

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING
MARCH 16, 2006**

A **Regular Meeting and Public Hearing** was held by the Planning Board on **Thursday, March 16, 2006 at 8:15 p.m.** in the Municipal Building Meeting Room, 7 Maple Avenue, Hastings-on-Hudson, New York, 10706.

PRESENT: Chairperson Patricia Speranza, Boardmembers Rhoda Barr, Robert Lee, William Logan, William Smith, Fred Wertz, Deputy Village Attorney Marianne Stecich, Special Counsel Mark Chertok, and Village Planner Angela Witkowski.

ABSENT: Boardmember David Hutson

I. Roll Call

II. Approval of Minutes: February 16, 2006 meeting.

Chairperson Speranza: Does anyone have any comments or corrections to the minutes?

Boardmember Barr: There's one tiny thing where you said "also," and I thought you meant "always." Yes, on page 29, it says: "...it was 'also' in there." I think you meant to say it was "always" in there.

Chairperson Speranza: Oh, yes. That's correct. It was "always" in there, talking about the pedestrian bridge.

Boardmember Barr: Page 29, about the fifth comment down, Patty's comment, Chairman Speranza. It's not terribly important.

Boardmember Barr: Okay, and I had just a couple of things, too. On page 25, Angie, when Boardmember Hutson is speaking, there's reference to...it's the second time he's speaking. I believe there's supposed to be some numbers in there. Right now it reads: "AM 70 XXX." So if you could just check, and maybe David may know what he was referring to there.

Village Planner Witkowski: I think it was hard to hear on the tape and I didn't have the video. I can check that.

Chairperson Speranza: And then page 33, again, it's the second time...it's actually between the time Boardmember Wertz and Boardmember Hutson are speaking. There should be a sentence in there that references that Mr. Hutson is reading from the resolution that we're passing. Because it just goes right into...the sentence simply starts the highlights. There should be something that references the fact that he's reading from the resolution. Okay, and then that's where all of the approvals are. Okay, and one more. Page 36, and I'm

sure that Mr. Metzger won't mind if I make a change to one of his comments. You see where he's speaking at the top of the page?

Village Planner Witkowski: Page 36?

Chairperson Speranza: Right. Yes, page 36. Jim Metzger.

Village Planner Witkowski: Jim Metzger, okay.

Chairperson Speranza: His first comment. The way that it reads now: "How would that be accommodated in terms of looking at 'stairway runoff' and impervious surface." I know that he was talking about 'storm water' runoff, not 'stairway' runoff.

On MOTION of Boardmember Smith, SECONDED by Boardmember Wertz with a voice vote of all in favor, the Minutes of the Meeting of February 16, 2006 were as amended.

III. New Business

Chairperson Speranza: All right, we have two accessory apartment renewal applications for this evening, so what we will do is I'll call the public hearing to order. It will be for the two accessory apartment applications, and then we will close and make decisions as a board.

- 1. Public Hearing. Accessory Apartment Renewal. Christine Bullen, 26 Pinecrest Drive (Sheet 3, Block 606, Lost 3, 4, 5B, 5E, 59-61). No waivers required.**

Chairperson Speranza: The first one is for an accessory apartment renewal at 26 Pinecrest Drive. Angie, are all the mailings in order on this?

Village Planner Witkowski: Yes, the mailings are in order.

Chairperson Speranza: Okay, is there anything we should know about this?

Village Planner Witkowski: This property is on the northerly portion of Pinecrest in the R-10 zoning district. The applicant is just requesting renewal of the accessory apartment approval. The apartment occupies 13% of the residence, so it complies with the 25% of floor area limitation, and no waivers are needed. So all that's needed is the renewal of the accessory apartment approval. I don't know if the applicant is here.

Chairperson Speranza: Do you have anything you'd like to add?

Christine Bullen, 26 Pinecrest Drive: Not really. This is, I think, the third or fourth time it's been renewed, and nothing's been changed. It's not actually in the house. The percentage is correct, but it's a separate building.

Village Planner Witkowski: Oh, yes. Okay.

Ms. Bullen: Do you have any questions?

Chairperson Speranza: No, and I do want to note for the record that the documents we have from the Building Inspector notes that there have been no complaints received about this apartment during the last three years.

Does anyone wish to speak on the application, for or against? Okay, then we'll do the other one, and then we'll have votes on both of them.

2. Public Hearing. Accessory apartment Renewal. Ramona Grey-Harris, 114 Pinecrest Drive (Sheet 1, Parcel 43). No waivers required.

Chairperson Speranza: The next accessory apartment renewal is for property located at 114 Pinecrest Drive, Ramona Harris. Angie, are the mailings in order on this?

Village Planner Witkowski: The mailings are also in order on this one, and it's located at the south end of Pinecrest Drive. It's the R-10 zoning district, and in this one they are simply requesting the accessory apartment approval renewal. There are no waivers needed, and the apartment occupies 7% of the residence. No complaints on the property during the last three years, and no changes have been made. I'm not sure if the applicant is here.

Chairperson Speranza: Is there anyone here to speak on this application? If not, then we'll close the public hearing on both of these applications and I'll put it for Board action.

On MOTION of Boardmember Wertz, SECONDED by Boardmember Logan with a voice vote of all in favor, the Board resolved to approve the accessory apartment renewal on the Bullen residence.

On MOTION of Boardmember Wertz, SECONDED by Boardmember Logan with a voice vote of all in favor, the Board resolved to approve the accessory apartment renewal on the Grey-Harris residence.

IV. Old Business

1. Public Hearing (Continued from February 16, 2006). Betty Ryberg and Phil Grant, 11 Riverview Place. View Preservation to allow first floor expansion and bay windows.

Chairperson Speranza: Okay, our next item is actually the continuation of a public hearing for property at 11 Riverview Place. We received at our last meeting a request to provide the Zoning Board of Appeals a recommendation for view preservation for some modifications to the residence on Riverview Place. There was some discussion with an adjacent neighbor who had some concerns with respect to how it was going to impact views, so we had requested that they see if there was a way to work it out so that the views would be impacted less. That's where we are. I see we have the applicant, the homeowner here.

Phil Grant, 11 Riverview Place: I am joined by my architect, Toby Guggenheimer. My wife, Betty Ryberg, regrets that she can't be here. She's out of town on an alumni meeting. We did go back--when Toby did come back from overseas--we kind of reviewed our analysis on some of the suggestions that David did make on bay windows on the other side. I did get a chance, a week-and-a-half ago, to talk with David. We walked around both properties. Unfortunately, we didn't come to any conclusions on that. Digging in, I'll introduce Toby and let him talk a little bit more about the structure and what we did on putting our plan together. But at this point we're really comfortable that the plan we did put together has the minimal effect on the views that gives us the house that we need for our needs, or growing family, and stuff like that.

Tobias Guggenheimer, architect : I am a registered architect, and the project architect for Betty Ryberg and Phil Grant. My apologies for not being able to join the first meeting, but I did get a pretty good summation of the events that transpired and the opinions on both sides. I have to tell you, I was disappointed and somewhat surprised that there is any debate in this matter because, certainly, we studied the ordinance that regulates the view preservation. It seemed to us quite clear that the intention of the ordinance, and correct me if I'm wrong, is to minimize to the greatest extent, but not to prevent, any improvements made to structures within the view preservation district. Certainly, I think by any standard the protrusion of the sorts, and the addition of the sorts, that we suggest are just absolutely minimum. I would like to point to some of the evidence that we've created in order to address those points.

First and foremost, I would like to review once again in the site plan the overall additional configuration that we're proposing. If you look over here on the north of the house, you can see already 50% of the house protrudes beyond the main north line. So we're proposing simply to fill in the remaining portion. Now, not only is that a fairly inconsequential expansion, but it's also all occurring within an overhang that defines a second-floor element. So really, all we're doing is kind of filling in a corner of the house that is already defined on the west side and on the upper level. Additionally, a very small 3-foot protrusion on the north and south sides of the third floor which, again, almost by any understanding, from any perspective, would just represent the tiniest incursion into a view corridor.

You may have seen this document that we created. We went to one of the Websites that offer satellite imagery. I think it's from some old Russian Cold War satellites that are floating around taking pictures of the Rivertowns. And you know this is really, of course, not meant to be scientific in the sense that we're quantifying an exact view. But I think it's a good faith effort to show how both to the northwest and to the southwest the views are wide open. Certainly, if you put yourself in a particular spot in relationship to the Ryberg-Grant residence you might lose a sliver of your view. But again, the view restrictions that we might be creating are, again, so insignificant that I don't think they really fall within the types of conditions that this ordinance is meant to regulate.

We also took photographs of the Press residence, the house directly to the east of the Ryberg-Grant's. You can see there are about 10 windows on this elevation, another 10 more or less here. So it's a very expansive house. If you look on the site plan, again, you can see it's actually not directly in line even east and west. It actually shifts over to the north somewhat. So there are just plenty of opportunities to retain all the significant views that they currently have. The benefits that we are going to accrue, even with those very small accretions of space that we're asking for, are really significant with respect to architectural plan. It's a typical Victorian house. The first floor is kind of subdivided into relatively small rooms. It would be very, very difficult, for example, to create a kitchen that would accommodate a contemporary family without either going out a couple of feet--which is all we're asking for, I think, 3 feet--or creating a very comprehensive disturbance towards the south part of the house; which would mean essentially demolishing the interior core in the southern core of the house which we, naturally, hope to avoid doing. So by pushing out just those couple of feet we'll have enough room to create a very, very good kitchen. And upstairs, because the roof slopes are pretty significant--you see how these drop very quickly--the resultant space inside of the third floor is actually, even if we break it all open, which we certainly hope to do, is quite tight. By just pushing out a couple of feet north and south it'll provide us the option of creating a comfortable bedroom up there.

Can I answer any questions with respect to the architecture or any of the presentation materials that we've created?

