. Mr.
4 Geneslaw thinks of everything.

5 MR. GENESLAW: I try.

6 MS. CUTIGNOLA: I do have one
7 other-- I am not sure it's inside the
8 public hearing. I would like to
9 discuss your process for mailing and
10 make a suggestion. Would you like that
11 in the minutes or like that separate?

12 MS. THORMANN: I would like that
13 separate, please.

14 MS. CUTIGNOLA: No problem.

15 MS. THORMANN: If you don't mind,
16 because we have another hearing
17 following this.

18 MR. KRAUSHAAR: We need a motion.

19 MS. THORMANN: I know we need a
20 motion. I am well aware of that. I
21 just asked her if she had anything else
22 she wished to say.

23 MR. KRAUSHAAR: Okay.

24 MS. THORMANN: I will entertain a

25

♀

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Proceedings 81

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MR. YACYSHYN: So moved.

3

MS. THORMANN: Moved by--

4

MR. KRAUSHAAR: To July 22nd at

5

7:30 p.m. subject to the applicant's

6

submitting the addendum to the Town

7

Planning Office by July 1st.

8

MS. THORMANN: 2009.

9

MR. KRAUSHAAR: 2009.

10

MS. THORMANN: I had to do it.

11

All right. Seconded? Either one.

12

MR. SULLIVAN: Second.

13

MS. THORMANN: Okay, seconded.

14

All in favor?

15

(A chorus of ayes.)

16

MS. THORMANN: Thank you.

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C E R T I F I C A T I O N 82

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STATE OF NEW YORK)

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COUNTY OF ROCKLAND)

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STATE OF NEW YORK
TOWN OF CLARKSTOWN

-----X
Minutes of
The Clarkstown Planning Board
June 25, 2008 - 7:30 p.m.
at
City Hall
10 Maple Avenue
New City, New York 10956-5099
-----X

B E F O R E:

- SHIRLEY J. THORMANN, Chairwoman
- RUDOLPH J. YACYSHYN, Vice Chairman
- GILBERT J. HEIM, Member (Not present.)
- GEORGE A. HOEHMANN, Member (Not present.)
- RICHARD SHOBERG, Member
- ROBERT D. JACKSON, Member (Not present.)
- CHRISTOPHER S. MARTONE, Member

P R E S E N T:

- ROBERT GENESLAW, Planning Consultant
- CHARLES MANERI, Building Plans Examiner
- DENNIS M. LETSON, Deputy Director
Environmental Control
- DANIEL KRAUSHAAR, Deputy Town Attorney

HOWARD BRESHIN REPORTING
8 Edsam Road
Valley Cottage, New York 10989
(914) 426-2400

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Proceedings 2

MS. THORMANN: Continuation of
DEIS Public Hearing: Kury Homes,
Subdivision Layout 59.20-1-3, 4 and 5
(FKA 13D16+) Central Nyack (Proposed 11
lot subdivision of 10.29 acres R-22

7 zoned land, east side Mountainview
8 Avenue 150 north of Forest Ridge Road,
9 (abutting Mountainview Condos).

10 Would you identify yourself for
11 the record, please.

12 MS. CUTIGNOLA: Anne Cutignola,
13 Tim Miller Associates for the
14 applicant.

15 MR. ATZL: Andrew Atzl, land
16 surveyor for the applicant.

17 MS. THORMANN: Do you have a
18 statement you would like to make?

19 MS. CUTIGNOLA: We have been
20 before the Planning Board for a while.
21 The public hearing for this matter was
22 held some time ago.

23 The applicant had made some
24 modifications, I should say prepared an
25 alternative to the proposed site plan

♀

1 Proceedings 3
2 based on recommendations of the
3 Planning Board and concerns of the
4 Planning Board.

5 He has taken many steps to try to
6 make this project acceptable to the
7 Planning Board in developing his
8 alternative.

9 We are here tonight for the
10 continuation of the public hearing.
11 The site plan before you is an 11 lot
12 cluster which deals with many of the
13 issues that were of concern to the

14 Board in terms of steep slope,
15 wetlands, visual analysis, so we are
16 hoping that we can tonight come to some
17 conclusion in the DEIS so we can
18 continue the conversation on the 11 lot
19 cluster.

20 MS. THORMANN: I am going to ask
21 the consultants if they have anything
22 they wish to put on the record.

23 MR. MANERI: I don't have
24 anything.

25 MS. THORMANN: Since this is

♀

1 Proceedings 4
2 related to the Draft EIS, the Draft
3 Environmental Impact Statement so that
4 you know. Mr. Letson.

5 MR. LETSON: We had previously
6 indicated that the 11 lot cluster
7 seemed to address a number of the
8 issues that were raised by the Board,
9 the public and the consultants in the
10 past.

11 Although we did reserve comment in
12 the event the Board chooses to have
13 this layout go forward, we'll still be
14 looking for details, a revised
15 hydraulic analysis and a number of
16 other elements to make a recommendation
17 to the Board as to the level of
18 mitigation that this plan affords over
19 the previous plans that you've
20 reviewed.

21 With regards to the plans that
22 were submitted, the one inconsistency
23 in the plan is the roadway alignment
24 has been revised on the subdivision and
25 the grading plans, but it still appears

♀

1 Proceedings 5
2 as the straight road alignment on the
3 landscaping plan.

4 One of the issues that was raised
5 by the Board was the visual appearance
6 from Mountainview Avenue, so those two
7 plans should be coordinated, and in
8 addition, there should be some
9 commentary vis-a-vis the configuration
10 and the physical parameters of that
11 road and how they conform to the Town's
12 design standards.

13 There was another document that
14 apparently was posted on the web site
15 Mr. Simoes has pulled down and
16 provided. There are a number of
17 inconsistencies within that document.

18 In the third paragraph about
19 halfway down with regards to the total
20 slope disturbance figures, they refer
21 to the overall disturbance figures that
22 were quoted previously in the
23 narrative.

24 In the table that was provided on
25 the second page, it indicates that the

♀

1 Proceedings 6

2 no action alternative, which is
3 existing conditions, the gravel
4 driveways and the two homes that were
5 existing on the site previously
6 represented 2.77 acres of impervious
7 area, and that both the proposed
8 standard layout and the cluster
9 alternative would actually create as a
10 net result less impervious surface
11 which the plans don't seem to fair.

12 MS. CUTIGNOLA: We did actually --

13 MR. LETSON: Within that, the 2.77
14 acre number is actually, if you refer
15 back to the full body of the DEIS that
16 was previously submitted, refers to
17 that as the total of grass and
18 disturbed areas that existed on the
19 site as a result of the previous
20 residences, so those numbers need to be
21 revised, and the documents kind of
22 cleaned up and possibly expanded a
23 little bit if it's to become an
24 addendum to the DEIS so that adequate
25 level of review and comment can be

♀

1 Proceedings 7

2 provided.

3 MS. THORMANN: Okay.

4 MS. CUTIGNOLA: May I respond?

5 MS. THORMANN: If you wish.

6 MS. CUTIGNOLA: I do. I did

7 become aware of that.

8 MS. THORMANN: You will have to

9 speak a little louder because I think
10 the people are having trouble hearing.

11 MS. CUTIGNOLA: We did review the
12 2.77 acres yesterday and you're
13 correct, the number in that table
14 should be 0.77 for the impervious of
15 the no action, and that is an error in
16 that table, and it should be corrected
17 to read 0.77. I have amended tables,
18 if that would be helpful this evening,
19 so that he is absolutely correct.

20 MS. THORMANN: Mr. Geneslaw.

21 MR. GENESLAW: I will try not to
22 repeat the comments of Mr. Letson and
23 the memo you have from Mr. Simoes, but
24 we discussed it at TAC previously this
25 morning. There was an indication that

♀

1 Proceedings 8

2 it appeared that the changes to the cut
3 and fill analysis needs to be
4 reexamined based on the amount of time
5 we can spend on it. They did not
6 appear to be consistent.

7 Also I point out the Town's new
8 Tree Preservation Law will apply to
9 this application, and we are going to
10 be suggesting that revised information
11 come back to TAC and to the Planning
12 Board before the FEIS process begins.

13 MS. THORMANN: All right. Since
14 usually I would wait until the rest of
15 the consultants have finished, but do

16 you want to explain the procedure for
17 this so that everybody in the audience
18 understands how we move from the DEIS
19 to the FEIS?

20 MR. GENESLAW: This one is a
21 little bit unusual in that the 11 lot
22 cluster alternative is coming towards
23 the end of the DEIS stage, but it was
24 decided that it would be better to do
25 it at that time than waiting until

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1 Proceedings 9
2 later for the FEIS stage, because doing
3 it now provides the public a greater
4 opportunity to comment on the plan and
5 to monitor, in effect, the changes to
6 the plan that come out of the public
7 hearing, so once the Board is satisfied
8 that the information is correct for the
9 11 lot cluster alternative, the public
10 hearing can be closed, which I do not
11 expect to be tonight, and the applicant
12 can move onto the Final Environmental
13 Impact Statement which is really
14 typically a question and response
15 format with the applicant answering all
16 of the questions that have been raised
17 during the process up until that time,
18 whether it be comments from the public
19 at public hearings, comments from Board
20 members, comments from staff or
21 comments from outside permit agencies.

22 MS. THORMANN: Thank you. Mr.

23

Si moes.

24

MR. SIMOES: Some of the comments

25

have been made by Mr. Letson and Mr.

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Proceedings 10

2

Geneslaw, so bear with me.

3

It appears that the road alignment

4

is different in the landscape plan as

5

compared to the subdivision plat, that

6

was addressed or made.

7

The site plan shows stone walls

8

that are indicated as existing, but I

9

would think appear to be proposed, and

10

the height of those stone walls should

11

be indicated on the plan.

12

As Mr. Letson mentioned the

13

alternative impact in comparison table

14

1 in the 11 lot cluster alternative

15

dated June 25, 2008 has some

16

discrepancies, especially with regards

17

to the impervious surface that is

18

indicated for the no action as compared

19

to the standard and cluster

20

development.

21

The cluster development allows the

22

Planning Board to vary bulk

23

requirements to allow the development

24

of the same number of residential units

25

of smaller lots.

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Proceedings 11

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The Planning Board should consider

3

the size of the proposed homes in

4 relation to those reduced lots,
5 especially in regards to the visual
6 impact of these residences.

7 The proposed bulk, which is shown
8 on the cluster subdivision plat,
9 decreases the minimum lot size by 20
10 percent, that is from 22,500 square
11 feet to 18,000 square feet. It
12 increases the floor area ratio from
13 0.20 to 0.30, so on a standard R-22
14 lot, a 4,500 square foot home could be
15 built, and that would have a FAR of
16 0.20, that as compared to a 5,400
17 square foot home on an 18,000 square
18 foot lot with the proposed FAR of 0.30.

19 Typically, there is a proportional
20 decrease, not an increase, a decrease
21 in the size of the homes as the lot
22 sizes decrease.

23 The bulk table for the cluster
24 also shows that setbacks are reduced,
25 but they are typically not reduced to

♀

1 Proceedings 12
2 the extent as proposed.

3 I gave, I will provide the Board
4 with a comparison of the R-22 zoning
5 district versus the R-15 and what is
6 essentially in this cluster
7 subdivision, an R-18, and I will just
8 run that down.

9 For an R-22, as I mentioned, the
10 minimum lot area would be 22,500 square

11 feet. In this cluster would be 18,000
12 and 15,000 square foot.

13 Lot width for an R-22 is 120, and
14 R-15 is 100, and R-18, or this cluster
15 subdivision they are proposing 80.

16 The front setback is 35 in an
17 R-22, 30 in an R-15. The proposed,
18 what is proposed for this cluster is
19 30. Side setback for R-22 is 20. R-15
20 is 20. This cluster is 15. Total side
21 setback, R-22 is 50. R-15 would be 40,
22 and this cluster, as I said, which is
23 similar to an R-18, would be 30, or as
24 proposed to be 30.

25 Rear setback, R-22 is 50. R-15 is

♀

1 Proceedings 13
2 35, and here it's proposed to be 30,
3 and just as illustrating the FAR, the
4 FAR for R-22 is 0.20. R-15 is 0.23.
5 R-18 this is somewhere in the middle in
6 terms of the lot area, so you would see
7 it somewhere between 0.20 and 0.23.
8 They are proposing 0.30, so the
9 setbacks being proposed for the cluster
10 are less in almost all cases, less than
11 those of the R-15 zoning district.

12 To be proportional, this cluster
13 should be about 0.22, and that would
14 result in a 4,000 foot home on an
15 18,000 square foot lot. Even if the
16 Board would maintain the same size home
17 as would be allowed in an R-22 lot,

18 that's a 4,500 square foot home. That
19 would require a FAR of 0.25 on an
20 18,000 square foot lot, not 0.30, so
21 it's something to consider in those
22 bulk requirements which the Board has
23 the ability to vary in order to
24 preserve scenic and open space.

25 MS. THORMANN: Would you like to

♀

1 Proceedings 14

2 respond to that?

3 MS. CUTIGNOLA: We are not
4 requesting a downzoning to R-15 or
5 R-18. The purpose of the cluster is to
6 allow development under different bulk
7 regulations in order to allow for the
8 preservation of the open space and to
9 consider the other environmental
10 factors on the site, so it's not
11 really -- it is not a direct proportion
12 from the R-22 down to the R-18.

13 What we have proposed here allows
14 the applicant to reduce his lot count
15 from the allowable lot count and to
16 provide the open space and the other
17 considerations for the factors on this
18 site, so although I understand, you
19 know, I don't disagree with the
20 mathematics of what Mr. Simoes
21 presented, it is within the Board's
22 purview to decide what is applicable
23 for this site given the open space that
24 has been left available.

25

MS. THORMANN: I understand. Are

♀

1 Proceedings 15

2 you taking issue with the notion of
3 proportionality? I hear what you're
4 saying.

5 MS. CUTIGNOLA: Right. The
6 applicant has reduced his lot count.

7 MS. THORMANN: I understand.

8 MS. CUTIGNOLA: And in order to
9 compensate for that, he is looking to
10 build a certain size house, and we
11 have -- I don't have the actual
12 setbacks in front of me, but we conform
13 to the R-15, but not on this setback.

14 MS. THORMANN: Could you identify
15 yourself for the record, please?

16 MR. PRICE: Art Price. I am the
17 owner of the property, and I would like
18 to make a comment on this floor area
19 ratio that Mr. Simoes brought up.