Boardmember Logan: The last time you came you had some floor plans. I think this is all about dimensions and the dimensions of those bow windows, I believe, on the last set of drawings? Have you got dimensions that you're proposing for these projections?

Mr. Guggenheimer: I believe I have floor plans, and I do. They're about 3 feet. Just bear with me one moment, please. Well, here are the sections and you can see it's at 3/16ths scale, so it's at about 3-1/2 feet. I'm afraid I didn't bring a scale with me.

Boardmember Smith: Do you know, while we're talking about measurements, how far this would hang on the north side, the back of the house? It goes out.

Mr. Guggenheimer: Are you referring to the third-floor overhang, or the extension on the kitchen?

Boardmember Smith: The kitchen.

Mr. Guggenheimer: Also about 3-1/2 feet.

Boardmember Smith: So you would be going out almost all the way, if you're going out 3 feet and the overhang is 3-1/2. The new area would cover almost the full overhang.

Mr. Guggenheimer: What we're doing is actually extending the portion of the house that is already pushed out. It's more or less the entire depth of the overhang.

Boardmember Smith: Okay, that's what I wanted to know.

Mr. Guggenheimer: Minus a couple of inches of molding and trim.

Boardmember Smith: That's going to be pretty close to flush with the overhang.

Mr. Guggenheimer: Yes, that's right. And I believe I have a photograph of the house on that side. A little tough to see, but if you look here on the northeast elevation you can see how it runs. So essentially what we're doing is continuing that line. So it'll still flare out. We're actually just mimicking exactly that detail and just filling in the remaining portion.

Boardmember Smith: So you're coming straight down off the overhang pretty much.

Mr. Guggenheimer: Well, we're taking this line and pulling it across. And I think that is original to the house.

Boardmember Smith: So this here...

Mr. Guggenheimer: That's right, will just drop right down that corner.

Boardmember Smith: Okay.

Village Attorney Stecich: I just have one question ... this is the same plan as the last time?

Mr. Guggenheimer: Yes, it is.

Village Attorney Stecich: You said you spoke with the neighbors. You haven't changed it.

Mr. Guggenheimer: Well, Phil spoke to them, apparently. I wasn't involved.

Chairperson Speranza: Okay, any other questions from the Board? Public comments, questions, issues?

David Press, 17 Riverview Place: I'm the aforementioned neighbor who was spoken with, and who disagrees. Phil and I did speak this week. We agreed that we disagreed and that we

would still talk to each other, which is good. Neighbors should be able to do that. But I'm kind of flabbergasted by a total misrepresentation tonight of this plan.

Phil talked about meeting his needs. He's meeting his wants for his house, he's not meeting his needs. He could have a spectacular house without the bay windows and without the bump-out in the back--the three areas that will cut off the views from my house. The architect talking about the sliver, or the insignificant piece. I can stand in my back yard and get a view of the river. I'm not talking about that. All the windows he was talking about--I live in a two-family house--many of those belong to my tenant. So if I'm talking about just the windows in my house, in my residence, I've shared with you pictures. Mr. Wertz was out there today looking, and pointed out to me that I actually misrepresented the first-floor angle. There's more cut off; 100% of my view from my house from the first floor from my living room is cut off. You've got that. I won't talk as much about the bay windows. It's a percentage of my views on that. But for this man to use the word "insignificant" and "sliver" to cutting off 100% of my view from my first-floor--the only view I've got in my house from any of my windows--I think is ludicrous. And I would defer to Mr. Wertz, who went and looked at it, and ask him what percentage of that view is cut off.

I thank you.

Chairperson Speranza: So let me just make sure I understand it. You're saying that the view of most concern is in where the back addition would be.

Mr. Press: I'm concerned about any cutoff. Okay, in our neighborhood...I'm going to back off a little bit. In our neighborhood--I've been there for many years--the view preservation issue has come up two other times. Both times that the issue came up it came up when somebody was about to sell a house and they couldn't sell the house because something had been added to the house that was a view preservation issue. And in both cases they were told that--in the one case, Diana Brown selling the house to Phil--was told that Paul Burgee's addition in the back of a deck, if it took 1 inch away from the view in my house it would have to be dealt with. Diana talked to me, we had somebody come in--Ralph Torka, architect here in town, came in--took pictures from my living room, showed that there wasn't even a sliver missing there, and the sale went through. It also happened with the Richards house across the street, selling that house to my present neighbor here. There's a spiral staircase that got added, and somehow the papers weren't handled correctly. It was a Village problem, it wasn't the owner's problem. But they were told, can't sell the house if there's even 1 inch of that blocking anybody.

So my education on view preservation was if you take 1 inch of somebody's view it's a view preservation issue. Part of my view would be taken by either of the bay windows, and that would take views away from the upstairs part of my house. It wouldn't take 100% of it. But this insignificant sliver of a bump-out...and I invite you to come over--Mr. Wertz did, you

can talk to him--it takes away 100% of the view in my house, on my first floor, of the river, period. That's not insignificant, it's not a sliver. I refer to their presentation as a misrepresentation of the situation. I'm still talking to Phil, but it's a misrepresentation.

Mr. Guggenheimer: Have you seen this photograph with the view corridors from your house? I'm referring to this here. So you disagree that these are the views that you have.

Mr. Press: Well, this big bright one on the right side here...

Mr. Guggenheimer: It should be to the north, right.

Mr. Press: ...that is showing the views actually coming straight off of the back of my tenant's apartment.

Mr. Guggenheimer: That's what I'm asking.

Mr. Press: That touches my building. It doesn't touch my residence at all. The one from over here is to the south of my existing windows. So my one existing window here that gives me a view is right there.

Mr. Guggenheimer: That's the hole in the lot.

Mr. Press: Which goes right across that corner and takes in right over here. Those little 3 feet cut off, I thought, about 90% of it. Mr. Wertz corrected me. It cuts off 100% of it. The handout I gave you last time, on page 3 where it says proposed addition, I was guessing on that one. It turns out that you can see how much space there is of the 3 feet. That proposed addition actually goes out to within an inch or so of the corner of the roof on the right. So it cuts off all my views of the river there, and views of part of River Glen. Not that I'm terribly interested in looking at their red brick buildings, but it cuts it straight across. So I'm going to agree to disagree, but I think it's a misrepresentation that they've given you. Thanks.

Chairperson Speranza: Thank you. Does anyone else wish to speak on this application?

Tom Milton: I live in the house across the street from the applicant's, and I have four points to make here. It's obvious from the plans, and from this presentation and the one last time, that the sole reason for the proposed bays, or build-outs, on the third floor is to create additional views for a new master bedroom; to create additional views beyond what the house has. But the creation of these additional views will obstruct the views of another house. So one house, in trying to create additional views for itself, is reducing the views of another house. This does not seem right.

Secondly, in order to carry out this plan they have requested a change that will go to the Zoning Board of Appeals to make a variance from two-and-a-half to three stories. I raised this issue at the first meeting and I was told that that was not within the jurisdiction of the Planning Board. My attorney believes that it is. Because by going ahead and making a

change from two-and-a-half to three stories we are setting a precedent here if that happens that could eventually lead to a major change in the character of the neighborhood, which is two-and-a-half story residential houses. And I can anticipate someday a block full of three-story apartment buildings, which is not what we want. So I would like the minutes to record that I raise this issue once again.

Third, we're familiar with the applicants because we were friends with the two previous owners and know the house very well. The second floor had four very large bedrooms and two full bathrooms, and the third floor is already very spacious. Surely there is enough existing space in this house to create a large, comfortable master bedroom without adding additional space through the build-outs, obstructing a neighbor's view of the river, and potentially changing the character of the block.

Point number four. Like our other neighbors, we've made improvements to our house without changing the exterior or requiring a zoning variance. We have the oldest house on the street, and it was a handyman's special when we bought it 24 years ago. We removed asbestos shingles and restored the original clapboard of the exterior at great expense in order to restore the original appearance of the house. It's a relatively small house for the block, and it would be nice to have more space. But we have never considered a change that would violate the architectural integrity of the house. The applicants, in the last meeting, claimed to respect the historical value of their house, which is shown on the museum of the street sign at the head of the lane that leads into the street. But you can see from that photograph that there were never any bays on the third floor of this house. So what they're proposing is not historical restoration, but quite the opposite. Thank you.

Village Attorney Stecich: Could I just ask you one question? It wasn't clear to me. Is your view being obstructed?

Mr. Milton: Our view is not being obstructed. We're concerned about the changing.

Village Attorney Stecich: Oh, okay. I just wanted to know if this was in addition to the other thing.

Mr. Milton: No, that's correct.

Chairperson Speranza: I saw someone else had a hand up to come up and speak.

Mary Cosgrove, 20 Riverview: I live across the street. I'd just like to say I think it would be really unfortunate if you guys approved this construction project. Every home on Riverview Place is fairly large and we all have views, some bigger than others, but I think it would be really unfortunate if one neighbor was allowed to increase their view at the expense of their neighbor. I happen to live at the eastern end of the other side of the street. My other concern is that you'd be setting a precedent here. What would stop somebody from buying one of the houses further to the west of me, or any one of the others of us, in coming years

and having somebody come in and do the same thing to us. So my big other concern is the precedent that you'd be setting here by allowing this to go forward. Thank you.

Chairperson Speranza: Thank you. Any other comments about this application?

Boardmember Logan: I was also at the site this morning, and I think we have to break this down into three pieces. One is the south bay window on the third floor and one is the north bay window on the third floor. And the third is the north kitchen addition, I guess is what it is. I confirmed that these views are taken from the last document that was given to us at our previous meeting by Mr. Press. These do correspond pretty much with the views from his house. I think you have to make a distinction between the main body of the house and sort of the north wing of the house. Some of the views are from some of the lower windows and some of the views are from the northern windows of the wing.