20 I think Mr. Simoes, with due
21 respect, you are mistaken about the
22 floor area ratio. A 4,500 square foot
23 house that can be built, not a 4,500
24 square foot house, it's a 3,800 square
25 foot house. If the Town counts the

♀

1 Proceedings 16

2 garage and half the basement, you have
3 a 4,500 square foot house. You take
4 out the garage which it's a 4,000,
5 divide by the ratios of 2.5 which

06-25-08 Public Hearing.txt
6 includes half the basement, you are
7 looking at a 3,800 square foot house.

8 What I wanted to do is build the
9 same 3,800 square foot house that I can
10 build with the 22,000 square foot lot
11 with a 19,000 square foot lot.

12 What I wanted as compensation, if
13 you want to call it that, for making my
14 lots 19,000 square foot as opposed to
15 3,500 square foot, I would like to
16 build a 3,800 square foot house with
17 the garage on the main level.

18 See, if I build a garage under the
19 house, I can build a 3,800 square foot
20 house. If I build a house with the
21 garage on the main level, I can build a
22 3,300 hundred square foot house.

23 What I would like to do is,
24 compensation for giving a lot, going to
25 19,000 square foot lots as opposed to

♀

1 Proceedings 17
2 22,500 square foot lots. 22,500 is
3 worth more than a 1,900 square foot
4 lot.

5 So what happens is, I am just
6 looking to build the same 3,800 square
7 foot house but putting the garage on
8 the main level like I did in Camelot,
9 and I would like to repeat the house
10 that I built in Camelot, 3,800 square
11 foot with the garage on the main floor,
12 so I am not looking to build a 5,000

13 square foot house, I am looking to
14 build the same 3,800 square foot house
15 that I am allowed under the R-22 zone.

16 MR. YACYSHYN: Would you stipulate
17 to that on every lot.

18 MR. A. PRICE: Yes.

19 MR. YACYSHYN: What if a
20 prospective buyer comes and wants a
21 bigger house?

22 MR. A. PRICE: If I go to a
23 subdivision where I go 2,500 minimum
24 lot size, some lots will be 25,000 when
25 you do the layouts. You will have the

♀

1 Proceedings 18

2 same situation in that situation.

3 Basically in a 22,500 square foot
4 subdivision, I can probably build
5 houses between 3,800 square foot and
6 4,000, no more than 4,000.

7 On my lots in Camelot on the
8 19,000 square foot lots, the biggest
9 house we built is 3,800 square foot on
10 the 19,000 square foot lot.

11 MR. YACYSHYN: With the garage.

12 MR. A. PRICE: On the main level.
13 If I take that house and put the garage
14 under, I am allowed to build a bigger
15 house, but garages on the houses are
16 not as valuable with garages on the
17 main floor, that's why I am asking for
18 30 percent to allow me to build the
19 same 3,800 square foot house with the

20 garage on the main level. That's the
21 story, floor area ratio, and I will be
22 happy to sit down and discuss floor
23 area ratio with you to see how it
24 actually works.

25 MR. SIMOES: Sure. My question,

♀

1 Proceedings 19

2 you are trying to build the same house
3 that you would be allowed to build in
4 an R-22 District?

5 MR. A. PRICE: That's right, but a
6 little better, I would like to build
7 with the garage up.

8 MR. SIMOES: If it's the same size
9 as what you would have in an R-22 and
10 you translate that to the same size on
11 an 18,000 square foot lot, the floor
12 area ratio ends up being .025.

13 MR. A. PRICE: 22.5 is correct
14 with the garage under, and what I am
15 asking to be compensated for is the lot
16 and for the smaller lots, to let me
17 build the same house with the garage on
18 the main level, that's what I am asking
19 for, which is where the 30 percent came
20 from.

21 MS. CUTIGNOLA: May I ask a
22 question? Does the Town always include
23 the square footage of the garage?

24 MR. A. PRICE: Yes, and half the
25 basement. That's all I am asking for.

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MR. SIMOES: Throughout all the districts?

MR. A. PRICE: That's all I have to say. Thank you.

MS. CUTIGNOLA: And we would be willing to stipulate to specifics regarding the floor area ratio on the site plan if that is acceptable to the Board.

MR. MARTONE: The applicant say 19,000 square foot or 18,000? The subdivision shows 18,000.

MS. CUTIGNOLA: The smallest one I believe is 18,000, but they vary. Many of them are larger. The very smallest one is 18, just over 18,000 square foot, but the rest of them are larger than that.

MR. ATZL: Generally, all the lots are conformed 19,000 square foot plus or minus. They could easily be adjusted to meet 19,000 square feet.

Lot number 10, there would be an issue with that by modifying lot lines.

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We are requesting that the lot area be reduced to 18,000, which gives us some leeway as far as lot layouts go.

MS. CUTIGNOLA: The minimum lot area. Because this alternative has come forward as a function of the

8 authorization of the clustering, the
9 setback requirements are discretionary
10 to the Board, and you have to look at
11 the site and look at the houses that
12 are before you and determine what bulk
13 regulations you are going to have us
14 adhere to, and we had requested that it
15 be a minimum lot size.

16 MS. THORMANN: Is there any, Mr.
17 Maneri, is there any yardstick that has
18 been used in the past when people are
19 asking-- when applicants are asking for
20 this kind of release from what would
21 normally be?

22 MR. MANERI: I can't say that
23 there has been. The ones that I have
24 seen generally go down one, like zoning
25 districts, but, you know, I can't say

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1 Proceedings 22
2 for sure if that is a yardstick or not.

3 MR. YACYSHYN: That is the one
4 that we have done historically.

5 MS. THORMANN: Right. Thank you.
6 Mr. Kraushaar.

7 MS. CUTIGNOLA: Remember, the
8 purpose of the cluster is to make the
9 lots smaller in order to accommodate
10 the environmental constraints on the
11 site, and based on accommodating those
12 constraints, we were able to come up
13 with an 18,000 square foot lot, and
14 that gives you more room.

15 MS. THORMANN: I understand, but
16 it also accommodates you too, not just
17 an accommodation for us.

18 Mr. Kraushaar.

19 MR. KRAUSHAAR: Well, I was going
20 to say something first but I have to
21 respond to that.

22 While I agree with the intent of
23 clustering, one of the intents of
24 clustering is not to provide
25 reparations of any kind for the builder

♀

1 Proceedings 23

2 to make up for --

3 MS. CUTIGNOLA: You are correct,
4 you are absolutely correct.

5 MR. KRAUSHAAR: And it sort of
6 defeats the intent of clustering if you
7 are going to say okay, you can build on
8 smaller lots, but you can build a
9 bigger house on that lot than you would
10 otherwise be allowed to. That's, you
11 know, I question whether that's
12 mitigation as intended under SEQRA.

13 That said, I wanted to pick up on
14 a point that Bob made with respect to
15 process. 617.94, I refer to them as
16 diddly I's, iii allows for no less than
17 10 calendar days following the public
18 hearing for the public to submit
19 written comments, so let's keep sight
20 of that, but so the time period, you
21 know, can start at any time. Anyone

06-25-08 Public Hearing.txt
22 can send in written comments, and that
23 would not expire for less than the
24 Board will set it ultimately after a
25 public hearing is closed, but they have

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1 Proceedings 24
2 to provide at least 10 additional
3 calendar days after the close of the
4 public hearing for everyone to submit
5 written comments with regard to this
6 EIS.

7 MS. CUTIGNOLA: And that time
8 period could be more than 10 days.

9 MR. KRAUSHAAR: That's correct, I
10 said no less.

11 MS. CUTIGNOLA: It could be 30
12 days.

13 I would like to speak to the issue
14 of closing the DEIS and moving into the
15 FEIS versus just continuing the DEIS at
16 whatever point that's appropriate.

17 MS. THORMANN: Anything else?

18 MR. KRAUSHAAR: Not at this point.

19 MS. THORMANN: Do any of you?
20 Otherwise I will open it to the public.
21 All right. Since this is a public
22 hearing, if anyone in the audience
23 wishes to speak, please come forward,
24 identify yourself for the record and
25 say your piece. Yes, please.

♀

1 Proceedings 25
2 MR. BAUM: My name is Marvin Baum,

3 Cottage. I am a member of the Board of
4 Managers of Mountainview East
5 Condominiums, and for those of you who
6 may not be fully familiar with
7 Mountainview Condominiums, they are
8 four separate entities, four separate
9 boards in the condominium, so I am just
10 speaking for Mountainview East Phase I.
11 There are other members of the other
12 boards, as well as other members of the
13 Phase I Board who are here tonight.

14 I want to say that the process
15 moving forward I think is a very
16 positive direction. The cluster
17 proposal is more advantageous and does
18 begin to deal with a lot of the issues
19 that we had from early on with this
20 particular project.

21 There is some technical issues
22 that I think need to be dealt with. A
23 few of them were mentioned earlier. I
24 will hit on a couple of points.

♀

1 Proceedings 26

2 There are some discrepancies
3 within the DEIS. For instance, the
4 wall issue which was raised earlier by
5 Mr. Simoes, I questioned when I looked
6 at the maps in the Planning Office and
7 that did seem to be a problem, and not
8 knowing the exact height of those walls
9 and how it will appear is, I think,

10 very critical to, you know, how it's
11 going to look as people are coming on
12 Mountainview Avenue and the Forest
13 Ridge development, so some indication,
14 maybe a visual simulation.

15 That was one of the other things.
16 There were a lot of problems with the
17 original simulation with discrepancies,
18 so if that could be redone and
19 revisited with the new cluster approach
20 if that's what the Board chooses to
21 direct the applicant to move forward
22 with, it would be extremely helpful,
23 and particularly since there are some
24 issues about the size of the homes, if
25 we can get a picture of what it's going

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1 Proceedings 27

2 to look like.

3 And the other issue which was a
4 concern relative to the simulation is,
5 we don't know exactly where the Forest
6 Ridge, where the Forest Ridge property
7 ends and where their property begins
8 and where the trees are from Forest
9 Ridge, what screening will continue to
10 exist.

11 MS. THORMANN: Did you hear that?

12 MS. CUTIGNOLA: He is taking
13 notes, yes.

14 MR. BAUM: Again, seeing what it
15 is going to look like.

16 There has been some reduction in

17 the cut and fill which we think is very
18 positive, but still seems like there is
19 a lot, and maybe if that could be
20 looked at and refined a little bit
21 more, and maybe a visual simulation
22 will help you to understand what is
23 really being proposed.

24 I think we would also like to see
25 a little bit more in the way of

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1 Proceedings 28
2 evergreens. I understand that the
3 developer does want to take advantage
4 of some of the views from that vantage
5 point. I think it might be a creative
6 way of placement of some more evergreen
7 trees along the southern side of the
8 property, that could really help, so
9 maybe like there is a landscape buffer
10 on Mountainview Condominium side, to
11 have more of a landscape buffer on this
12 side, again trying to have the views
13 that the developer would like to have,
14 but in areas of the property where the
15 views are not critical, to build up the
16 evergreen base of trees that will help
17 to provide year-round screening because
18 the site really is very visible from a
19 pretty wide swath of Clarkstown and
20 even beyond.

21 I saw in going through the DEIS
22 there had been some recommendations of
23 the possibility of a conservation

24 easement, depending on where the walls
25 are put in. It becomes more important

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1 Proceedings 29

2 because the walls could impact the
3 adjoining trees from the Forest Ridge
4 side of the property.

5 There had been talk previously and
6 recommendations I think from the county
7 as well, that the homes be of earth
8 tone colors to try to blend in with the
9 environment, and I want to reiterate
10 the importance that we attach to help
11 mitigate the impact, and that would be
12 both the roof and the home itself, and
13 the kind of materials that are being
14 used.

15 I mentioned already a little bit
16 the existing view. Aside from the
17 simulations, it's also not accurate,
18 and it also said there was no
19 visibility from my hiking trail. In
20 fact, there is a trail marker crossing
21 the road from Mountainview County Park
22 right at that point where you will be
23 looking at these new homes going in,
24 and that was not identified correctly
25 in the DEIS and there is a view from

♀

1 Proceedings 30

2 there, and the signs were put up
3 because people do cross Mountainview
4 Avenue going from one part of

5 Mountainview Nature Park to the other
6 part, and in fact there was a connector
7 that was put in by the County to the
8 long path trail as part of the Forest
9 Ridge subdivision some years ago.

10 Also-- let's see. The existing
11 pine trees. In looking at the
12 landscape plan, it was kind of hard to
13 tell which of the existing taller pine
14 trees towards the top of the ridge
15 would be preserved or if it's all
16 proposed to be brought down, and if any
17 of the other existing pine trees can be
18 saved. Obviously some of them have to
19 go because of the way the development
20 is going, but there was discrepancies
21 again. The landscape plan showed a
22 straight driveway, and it just needs to
23 be kind of cleaned up for the final.

24 Also, I noted that Ron Hayland
25 from the Architectural Landscape

♀

1 Proceedings 31
2 Commission also recommended the
3 increased plantings idea as well.

4 Also there was not any proper note
5 of the adjoining parcel which is town
6 open space land. It's formerly the
7 Afarian property, and that is to the
8 east of your parcel, and I think it
9 should be noted and any considerations
10 taken into account.

11 Also I think that given the fact

12 that we have seen a lot of incidents
13 where accidental cutting of trees
14 off-site or trees that were supposed to
15 be preserved have taken place. There
16 should be some special measures put in
17 place to prevent cutting of trees on,
18 say, Forest Ridge's property or other
19 properties, as well as any trees that
20 are-- existing trees in the buffer
21 areas.

22 There was a statement there was no
23 viewshed impact of the proposed
24 development and it's not true. Then
25 the best circumstances with a variety

♀

1 Proceedings 32
2 of additional changes as I have
3 suggested, there will be a viewshed
4 impact, and that should be reflected
5 the FEIS, I believe.

6 In the front of the development
7 there are a lot of invasive species
8 that have taken place, and there wasn't
9 really any notes in the DEIS if
10 anything is being done. Obviously, I
11 guess, just for selling the property
12 there will probably be some
13 enhancements.