You know, in my opinion the bays don't make a huge difference, and I'm a little surprised that the north bay window creates any difference at all. But I do agree that the porch on the lower floor, it does block that precious little view of the river. I have a similar thing on my house. You have to go to the upper floor, and you see a little piece of the river in the winter. But that does create a significant obstruction, I think. Even though it's 4 feet, you no longer see the river. And these are, of course, views from within the house.

Boardmember Smith: Well, Fred, you were also there.

Boardmember Wertz: Yes, I wouldn't agree with Bill on that. I think that the photograph that we got from Mr. Press last time actually had...this would be on page 3, if you have that...underestimated the degree of the view that's blocked. It would be, certainly, 100% of the view if the addition will go flush with the overhang, and will pretty much eliminate the view completely. It's not just a view from within the house and from inside of the house, but all along the side yard. You can walk probably 20 feet along the side yard and you have a view of the river. With the proposed addition, you would not have that view anywhere from the side yard, really. You'd have to walk kind of behind the house.

Boardmember Logan: Oh, really?

Boardmember Wertz: Yes, so it's not just from the window. It would be from the ground, as well. I'm not sure. I saw, I think, a little piece of river, but you'd go right straight through to the Palisades. You have to get up to get down on the river, but there is still a clear view through to the Palisades that would be blocked. So this diagram that we received probably underestimates the blockage by one-third. You know, what would be helpful is if we could review the law.

Chairperson Speranza: Yes, I was just going to ask counsel to do that.

Village Attorney Stecich: Fortunately, it's a short section. What you're to recommend is the "best siting, dimensions, and configuration of principal and accessory structures so as to

cause the least possible obstruction of the view of the Hudson River and the Palisades for neighboring properties and adjacent public property and rights-of-way.”

Chairperson Speranza: And we do this as a recommendation to the Zoning Board of Appeals as to whether or not...

Village Attorney Stecich: ...to allow the construction. What you're looking at is any exterior alteration of the building. So I guess there's three alterations here. In this case, especially since Bill says it does seem to be different, you might want to vote on each of them separately.

Boardmember Smith: But Marianne, when it says the least possible obstruction, now obviously the least possible obstruction would be not to build anything at all. Are there any conditions in the law that would indicate...

Village Attorney Stecich: This is the entire law.

Boardmember Smith: No, but I'm trying to see there, and hear there, some condition that would allow any obstruction to take place. What's the basis upon which any obstruction would be allowable? Because to me, the least possible obstruction is what? Zero. It's no obstruction at all. Is there any condition that would permit or sanction...

Village Attorney Stecich: Yes, there have been situations where you've allowed obstructions.

Boardmember Logan: Yes, I know. The last couple of meetings...

Village Attorney Stecich: But you consider it in a whole context.

Boardmember Lee: If you deny property owner A the right to build a building, the right to use his property, that is not acceptable. Now, this is not that kind of situation. This is an improvement, an adjustment. You're not saying he can't build his house. His house is built. You're saying that you have to be as thoughtful as you can be of the neighbor, and in this case it goes beyond that.

Village Attorney Stecich: I'm not sure it's a good example, it was before you were on the Board--I think, Bill, you would have been on and Rhoda, Patty, I'm not sure if you were--was with the Kera house on Pinecrest. I think it was that house. You were on, yes. It was on the Board a bunch of times. It was going to block the view, but the Board made him lower it and site it a little bit differently. So it ended up still obstructing the view because it was empty space before. But the Planning Board worked on the siting of it and the configuration of it to make it...

Boardmember Smith: To minimize it, but not to reduce it to zero. And what was the reason that there had to be any building at all? I mean, was there any reason to say that

there's some grounds a building must be altered or must be improved? We've talked about the distinction between me versus what?

Village Attorney Stecich: That was new construction, and your law does not say you can't build in a view preservation district.

Boardmember Smith: So that was a new construction. Okay, well, we need a case...I'm interested if there is any historical precedence or historical memory on an already-existing building that had proposals for additions of one sort or another that would be taking a view to some extent. And given, to me, that the least possible obstruction is zero, what conditions...

Chairperson Speranza: There have been.

Boardmember Barr: But very often it's because it's a generic view. For example, there were some in Pinecrest where it was a question that, driving by, you wouldn't have quite as much of a vista as you had before.

Boardmember Smith: It wasn't another property owner's view, it was a public view.

Boardmember Barr: And the addition was really, you know, pretty vital to the nature of the house of whether they needed to do it. So that the balance between the impact on the view and the need of the person balanced out. One of the things that struck me about this is, we keep hearing that this is so small, so minor. A piece of me says, well, if it's so small and so minor why is it so needed in the first place. You know, sometimes something is critical: you have to put in a bedroom down on the main floor because somebody has become handicapped and you want to put a bathroom in. But here, it's a question of balancing.

Boardmember Wertz: Need is a difficult concept. It's a little bit subjective, and you want to look for some objective standard. It sounds like in the other situation you just referred to, the view that was being blocked was not another property owner's view but a public view.

Boardmember Barr: Or else it was so inconsequential.

Village Attorney Stecich: Or other situations where they've come in and it was trimmed down.

Boardmember Smith: I was personally involved in one, remember? Years ago, before I was on the Board.

Village Attorney Stecich: Where they came in with something and said, no, cut it back. You cut it back, and then it obstructed the view less. That's probably the most common situation.

Boardmember Smith: Right, and it was a balancing in that case. I live on Sheldon Place. Someone wanted to renovate the house across the street. It was a really old house. We thought it was going to block a substantial part of our view. We came before this board and

the Zoning Board, we had a back-and-forth, and there was a balancing done. The person with the changes agreed to lower the roof by, I think, about 3 or 4 feet and they configured the house slightly differently. Still thought it was going to block our view, but at the end of the day the Board decided no, it was a nice compromise. But this house absolutely needed to be renovated. It was an ancient house. You all recall that, right?

Village Attorney Stecich: Right.

Boardmember Wertz: So there, you'd say the need was great in the sense that it was maybe if not uninhabitable certainly not habitable at the standards of the houses on that street.

Boardmember Smith: I'd say uninhabitable for the late 20th Century.

Boardmember Wertz: Okay, so that's severe need. That's not a luxury, or an improvement over and beyond something that's already wonderful.

Boardmember Smith: That's correct.

Boardmember Barr: There's another piece to this, given the nature of our community and so forth. On one hand, if someone has a house and they're not on the waterfront they can't really say, Well, I'm here now--now nobody can build anything in front of me. On the other hand, can it be done with a greater sensitivity. And balancing those two things is our job. That's why it's not something that goes in a machine and plops out.

Chairperson Speranza: Right. This has been a good discussion, and it kind of sets the framework. It's one of the reasons why I had been hoping that since the last meeting there would have been a way for the applicant and the neighbor to work things through towards something that was negotiated. A negotiated application.

Boardmember Smith: Just a suggestion might be, after hearing this discussion, the applicant would like to reconsider or have further discussions with the neighbor. Or they could have us vote.

Mr. Grant: Could we address the Board for a moment in response to some of the issues that just came up? I think, one, when we go back to the original picture to see the obstruction of the back bay window. Let me get the page for you. These are David's pictures, the back bay window. So 7, 8, and 9, that was taken from a skylight above his apartment. I guess it's a window. I'm not going to argue whether a skylight is a window. But you can see how it comes across the roofline. It's not a window. It's a skylight that he popped out of to take that picture. Then I would say, if he's considering that a view, and the apartment view, well, that would go to say that then the apartment, which he's saying is a separate residence, but it's still his property, he could make that all his house. The apartment definitely has views, straight down the back of the house that aren't obstructed, of the river I think he said he has only one window at the back of his house that has a riverview, but I would debate that to say that there are additional windows with a riverview.

[END TAPE ONE, SIDE A] [START TAPE ONE, SIDE B]

The other thing I would say, and Rhoda you were saying something about if you have a riverfront house, obviously you could sit in your chair and gaze out your windows, you would see a panoramic river view. I haven't been in David's house--but I believe that the picture that he took from the living room is probably smack dab right along the window. I've heard other neighbors say that you can't even get to his windows; there's furniture and stuff around. So it's not necessarily like there's a view. Another thing I would say is that it is such a small view-- I admit, you see a little bit of river there. We've only been here a couple of years. We sit on our porch, we get more and more obstructed view because neighbors' plants are growing up.

I know from our deck, which is already existing which juts out from the back of the house, every year the vegetation downriver grows more. You know, vegetation on our property, landscaping, has the potential to grow more and more. So for such a small postage-stamp of a view--I admit it's a view, it's a stamp view of the river but it's a small thing--is it really what we're really trying to protect here against my rights to have a little bigger of a kitchen.

I heard wants versus needs. True, but I would say that this is in the middle. Yes, we want it. My wife wants a slightly bigger kitchen. We have a baby on the way. We don't really have a house that has a family room. Part of the plan is what we tasked Toby with. We kind of kept the baby thing away from him until just recently. But what we tasked him to do is, we want a family room/kitchen. The rest of the house really isn't a family room. It's not a place to kind of close off, to watch the kids run around, make sure they're not going down the stairs or whatever else. And I know, Rhoda, you said it was a minimal bump-out. But remember, that's what we wanted to do. We had other plans to have an even more expansive bump-out to go back to the set line, and we said we're not going to do that. We're going to do something rather conservative.

The other thing on the need part is, that overhang there, there's two bathrooms that were installed, not original to the house. They are causing the house to sag down. One way or another we're going to have to address that with posts or something else, and that does get to a need. That one of the best ways to address that is to put a foundation and bump it out like it is. It will support that. And when I moved into the house we put water into the one tub and it wouldn't even flow down to the drain. I've got wood propping up the feet of the claw foot tub so it'll drain. That tells you how much the back of the house is sagging down. We're going to have to address that one way or another. So I think that goes into a need rather than a want. I think that addressed it. I know Toby has a couple more points.

Mr. Guggenheimer: I'd like to actually continue the discussion that you folks just had amongst yourselves about the intent of the law. Both as Phil's architect and as a resident of Hastings myself, I'm extremely concerned about the vagueness of the law; its intent, its language. You know, as a practicing architect, it's extremely difficult to work within

parameters that are so open-ended. And I have to admit also, as a resident of Hastings I was kind of disturbed at what I heard you folks saying. On the other hand, you were suggesting that if Phil's house didn't exist there--and correct me if I'm wrong, but this is the gist of what I understood--if it was an empty lot, well, you would have no choice essentially but to let me build a whole house and therefore create a tremendous obstruction.

Boardmember Barr: That's a misinterpretation.

Mr. Guggenheimer: Well, let's present that scenario. If that was an empty lot, would this law oblige you to deny our right to build a house, say, the size of Phil's house?

Boardmember Lee: It would advise you to take into consideration your neighbors' view.

Mr. Guggenheimer: Sure.

Boardmember Lee: You could build a house. You'd probably have to build it in a different shape and different direction. You couldn't do it if you shut off ... closed off his views...

Mr. Guggenheimer: So if there were no option other than to shut off a substantial amount of views...

Boardmember Lee: We know the size of the lot, we know where the house is. We know there are options.

Boardmember Bar: There's always an option in terms of how you design the house, how you position it.

Mr. Guggenheimer: So you're suggesting we could actually build a house there.

Boardmember Barr: Of course.

Mr. Guggenheimer: But at the same time, you're suggesting we can't expand an existing house by 3 feet. This is the dimension I'm referring to. This is 3 feet. Is that really a fair conclusion to draw?

Boardmember Lee: You can expand it 15 feet.

Village Attorney Stecich: Do it on another part of the house.

Boardmember Lee: It can't block views.

Mr. Guggenheimer: We don't want to expand it 15 feet.

Boardmember Lee: I think you're missing the point of the law. Which is view preservation, not house sizing.

Mr. Guggenheimer: Is the intent of the law to protect 100% of the views?, which I think goes back to the point of Mr. Wertz.

Boardmember Barr: No, it's extremely clear.

Mr. Guggenheimer: It's not extremely clear, actually.

Boardmember Barr: We say to the extent possible. Now, there are things that are possible, and things that are not possible. And in this case it is an evaluation of what could be done and what can't be done.

Mr. Guggenheimer: But can you imagine an expansion smaller than 3 feet?

Boardmember Logan: Actually, the kitchen scales to 4 feet on your drawings.

Mr. Guggenheimer: Four feet. It's this much. Can you imagine an expansion smaller than 4 feet? Is there really a legitimate excuse to deny a 4-foot expansion which, obviously, from a particular view it's going to block--or from a particular perspective will certainly block--somebody's view? I'm not denying, I don't think Phil is denying, that.

But is that the intention of the law? Is it really that onerous? Is it really that restrictive? And I think if you were to tell me that I could build a brand-new house there of some large dimensions, let's say 35 feet by 35 feet, would you...and if you were in a position to allow that, can you really deny an expansion of 3 or 4 feet?

Chairperson Speranza: Yes. Completely different circumstance.

Boardmember Wertz: It would be yes.

Chairperson Speranza: It's a completely different circumstance.

Boardmember Wertz: If 4 feet takes 100% of a view away...

Mr. Guggenheimer: Of one view out of many. Out of many.

Boardmember Wertz: Sure, we've got a view of the river. If 4 feet takes away 100% of that view, yes...

Mr. Guggenheimer: From one point.

Boardmember Wertz: ...that's not acceptable.

Boardmember Logan: And there are plenty of examples in the past where we've had new construction in view preservation areas. We've asked the owners to reorient the house with a narrower dimension along the view, to depress the rooflines. I think a lot of this discussion is about precedence and precedence setting. I think we have to look at the context of this whole debate here and think about his going forward.

Boardmember Barr: I mean, you've come forth--your client came forth--and said, We'd like to improve this or this. And you put all your judgment as to the best way to meet that particular need. But obviously, you took...

Mr. Guggenheimer: No, to the contrary, we looked.

Boardmember Barr: In making your plans, you took into consideration a lot of things.

Mr. Guggenheimer: The view preservation corridor first and foremost.

Boardmember Barr: No, the flowing of pipes. Things that go into any architectural decision. Then the electrical pieces. When any kind of change is made or a thing is built, you take into consideration a variety of factors.

Mr. Guggenheimer: You're absolutely right.

Boardmember Barr: There's the strength of the wood, whether you build it out of concrete. So there are a whole bunch of things that you put into the thing.

Mr. Guggenheimer: You're absolutely right.

Boardmember Barr: What is being said is that one of the factors that has to come into it is how you position an expansion in terms of its impact on the view. And that is one of the other factors that you as an architect have to address.

Mr. Guggenheimer: If I may respond, you're absolutely right. There are many considerations that go into architectural design. The very first one is an analysis of the code. Code gives us all the parameters within which we can make all of our judgments. This code in no way implied, in its reading, that a discrete imposition into the view corridor was illegal. Please, can we read the code again? I think there's nothing in this code...

Boardmember Wertz: It says the least possible obstruction, and I would say the least possible obstruction is zero.

Mr. Guggenheimer: Is zero, exactly.

Boardmember Wertz: Therefore, I don't think it's permissible for you to build at all there.

Mr. Guggenheimer: So you're suggesting that the intention of the code is to permit zero construction.

Boardmember Wertz: Least possible, and least possible means zero.

Village Attorney Stecich: What the code says is, it's got to be sited, sited/configured. So nobody's saying you can't add on, but maybe you could site it or configure it in such a way that it isn't blocking anybody's view.

Mr. Guggenheimer: But the code doesn't imply that no view can be obstructed. I think the intention is simply to minimize the obstruction.

Boardmember Lee: That's right. Completely obstructing is not minimizing.

Chairperson Speranza: Right. Okay, we've got many other items on the agenda for tonight. How do we want to proceed? Are we ready to vote on the recommendation? Recommendation to the Zoning Board?

Boardmember Lee: I'd like to know if the applicant wants to split the various pieces up so we can vote on them as Bill suggested: the north, the south, the lower and the upper and so forth. Because some of them are apparently reasonably acceptable, some of them are not.

Boardmember Barr: Well, we could separate the recommendation.

Village Attorney Stecich: Yes, that's a good idea. That's a good way to do it.

Chairperson Speranza: All right, then I will entertain a motion along those lines. Do we want to first talk about the first lower expansion to the north?

Boardmember Barr: Maybe you can define them for us.

Boardmember Logan: Yes, if we break these into the three parts, let's talk about the most difficult one which, I think, is the kitchen addition to the north side. In my opinion, I think that does represent a significant intrusion into a very small view by a very big house. My inclination would be to recommend that that not be approved. I think the other ones we can go along in the same vein. Shall we have the discussion about that one?

Chairperson Speranza: Okay, how do Boardmembers feel about that? The first-floor kitchen addition.

Boardmember Barr: Why don't we pick the ones we think we might approve, then come back to the one we don't approve.

Chairperson Speranza: Well, it's kind of here on the table.

Boardmember Smith: This one is the one we've been discussing most. So maybe if we take that first, then we can open a new discussion on some of the other dimensions.

Village Attorney Stecich: Why don't you make a motion.

On MOTION of Boardmember Logan, SECONDED by Boardmember Wertz with a **voice vote of all in favor**, the Board resolved with regard to the kitchen addition on the first floor that it be not approved in terms of satisfying the requirements of the view preservation.

On MOTION of Boardmember Logan, SECONDED by Boardmember Smith with a **VOICE VOTE OF FIVE IN FAVOR AND ONE NAY VOTE**, the Board resolved with regard to the second floor bay window on the north side that it be approved as there is virtually no impact on the view. It's directly behind a tree, there's probably a very narrow sight line that would interrupt that.

Boardmember Wertz: A little discussion about that?

Chairperson Speranza: Not when we're voting.

Boardmember Wertz: I think I'll have to go with no on that.

Chairperson Speranza: Okay, so you have that Angie? And then the last one.

Boardmember Logan: In my opinion, if you take a look at the total view--that is, let's call the view from the top of the Palisades to where the street hits the horizon on the top and bottom levels, and on the right side of the view where it's the front of the house in question and on the left side of the view is the neighbor's property--I would say that's probably, and we could measure it, I would say it's less than 5% of that view. In my mind, that is not a significant interruption. I think we do need to have dimensions put on the drawing. We've had it quoted as being 3-1/2 feet. Generally, you don't scale drawings. So I think it's on the record as being 3-1/2 feet, and I think I would hold them to that. But in my opinion, I don't feel that's a really significant invasion of the view. And if I think we are going to really focus in on what is a serious view interruption we should call out the serious ones. And the ones that aren't serious, we should call them as not serious.

On MOTION of Boardmember Logan, **SECONDED** by Boardmember Lee with a **VOICE VOTE OF FIVE IN FAVOR AND ONE NAY**, the Board resolved to approve the addition of the bay window on the second floor on the south side as having minimal ... invasion of the view... We recommended to the Zoning Board that the approval of that addition.

Chairperson Speranza: Okay, thank you.

2. Preliminary Subdivision Proposal. Foley property near Farragut Parkway and Green Street related to three lot subdivision proposal.

Chairperson Speranza: Our next agenda item is a preliminary subdivision proposal for property, owned by Mike Foley, on Farragut Parkway and Green Street. We're now going to be looking at a three-lot subdivision.

Edward Weinstein, architect: I am representing Mike Foley. This is a continuation of a preliminary discussion that we began in June of 2005 when we originally thought we might do a cluster development. After some discussion, and realizing that we could not do that, we went back to the drawing board and in December presented a scheme very similar to the one that you see before you now, which is to subdivide what is currently a parcel, or two lots, that are over 50,000 square feet with a one-family house on the property. And to create a subdivision which would create two additional building parcels one parcel which would be a private road/right-of-way and a fifth parcel at the rear of the property, which would currently be landlocked and would not have access to a road. At the December meeting, this board suggested that we have a couple of meetings, one with the Village Attorney and one with the fire inspector, just to discuss the technical parameters as to whether this was a subdivision which could legally be done in accordance with the code, and whether it could be done to satisfy the fire code of the state of New York as far as providing adequate access for fire protection vehicles. We did have both of those meetings and did conclude that yes, the Hastings code would allow a subdivision like this.