14 It's hard to tell how the road
15 will be impacted going through the
16 earlier part close to Mountainview
17 Avenue where it's going to be preserved
18 because there is going to have to be a

19 build-up in the middle to raise it up.
20 It's going to be with walls, with
21 gravel down to the ground. How is it
22 going to impact the adjoining property?
23 And are there going to be additional
24 trees taken down, so that was just a
25 concern. And there were also springs

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1 Proceedings 33
2 on the property, I recall, and if this
3 road is going to become a town road, if
4 those springs are not properly dealt
5 with, there is a possibility that the
6 roads could become unstable over time
7 and taxpayers have to foot the bill for
8 any corrections, so I urge that be
9 looked at, and I think the residents of
10 Mountainview Condominiums, at least
11 speaking for Mountainview Phase I,
12 knowing about the height of the homes
13 and any simulations of this these homes
14 were the larger ones or the scaled down
15 ones, again we look upon the proposal
16 in a favorable way. Some details need
17 to be cleaned up and other things need
18 to be improved a little bit more, but
19 we believe it's going in a positive
20 direction.

21 Also the fact that the road has
22 been changed does seem to be a lot
23 safer than the original proposal for
24 the use of the existing driveway for
25 the roadway alignment, so those are my

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Proceedings 34

comments. Thank you very much.

MS. THORMANN: Is there anyone else who wishes to speak? Yes, please come forward.

MS. MEISLER: My name is Betty Meisler. I live at 621 Sierra Vista Lane.

My concern is the traffic on Mountainview Avenue, and being able to have access and egress from Sierra Vista Lane.

There is a new religious institution that is not fully open yet on Mountainview Avenue, so we don't know what kind of traffic that is going to bring.

MS. THORMANN: The mosque?

MS. MEISLER: Right, and two weeks ago I had a horrible accident coming out of Sierra Vista Lane onto Mountainview Avenue. My car was demolished and thankfully I survived it, but in the morning, people use Mountainview Avenue as a shortcut to

Proceedings 35

the thruway and back and over to Christian Herald Road, so the traffic is horrendous, especially during the time that people are leaving for work any time between 7 and 9, so we don't

7 even have a sign that says that there
8 are driveways ahead.

9 I just recently saw one for Forest
10 Ridge, but there is none for the small
11 taxpayer building, commercial building
12 that is there, and there is none for
13 Sierra Vista Lane, so I think that that
14 issue has to be addressed, that there
15 has to be some kind of traffic safety,
16 be it traffic signs or even a traffic
17 light at Sierra Vista Lane because
18 there is 770 families on Sierra Vista
19 Lane that are coming and going, and
20 there is only one way in and one way
21 out and that's it, so I would really
22 ask that something be said about that.
23 Thank you.

24 MS. THORMANN: Please come
25 forward.

♀

1 Proceedings 36

2 MS. MCCARTY: Hi. Yvette McCarty,
3 and I lived on the street for 40 years
4 and I have been against many things
5 that they built and they still keep
6 building, and I guess that's going to
7 happen until there is no more trees
8 left, but I would like to make the
9 comment that I also can barely get out
10 of my driveway without-- it's like the
11 Autobahn in the morning, you have to
12 cross your fingers and just go, and I
13 would like them to consider everything

14 that they are knocking down to put it
15 up.

16 I know people want to live there
17 and that's good, but I am wondering
18 when is the line going to be drawn?
19 This development is obviously going
20 through, but I just want to know when
21 does it stop. Thanks.

22 MR. KRAUSHAAR: Are you referring
23 to the trees?

24 MS. MCCARTY: Referring to
25 continual building on Mountainview. We

♀

1 Proceedings 37

2 have the mosque.

3 MR. KRAUSHAAR: When you said what
4 they are knocking down, put it back?

5 MS. MCCARTY: I mean just tearing
6 down of trees. I will be driving down
7 Mountainview, and all of a sudden I say
8 oh, my God, there was a row of trees
9 there that was there last week, I
10 didn't know anything about that.

11 I am trying to keep on top of what
12 happens on my street, and I am ready
13 to-- why do I come to the meetings,
14 just give up because it doesn't stop.
15 Thanks.

16 MS. MCCLEARY: My name is Kathleen
17 McCleary I live at 208 Mountainview
18 Avenue, and just recently we got the
19 first notification, so we weren't here
20 at any earlier meeting.

21 My partner Gail Ippolito also
22 lives at 208 Mountainview and my
23 concern is the traffic, and has there
24 been a traffic study in terms of
25 dealing with the increase-- I know it's

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1 Proceedings 38
2 only 11 homes, but it is problem in
3 terms of going on that road every
4 single day, and as the previous speaker
5 said, there is a problem with traffic,
6 especially in the morning. It's very
7 difficult to get out of our driveway.

8 We are actually the three houses
9 in the cul de sac that is going to be
10 across from the entrance of this
11 development, and so it's a major
12 concern as far as I would like to make
13 sure that the builder is aware of the
14 possible impact for the houses across
15 the street in terms of traffic and
16 potential accidents and safety, and I
17 just had one question for the builder.

18 I wanted to know exactly where
19 that road was. We know the old road
20 because it was marked as private
21 property and we walked by it many
22 times, so I was just curious in looking
23 at the diagram, this is new to me, so I
24 was curious if it was being moved
25 forward, backwards or staying the same

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1 Proceedings 39

06-25-08 Public Hearing.txt
as far as the original driveway.

MS. CUTIGNOLA: The road is to the north. If you come here, I will show you on the plan where the existing road is and where the new road is proposed.

MS. MCCLEARY: So my only other comment is that, just to be cognizant for the builder as far as making sure that environmentally it is pleasing to look at and that we are not going to be looking at houses, especially in the wintertime if there is going to be a loss of trees and so forth, so there should be consideration to the design of the landscape in terms of privacy for that area and also to the road too.

MS. THORMANN: Anyone else?
Please come forward.

MR. VON CLEEK: Larry Von Cleek, 722 Sierra Vista Lane. My main concern, and Marvin may have touched on it, with a simulation of the building structure is the basement.

Basements of the building, are

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Proceedings 40
they fully sunk basements? Are they partial or are they really just a slab with walls built up and an extra floor appearing as if it were a basement?

I don't know what the responsibility of the builder is to provide a maximum depth of the

9 basement. I don't know. This is the
10 first time I have been to a board
11 meeting, but I am concerned that they
12 may just build on a slab and call it a
13 basement.

14 I really don't expect that you can
15 dig 11 basements in that kind of
16 terrain, that kind of geography.

17 MS. THORMANN: Do you want to
18 answer him so everyone can hear?

19 MR. B. PRICE: Barry Price,
20 applicant. Yeah, there will be full
21 basements and they will be nestled into
22 the property. They won't be up, two
23 steps out the front door to the ground.
24 They are not the kind of house where
25 they stick out of the ground.

♀

1 Proceedings 41

2 MR. KRAUSHAAR: Do you know, Mr.
3 Price, do you know whether or not there
4 is rock under? Have you done anything
5 to determine that?

6 MR. B. PRICE: We haven't had any
7 problems.

8 MR. A. PRICE: We went 20 feet,
9 there is no rock.

10 MR. KRAUSHAAR: Thank you.

11 MR. VON CLEEK: I take issue with
12 that.

13 MS. THORMANN: Anyone else?

14 MS. IPPOLITO: My name is Gail
15 Ippolito. I live at 208 Mountai nview.

16 My question is going to be, since we
17 know there is a lot of rock in Rockland
18 County about blasting and compromising
19 foundations in the surrounding homes,
20 and that was just a concern because
21 that can create cracks in existing
22 foundations of surrounding homes from
23 what I have been told. I don't know if
24 that's accurate, but is there going to
25 be a lot of blasting, or is there not

♀

1 Proceedings 42
2 going to be any blasting?

3 MS. CUTIGNOLA: There is a
4 blasting ordinance but we do not
5 anticipate any blasting. The majority
6 of the rock that you would be referring
7 to is also in the area of the steepest
8 slope, that is why the rock is exposed
9 and that is not where the building
10 sites are located, so in the site, of
11 course there is rock on that site, we
12 all know that, but in the specific
13 spots where the building footprints are
14 intended to be, that is where they do
15 the test holes and that is where there
16 was not a problem with the rock.

17 MS. IPPOLITO: One other question
18 that may have been answered, but as far
19 as how far back from the road, if they
20 are going to try to keep a lot of the
21 foliage, the trees, because 208
22 Mountai nview on that cul de sac, it's

23 all woods when you look opposite out of
24 our house. The whole front is woods,
25 so I don't know if they are going to

♀

1 Proceedings 43

2 maintain-- I guess there has to be a
3 certain amount of frontage of trees
4 that have to exist, so we won't see
5 that whole site.

6 I mean, I think it may be a
7 positive, you know, thing to build
8 these homes too in that area, but of
9 course we also want some of the trees
10 maintained and to look pretty when we
11 look out the window and not see all
12 homes, so I don't know how far the
13 frontage, how far back they are going
14 to build.

15 MS. THORMANN: There is a tree
16 preservation law in the Town of
17 Clarkstown. Do you want to speak to
18 it, Mr. Simoes, to explain?

19 MS. CUTIGNOLA: The 11 lot cluster
20 alternative that we have before you
21 have moved the lots back off the road,
22 so directly from the road point of
23 view, there won't be a visual issue at
24 all.

25 MS. THORMANN: They all seem to be

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1 Proceedings 44

2 concerned about trees, that is why I
3 was asking Mr. Simoes to speak to that.

4 MR. SIMOES: The applicants are
5 required to provide a plan that shows
6 all the trees that are to be removed
7 over a particular caliper and actually
8 provide a minimum of 17 trees an acre.
9 If it falls below that, there is a
10 landscaping plan that's been designed
11 which the applicant can speak to and
12 maybe Anne, you can mention, I believe,
13 how many acres are actually being
14 preserved in the open space which are
15 to the front and along the roadway.

16 MS. CUTIGNOLA: The plan set that
17 you have before you on drawing seven
18 shows a tree plan of the trees that are
19 to stay and the trees that are to come
20 out.

21 In addition to that, the
22 landscaping plan, even though they are
23 in the wrong spot, shows the additional
24 trees beyond what is going to remain
25 that we intend to plant.

♀

1 Proceedings 45
2 I have the numbers here in front
3 of me. Two hundred trees will remain.
4 In addition, we'll be planting 122
5 trees that will result in a total of
6 331 trees on the ten acre site or
7 approximately 32 trees per acre, and
8 your ordinance requires 17 trees per
9 acre, so we are significantly above the
10 requirement of the new tree

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MS. THORMANN: Thank you. You wish to show how many trees are to be removed?

MS. CUTIGNOLA: Should be removed? There is 543 existing trees and 200 to remain, so approximately 300 trees to be removed.

MS. WIRTH: Jenny Wirth.

MS. THORMANN: Excuse me.

MR. LETSON: For clarification, the clearing and tree map on sheet seven shows a total existing trees on the site is 505 with 340 to be removed.

MR. MARTONE: That's right, that's

Proceedings 46
correct.

MS. WIRTH: Jenny Wirth, Phase III, Vice President of the Board. If there is a Tree Preservation Plan for Clarkstown, I have one question. What happened to the trees at the mosque, they are gone?

MS. THORMANN: The tree preservation plan went into effect--

MR. KRAUSHAAR: November.

MR. SIMOES: -- November of last year.

MR. MARTONE: You can't go retroactive.

MS. THORMANN: Can't make it retroactive.

18 MR. MARTONE: That law is not
19 retroactive, unfortunately.
20 MS. THORMANN: Anyone else? If
21 not, I will ask for a recommendation
22 for direction.
23 MS. CUTIGNOLA: Can I say my piece
24 before we get a recommendation about
25 the DEIS, FEIS?

♀

1 Proceedings 47

2 MS. THORMANN: Why we should-- you
3 heard what was said already this
4 evening.

5 MS. CUTIGNOLA: I did. We are
6 going to review Marvin Baum's comments
7 specifically.

8 MS. THORMANN: I don't think they
9 can hear you.

10 MS. CUTIGNOLA: Many of the items,
11 just using Mr. Baum's excellent
12 comments as an example, many of the
13 things that he has said we have taken
14 into account in trying to develop this
15 11 lot cluster. We are somewhat in an
16 awkward position in that you cannot --
17 this alternative, because the DEIS has
18 been accepted as complete and we are
19 having public hearings on it, you can't
20 add an alternative to an accepted DEIS.

21 MS. THORMANN: We know.

22 MS. CUTIGNOLA: Right. We are not
23 looking to short circuit or circumvent
24 anything. I feel uncomfortable where

25

we are in this process because all of

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Proceedings 48

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the work that we have done in

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developing this 11 lot cluster, there

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is no home for it, and what we would

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really like to do is simply close the

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DEIS public hearing, continue to

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address all of the comments that have

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been made, and there has been many over

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a course of a long period of time.

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When we get to put those into an

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FEIS, we can all look at it then and

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see what was said and what the response

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is, and we'll not deem the FEIS

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complete until the Board is completely

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satisfied, so you will have an

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opportunity to review it before you

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would say yes, we are satisfied with

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your answer.

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I feel like we are doing FEIS work

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outside the context of the DEIS and the

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process is awkward, so I am just really

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trying to petition for a closing of the

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DEIS public hearing.

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Certainly you always have the

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opportunity for an FEIS public hearing

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Proceedings 49

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should you deem that necessary, and

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that would certainly be your, to your

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discretion.

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MS. THORMANN: Thank you. Mr.

6 Geneslaw.

7 MR. GENESLAW: I can understand
8 the awkwardness because we have
9 discussed it back and forth for quite a
10 few months, but my feeling would be
11 that at the very least, the factual
12 errors that have been pointed out
13 tonight and probably a few more be
14 clarified on the record before the
15 Board starts the FEIS process.

16 I think it's important that
17 factual information be correct and be
18 available to public for comment before
19 we move on to the next step.

20 Ms. Cutignola points out there
21 could be a hearing at the FEIS stage
22 but there is no requirement for it. We
23 don't know that their position would
24 remain the same when we get to the FEIS
25 stage. The time limits are much

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1 Proceedings 50

2 shorter. There is a ten day period for
3 public comment to the FEIS which is
4 really not adequate for any purpose, so
5 my recommendation would be that you
6 keep the public hearing open at this
7 point. I wouldn't even adjourn it to a
8 date certain because of the uncertainty
9 of the Board calendars over the summer,
10 and that we don't know when we'll get
11 additional information from the
12 applicant, but my suggestion would be

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13 that they review the comments that they
14 received tonight, particularly the ones
15 with respect to what appear to be
16 factual inconsistencies, bring them
17 back to TAC. We'll review them as if
18 we were doing a completeness review for
19 the entire DEIS, and then recommend to
20 the Board whether we think it's ready
21 for the Board to review.

22 MS. THORMANN: Thank you. Any
23 questions any Board member wants to ask
24 of Mr. Geneslaw?

25 MR. KRAUSHAAR: Well, if no Board

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1 Proceedings 51

2 member has a comment--

3 MS. THORMANN: Mr. Yacyshyn may
4 have a question.

5 MR. YACYSHYN: I would tend to
6 agree with Mr. Geneslaw, and I think
7 even if the calendars permit it on our
8 abbreviated summer schedule, I think it
9 would be manifestly unfair to hold a
10 public hearing of this nature
11 considering the magnitude of the number
12 of neighbors who might be interested
13 during the summer, so I would agree
14 with Mr. Geneslaw.

15 MS. CUTIGNOLA: I would like to
16 point out that all of the factual
17 information that needs to be amended is
18 not in the DEIS, it's regarding the 11
19 lot cluster that is -- it's nothing,

20 it's a proposed alternative, but it's
21 not a function of the DEIS. It's not
22 included in the DEIS and it's somewhat
23 of an alternative to what was proposed
24 in the DEIS and that is where I am
25 anxious to put it so it has a

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1 Proceedings 52

2 legitimate home and we'll, you know,
3 address it.

4 I have no problem, we can come
5 back. We can make the amendments and
6 submit it to TAC. I don't have a
7 problem with that. It's just it's not
8 a function of the DEIS.

9 You want me to correct a table on
10 an 11 lot cluster that is not an
11 alternative. We have worked on it and
12 we have submitted it based on the
13 Board's recommendations so that we
14 could use it as the alternative
15 proposed in the FEIS, but until there
16 is an FEIS, we can't do that.

17 MS. THORMANN: You want to add
18 anything, Mr. Letson?

19 MR. LETSON: I would agree with
20 Mr. Geneslaw, although understandably
21 Ms. Cutignola is hesitant given that
22 this was not brought out in the Draft
23 EIS, now they are proposing it as--

24 MS. CUTIGNOLA: As an alternative.

25 MR. LETSON: As an alternative

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1 construction, and it is a legitimate
2 means by which to add a level of
3 mitigation to the impacts of the
4 previous proposal, and understandably,
5 you know, as we have discussed at TAC,
6 I don't think that any of us really
7 feels that providing the additional
8 alternate plan rises to the level of a
9 significant change in the project
10 circumstances or any of the other
11 criteria that would give rise to a
12 supplemental DEIS, but given that this
13 has been already put up on Tim Miller's
14 web site as additional information, I
15 think Mr. Geneslaw's recommendation
16 that it be considered something along
17 the lines of an addendum to the DEIS as
18 an alternate to be reviewed by the
19 Board, and given a completeness review
20 so that it in effect then would be
21 legitimized as a part of the DEIS, and
22 then move forward on that basis.
23

24 MS. THORMANN: Thank you. Mr.
25 Kraushaar.

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1 MR. KRAUSHAAR: Yes. Both Mr.
2 Geneslaw and Ms. Cutignola bring up
3 very valid important points, but I
4 think it really comes down to the
5 constraints of 617.95 with regard to
6 the lead agency. The Planning Board
7

8 must prepare or cause to be prepared
9 and must file a Final EIS within 45
10 calendar days after the close of any
11 hearing, or within 60 calendar days
12 after the filing of the Draft EIS which
13 doesn't contain this, so you default to
14 the 45 days. That can't be done
15 legitimately in the time frame required
16 under SEQRA.

17 There is no requirement that once
18 the public hearing is closed, that the
19 applicants agree to allow the Planning
20 Board additional time to prepare the
21 FEIS and go beyond the 45 days, and as
22 you eloquently articulated, there
23 really is no home for this alternate.
24 I think that everyone is complying with
25 the spirit of SEQRA with regard to

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1 Proceedings 55

2 this, and--

3 MS. CUTIGNOLA: I can't say we
4 didn't take a hard look, that's for
5 sure.

6 MR. KRAUSHAAR: No question about
7 that, but in order to really, you know,
8 be able to put it out to the public as
9 here, you are going to have an
10 opportunity before the FEIS is filed to
11 review everything that's out there. I
12 don't think that the Board or you as
13 the applicant have much of a choice but
14 to complete that process that we are

06-25-08 Public Hearing.txt
engaged in right now.

MS. CUTIGNOLA: All right. How shall I proceed? The comments that are raised here tonight, they are comments that will go into the FEIS. In the meantime, we are going to address those comments.

The typographical or discrepancy issues we will make and submit in plan form and table form to the Board, but the conversation regarding the FAR, how

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Proceedings 56

are we going to-- how are we going to come to a resolution on that topic?

The issue of the stone walls where, not what the answer is, but where are we going to resolve those issues at TAC? After we submit the -- we will submit the revisions to these plans and then bring it back to TAC and then we are going to hash out the remaining items, is that what you would foresee?

MS. THORMANN: Would that be your recommendation, Mr. Geneslaw?

MR. GENESLAW: Yes, it would, but there are some items that are open that are really Board policy items.

The bulk requirements that will be established, for example, are purely a Board decision. We can discuss them at TAC. Perhaps we can come to a

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consensus among the TAC members as to
what to recommend. If not, we can
recommend dissimilar requirements, but
the decision will be the Board's, and

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Proceedings 57
they can't go a whole lot further on
the physical layout plan until those
bulk requirement decisions are made, so
I think my suggestion would be that
when they provide the additional
information or the revised information
which deal with the bulk requirements,
at the same time get those to the Board
hopefully at the next appearance.

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MS. THORMANN: Does that make
sense to you?

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MR. MARTONE: Yes.

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MR. SHOBERG: Yes.

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MS. CUTIGNOLA: So we are talking
about not doing a visual simulation of
Mountai nvi ew?

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Comments that we will address as
part of the FEIS in terms of, say,
responding to Mr. Baum's comments, that
will require some extensive work,
whereas the things that probably should
have been corrected prior to this
submission, we will do those and submit
it in short order and then come to the

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Proceedings 58
TAC meeting to discuss some of these

06-25-08 Public Hearing.txt
3 other issues.

4 MS. THORMANN: I think they do
5 want to see a stipulation, but once you
6 get these things settled, for instance,
7 most of the Board members didn't get a
8 chance to deal with what went up on the
9 web site until today.

10 MS. CUTIGNOLA: It has been up on
11 the web site for more than three years.

12 MS. THORMANN: We didn't get it.
13 Mr. Simoes happened to take it off.

14 MS. CUTIGNOLA: When we sent out
15 the notice to everybody, we posted it
16 on the web site as a function of that.
17 Did you not get that notice? It says
18 right on there that it's posted on the
19 web site.

20 MR. LETSON: But the submittal
21 consisted of--

22 A VOICE FROM THE AUDIENCE: We
23 can't hear you.

24 MS. CUTIGNOLA: The submittal to
25 the Town consisted of, this I am fairly

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1 Proceedings 59
2 comfortable with and I really am only
3 looking to revise the process so that
4 we don't run into trouble. We
5 submitted maps a while ago because it
6 took time to get a date, you remember?

7 MS. THORMANN: This?

8 MR. LETSON: Received May 14th.

9 MS. THORMANN: When did we get it

10 06-25-08 Public Hearing.txt
11 in the office, when you took it off the
12 web site?

13 MS. CUTIGNOLA: You received the
14 layout and the 11 lot cluster. I have
15 the letter here, actually.: March 17,
16 Ms. Shirley Thormann, the text, the map
17 and the table, March 17th.

18 MS. THORMANN: I didn't get it.

19 MR. LETSON: Now we are getting
20 into issues that are really irrelevant
21 to this discussion.

22 First and foremost, though, as
23 to--

24 A VOICE FROM THE AUDIENCE: Can
25 you use the microphone, please? Thank
26 you.

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1 Proceedings 60

2 MR. LETSON: First and foremost,
3 the Board has got to get to the point
4 of what information do you want in hand
5 and available for the public or the
6 Board to comment on. We are going back
7 and forth here on issues that are
8 becoming very disjointed.

9 You have a revision, in effect, to
10 the DEIS that consists right now of
11 conceptual plans, grading plans,
12 landscaping plans and a partial
13 narrative that was posted on the web
14 site to attempt to explain this new
15 addendum information.

16 MS. THORMANN: Right, June 24th.

17 MR. LETSON: Please. You have
18 comment this evening with regards to
19 visual impact or visual studies that
20 the audience is requesting tonight. I
21 have indicated we are reserving comment
22 on the information that is submitted
23 pending receipt of a revised drainage
24 analysis so that we can give the Board
25 a recommendation as to the level of

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1 Proceedings 61
2 additional mitigation that may or may
3 not be achieved by this layout, so as
4 Mr. Geneslaw has indicated about 10 or
5 15 minutes ago, the issue that we need
6 to address first and foremost is, what
7 information will be considered complete
8 in order to solicit comment on this
9 alternative. That is the question that
10 has to be answered tonight.

11 We are going back. Ms. Cutignola
12 is indicating it will respond to the
13 comments with the visual analysis in
14 the FEIS. Is the Board comfortable
15 with the fact that you don't have a
16 visual analysis to prove whether or not
17 this layout additionally mitigates the
18 impacts by virtue of changing the
19 layout in the vicinity of Mountainview
20 Avenue? These are the issues.

21 What information does this Board
22 want to have both in hand and available
23 for the public before you go forward

24 06-25-08 Public Hearing.txt
with reviewing this in anymore detail
25 or continuing this hearing. You have

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1 Proceedings 62
2 to tell the applicant tonight what
3 information you want before, as Mr.
4 Geneslaw says, staff can say this is
5 now complete for the public to review
6 in accordance with what information the
7 Board wanted added.

8 MS. THORMANN: Right. I would
9 like personally answers to all of the
10 comments raised by both the consultants
11 and the public.

12 Mr. Yacyshyn.

13 MR. YACYSHYN: Well, based on the
14 recommendations of our technical staff,
15 Mr. Geneslaw, Mr. Letson, Mr. Simoes,
16 and certainly the comments of our legal
17 counsel, Mr. Kraushaar, I think it's
18 incumbent upon us to continue this
19 matter having the -- directing the
20 applicant to provide all of the data
21 that is necessary, that has been
22 articulated by those gentlemen, and
23 anyone else in the Board that cares to
24 offer anything additional and certainly
25 the public comment, so with that I

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1 Proceedings 63
2 would continue the matter without a day
3 certain.

4 MR. SHOBERG: Mr. Letson, you

5 suggested--

6 MR. YACYSHYN: That's a motion.

7 MS. THORMANN: I need a second.

8 MR. MARTONE: I will second that,
9 Madam Chair.

10 MS. THORMANN: Moved by Yacyshyn,
11 seconded by Martone. Any discussion on
12 the motion?

13 MR. YACYSHYN: We can discuss the
14 motion, if you want.

15 MS. THORMANN: That's what I just
16 asked, Mr. Yacyshyn.

17 MR. SHOBERG: My question, Mr.
18 Letson, you had earlier described an
19 addendum with the new layout, is that
20 correct, to go with the DEIS?

21 MR. LETSON: Given the proposed
22 alternative wouldn't necessarily rise
23 to the level of doing a supplemental
24 DEIS and going through an entire
25 completeness review and another memo to

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1 Proceedings 64
2 the applicant, 60 days and going
3 through the entire formal completeness
4 process that is outlined in 617 on the
5 Supplemental EIS, that it be handled
6 by -- give the applicant what you want
7 to see. They can bring it back. We
8 can review it at TAC, make a
9 recommendation to the Board and, you
10 know, that can be done as quickly as
11 the information is received, and we can

06-25-08 Public Hearing.txt
review it in a couple of weeks.

MR. SHOBERG: That would be included in the whole --

MR. LETSON: Rather than a Supplemental EIS, an addendum to the DEIS that the Board already accepted.

MR. SHOBERG: That's what I would like to see.

MS. CUTIGNOLA: I am still unclear as to what information will be required.

MS. THORMANN: Are you unclear about the comments that were made by the consultants?

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Proceedings 65

MS. CUTIGNOLA: I do not believe so, other than the -- I believe all the information is on the table regarding the bulk requirements. We just need to discuss it.

I don't think we have any additional information to provide, but we need to come to a consensus regarding that issue.

MS. THORMANN: I think it would be important to have the rationale for why you feel that what you are proposing --

MS. CUTIGNOLA: Okay.

MS. THORMANN: -- is adequate, and then I believe the audience made -- asked questions about traffic, about viewscape, what was --

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MR. YACYSHYN: Visual impact.
MS. THORMANN: I said viewscape.
MR. KRAUSHAAR: I heard drainage
analysis.
MS. THORMANN: That came from our
consultant.
MR. KRAUSHAAR: You know--

Proceedings 66

MS. THORMANN: All the comments
made by the consultants, and we are
pulling out from what the public said.
A VOICE FROM THE AUDIENCE: And
the wall.
MR. SHOBERG: The stone wall.
MS. CUTIGNOLA: The height of the
retaining wall.
MR. LETSON: Hydraulics.
MS. THORMANN: And the number of
evergreens.
MR. KRAUSHAAR: I also heard
conservation easement.
MS. THORMANN: Right.
MR. SHOBERG: Mr. Letson, would a
rendering be included in that addendum?
MR. LETSON: I would think given
the comments and the Board's concern,
one of the major issues that has come
into play throughout the review of this
process in the DEIS over the last two
and a half years has been the
appearance of this development from
Mountai nvi ew Avenue.

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Proceedings 67

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MS. THORMANN: Exactly, that's the
3 vi ewscape.

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Mr. Maneri .

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MR. MANERI: I would suggest maybe
6 the applicant submit a floor plan of
7 the house that he would like to build
8 so we can address this issue with the
9 FAR.

10

MS. THORMANN: All right.

11

MS. CUTIGNOLA: I did. I would
12 like to just mention this as an
13 alternative. I think that the bulk
14 area discussion is totally, correct me
15 if I am wrong, that is the most
16 important issue to be dealt with before
17 we deal with anything else.

18

MR. A. PRICE: Yes.

19

MS. CUTIGNOLA: Is it possible we
20 can come to TAC with our rational and
21 discuss the bulk area issue before a
22 resolution on that item, and then
23 proceed further with the rest of this?

24

For me to, you know, look at a
25 small traffic study and a visual

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Proceedings 68

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analysis and additional drainage, if
3 the bulk issue is not resolved, it
4 seems --

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MR. MARTONE: Madam Chair--

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MS. THORMANN: That's a Planning

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MR. MARTONE: The planning consultant stated a little while ago that's a planning decision, that wouldn't be addressed at TAC, that would be addressed at a meeting before all of us here.