This would be a private road. It would have adequate frontage. It would be 20 feet wide, which we met with Mr. Drumm and he was satisfied that we could not only meet but exceed the requirements of the fire code.

We're here tonight because the next step in this process would be the preparation of a preliminary plat, which would mean that the applicant would be required to hire a surveyor or hire a civil engineer; go through some very rigorous exercises beyond this preliminary site plan. Before we did that, we wanted to conclude this preliminary discussion and just hear what the sense of the Planning Board's reaction to this was and whether this was a plan that we could go ahead and refine in order to bring you a preliminary plat submission.

First of all, any questions on the plan? It's been awhile.

Chairperson Speranza: I had. The way that this is drawn, coming off Farragut there's lot 1, which is the existing house that's there.

Mr. Weinstein: This is the tax map?

Chairperson Speranza: My question is about the proposal. You've got, then, lot 2, which would be a new residence built there; lot 3 would also have a residence. Lot 4, you mentioned, is the property that would not be developed. It would be a separate lot, but it's not proposed now for development.

Mr. Weinstein: Correct.

Chairperson Speranza: Lot 5 is the road?

Mr. Weinstein: Yes. That would be a separate parcel that's carved out. It would be a private road. We're not proposing that it be dedicated to the Village. The zoning code allows for a private easement, or way, and this would be owned by probably a homeowner's association.

Village Attorney Stecich: No, it doesn't allow for private easement. It would have to be a street. A street could be a private street, though. The issue here was whether there was going to be a problem because it looked like it was going to be a flag lot. And 70% of any lot has to have the required frontage on a street, and on a street suitably improved to the Planning Board's standards. But street is not defined as public street. The code's definition of street includes private street, so technically this would fit. I mean, it would meet that part of the code in terms of street frontage, which was the concern. Well, obviously there was concern with the cluster, but there was also concern about the street frontage. But I think, preliminarily, probably the most important issue for the Planning Board before this thing could go forward would be to determine would that be a suitable street. Does that make sense as a street.

Boardmember Barr: I have a related question to that. This lot 4, I have two questions. One, if it's a perfectly sizable lot, why isn't the street going back there? Or, what is the intent of this?

Mr. Weinstein: We would love to extend the street. It's not a steep slopes issue that we're aware of at this point. To have that private street extend to that rear lot would make that other lot too small. You can see right now, these three lots are each 10,000 square feet, or a little more than 10,000 square feet. So if we had to remove square footage from those lots...so that's the reason...we would like nothing better than to create another buildable lot, but we couldn't do it.

Boardmember Barr: But if you took some of lot 4 and added it into lot 3, at least from this diagram...

Boardmember Lee: There's no width.

Mr. Weinstein: Yes, it's only 50 feet wide in the rear. Once you have the setbacks, the other yard setbacks, you couldn't have a house.

Boardmember Wertz: Had you, or Mike Foley, suggested that lot 4 might in some way be combined with the parkland back there? I don't know if it was a matter of dedicating it to the Village or what kind of arrangement would be made, but wasn't there a suggestion of that?

Mr. Weinstein: That was a suggestion as part of our concept. If we could get this cluster development, which would have amounted to five additional units, then that might have made sense. We don't think, at this time, that's on the table. That lot could potentially have some future value. It might even be added to lot 3 to give that individual a larger parcel.

Chairperson Speranza: Yes, that was one of my questions for counsel, was whether or not we could actually create, by the subdivision, a lot which is inaccessible, which lot 4 would be. Or would, in effect, lot 3 just have to be that much bigger to incorporate lot 4.

Mr. Weinstein: Then lot 3 would include that. It would be 20,000 square feet.

Village Attorney Stecich: Because you run into a situation that somebody 10 years down the road comes in and says, "Well, I bought this lot. I've got to be able to build on it." You just want to avoid that.

Boardmember Wertz: Help me understand that better. What's going to happen with lot 4?

Village Attorney Stecich: It should not remain as a separate lot.

Boardmember Wertz: So 3 would be very large. It would extend all the way back.

Village Attorney Stecich: Either it would be very large or, if it adjoins parkland, maybe private parkland. I don't know, there are different things. But I would very strongly caution against leaving it sit as a separate lot.

Chairperson Speranza: Which can't be improved the way it is. I don't think we're allowed to do that. I don't think we're allowed to approve the lot that way.

Boardmember Barr: What is adjacent to it?

Mr. Weinstein: Mike Foley would like to address that particular issue.

Mike Foley: Initially I had very much wanted that 53-foot by almost 300-foot parcel to become a conservation easement or a negotiating chip with the Village: I'll do this--let me have less of a setback from the parkland and so on and so forth to liberate the lots in the front. There was just no interest whatsoever in that lot. It astounded me that the Village people would not want to expand parkland. There's another parcel involved directly with Pulver's Woods right now, which I draw the Planning Board's attention to. Maybe you're not aware of it, maybe you are aware of it. But this is a very big park and there's a very big piece of it here, a pumpkin's tooth, that has a house on it that's for sale. And it's for sale by any square footage barometer that you would use on any other property in Hastings. This is a very inexpensive piece of property that would be an excellent way for the Village to acquire a completion of this parkland and not have this pumpkin's tooth sticking out. So I asked the Planning Board to consider making a recommendation to the Trustees, the Mayor, concerning that lot, if you are aware of it and if you think it's good planning--to acquire parkland when it comes up for sale. Especially, these people, in my opinion--not that I know anything about real estate--but it seems fairly cheap to me.

I also have this parcel here. Part of it, I had proposed to extend this line up and have this become part and parcel of the bigger park. There was no interest. Especially, I wanted to put in affordable housing by Hastings standards, new housing, here. But I was unable to get the clustering and the advantages of all this open green ground. So now I'm coming to you with a very minimal request for the two lots.

Boardmember Logan: I think it's an interesting point you bring up. You're saying that that large area there is currently parkland?

Mike Foley: All this area here is parkland, Pulver's Woods. There's one huge piece of property that's currently for sale.

Boardmember Logan: Pulver's Woods. Well, maybe we should step back and look at this a little more broadly because you've sort of got this zig-zag area.

Mike Foley: I've got a piece that sticks right into the park.

Boardmember Logan: It seems like this would be a ripe area for discussion in terms of reshaping some of these boundaries. Maybe there's a tradeoff for a corner of the Pulver's Woods park that would help your property, and a piece of your property that would help the park.

Maybe there's a swap or reshaping, but it seems like you're working with a very irregular outline, which is an accident of history at the moment but could well be reshaped to mutual advantage. And obviously this is a discussion that has to include the Board of Trustees, but I'm not sure what their concerns are and I don't know if we have to get into it right now. But it looks like this merits a little bit more discussion.

Chairperson Speranza: So some sort of swap.

Boardmember Logan: For our mutual advantage, yes. A swap.

Boardmember Lee: And we need the whole picture in front of us.

Boardmember Logan: Yes, why did this discussion not bear fruit? I'm a little surprised that the Village didn't go for it.

Mike Foley: I was more surprised than you.

Boardmember Logan: There may be reasons I'm not aware of.

Boardmember Wertz: Did you speak with the Board of Trustees about this?

Mr. Weinstein: We spoke with the Mayor.

Village Attorney Stecich: Was this in the context of the cluster? From the beginning, I told you and I told the Mayor this doesn't fit the cluster. It just doesn't fit within the cluster law. So anything that was said in that context doesn't mean there's no interest. It's just it couldn't be clustered. Under state law...

Mr. Weinstein: At the present time I would think that certainly we'd be interested if it could generate an additional building lot. If it would entail a lengthy public discussion and review process and bog us down, then it might not be worthwhile. Right now we have, we believe, a situation that's more or less as-of-right, you know. Subject to meeting the technical requirements of the subdivision law, we could go ahead and have two lots.

Mike Foley: My understanding, correct me if I'm wrong, concerning cluster is that the spirit of the law and the intent of the law was to allow people to develop property keeping as much open space as possible, the greenery and the lawns and whatever, rather than everybody blacktopping their driveway and their barbecue pit and their separate entrances and this and that and the other thing. It certainly was my intention, when I came in and offered to build, quote, affordable housing in a cluster that would allow this parcel to go to the Village as a conversion easement. Instead of having a 20-foot or 40-foot setback I might be allowed a 12-foot setback. But all I would need is some cooperation and some understanding.

Village Attorney Stecich: Just very briefly and, if you want, some other time--I could explain to you what to do. Before you can determine how many houses you could have in your cluster you have to see how many conventional lots it can be divided into.

And by conventional lots it means lots that meet all the zoning requirements, meet the setbacks, meet the street frontage. Because otherwise you get all kinds of people say, "Oh, well, I've got 75,000 square feet, and so I should be able to get seven houses on it because it's 10,000 square feet." But no, you have to draw it into conventional lots. And if you drew yours into conventional lots, actually I think you ended up with...

Chairperson Speranza: With what we have.

Village Attorney Stecich: Right. By adding the street at the time. And maybe another time I'll...I know that's one of the intents. But the other intent is you can't create more houses than would be allowed otherwise.

Mike Foley: With all due respect, at the same time, in weighing it, it is clearly the intent of the cluster laws to preserve not only greenspace on the property intended to be developed, but the fact that it's right next to a park. A similar situation would occur if it was a schoolyard. You don't want to have certain types of construction right next to it.

Chairperson Speranza: Maybe we should have a discussion with the Mayor and the Board of Trustees. Maybe we'll start with the Village Manager and talk to him about this, and whether or not there would be consideration for some kind of swap of a corner of the parkland and then the back area. I don't think it's simple, though.

Boardmember Barr: The thing is to do something good for the Village.