MS. CUTIGNOLA: But if we were to say we would like to discuss that now, you would say well, please put your rational together and come to TAC so we can discuss it.

MR. SHOBERG: Right.

MS. CUTIGNOLA: We would like permission to do that, come to TAC and discuss it, and then the next step is coming back to the Planning Board to take action on that item, that is fine.

MS. THORMANN: Okay. Would you

Proceedings 69

like-- Mr. Yacyshyn just mentioned in my ear, would you like a litany of all the comments? Would you like us to put together a litany?

MS. CUTIGNOLA: We are going to get the transcript--

MS. THORMANN: Okay.

MS. CUTIGNOLA: -- of the hearing. We do have our lovely court reporter. I would have been taking significantly more copious notes.

MR. YACYSHYN: We wanted to just

06-25-08 Public Hearing.txt
14 crystalize the various points.

15 MS. CUTIGNOLA: That would be
16 helpful just so that -- it would give
17 me some sense of --

18 MS. THORMANN: Can we do that
19 tonight, request that you do that, Mr.
20 Simoes?

21 MR. SIMOES: I am crystalizing all
22 the comments from the public?

23 MS. THORMANN: From the
24 consultants, Mr. Simoes.

25 MR. GENESLAW: Won't the

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1 Proceedings 70

2 transcript show all of that?

3 MR. YACYSHYN: There has been so
4 much give and take with the public, I
5 was suggesting-- I am the culprit here,
6 just a listing of all of the comments
7 that each of the three of you made,
8 anything that Mr. Kraushaar would deem
9 legally sufficient under SEQRA, and
10 then give it to the applicant's
11 consultant and let them address that.

12 MS. CUTIGNOLA: Mr. Simoes made a
13 memo so I have Mr. Simoes' comments.
14 Mr. Letson, do you have a memo?

15 MR. LETSON: I will put one
16 together for you.

17 MS. THORMANN: And Mr. Maneri has
18 already asked for something, and Mr.
19 Geneslaw.

20 MR. GENESLAW: It seems to me that

21 asking TAC to crystalize the comments
22 in the transcript, if this were, if
23 this were at the FEIS stage, this is
24 exactly what Ms. Cutignola would be
25 doing. She would take the transcript,

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1 Proceedings 71

2 she would organize it by subject and
3 she would provide question response
4 question response, so she has lots of
5 experience doing that.

6 If the Board would like one or all
7 of us to do it and present it to them,
8 we can, but I think they are capable of
9 handling it themselves.

10 MS. THORMANN: I don't think Mr.
11 Yacyshyn asked that because he thought
12 she wasn't capable, I think he was
13 trying to be helpful.

14 MS. CUTIGNOLA: I understand it,
15 but Mr. Geneslaw's point is well taken.
16 It is effectively preparing the FEIS,
17 but it's work that has to be done so
18 it's okay.

19 I do have one other item.

20 MS. THORMANN: Yes.

21 MS. CUTIGNOLA: Because we posted
22 the 11 lot cluster, there have been
23 several issues that have come forward
24 from various agencies. One of them was
25 a memo from the --

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1 Proceedings 72

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MS. THORMANN: County.

MS. CUTIGNOLA: The County Planning Board, the GML review, and they requested there be some determination from the Planning Board that the lot count is correct, which we had dealt with back in '06. I have Mr. Maneri's memo to the Board that says that it was.

I am requesting if the Planning Board could just simply refer Mr. Maneri's memo to the County with their acknowledgement that we are at least on the correct lot count.

This is work, this is an item that we had dealt with this time last year, two years ago.

MS. THORMANN: What do you say about that.

MR. GENESLAW: I would say I probably haven't looked at Mr. Maneri's memo for a year and a half. It's two years old and I have to look at it again before I suggest to the Board

Proceedings 73

send it as its response to the County Planning letter.

MS. CUTIGNOLA: Now Mr. Geneslaw can look at it, make a recommendation, and then the Board can actually send it without us coming back here.

MR. GENESLAW: That is up to the

06-25-08 Public Hearing.txt
Board, really.

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MS. CUTIGNOLA: If you recall, you requested that the revisions to the site plan were, in order to address this comment, you wanted all of the environmental constraints listed by lot which are now on the plan. I do believe that this is a matter that has been asked and answered.

MR. KRAUSHAAR: Anne, could you read the exact comment.

MS. CUTIGNOLA: From the County?

MR. KRAUSHAAR: That you are referring to.

MS. CUTIGNOLA: Recommend the following modifications: The applicant send to the, the applicant send to the

Proceedings 74
Planning Board is for an 11 lot cluster subdivision. However, no standard layout was provided which is not true, nor do our records indicate that we have ever seen an approved standard layout for the lot count.

Prior to continuing with the cluster development, a standard layout must be designed showing that there are 11 conforming lots which comply with all of the bulk requirements in the R-22 zoning district for the Town of Clarkstown, including deductions for lands within wetland and on steep

16 slopes. These subdivision layout lots
17 must not contain irregular shaped lots
18 or require any variances, and this is
19 the same matter that the Board put
20 before Mr. Maneri back in August of '06
21 to ask him this question, and in order
22 to facilitate his answer, we amended
23 the site plan as the tables are all on
24 there.

25 MR. KRAUSHAAR: Does --

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1 Proceedings 75

2 MS. CUTIGNOLA: Apparently nobody
3 sent that to the County.

4 MR. KRAUSHAAR: Does Mr. Maneri's
5 memo reference that we are in receipt
6 of a standard layout?

7 MS. CUTIGNOLA: Based on the
8 information provided on drawing two, we
9 have determined that the proposed 12
10 lots are in conformance with the bulk
11 requirements of the Town of Clarkstown,
12 thus quantifying that the total lot
13 count for the standard subdivision
14 layout is in fact 12 lots, which are
15 the words on this memo, that we can
16 provide for you, or I can actually give
17 you a copy.

18 MR. KRAUSHAAR: I mean, it sounds
19 to me that it's something you have to
20 straighten out with the County first
21 and foremost, that you submitted the
22 standard layout and that you can submit

23 whatever TAC minutes or Planning Board
24 minutes and memos that would back up --
25 MS. CUTIGNOLA: I spoke to Arlene

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1 Proceedings 76
2 Miller at the Rockland County Planning
3 Department. I have the transmittal
4 that sent her the DEIS in the first
5 place. I have since sent her an
6 additional copy of the standard layout,
7 so that her file is complete, but I
8 have proof that I sent it to her in the
9 first place, so now she has the plan.

10 I sent her Mr. Maneri's memo and
11 she requested a letter from the
12 Planning Board confirming that not just
13 Mr. Maneri, but that the Planning Board
14 is satisfied with the lot count,
15 whatever we have to do to get that, but
16 that is what she is looking for.

17 MR. SIMOES: If I may, what the
18 County received was that 11 lot
19 cluster. They are looking at it in
20 terms of the subdivision application
21 that we would refer to them in course
22 under the GML as opposed to an
23 alternative which is being proposed
24 here in an EIS, so what they are
25 reviewing it as, they are reviewing it

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1 Proceedings 77
2 as a cluster which is accurate.
3 MS. CUTIGNOLA: Correct.

4 MR. SIMOES: When we complete this
5 process, the environmental review, if
6 the Board wishes to move forward with
7 that alternative and have a cluster,
8 they need to have a standard plan that
9 they have reviewed and accepted.

10 MS. CUTIGNOLA: Correct.

11 MR. SIMOES: They have to send
12 that to the Town Board, get
13 authorization to do a cluster. That is
14 what I believe the County is referring
15 to, that a standard map eventually,
16 eventually a standard map is going to
17 have to be accepted by this Board, and
18 then that authorization comes from the
19 Town Board to proceed with the cluster.

20 So they are looking at it in terms
21 of the subdivision, not necessarily as
22 an Environmental Impact Statement.

23 MS. CUTIGNOLA: So where are we in
24 terms of this process with the County,
25 and can we move that piece of the

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1 Proceedings 78
2 process forward? I mean, I do
3 believe --

4 MR. SIMOES: Until the
5 environmental review is complete, you
6 are not going to be able to move
7 through the process of the subdivision.

8 MS. THORMANN: Mr. Geneslaw.

9 MR. GENESLAW: I agree with what
10 Mr. Simoes just said, but I also want

11 to point out, Mr. Maneri's memo to you
12 indicates that the layout conforms to
13 the Zoning Code. That does not mean
14 it's a layout that the Board would find
15 approvable, and I suspect that's what
16 Ms. Miller has in mind.

17 She wants to know not only does it
18 conform to the code, but is the layout
19 one that the Board would find
20 acceptable if the cluster were not to
21 be approved.

22 It may sound like a fine
23 distinction to some, but I think it's
24 critically important.

25 MS. CUTIGNOLA: At what point does

♀

1 Proceedings 79

2 that process take place?

3 MR. KRAUSHAAR: After the EIS.

4 In order to send it forward to the
5 Town Board for authorizations to allow
6 the cluster after the findings
7 statement, the Planning Board would say
8 the standard layout conforms.

9 MR. YACYSHYN: Buildable average
10 subdivision.

11 MS. CUTIGNOLA: Is there any
12 progress that we can make at this point
13 on that item to make sure we don't go
14 forward with this? I mean, are they
15 going to accept the standard plan that
16 was the subject of the DEIS? Is there
17 going to be an issue with that?

18 MR. YACYSHYN: The County?
19 MR. MARTONE: With the County?
20 MS. CUTIGNOLA: With the Planning
21 Board.
22 MR. KRAUSHAAR: That is putting
23 the cart before the horse.
24 MR. GENESLAW: I think at least
25 one member of the Board tonight was not

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1 Proceedings 80
2 here in '06 when that was being
3 discussed in detail. I am sure the
4 Board members who are here like me and
5 maybe some of the other staff and
6 consultants are a little bit hazy on
7 the details back from '06, so I think
8 at the very least the Board members and
9 staff would have to get themselves up
10 to speed.

11 My focus was on the material for
12 this public hearing.

13 MS. CUTIGNOLA: So there is
14 nothing we can do at this point?

15 MS. THORMANN: No.

16 MS. CUTIGNOLA: Okay.

17 MR. YACYSHYN: Madam Chair, there
18 is a motion that has been moved and
19 seconded.

20 MS. THORMANN: All in favor?

21 (A chorus of ayes.)

22 MR. KRAUSHAAR: Can I ask a
23 follow-up question? You mentioned that
24 one of the e-mails that you got was

25

♀

1 Proceedings 81

2 Were there other comments that were
3 sent to you?

4 MS. CUTIGNOLA: Did I say those
5 comments came through an e-mail?

6 MR. MARTONE: I think she said
7 memos.

8 MS. CUTIGNOLA: Memos. Sometimes
9 I might have said e-mails.

10 MR. MARTONE: You said memos.

11 MS. CUTIGNOLA: Only from your
12 office. Everything that I have is
13 copied from your office.

14 MR. KRAUSHAAR: Okay.

15 MS. THORMANN: When you are ready,
16 contact the Planning Board Office to be
17 put on the agenda.

18 MS. CUTIGNOLA: Are we coming to
19 TAC for the bulk issue?

20 MR. YACYSHYN: Yes.

21 MS. THORMANN: Yes.

22 MS. CUTIGNOLA: Thank you.

23 MR. SHOBERG: Thank you.

24

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♀

1 C E R T I F I C A T I O N 82

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3 STATE OF NEW YORK)

4) ss.

5 COUNTY OF ROCKLAND)

6 O6-25-08 Public Hearing.txt
I, HOWARD BRESHIN, a Court Reporter
7 and Notary Public within and for the State of New
8 York, do hereby certify:

9 That I reported the proceedings that
10 are hereinbefore set forth, and that such
11 transcript is a true and accurate record of said
12 proceedings.

13 I further certify that I am not
14 related to any of the parties to this action by
15 blood or marriage, and that I am in no way
16 interested in the outcome of this matter.

17 IN WITNESS WHEREOF, I have hereunto
18 set my hand.

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HOWARD BRESHIN,
COURT REPORTER

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2 COUNTY OF ROCKLAND
TOWN OF CLARKSTOWN

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Minutes of
The City of Clarkstown Planning Board
July 22, 2009 - 6:05 p.m.

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at
Town Hall
10 Maple Avenue
New City, New York 10956

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B E F O R E:

11

SHIRLEY J. THORMANN, Chairwoman (Not Present.)

12

RUDOLPH J. YACYSHYN, Vice President

13

RICHARD C. SHOBERG, Member

14

PETER E. STREITMAN, Member

15

JOHN J. SULLIVAN, Member

16

CHRISTOPHER J. CAREY, Member

17

GILBERT J. HEIM, Member

18

P R E S E N T:

19

JOSE C. SIMOES, Town Planner

20

ERIK ASHEIM, Deputy Building Inspector

21

ROBERT GENESLAW, Planning and

22

Development Consultant (Not present.)

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HOWARD BRESHIN REPORTING
8 EDSAM ROAD
VALLEY COTTAGE, NEW YORK 10989
(914) 426-2400

♀

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Proceedings

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MR. YACYSHYN: Regular meeting of

3

the Planning Board of the Town of

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Clarkstown, July 22nd, 2009 is called

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to order. Please rise to the salute of

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the flag.

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MR. YACYSHYN: Please call the roll.

(Roll call taken.)

MR. YACYSHYN: First item on tonight's agenda is the continuation of the public hearing on the provisions of SEQRA and the preliminary: Kury Homes, Valley Cottage, 59.20-1-3, 4 & 5 (Proposed 14 lot subdivision (12 building lots) of 10.29 acres R-22 zoned land. An alternative plan has been developed for an 11 building lot cluster subdivision, pursuant to Section 278 of Town Law. Property located on the east side of Mountainview Avenue, 150' north of Forest Ridge Road (abutting Mountainview Condos.)

Proceedings 3

Please identify yourselves for the record.

MS. CUTIGNOLA: Ann Cutignola from Tim Miller and Associates.

MR. ATZL: Andrew Atzl, Atzl Scatassa and Ziegler.

MR. YACYSHYN: Anybody else be joining you at the table?

MS. CUTIGNOLA: There are recruits. They are the cavalry. I don't believe we will be hearing from them.

14 MR. YACYSHYN: Okay. As to the
15 background of this matter, the Board
16 members have the record, the verbatim
17 transcript from the meeting of June
18 10th, 2009.

19 You have an opening statement?

20 MS. CUTIGNOLA: Just a very brief
21 opening statement. We have submitted
22 per the request of the Board, we
23 submitted and circulated a DEIS
24 addendum on the 11 lot cluster lot
25 alternative that we discussed last time

♀

1 Proceedings 4

2 we were here. We basically packaged
3 everything into a single book.

4 We have provided-- the project has
5 been modified from the 12 lots that we
6 have discussed in the prior DEIS to 11
7 lots. All development has been removed
8 from the area right on Mountainview
9 Avenue. All the steep slopes have been
10 reduced. The wetlands have been
11 avoided with the exception of the road
12 crossing.

13 We have supplied a revised
14 jurisdictional determination that
15 redelineated the location of the
16 wetlands and they were effectively in
17 the same area as was previously
18 delineated.

19 We have provided a traffic
20 analysis that gives the trip generation

07-22-09 Public Hearing.txt
21 and sight distance characteristics of
22 the proposed access road.

23 The project modifications that we
24 had made along the way include
25 landscaped buffers along the perimeter

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1 Proceedings 5
2 of the site, and the applicant has made
3 the commitment to utilize natural earth
4 tone materials both in the siding and
5 in the roofing materials to minimize
6 visual impacts to the greatest extent
7 possible.

8 The redesign was in an effort to
9 avoid the steep slope and drainage
10 concerns, and we feel that we made a
11 lot of progress with this project and
12 we are hopeful that we are coming to a
13 point where we can begin to prepare the
14 FEIS.

15 I have Mr. Geneslaw's comments and
16 Rockland Planning's comments in front
17 of you.

18 MR. YACYSHYN: I will be reading
19 it into the record shortly. Just to
20 reiterate, this is still in the SEQRA
21 process mode, that we are in issues
22 that involve strictly the subdivision
23 itself and will be handled separately
24 and subsequently in the future.

25 Okay, with that understanding, I

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1 Proceedings 6

07-22-09 Public Hearing.txt
2 will -- unless any member has anything
3 they wish to offer at this time? If
4 not, I will go right to the information
5 and/or recommendations for the various
6 consultants to this Board. First I
7 will call on Deputy Building Inspector
8 Mr. Asheim.

9 MR. ASHEIM: We have no additional
10 comments at this time.

11 MR. YACYSHYN: Thank you. From
12 our Deputy Director of Environmental
13 Control, Mr. Letson.

14 MR. LETSON: It appears the
15 addendum contains the information that
16 was requested by the Board at the
17 previous meeting.

18 As Mr. Geneslaw indicates, the
19 addendum does refer to conservation
20 easements around the perimeter of the
21 property but the drawings indicate
22 landscape buffers, so that needs to be
23 clarified.

24 The drainage reports have been
25 revised and submitted, that is under

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1 Proceedings 7
2 detailed review but it appears to be
3 complete and correct. Any additional
4 comments will be forwarded to the Board
5 and the applicant's consultant.

6 The document does indicate
7 additional reductions to potential
8 impacts over previously prepared

07-22-09 Public Hearing.txt
designs. This is being verified.

The plan indicates an infiltration basin. There may not be an adequate groundwater separation due to the proximate wetland. Test pits and infiltration testing are required to verify that the functionality of that type of a system is so close to the wetland area.

We would suggest the use of tree wells or tree walls be investigated to preserve additional established trees around the limits of grading or in the area of limited grading, and also the clearing lines should be added onto the drawing.

And we would also suggest

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Proceedings 8

investigating relocation of the detention pond access road to the area between lots two and three in order to provide additional buffering area on the northerly side of the property against the Mountainview Condominium development, and we reserve additional site comments at the time of preliminary review on a more detailed basis.

MR. YACYSHYN: Thank you. At this time, in the absence of our special planning consultant, Mr. Geneslaw, I will read into the record his

07-22-09 Public Hearing.txt
16 memorandum to the Board and to the
17 other consultant. This is dated July
18 20th from Mr. Geneslaw, as I said to
19 this Board.

20 "We have reviewed:
21 Plan set of nine drawings by Atzl,
22 Scatassa and Ziegler, dated rev.
23 6-15-09.

24 DEIS Addendum - 11 Lot Cluster
25 Alternative, prepared by Tim Miller

♀

1 Proceedings 9
2 Associates, dated July 1, 2009.

3 Document received by Planning
4 Department from Atzl, Scatassa and
5 Ziegler dated 5-19-09.

6 Various communications dated from
7 June 24, 2009 to July 8, 2009.

8 The following are our comments on
9 the recently received materials:

10 1. The May 15, 2009 letter from
11 Tim Miller Associates contains the
12 statement that "Price Construction has
13 established conservation easements
14 varying from 10 to 25 feet wide along
15 the perimeter of the property."

16 The plans identify these areas as
17 landscape buffers, which has a much
18 lower form of protection. This should
19 be clarified and resolved.

20 You know, I am going to ask that
21 you respond so we won't-- in the
22 interests of saving us time.

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MS. CUTIGNOLA: So it's not as tedious. The areas that have been designated are effectively landscape

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Proceedings 10
buffers, that is why they are labeled on the plan. That is their actual function. As long as-- I mean that is our intent with it.

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MR. SHOBERG: If we leave it as a landscape buffer, who enforces the buffers? Who sees to it that that buffer remains?

10

MS. CUTIGNOLA: That it remains.

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14

MR. SHOBERG: Yes, and how it's delineated and how does the owners of the property know where it begins and ends?

15
16
17
18

MS. CUTIGNOLA: There is trees. It will be identified by, on the landscaped plan. The landscaping goes along the line.

19
20

MR. YACYSHYN: You want to illustrate that for us?

21
22

MS. CUTIGNOLA: Sure. This purple line is a limited disturbance, right?

23

MR. ATZL: Yes.

24
25

MS. CUTIGNOLA: The landscape buffer, all these trees here are right

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Proceedings 11
on the line of the proposed buffer, so there is a wall of trees at that

5 MR. KRAUSHAAR: Relating your
6 comment to Bob Geneslaw's--

7 MR. YACYSHYN: Ask to be
8 recognized because we are getting a
9 record here and I don't want confusion.

10 All right, Mr. Shoberg first and
11 then Mr. Kraushaar.

12 MR. SHOBERG: When, assuming that
13 this all happens the way you are
14 proposing it and those plantings are in
15 place as people purchase the homes and
16 begin to live there and have an extra
17 child or an extra pet and they need
18 more room in the yard, what will
19 prevent or enforce that buffer remains
20 a buffer and is cut all the way onto
21 the property line or beyond? That is
22 my concern with the difference between
23 a buffer and a conservation easement.

24 A conservation easement will be
25 delineated in some way that would

♀

1 Proceedings 12
2 identify it as a conservation easement,
3 whereas a buffer, it looks much better
4 on paper than I think in reality,
5 unless you --

6 MR. YACYSHYN: Mr. Letson.

7 MR. LETSON: Yes. Eric can
8 correct me if I am wrong, but I believe
9 buffers are defined within the town's
10 zoning ordinance as they relate to

11 commercial or site development. I
12 don't believe there is any buffer
13 designation on a residential part of
14 the property, so let's not sugarcoat
15 what is there.

16 The fact is, to more directly
17 answer Mr. Shoberg's question, unless
18 this Board imposes some type of deed
19 restriction or formal easement that
20 runs to the town, there is no
21 regulation and there is no enforcement
22 of a buffer, end of story.

23 MR. YACYSHYN: Right, for a
24 residential area. Mr. Kraushaar, our
25 legal counsel.

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1 Proceedings 13

2 MR. KRAUSHAAR: That was basically
3 my point, and I was going to relate it
4 to Bob Geneslaw's comment number one.

5 As I recall very early on in this
6 process, one of the benefits of doing
7 the average density was that there was
8 going to be actual tangible conserved
9 land, and that this was always spoken
10 about as a conservation easement.

11 MS. CUTIGNOLA: Is it correct that
12 the conservation easement does not
13 impact the FAR calculation, is that a
14 correct statement?

15 MR. KRAUSHAAR: That is the
16 Building Department.

17 MR. LETSON: There is no

07-22-09 Public Hearing.txt
reduction, no.

MS. CUTIGNOLA: If it's designated as a conservation easement, how does that work in terms of during the construction process? Because during -- it won't actually be a conserved area until the construction is complete, and we are going to plant

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Proceedings 14
things there, and we need to dig and do and whatever.

MR. LETSON: It will be a conserved area because a conservation easement will be filed by the Town prior to the filing of the subdivision map, and the filing information will be added as a note to the subdivision map. It always has been as long as I have been working with the town.

There are abilities for the Director of Environmental Control to authorize work in a conservation easement for a specific purpose or a specific scope of work, yes.

MR. YACYSHYN: If you are going to join the conversation, identify yourself.

MR. PRICE: Barry Price. Typically a conservation easement-- I don't have a big objection here, but typically the conservation easement is for the person conserving undisturbed

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Proceedings 15

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a situation where I couldn't dig or

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move a rock and make it planting.

4

Typically a conservation easement

5

restricts me from doing anything in

6

that space and that is the problem. I

7

have no objection to once it's finished

8

being a conservation easement so that

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you can maintain it, but not prior to

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me starting the subdivision. I may

11

have to dig there, regrade, I may have

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to do a lot of work in that space and

13

there is nothing environmentally

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sensitive about that area, it is really

15

a landscape buffer, so that is the

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distinction that I'm concerned about.

17

MS. CUTIGNOLA: So we are willing

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to make it a conservation easement as

19

long as we have the ability to work it

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out.

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MR. LETSON: There is standard

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information for a conservation easement

23

that allows the authorization for

24

certain scopes of work for that

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easement area.

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Proceedings 16

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MR. PRICE: Will we know that

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before we start what that authorization

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is, or do we on a lot by lot basis have

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to go and find out if we are

07-22-09 Public Hearing.txt
6 authorized.

7 MR. LETSON: It would be done on a
8 lot by lot basis with a building
9 permit. You have a landscaping plan.
10 That work can be authorized by this
11 Board prior to the conservation
12 easement being filed, but my concern
13 is, you know, all through the
14 discussions, Mr. Geneslaw indicated one
15 of the issues was to maintain the
16 perimeter plantings and as much of the
17 perimeter natural conditions as
18 possible to indicate that we are going
19 to have to go into that area and do
20 work and move rocks and dig and plant
21 and do all the rest of it almost
22 connotes the intention of, you know,
23 clearing that area completely of all
24 brush and undisturbed plant and trees
25 and planting it with grass so that it

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1 Proceedings 17

2 loses it's natural perimeter character,
3 and that is what the Board is trying to
4 avoid.

5 MR. PRICE: Just to differ with
6 you, I am not sure that is true. I
7 don't think there is anything there
8 that anybody wants. I think they want
9 me to plant screening that doesn't
10 exist.

11 In order to do that I am going to
12 remove the brush and the trees that

07-22-09 Public Hearing.txt
13 exist and plant screening.

14 In that area that we are talking
15 about, there is nothing that-- you are
16 right, on the top there are some
17 existing trees we are planning on
18 keeping.

19 MS. CUTIGNOLA: That's not true.

20 MR. LETSON: Your Tree
21 Preservation Plan shows in those areas
22 a number of trees to be maintained to
23 be protected.

24 MS. CUTIGNOLA: That are going to
25 remain. That is correct.

♀

1 Proceedings 18

2 MR. LETSON: The removal of area
3 underbrush, that could be done, but I
4 don't think this Board intends that
5 area, given the last x number of years
6 of discussion here, that that area just
7 become planted lawn with additional
8 screening plantings in it. I think--

9 MS. CUTIGNOLA: The large pine
10 trees at the rear of the property, we
11 made that commitment that we'll retain
12 those.

13 MR. LETSON: That would be
14 undisturbed.

15 MR. PRICE: My understanding is
16 that any large trees I would be
17 permitted to keep.

18 MS. CUTIGNOLA: Right.

19 MR. PRICE: Whether they are in

20 the conservati on easement or not. I
21 don' t think the conservati on easement
22 designati on doesn' t protect those
23 trees. They could be protected whether
24 or not--

25 MS. CUTIGNOLA: This land is to

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1 Proceedings 19

2 remain undi sturbed.

3 MR. LETSON: It preserves those
4 trees in the future. Once you sold the
5 lots that are gone, it preserves the
6 area from the resident owners in the
7 future. That is the additi onal
8 di fference. A buffer doesn' t do that.

9 MR. KRAUSHAAR: Mr. Chair man?

10 MS. CUTIGNOLA: Those are our two
11 concerns. The appli cant is making sure
12 whatever commi tments are made are able
13 to be kept wi thout compromi se.

14 MR. LETSON: I don' t doubt that
15 the appli cant will keep those
16 commi tments through the constructi on
17 period. It' s down the road once
18 everybody is in there and the appli cant
19 is gone, what happens and how do you
20 preserve it?

21 MS. CUTIGNOLA: Ri ght.

22 MR. YACYSHYN: Mr. Kraushaar.

23 MR. KRAUSHAAR: Yes.

24 MS. CUTIGNOLA: Conservati on
25 easement.

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MR. KRAUSHAAR: Would the Board also like to have show boulders put in to delineate the conservation.

MS. CUTIGNOLA: The boulders are indicated on the plan. They are already on there.

MR. SULLIVAN: I have a question.

MR. YACYSHYN: Okay.

MR. SULLIVAN: In your proposed buffer, in your proposed buffer, does that incorporate the large evergreens that Mr. Baum alluded to?

MS. CUTIGNOLA: After our last meeting, we checked the site, checked the property boundary and the location of those trees, and those trees will be retained, untouched in the conservation easement at the rear of the property.

MR. SULLIVAN: Thank you.

MR. YACYSHYN: Okay.

MR. KRAUSHAAR: For the record, a show boulder is Shoberg boulder named after Mr. Shoberg.

MS. CUTIGNOLA: Are you the

boulder man?

MR. SHOBERG: I guess.

MR. YACYSHYN: Initiated the species for us.

MR. SHOBERG: I would just like to add, I would just like to add, on

8 several occasions we have asked that on
9 one or two of the boulders that are put
10 out there, to delineate or demarcate
11 the conservation easement, that some
12 explanation as to what they represent
13 be placed on the stone. I would like
14 to have that so the people can read it
15 and say oh, that is what it is for and
16 understand what it is.