Chairperson Speranza: I don't think that's simple because we'd have to un-dedicate parkland, right?

Village Attorney Stecich: Oh, yes.

Chairperson Speranza: So it's not going to be simple, but we can find out exactly what steps are involved.

Mr. Weinstein: Is that something that requires the state legislature?

Village Attorney Stecich: Yes, it does.

Mike Foley: Then forget it. It's not possible.

Village Attorney Stecich: You need to get it into the legislature.

Mr. Weinstein: That's what concerns me.

Village Attorney Stecich: If Pulver's Woods is dedicated property, which I assume it is, yes, it's major.

Mike Foley: I would say it's virtually impossible.

Village Attorney Stecich: No, it's not impossible.

Mike Foley: My proposal would be just to allow variance to property line and setbacks, and many of the problems would be solved. It alarms me that you people are not aware of this very exciting piece of property that's for sale cheap and would be mere pennies for the taxpayer, and would enhance tremendously Pulver's Woods. I have no financial interest. I don't even know the names of the people that own this property, but I'm aware it's for sale.

Village Attorney Stecich: One other question that occurs: are there steep slopes on this?

Mr. Weinstein: There may be some minor steep slopes. We would get into that. As I said before, the plan may require some tweaking. We believe on a preliminary basis that we can come up with a preliminary plat that satisfies the Steep Slopes Law and is not very different from what we've proposed.

Village Attorney Stecich: Because you're going to have to do the deduction. My point is, you're very close.

Mr. Weinstein: Yes, it's not a lot of steep slopes. So if there's one little bluff, keep in mind we have that additional parcel.

Village Attorney Stecich: No. The way it's laid out now, you're very close. This is R-10?

Mr. Weinstein: Ten, right--R-10.

Village Attorney Stecich: So you're just over the 10,000. So if you have to deduct some steep slope from it...that's all I'm saying.

Mr. Weinstein: We have that flexibility, and we have that additional lot.

Chairperson Speranza: Right, and that's got to be the steepest area.

Boardmember Smith: And all the lots conform to the existing zoning.

Village Attorney Stecich: Unless there are steep slopes on it.

Boardmember Smith: I understand that part.

Chairperson Speranza: Do you, Marianne, know what we require in terms of a roadway?

Village Attorney Stecich: Yes, the road is much wider than a lot of the roads in the Village. You say like for new subdivisions there's supposed to be 30 feet and whatever. But you can waive those requirements. You remember we did it recently with Civitano. And sometimes you might not want a really wide road because it's just a lot of pavement. But you would have to look at this road to make sure that it's a functional and a safe road. And a road that delivery trucks could use and, most importantly, fire trucks could use.

Mr. Weinstein: We did meet with Mr. Drumm.

Boardmember Barr: We're supposed to be planning. I think if we've got a section of town that is very valuable I think we ought to take a little time to figure out what's the best arrangement rather than just struggle through compromises. And certainly, Ed, you've sat in this seat. So you should be able to help us.

Mr. Weinstein: Having sat in that seat, and now being in the seat with my client's interest at heart, I'm sometimes concerned about the length of time that this kind of process could take. But if Mike Foley would like us to explore it, we will.

Boardmember Wertz: I'm sensitive also to Mike Foley's concerns. He wants to get this project moving. And to the extent that we've discussed it so far I feel pretty comfortable with the first three lots. My question is, what about this lot 4. What's happening with that? Can we just leave it hanging out there and say that it's going to be undeveloped? What does that mean? I remember the previous proposal of turning it over to parkland, which I thought was wonderful. Maybe now there's as much motivation to do that, but then I want to know what's happening with that lot, what's going on there.

Chairperson Speranza: We couldn't approve the subdivision with lot 4 anyway.

Boardmember Wertz: That's my problem.

Chairperson Speranza: We can't.

Boardmember Logan: But that's easily solved. We just combine...

Chairperson Speranza: So that becomes part of lot 4.

Ben Foley: You could easily solve that situation just by combining the last two lots. And then I think, with your blessing, we'd be prepared to move forward with this process. For us it would be less satisfactory than the other one, but it would certainly be enough for us to move forward. And I think if you guys were motivated in creating extra parkland for the people of Hastings that, at this point, it's going to be up to the town to show some motivation into trying to work with us to get the property rolling and part of Pulver's Woods.

The other thing I just wanted to point out is that that other piece of property that's for sale, that woods, is used once in awhile by people who walk their dog and stuff. But if that house was bought and turned into an access point...it's not very often a huge piece of Hastings comes up to become a readily usable park for the town. There's the river. There's a few assets: the river, the pleasant commerce in the center of town. This would be a real serious missed opportunity if the town didn't hop on it. I think as private citizens we've put up our land and we're saying we're willing to work with you, but we're not going to come to meetings every night for two years when we can just use a plan that's going to fit all the existing zoning laws and just move forward with it. If the town's really motivated and they want to jump forward, we'd be willing to work with you. But there's not a lot in it for us to go to the state legislature and try to make an act, for the people of Hastings there's quite a big interest, but for us not so much.

Chairperson Speranza: Well, let me find out as far as this plan, with some tweaking-- knowing that we would not be able to move forward with a lot 4--that it would have to be combined with lot 3. Are we all comfortable saying okay, proceed with drawings pending, what I'd like to do in the interim...I'm asking this question because what I'd like to do in the interim, I think it would be important for us to just sit down and just explore a little bit. And if it seems like it's going to be way too overwhelming, then we can...I want to make sure everybody's comfortable with it, though, to let them go ahead if, within the next two weeks, nothing comes of anything else. And this way you'll have some time.

Boardmember Barr: I would say between now and the next Planning Board meeting. I appreciate the fact that they want to move ahead, but this is something we're all going to live with for quite a while. If we set a time limit, and ask Angie and the Village Manager and so forth to look into this and see whether there's anything...

Boardmember Logan: I think as part of that you would want to prepare a separate set of drawings that would show this other scenario that satisfies your requirements and indicates what you would be prepared to swap, basically. And I think we need that kind of basis for discussion. I mean, you're indicating you want a fourth buildable lot as part of this deal. Maybe you can decide if that really is your strategy or if there's another way we can reshape it without getting the fourth lot that enhances it for you in some other way. I think the ball is sort of in both our courts right now. But if you're going to appear before the Mayor or the Board of Trustees with a proposal, it should be specific. Maybe a couple of proposals.

Boardmember Lee: I see no reason why, if they want to, they should not continue with this.

Boardmember Wertz: If you want to combine lot 3 and lot 4, as far as I can see there's nothing stopping you from doing that. It would be wonderful if this could become parkland. I'd go for that any day. But you own the land, and if you want to combine it with the other lot it seems to me that you're free to do that.

Mike Foley: I would consider giving the property directly, or as a conservation easement. A couple things that I want, of course, is some cooperation--what I call cooperation--on setbacks and layout of the lots in the front. I would like also, as I suggested once before as a condition, that the name of the park be changed to Aluisio's Park because of the work that Rooster did in the Uniontown area and was a tremendous contributor to the community. I would like to see that he would be remembered in some way, with the name of the park referring to that.

The other thing I would ask now, as a third sort of thing, is maybe someone from the Planning Board would investigate this other lot that is for sale, and realize that these opportunities come along only once in a lifetime. I've had the property that I have for 30 years or so, and now it's come to fruition that it can be maybe parkland.

Chairperson Speranza: Okay, well, why don't we, by the time of our next board meeting we'll have a conversation about whether or not we can make some modifications...

Mike Foley: It's a deal.

Chairperson Speranza: ...whatever. And I will also look at that property.

Mike Foley: Thank you.

Chairperson Speranza: By the time of the next Planning Board meeting, okay?

Mr. Weinstein: So we all have some homework to do before the next meeting.

Chairperson Speranza: Right.

Mr. Weinstein: Thank you.

Boardmember Smith: Just one point. I'm fine with them moving forward on this, assuming that they've made a representation that each of these lots satisfies the zoning law, right? The frontages, I don't know. I'll have to look at that.

Mr. Weinstein: Bear in mind that we have two more steps. We have a preliminary plat and a final plat that have to be presented to the Planning Board before we get approval of the subdivision.

Boardmember Smith: We know that. But it's just something that you have to be aware of.

Chairperson Speranza: Jim, this is about this application?

Jim Metzger, 427 Warburton Avenue: Very quick comment. I've been before this board on many, many occasions and I think this is the first time I've heard someone volunteer affordable housing and parkland in the same application. I'd like to urge whatever boards are necessary, whatever people in the Village are necessary, to please approach this applicant. Don't put the onus on him to approach you. He's offering you wonderful things for the Village. We need to look into this. Thank you.

Boardmember Barr: I couldn't agree more. We're supposed to be planning.

3. 10 West Main. Continuation of SEQRA Review.

Chairperson Speranza: Okay, our next order of business is continuation of SEQRA review for the property at 10 West Main Street. I understand we have a wide variety of information before us. Where we are now: we had started to go through the SEQRA environmental assessment form; determined that we, as a board, did not feel comfortable with certain aspects and declaring that there would be no negative impact on the Village for certain aspects of the proposal. We then went out and hired a consulting firm and a sub-consulting firm to provide us with some additional guidance. That was the firm of BFJ Planning. We've gotten one report from them about the visual aspects of the proposal as well as some of the very initial aspects with respect to steep slopes. We have received additional information from them based on some additional photographs that were taken. I also understand that there was a video done of some of the circulation through the parking area to address some concerns that had been expressed by this board and members of the public. So, is George still here? Do you want to run through the findings in your most recent report?

George Jacquemart, transportation consultant: I think you have, as part of your package, the memo that was written by Paul Buckhurst--he could not be here tonight--on the visual aspects. As you probably remember, Paul had asked for additional photo montages from the proposed development from various viewpoints in the Village. As part of the memo that he submitted, the memo that's dated March 13, there is figure No. 1 that shows the project area with the five viewpoints--A, B, C, D, and E--from where there were pictures taken of the proposed site and photo montage was done. Figure one, also, by the way, shows the footprint of the building and it's slightly corrected from last time. An architect in the audience questioned the scale. We measured the width and his comment was correct -- it was slightly smaller. So this is the corrected footprint of the building.

[END TAPE ONE, SIDE B] [START TAPE TWO, SIDE A]

Paul's memo says that ...the views looking north, like views C and D, show--because of the retaining walls that are required because of the steep slopes and so on, the topography--the buildings look higher than what they are, in a way, because of that retaining wall. You can see that. The photos were taken in the winter, so there's practically no foliage there. It's probably the worst case in terms of the visual impacts. So that's two for view C and D, where you can see fairly large surfaces of walls. Obviously, view A, which is the view from the parking lot, the building looks more modest and in context with adjacent buildings in terms of their height.

One of the concerns that we're raising is the retention of the trees and landscaping that are there today. Even though the plans may show that some of these trees can be preserved, once construction goes through you're not 100% sure whether they really will survive. So if the Board considers the approval, it should probably consider some guarantees that if the trees die that there be some replacement trees.

The other recommendation that Paul is making there will probably be more detailed. I don't remember if you have an architectural review board here in the Village. I assume they will do that; look at some more of the detailed design of the façade.

I think the conclusion that Paul is drawing is that obviously the building, because it's at a prominent place, will change the view that you see today. There's no doubt about that. It will change. Whether that's positive or negative, that's a judgment that you will have to make yourselves. I think that's all I have to say about the view impact. We felt that the photo montages that were done are fairly realistic. Paul checked those, so he's satisfied from that point of view; that what was submitted by the applicant was basically what we had required, and is adequate.

So that's on the visual impacts. I think we want to talk a little bit about the parking. There's a video that we can watch, and I can summarize a little bit some of the parking data. And then Susan Fasnacht is here to talk about the engineering aspect for steep slopes. So whichever sequence you want to proceed.

Village Planner Witkowski: Why don't we start with the video. What we did was set up a video camera in 10 West Main in the [second] floor for five days from Friday, March 3rd in the afternoon until the following Wednesday afternoon. We went through the video. It showed most of the parking lot, and we were able to go through it to get some of the activity. What we did was have some excerpts from that full four hours of tape... and lapsed it down to the times when there was the most activity going on or what was most representative of what might go on at a typical time.

So this is Friday, March 3rd, in the evening from 5 to 9. You see the time in the corner.

Mr. Jacquemart: You can see the actual time of the video on top, on the left. This is the 24-hour clock. It's 5:27, so it's 5:30, roughly, in the afternoon.

Boardmember Barr: The rate they're going, they all ought to get tickets.

Mr. Jacquemart: Very busy and quick community.

Boardmember Logan: Have you done a vehicle count based on this?

Mr. Jacquemart: We did a count of the available parking spaces and we summarized that in a spread sheet, and I'll show that to you later on. We didn't count the number of cars going in and out

Boardmember Logan: But we could easily do that, then.

Mr. Jacquemart: Right.

Village Planner Witkowski: That can be done. We still have the full videos.

Boardmember Smith: Was anybody issued parking tickets during this time?

Mr. Jacquemart: No. We checked also whether somebody checked the meters. We didn't see anyone.

Village Attorney Stecich: It's only 6:30 Friday. We're going to be here all night.

Village Planner Witkowski: This goes until 9 o'clock. After 9 o'clock there was really virtually not much going on. The next time that we have, as soon as this is over with, will be Saturday morning from 8 o'clock until 10:30.

Mr. Jacquemart: Obviously, if we would look at this at the real time we would sit here a long time tonight and it wouldn't look that busy. This gives you an impression that it's very, very busy, but you also have to realize that there are moments there where nothing happens and you have to expand those, as well.

Village Planner Witkowski: The other thing that we noticed was there are times, in most cases, and this was through the whole thing, there were always parking spaces available. They may not be up in that first row where everybody wants to be, close to the stores, but there wasn't really any time that anyone had to wait for a parking space. Unless someone was backing out, of course, and they had to wait for them to get out of their space.

Chairperson Speranza: Is there a way to just cut to tomorrow?

Village Planner Witkowski: We can fast forward it. Okay, let's fast forward to Saturday.

Chairperson Speranza: It's not going to get any more congested between 8 and 9.

Village Planner Witkowski: Okay, so let's go to Saturday at 8.

Chairperson Speranza: It's 8 a.m., okay.

Village Planner Witkowski: Plenty of parking spaces there.

Mr. Jacquemart: It's about 9 a.m. roughly.

Village Planner Witkowski: The other thing that you notice if you look at the whole thing is, I was counting the number of cars that pulled up right next to the laundromat so they could take their laundry in. I go to that laundromat, and that always bothers me that people can't walk from their car to the laundromat.

Chairperson Speranza: And this is March 4th.

Boardmember Barr: It's Saturday.

Chairperson Speranza: I'm trying to think. It looks even *too* empty for a Saturday.

Boardmember Smith: What do you think? It picks up around 10, 10:30?

Village Attorney Stecich: No, that was after school.

Chairperson Speranza: That was not a school day.

Village Attorney Stecich: After school break. I'm surprised.

Village Planner Witkowski: And this was Monday from 6:30 to 10:30. We wanted to get a very early morning in a week.

Boardmember Wertz: Did we get into Saturday on that other one. Say, 11:00 Saturday morning?

Village Planner Witkowski: We have that. We just wanted to have some representative times. If anyone wants to look at a specific...

Village Attorney Stecich: What about Saturday afternoon?

Village Planner Witkowski: We have everything. If anyone wants to look at the specific time they could just let me know and I can have them come over and they could take a look at that.

Mr. Jacquemart: And we do have the summary of empty spaces for all of those time periods.

Boardmember Wertz: And how was the Saturday afternoon? Were there spaces available?

Mr. Jacquemart: Yes.

Boardmember Smith: Do you have summaries of this data?

Mr. Jacquemart: Summaries?

Boardmember Smith: Say on the hour, the average number of spaces?

Mr. Jacquemart: Angie summarized it. She looked at every half-hour?

Village Planner Witkowski: For the parking, yes. I haven't completed all of the times that I wanted to do, but George will be going through that. We wanted you to see the video first so that you could see what's going on there because I thought it would be more meaningful when he explains the parking situation.

Boardmember Wertz: Maybe that gives us enough of an idea. Let's see the analysis now.

Boardmember Logan: Let's wait one more hour here.

Chairperson Speranza: Yes, that's what I'd suggest. When do the stores start opening?

Boardmember Wertz: We'll see the analysis.

Village Planner Witkowski: Why don't we fast forward it up to 10:00.

Village Attorney Stecich: They don't open until 10?

Village Planner Witkowski: Some open earlier, but 10, at least that'll...

Boardmember Logan: But nevertheless, this would be peak hour for somebody living there.

Boardmember Smith: Well, we know what it looks like. We need an analysis.

Chairperson Speranza: Right. And what I heard was that you have a summary of the

parking. How is that done? Is it by hour?

Mr. Jacquemart: Yes. Angie looked at each hour.

Village Planner Witkowski: Every half-hour.

Mr. Jacquemart: Or every half-hour. She started, let's say, at 8:05 and then went to 8:35, and then 9:35 and so on. Then based on the visual observation of that particular picture at each half-hour, she then wrote down the number of spaces that were available, that were empty. We summarized that. She transmitted that to us, and we summarized it graphically and I have copies that I can distribute.

Chairperson Speranza: Okay, great.

Mr. Jacquemart: We summarized it for two days. Friday, March 3rd, filming only started at 1:30--that was the beginning of the filming. And then you have a graph on the second page. It was Saturday, March 4th, the whole day--the 24-hour period. And then we have the spread sheets attached to them.

Chairperson Speranza: Okay, thank you. I think we're set with the videos.

Village Planner Witkowski: Let's just do a little bit of Tuesday afternoon because that is more of a weekday afternoon.

Chairperson Speranza: Is there any significant difference?

Village Planner Witkowski: No, we can just let it run and George can go through his...

Boardmember Smith: We've got a long evening. Read the graphs, the analysis. Let's move on.

Chairperson Speranza: Okay. Ms. Fanacht, you have a report for us on some of the engineering aspects of this?

Village Planner Witkowski: Didn't you want George to go through the graphs?

Mr. Jacquemart: I'll give you a quick summary of the graphs. You can see it for yourselves. You can see that these bars show the number of available spaces. The first page shows it for Friday at 1:30. There were a total of 23 spaces that were empty, including all of the aisles. So there were basically three aisles. You could see on the right, in the middle, and on the left. On the left is the aisle that's reserved for permit parkers in the morning, and then available to everybody after 11:30. So this shows the availability of those spaces. You can see on Friday there was always a minimum of 23 spaces available, and the same for Saturday. Saturday midday, around 1 o'clock, was the highest occupancy and you still had about 23 spaces available. That's the total in the lot, including those spaces marked for permit.

Chairperson Speranza: Excuse me. I just need to hear him. So if there's questions, we probably want to hear him. Go ahead.

Mr. Jacquemart: Basically what I'm saying is, these bars, they show the total number of

spaces available in the lot, including those that are marked for permit parking during weekdays between 6 and 11:30 a.m.

Boardmember Barr: I must say, that is one of the most ludicrous signs in this village. It doesn't mean anything. It's all-day parking, and why it says 6 to 11:30 no one has ever been able to explain to me.

Mr. Jacquemart: Well, my explanation is that it's the overflow parking for commuters. That's what I was told. So that the commuters, if they can't find parking at the lower levels, they can come up and park there all day long.

Boardmember Barr: So why does it say until 11:30?

Village Planner Witkowski: Because after 11 o'clock anybody can park there.

Mr. Jacquemart: So if it's not occupied by commuters, then it becomes available to shoppers after 11:30.