17 MS. CUTIGNOLA: How is that
18 accomplished?

19 MR. SHOBERG: I don't know.

20 MR. KRAUSHAAR: Chiseled, painted.

21 MS. CUTIGNOLA: Marble facing.

22 MR. YACYSHYN: We are reaching
23 out.

24 MS. CUTIGNOLA: At the site of --

25 MR. YACYSHYN: We are reaching out

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1 Proceedings 22

2 beyond SEQRA, if you will hold off
3 until we do that.

4 MS. CUTIGNOLA: All kidding
5 aside--

6 MR. YACYSHYN: Let's go on.
7 Anything else? Two: The plans propose
8 white pines along the southern
9 boundary, adjacent to Mountainbrook
10 Estates. We recommend an alternative
11 evergreen species since white pines
12 will lose lower branches within a
13 relatively brief time.

14 MS. CUTIGNOLA: I don't believe

15 Mr. Geneslaw was looking at the most
16 recent landscape plan. The plan that
17 was submitted with the addendum shows a
18 variety of trees along the southern
19 border. If for some reason this
20 variety of trees is not acceptable, the
21 applicant will continue to work with
22 the Board during the site plan approval
23 process to come up with whatever trees
24 are acceptable.

25 MR. YACYSHYN: Okay. Three: The

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1 Proceedings 23
2 entry road is directly opposite the now
3 formerly McLarty property and the
4 residents of that home are likely to
5 have headlight glare from departing
6 vehicles shining through their windows.
7 Some sort of mitigation, such as
8 fencing, evergreen screening, berming,
9 etc. should be offered by the applicant
10 to mitigate the impact.

11 MS. CUTIGNOLA: This road was
12 placed where it is based on optimum
13 sight distance considerations. It
14 actually has been in two alternate
15 locations as we have moved through this
16 process.

17 I don't know that we can -- can we
18 just plant on Ms. McLarty's lawn? I
19 don't know about that. There again
20 we'll continue to work with the Board
21 to do mitigation if required.

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MR. YACYSHYN: Exactly. Number

four: The sight distance along
Mountai nvi ew Avenue, as shown on
Dri veway Number 1, shoul d be modi fi ed

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Proceedings 24

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to show the line of sight along
Mountai nvi ew Avenue, at a scal e
suffi cient to show that for the full
length of the required sight distance
that, there are no obstructi ons. Thi s
demonstrati on shoul d reference vertical
changes as well .

9

MS. CUTIGNOLA: We' ll provi de a
road profi le wi th the fi nal si te plan
approval .

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MR. YACYSHYN: Fi ve: Note 10 on
Drawi ng 1 shoul d be modi fi ed to i ncl ude
the resol uti on number and date of Town
Board authori zi ng resol uti on.

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MS. CUTIGNOLA: Whi ch we wi ll
appl y wi th.

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MR. YACYSHYN: Si x: A note shoul d
be added to the Bul k Requirement tabl e
on Drawi ng number 1, i ndi cati ng the
date and approvi ng agency, Pl anni ng
Board, Town Board, for the approved
bul k requi rements.

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MS. CUTIGNOLA: Whi ch we wi ll
compl y wi th.

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Proceedings 25

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MR. YACYSHYN: Seven: The Legend

07-22-09 Public Hearing.txt
3 on Drawing 2 should include reference
4 to all patterns used on drawing, i.e.,
5 cross hatch and solid black areas in
6 lots 1 and 13.

7 MS. CUTIGNOLA: Which we'll do.

8 MR. YACYSHYN: Eight:
9 Consideration should be given to a drop
10 curb at the ends of the emergency
11 access - see drawing 2.

12 MS. CUTIGNOLA: We'll be happy to
13 provide a drop curb.

14 MR. YACYSHYN: Nine: Many of the
15 lots have almost no relatively flat
16 backyard space for family use. See
17 Drawing 2.

18 The Board may want to consider
19 more extensive use of retaining walls
20 to create flatter areas. The top and
21 bottom of wall heights should be easier
22 to read, (needs larger type). That too
23 we'll consider subsequently.

24 We understand the applicant was to
25 provide visual impact information

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1 Proceedings 26
2 illustrating views of the proposed
3 development from several off-site
4 locations. We found only a view of the
5 entry road with stone walls.

6 MS. CUTIGNOLA: These are the
7 visual images that were presented in
8 the DEIS. I copied them for your
9 reference.

10 My understanding is, the place
11 where the visual impact of this project
12 is different than the 12 lot project,
13 is that the lots will be, there will be
14 no developed along Mountainview Avenue,
15 and that is why we provided the visual
16 of that area.

17 The additional visuals are here
18 for your reference. They are from the
19 very long views. You will be able to
20 see minimum evidence that this project
21 will be built. However, we have
22 committed to natural earth-tone colors
23 and natural roofing materials to
24 minimize that to the extent
25 practicable.

♀

1 Proceedings 27

2 The other place where there was
3 some discussion was, what the project
4 was going to look like from
5 Mountainview Condominiums, and to that
6 end we have now provided literally a
7 wall of evergreen trees so there won't
8 be any additional visual, so I am not
9 sure I agree with Mr. Geneslaw's
10 comments and I hope what you have
11 before you is sufficient.

12 MR. YACyshyn: From your
13 illustrations, any particular view that
14 you want us to have?

15 MS. CUTIGNOLA: Sure. View number
16 13 in particular shows the site lines,

07-22-09 Public Hearing.txt
17 shows where the illustrations are
18 taken, actually, and figures 14 called
19 view 10, first shows-- figure 3.4-14,
20 shows what looks like today and then it
21 shows a little, the little dots, what
22 Kury Homes will look like. This is all
23 with white-roofed houses, it will not
24 look like this, it will be less obvious
25 than this.

♀

1 Proceedings 28

2 This is a view looking eastbound,
3 same thing. I mean, our project will
4 be, will blend with the natural
5 earthtones of the mountain between two
6 large developments that are already
7 there.

8 We had also been asked to look
9 from Avalon Gardens and you can't see
10 anything from there, so really the
11 critical visual was along Mountainview
12 Avenue. That was my understanding.

13 MR. YACYSHYN: We'll refer back to
14 this in the course of the hearing.

15 MR. CAREY: Mr. Chairman, did we--
16 I know you were looking for answers as
17 we went along, the comment on the flat
18 backyards, I don't know if I heard
19 that.

20 MR. YACYSHYN: Yes.

21 MS. CUTIGNOLA: He said we'll
22 consider it later. He didn't give us
23 an opportunity to respond.

24

MR. CAREY: That's all I need.

25

Thank you.

♀

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Proceedings 29

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MR. YACYSHYN: From our Town

3

Planner, Mr. Simoes.

4

MR. SIMOES: I believe previously

5

there was some discussion about the

6

emergency access and obtaining some

7

sort of authorization from the adjacent

8

condominium complex and I believe you

9

wrote a letter to the President of the

10

Board, I don't know if you received any

11

response.

12

MS. CUTIGNOLA: I did write that

13

letter. I will include the letter in

14

the FEIS correspondence so the letter

15

will become part of the public record.

16

The attorney for Mountainview

17

Condominiums has contacted Mr. Price

18

and he is reviewing the matter but he

19

has not yet responded. When he does,

20

we'll build the emergency access at the

21

Planning Board's discretion. We will

22

put the gate on their property or our

23

property, whatever works for them. If

24

they want striping on our end, we'll

25

stripe.

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Proceedings 30

2

The details are not final. It's

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reasonable that they can become final

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during the course of site plan review,

5 and we have initiated that conservation
6 and they are at least looking at it,
7 but we don't have a response.

8 MR. YACYSHYN: The letter you are
9 referencing is your letter dated July
10 8th, 2009 to the Board President, Mr.
11 Liotta.

12 MS. CUTIGNOLA: Yes, that's
13 correct.

14 MR. YACYSHYN: Now, I understand,
15 if I understand correctly, that is the
16 portion of Mountainview Condominiums
17 that abuts.

18 MS. CUTIGNOLA: That's correct.

19 MR. YACYSHYN: Isn't there a
20 master association as well that would
21 possibly need to be included?

22 MS. CUTIGNOLA: Mr. Liotta
23 indicated, I spoke to him first and he
24 indicated that it was Mountainview East
25 II that would be directly affected. I

♀

1 Proceedings 31
2 assumed that if there is a larger
3 entity that needs to become involved,
4 that his lawyer will advise him on
5 that, and whatever they say, that is
6 what we'll do.

7 MR. YACYSHYN: I will ask Mr.
8 Kraushaar.

9 MR. KRAUSHAAR: You are absolutely
10 right. The board, the condo board
11 would have to approve it and authorize

12 the board president to sign an
13 easement, a license agreement or
14 whatever legal mechanism they will work
15 out.

16 MS. CUTIGNOLA: The only
17 complication I can foresee is for some
18 reason they do not wish to do it and,
19 you know, if we are willing to comply
20 with the Planning Board's request and
21 they do not wish to do it, I don't know
22 what further we can do, as long as they
23 are willing, we are willing.

24 MR. YACYSHYN: We will have to
25 cross that bridge.

♀

1 Proceedings 32

2 MS. CUTIGNOLA: I am sure he took
3 it under advisement. There was no red
4 flag raised, but he has to deal with
5 it.

6 MR. YACYSHYN: Okay. Mr. Simoes.
7 There are a couple of correspondence
8 that we have in the file that should
9 probably be read into the record and
10 responded by the applicant. One was an
11 e-mail we received from Marvin Baum. I
12 believe Ms. Cutignola addressed it, but
13 maybe we will go through it and she can
14 address it for the record.

15 MS. CUTIGNOLA: His most recent
16 e-mails, is that correct?

17 MR. SIMOES: Dated July 6th.

18 MS. CUTIGNOLA: Right.

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MR. SIMOES: The revised plan looks very good and has addressed many of the issues of concern expressed by Mountainview residents over the years. Some impacts are unavoidable, but I think you've done a good job to minimize them.

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Proceedings 33

A couple of points:

1. Will the 10 to 25 foot

landscape buffers, and this we had discussed previously, actually be held as "conservation easements." Past experience shows the landscape buffers hold no legal status and are often disregarded by future property owners. To properly preserve these buffers from encroachments by pools, sheds, et cetera, I think the term, conservation easement, should be placed in all deeds, as this term has a specific Town of Clarkstown legal status that can be enforced, should the buffers be removed by a future homeowner.

The Planning Board has, at times, also required small boulders or other demarcations to be placed along the easement lines as a reminder to future owners, which I think would be good in this case. I believe this has been addressed already.

2. I assume that Kury Homes will

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Proceedings 34

rip up the old driveway and install a proper sidewalk across it. Is this the case?

MS. CUTIGNOLA: Rip up the existing macadam driveway? Yes, the answer is yes.

MR. SIMOES: Will Kury Homes do a general clean-up of the front portion of the property along Mountainview such removal of litter, invasive species, misc. mess, etc.? This would certainly help the appearance.

MS. CUTIGNOLA: We will work with the Board to come to a resolution. There was a large outcry for leaving it natural, so somewhere in the middle there is an agreement to be made and whatever the Board-- we'll work with the Board during the course of the site plan review to accommodate that.

MR. SIMOES: Next comment has to do with the stone walls at the entry point of the roadway, will they interfere with driver vision? We were

Proceedings 35

just discussing sight distances.

MS. CUTIGNOLA: They will be located so they are out of the driver's line of sight.

MR. SIMOES: I am surprised that

7 some of the trees along the inner
8 roadway will only be two and a half to
9 three feet at time of planting, which
10 is just barely more than a seedling.
11 This seems very small. I would have
12 expected six to eight inches at a
13 minimum.

14 MS. CUTIGNOLA: They are six to
15 eight inch trees, that is typical what
16 is planted in a new subdivision.

17 MR. LETSON: Mr. Baum is referring
18 to the planted diameter of the street
19 trees along the inner roadways?

20 MR. SIMOES: I believe so.

21 MR. LETSON: Two and a half to
22 three inches is standard height. At
23 the time of planting, that tree would
24 be eight to nine feet high as a
25 deciduous tree.

♀

1 Proceedings 36

2 MR. SIMOES: Right, I wouldn't
3 consider that a seedling. That is the
4 extent of the letter.

5 There is also a letter--

6 MR. YACYSHYN: I will read that
7 into the record at the public hearing.

8 The Town Highway Department, they
9 reserve comment. Please forward prints
10 and specs with proposed road widths,
11 construction specs, et cetera.

12 Fire Inspector: Again, no comment
13 on layout, but emergency access must be

07-22-09 Public Hearing.txt
14 provided. Well, we obviously got that
15 under serious consideration.

16 Next is the Rockland County
17 Planning Department. I take it you
18 have a copy of the July 17th letter?

19 MS. CUTIGNOLA: I do.

20 MR. YACYSHYN: Addressed to the
21 Planning Board on this subject,
22 Recommends the following modifications:
23 As an ongoing interested party for the
24 State Environmental Quality Review Act,
25 SEQRA process, our Department has

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1 Proceedings 37
2 reviewed the Addendum to the Draft
3 Environmental Impact Statement, DEIS
4 for the proposed Kury Homes, Inc.
5 project.

6 This project is also subject to
7 review under the New York State General
8 Municipal Law Sections 239 L and N, as
9 the site is within 500 feet of
10 Mountai nvi ew Nature Park, a County
11 park. Listed below are our comments
12 and concerns related to both DEIS and
13 the GML review for the cluster
14 subdivi si on.

15 1. A review must be completed by
16 the County of Rockl and Di vi si on of
17 Envi ronmental Resources and any
18 comments addressed.

19 2. A review shall be completed by
20 the Uni ted States Army Corps of

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obtained.
3. As required by the Rockland
County Stream Control Act, the
subdivision plan must be reviewed and

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Proceedings 38
signed by the Chairman of the Rockland
County Drainage Agency before the
County Clerk can accept the plan to be
filed.

4. A review must be completed by
the County of Rockland Sewer District
#1 and all required permits obtained
from them:

5. Prior to the start of
construction or grading, a soil and
erosion control plan shall be developed
and in place for the entire site that
meets the New York State Guidelines for
Urban Erosion and Sediment Control.

6. There shall be no net increase
in stormwater runoff from the site.

7. Public sewer mains requiring
extensions with a right-of-way or an
easement shall be reviewed and approved
by the Rockland County Department of
Health prior to construction.

8. Water is a scarce resource in
Rockland County; thus proper planning
and phasing of this project are

1

2 critical to supplying the current and
3 future residents of the Villages,
4 Towns, and County with an adequate
5 supply of water.

6 All major subdivisions, i.e.,
7 those with five or more lots, must be
8 reviewed and approved by the Rockland
9 County Department of Health prior to
10 filing with the County Clerk.

11 Rockland County Department of
12 Health is mandated by New York State
13 law to ensure that such subdivisions
14 will have both an adequate and
15 satisfactory water supply and adequate
16 and satisfactory sewerage facilities.

17 Rockland County Department of
18 Health must also review and approve all
19 public water supply improvements e.g.,
20 water main extensions, including those
21 required to serve a proposed major
22 subdivision.

23 In order to complete an
24 application for approval of plans for
25 public water supply improvements, the

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1 Proceedings 40
2 water supplier must supply an
3 engineer's report pursuant to the
4 Recommended Standards for Water Works,
5 2003 Edition, that certifies their
6 ability to serve the proposed project
7 while meeting the criteria contained
8 within the Recommended Standards for

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These standards are adopted in their entirety in 10 NYCRR, subpart 5-1, the New York State regulations governing public water systems.

Further, both the application and supporting engineer's report must be signed and stamped by a NYS licensed professional engineer and shall be accompanied by a completed NYS Department of Health Form 348, which must be signed by the public water supplier.

9. Extensive regrading of the site is proposed. The ensure that the wetlands and other lands not to be regraded are protected, clearing limit

Proceedings 41

lines must be shown on the map, and flags placed in the field prior to the commencement of construction.

10. Given the fact that this proposed subdivision is located directly across the street from Mountai nvi ew Nature County Park, sidewalks should be provided along the subdi vi si on roads, and a crosswalk connecting Road "A" to the park entrance across Mountai nvi ew Avenue should be deli neated so that the residents can safely access the park for hi king or passi ve recreati on

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enjoyment. Signed by Salvatore
Corallo, Commissioner of Planning.
You take issue with any of those?
MS. CUTIGNOLA: The majority of
comments are pro forma and they are
totally acceptable. We do not have
sidewalks proposed in our subdivision
at this time. There are limited
pedestrian destinations available from
this subdivision. We'll continue to

Proceedings 42

work with the Board as we move forward
through the site plan process to
determine if sidewalks will be
required.

MR. YACYSHYN: Moving on, we'll
take all of this under advisement
finally from our legal counsel, Mr.
Kraushaar.

MR. KRAUSHAAR: With regard to the
GML, some of those, if you disagree I
think it would have to be overwritten.

MR. YACYSHYN: You are not parsing
the words, it didn't say shall, it said
should, and we'll talk about that in
good time.

MR. KRAUSHAAR: I would like to,
not tonight, but at some point the
Building Department to comment on
whether or not sidewalks are in fact
not required.

MR. ASHEIM: We'll look into that.

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MR. KRAUSHAAR: Thank you.
MR. YACYSHYN: I am sorry?
MR. KRAUSHAAR: That's all for

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Proceedings 43
now. I think the rest deals with
process.
MR. YACYSHYN: The code I believe
indicated where sidewalks are a
requirement in the R zones. I don't
believe they require them on both sides
in an R-22 unless that has changed.
MR. ASHEIM: I will certainly look
into that.
MR. LETSON: The note remains the
same in the design standards, that the
sidewalks are not necessarily required
on the permanent dead-end street. With
regards to use of the park, certainly
sidewalks should be, installed along
the Mountainview Avenue frontage given
there are sidewalks along Mountainview
Avenue and other areas.

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MR. YACYSHYN: I think they
specifically spoke of the interior
sidewalks in the subdivision itself,
should be along the subdivision roads.

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MR. SIMOES: Mr. Chairman, if I
may?

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Proceedings 44
MR. YACYSHYN: Mr. Simoes.
MR. SIMOES: What the county is

4 actually referring to, if you look in
5 the aerial, there is a sliver of county
6 property between the two homes on the
7 other side of the street which is part
8 of that Mountainview Nature Park, and
9 there is a trail that runs between
10 those two homes, and then essentially
11 you have to cross the street and travel
12 south to that hook-up to the rest of
13 the trail that goes to the long path.
14 That is what they are referring to.

15 I don't know if you can see that
16 on the aerial, that sliver of property
17 right there that is right across from
18 the subject property. It might be
19 worthwhile that some signage be put
20 there because you can very well see,
21 and this might even happen with Forest
22 Ridge and it happened when I was hiking
23 in that area trying to find where to go
24 to get to the long path, you come out
25 to the roadway and you are not quite

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1 Proceedings 45
2 sure where to go so you end up going
3 straight.

4 What happens is, if you go on that
5 sliver of property to the south, you
6 wind up walking up for Forest Ridge
7 Road and then you end up in the
8 townhouses. The same thing might
9 happen here on this other sliver. You
10 go down the trail, you cross the

11 street, you will go up basically the
12 Kury Homes Road and then find yourself
13 in a bunch of single-family homes and
14 not being able to find the trail, so at
15 the very least maybe some signage that
16 directs you to the long path or where
17 the trail is supposed to be.

18 I don't think we have received any
19 comments from the New York and Jersey
20 Trail Conference yet but they should
21 actually comment on this particular
22 issue.

23 MR. YACYSHYN: They were in the
24 list of interested parties, right.

25 MR. SIMOES: It should have been.

♀

1 Proceedings 46

2 MS. CUTIGNOLA: We can make sure
3 they have an opportunity to comment.

4 MR. SIMOES: They should be sent.
5 Typically the county would require
6 them. They don't have actually the
7 long path listed here because it may
8 not be within the 500 feet, though I
9 would be surprised.

10 At the very least we should send
11 them some sort of a letter or
12 correspondence.

13 MR. LETSON: It should be sent to
14 them, because the long path in this
15 area, if the Board will recall, or at
16 least one of the members will recall,
17 was established along the southerly

18 side of the Mountainview Estates
19 Project, and that is certainly within
20 500 feet.

21 MR. SIMOES: The county didn't
22 pick it up.

23 MS. CUTIGNOLA: We'll be happy to
24 give them an opportunity to comment.

25 MR. YACYSHYN: All right, so

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1 Proceedings 47

2 ordered.

3 MS. CUTIGNOLA: What we would like
4 to petition the Board for is to
5 hopefully close the DEIS public hearing
6 so that we can begin to address these
7 long lists of comments in the FEIS.

8 We'll continue to work with the Board
9 and the technical staff and its
10 consultants until all issues are
11 resolved, the preparation of the FEIS.

12 We'll prepare it and we'll submit
13 it and then there is an additional back
14 and forth process, there is a
15 continuing input from the Town and its
16 professionals. We are deep into
17 preparing this plan, you know, inside
18 what really should have been in the
19 FEIS to begin with, and that was-- that
20 is what we are hopeful we can
21 accomplish here tonight.

22 MR. YACYSHYN: Obviously you
23 always have the privilege of speaking
24 directly to any one of our consultants

25

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Proceedings 48

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formal communication should be directed

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to the Town Planner, Mr. Simoes'

4

office.

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MS. CUTIGNOLA: I put Joe on my

6

copy list, every doodad I get Joe gets

7

a copy, right?

8

MR. SIMOES: Yes, I do.

9

MR. YACYSHYN: And Mr. Geneslaw,

10

while we are in the SEQRA process, that

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is his role then. Before I open to the

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public, any member have anything at

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this point? This matter has been --

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this is a public hearing, anyone

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wishing to offer any public comment,

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please rise and give us your name and

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address and said comment.

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MR. CHASEN: Jan Chasen, the

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President of Forest Ridge Condominiums,

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6 Forest Ridge. I really appreciate

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the efforts that the builder has put

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into answering a lot of the questions,

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but I still see that most of the buffer

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discussion, and I highly endorse his

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conservation easement concept, has been

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Proceedings 49

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dedicated to mostly the northern side.

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The southern side, which not only

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impacts us but all the residents of the

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town and everything, only has a small

6 10 foot buffer and is not with
7 evergreens or not concentrated with
8 evergreens.

9 I have a unit that will be facing
10 very close to two of the homes and
11 there is very little buffer there, so I
12 am questioning why is there 25 feet on
13 one side and only 10 on the other, and
14 we strongly urge that the buffer be
15 there to protect not only us, but the
16 site lines south of the development.

17 MR. YACYSHYN: You should be aware
18 that normally buffering, screening, et
19 cetera is not required between
20 residential subdivisions or, you know,
21 units as it were. We are going that
22 extra step here.

23 I will allow the consultant for
24 the applicant to respond if she wishes
25 to at this point on that issue as to

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1 Proceedings 50
2 why, you know, 10 on one side and 25 on
3 the other, and of course we are still
4 very -- halfway through the SEQRA
5 process. There is still the
6 subdivision process that comes after
7 that.

8 MR. CHASEN: I am sure everyone
9 will be happy --

10 MR. YACYSHYN: I am not saying you
11 didn't rightly bring it up, I just want
12 to indicate to you, we are still under

13

14

MS. CUTIGNOLA: Truth be told, we just don't have that much room on that side of the road. That is why the buffer is smaller.

15

16

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18

I believe the applicant indicated he would be willing to work with you to try to provide a screen that is possible. We have no more room on that side and that's why the buffer is smaller, and we will be happy to work with you to provide the screening as best we can.

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Proceedings 51

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MR. CHASEN: Assuming that is correct, we are willing to put property into this conservation zone to make sure.

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MR. KRAUSHAAR: On your side.

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MR. CHASEN: On our side, yes, on his side for sure, but yes, correct, we will be willing to discuss that, but it is very close at one point so we are concerned about that.

9

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We are also concerned about the clean-up, not only along Mountainview Avenue, but on the south side of that property there is piping, lots of other things in that forest including a bathtub.

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MR. YACYSHYN: Right.

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MR. CHASEN: That also should be

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cleaned up.

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MR. YACYSHYN: Try speaking into the mic.

MR. CHASEN: I am sorry. The clean-up should also go along the southern boundary of their property,

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Proceedings 52

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not only on the Mountainview side, and we are also concerned about that runoff issue, the runoff of the property because we don't want that runoff to come to us. Thank you.

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MR. YACYSHYN: All of that has been taken into consideration. Mr. Letson's department--

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MR. CHASEN: I appreciate the Planning Board's efforts on this thing and we are looking forward to having good neighbors.

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MS. CUTIGNOLA: Thank you.

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MR. YACYSHYN: Okay. I think that's it for the public. Anything else from the members at this point?

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The issues tonight should be that we are closing the public hearing, close

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out the Draft Environmental Impact Statement portion, and direct the applicant-- the comment period.

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MR. LETSON: Did you indicate earlier you had another piece of correspondence that we didn't read and

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1 we are waiting for the public portion?

2 MR. YACYSHYN: Oh, I'm sorry,
3 thank you very much. Yes, we have a
4 letter dated to our Town Planner, Mr.
5 Simoes, dated June 9th, 2009, reads as
6 follows:
7

8 "Dear Mr. Simoes, we are in
9 receipt of your recent letter advising
10 us about the proposed Kury Homes
11 Subdivision.

12 We are in the Mountainview
13 Condominiums since 1969 and have
14 watched this area turn from a lovely
15 country area to just a shortcut to the
16 entrance to the Thruway.

17 We feel the character of the area
18 has completely changed especially since
19 the Forest Ridge development next us
20 was built.

21 We have been inundated with deer
22 that are a danger to themselves as well
23 as the cars on the road as their
24 natural habitats and been
25 overdeveloped.

♀

2 Mountainview Avenue is a winding
3 road and already too congested for safe
4 navigation. I was in an automobile
5 accident a couple of years ago as the
6 result of someone misjudging the curves
7 in the road.

8 This was such a beautiful area,
9 and we strongly urge that you protect
10 what's left of it. Thank you for your
11 consideration in this regard,
12 sincerely, Mr. and Mrs. M. Francis.

13 Do you have anything? If not, as
14 I indicated, I am ready to set a public
15 comment period, and I believe Mr.
16 Letson, you suggested a 20 day?

17 MR. LETSON: Yes. Given we are
18 approaching the middle of the summer,
19 vacation times, a 20 day period will
20 give people adequate time, and the
21 Board couldn't be criticized going with
22 the minimum of a 10 day public comment
23 period, and I don't believe it will
24 make a difference with regards to how
25 long the applicant takes to prepare the

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1 Proceedings 55
2 final environmental impact statement
3 with the Board's agendas and things
4 when they are going to back before the
5 Board. It's a little bit conservative,
6 but it protects the Board and protects
7 the applicant as well.

8 MR. YACYSHYN: Which brings us, I
9 believe, if I got this calculated right
10 tonight, should be Friday, August 7th.
11 We'll close it out at 5 p.m. for any
12 comments to the Planning Board on the
13 matter.

14 MR. KRAUSHAAR: Wait, how many

15 days?

16 MR. YACYSHYN: Twenty days.

17 MS. CUTIGNOLA: Twenty calendar
18 days is August 11th.

19 MR. YACYSHYN: Tuesday, then, 5
20 p.m.

21 MS. CUTIGNOLA: We have no problem
22 making the comment period, whatever.

23 May I make a statement off the
24 record?

25 MR. YACYSHYN: And proceed to the

♀

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2 final environmental impact statement,
3 okay? If nothing else, motion to close
4 the public hearing?

5 MR. STREITMAN: Motion to close
6 the public hearing.

7 MR. YACYSHYN: Mr. Streitman.

8 MR. SULLIVAN: Second.

9 MR. YACYSHYN: Seconded by Mr.
10 Sullivan. All those in favor.

11 (A chorus of ayes.)

12 MR. YACYSHYN: Opposed? Motion is
13 carried.

14 MS. CUTIGNOLA: Thank you very
15 much, gentlemen.

16 MR. LETSON: I would formalize in
17 my resolution the close of the public
18 comment period, and also move that the
19 action of closing the public hearing
20 and establishing an end date for the
21 public comment period be advertised or

07-22-09 Public Hearing.txt
published as called for in Part 617 of
the SEQRA Regulations.

MR. YACYSHYN: That being the
motion, who moves it?

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2 MR. CAREY: I will.

3 MR. STREITMAN: I will enter that
4 into the motion.

5 MR. CAREY: I will second it.

6 MR. YACYSHYN: Seconded. All in
7 favor?

8 (A chorus of ayes.)

9 MR. YACYSHYN: Opposed? Motion is
10 carried. Okay, thank you very much.

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