Boardmember Barr: How many spaces are there in all?

Village Planner Witkowski: There are 55 total; that's 18 where the commuter overflow parking is, the two parallel spaces, and the two rows in the middle. I counted the [cars where they were parked]. We put that in the spread sheet.

Boardmember Logan: I think my question was, and I think you just answered it, the total number of spaces so we can show how many spaces are occupied versus how many are empty. Then we just need the total number to arrive at that. It's 55.

Mr. Jacquemart: Correct.

Boardmember Logan: So that gives a slightly different picture, where we can see all occupied versus all unoccupied.

Boardmember Wertz: Yes, that's what I wanted: a total number of spaces.

Chairperson Speranza: Rhoda, Bill, Bob? Anything else on this? Okay, this is very enlightening information.

Mr. Jacquemart: Well, it's your planning staff that basically coordinated it.

Susan Fasnacht, engineer: We looked at the engineering aspects of the proposal, particularly steep slopes and the drainage. We had prepared a letter on January 20th of this year, and then had a supplemental letter in March when we were given some additional information by the applicant's engineer.

Just in general, site engineering review and comments: sanitary sewer, they have a letter from the county health department saying that they can tie into the county trunk main. They're still awaiting a letter from United Water of New Rochelle regarding the water service, but I can't imagine there would be an issue with that.

Steep slopes. In my January letter I had given an opinion that, after it was reviewed by the Village Attorney, they said that I didn't apply the law properly. I went back and reevaluated

the section 249. Basically, the applicant provided me with plans with their grading. They're leaving about a 12-foot flat area around the building for access to get around it. They also provided me with the geotechnical report that was prepared by Pilori Associates in May of 2004. The latest set of plans they gave me refers to that geotechnical report, which has recommendations for construction. Based on the information contained in both of those, I feel that there should be no issues with constructing on the slope that's shown there.

The last thing is the storm water management. Based on the latest footprint that they have, they've gone through the calculations. They're proposing putting some underground 36-inch diameter pipes that will be down below the floor of the parking area. This detention system takes care of the 2-, the 10-, the 25-, the 50-, and the 100-year storms. They also evaluated the storm system on West Main Street to see that it could handle the flows coming out of the site, and that would have adequate capacity.

So the storm management, to me, is satisfactory. The erosion control plans are also satisfactory. I have one small comment: that it looks as if the water could come down West Main Street and enter into the parking garage. Either they should add some sort of a drain across there or a catchbasin, or provide grading that will prevent that from happening.

That's our findings.

Chairperson Speranza: Okay, thank you. Questions?

We're going to have to digest this information. We owe the applicant a response as far as how we're going to handle the SEQRA; whether we're going to issue a negative declaration on this proposal, or whether we feel we need some more information with respect to potential environmental impacts and potential mitigation measures. So what I would like to do is for us to be prepared to make that decision, potentially, at the next meeting, okay? I don't feel, given the fact that we've seen this...we have some other information that we've received in the past that we really should do due diligence on and go through it so that we can make the best and most informed decision at the next meeting. Anyone else?

Boardmember Wertz: I think I could just ask one nitpicking little question about the BFJ-report. In the second paragraph from the bottom, where it reads: "...the contrasting image is shown in the view looking south, A, where the north façade appears having a more modestly-scaled third-story building." That word "more" indicates a comparison. What would be the comparison be to, in that case?

Mr. Jacquemart: I think the comparison is in relation to the views C and D, where if you look at those photos, when he uses a contrasting image it's in contrast to the views in C and D, where you see the three stories plus the retaining wall underneath. That's the meaning of those words.

Boardmember Barr: I think there's an interesting use of language: "...will assert a strong presence within the Village, given its prominent location."

Boardmember Wertz: That sounds accurate, Rhoda. Thank you.

Mr. Jacquemart: You also should keep in mind these photos were taken in the wintertime when they have minimal foliage. As Paul mentioned, he feels that the architect did a relatively good job in terms of breaking up the building and not having a very large surface. You know, that's his opinion. But it is a subjective feeling, the view character.

In terms of the location in general, in the core of the Village, this makes sense. It's smart growth near the station. That's where we want to have density. As planners, that's what we can say. It's also good for business because we're putting people within walking distance to the local businesses. So there are a lot of positive features here from a planning point of view, smart growth point of view. But it is, as Paul says, a prominent location. And that, you have to take into consideration.

It's a change. But if you look at some of these photos, not everything is attractive. You know, if you look at the parking lot, we are used to it because all these things exist today. But if you look at it visually, the parking lots don't look very attractive. So if you want to try to judge it in an objective manner you have to take all of those things into consideration.

Chairperson Speranza: Okay, thank you. Any comments on this?

Jim Stadler, 8 West Main Street: I live in that unattractive parking lot, or by that unattractive parking lot. A question. When this gentleman's talking about visual impacts, are we talking about the view preservation now, or is that another topic?

Chairperson Speranza: View preservation is one of the things that we will be talking about when we determine whether or not to issue a negative declaration.

Mr. Stadler: Okay, so when he mentions visual impact, that has nothing to do with view preservation at this time.

Chairperson Speranza: Right.

Mr. Stadler: That will be addressed in the future. In the near future?

Chairperson Speranza: Yes, there has been some work done, just a bit, with respect to the views by Mr. Jacquemart's firm. But it's something that we as a board certainly consider when we determine what the environmental impacts are going to be on this.

Mr. Stadler: No, I'm sure you will. I just wanted to make sure, when he was talking about visual impacts that we weren't getting into view preservation. You know, they're two different issues.

Chairperson Speranza: We will.

Mr. Stadler: And second, can I get a copy of those drawings that he had?

Chairperson Speranza: Yes.

Mr. Stadler: The pictures he made?

Chairperson Speranza: Yes, we can have the report made available. Angie, if anybody calls and wants copies, that's fine.

Village Planner Witkowski: I have those, if you need extra copies.

Mr. Stadler: Okay, thank you.

Chairperson Speranza: Thanks. Anyone else?

V. Discussion

MUPDD Saw Mill Lofts SEQRA Review. Discussion of Findings.

Chairperson Speranza: Okay, our next item of business for the evening--last item of business--is a discussion of our moving forward with this SEQRA review for the MUPDD Saw Mill Lofts proposal on Route 9-A. Mr. Chertok, our special counsel for the matter, is here. We have accepted the Final Supplemental Environmental Impact Statement on the proposed development of 60 live/work units at that location. It is now the job of the Planning Board to construct and issue findings, and a recommendation, to the Board of Trustees with respect to the proposed development. Exactly how that is done is what we've got to discuss tonight. We are certainly not drafting findings tonight. That will be something our attorneys will be working on. But to do that, they need to get a sense of the Board on what the issues are and the environmental items.

Special Counsel Chertok: And you are certainly not making a determination tonight, just so that's clear.

Chairperson Speranza: We can't at this point.

Special Counsel Chertok: Correct.

Chairperson Speranza: So guide us. We need to get some sense from each of the Boardmembers. Shall we go through this topic area?

Special Counsel Chertok: You could do a sense of issues, concerns, feelings individually as opposed to collectively, you can do it by topic, or you can just ask individuals if they have any particular concerns or issues they would like to express. Their own personal preliminary feelings on the matter is the way I would describe it. It may be easier to go over the principle areas of concern: traffic, storm water management, and some other issues like that.

Chairperson Speranza: Okay, why don't we start with the hot topics. The traffic: are there things that Boardmembers feel strongly about with respect to the information that we've received and accepted with respect to the traffic-generating characteristics, traffic mitigation

measures, that have been proposed for the MUPDD lofts?

Boardmember Barr: One thing, I think an interesting idea came up at the very end of the meeting. And that concerned possibly changing the school district, which would have a significant impact on school buses, the direction kids went into, and so forth and so on. I don't know if there was any follow-up from that comment. It was at the very end of the meeting.

Boardmember Lee: Is there a role in that for us?

Special Counsel Chertok: The applicant hasn't proposed it. One could look at it to, in theory, mitigate impacts. But the first question is whether or not there are significant impacts to mitigate. The information before you now on schools, you heard some of it. There's probably more information coming. We've gotten some information from the representative from Ardsley indicating that there is a fairly limited number of students from other developments in the Ardsley school district which would indicate that the Boulder Ridge development had much larger apartments, much larger number of units, and therefore generates a much larger number of children than would be expected from units that are more comparable to their proposal. We're still gathering that information, and STV will submit that. The difficulty is, the decision on the school district is not within your hands. You might recommend that it be considered, but I don't think that's really an action that's proposed and is before you at the current time.

Village Attorney Stecich: That was the Ardsley long-range planning committee that said that was something they were considering. To the extent it comes up, if you thought it made sense I suppose you could send a letter to the Ardsley school district or the Hastings school district saying it made sense. But I don't see that as part of the SEQRA.

Boardmember Barr: I would think it would have tremendous impact. First of all, the taxes would be different. Secondly, the issue of enclaves would change the dynamic significantly.

Village Attorney Stecich: No, I'm not saying it's not going to be significant, but it's not something that you can vote on at a Planning Board meeting.

Boardmember Smith: It's not on the table.

Village Attorney Stecich: It's a huge change to have to make. I mean, it's not in your hands. That's why I'm saying. If you want to take a position on it, take a position. But I don't see how that would affect the SEQRA process.

Boardmember Lee: It's clearly the most uncertain piece of data we have.

Special Counsel Chertok: It was somewhat uncertain, at least in the view of the trustee from the school district. The data that's been presented other than that indicates a rather low ratio, and that this 15 or 16 students was probably somewhat conservative in terms of the

projections. But the issue is whether or not you would want to look at, or request someone to look, whether it's counsel or someone else, and make an inquiry about what would be involved in that process, how long it would take, etc. There are time constraints that have to be looked at. If that's a process that takes six months, it may be fine to consider it at some future date if everybody wants to, but it might not be appropriate for the current time.

Boardmember Barr: I think it would significantly impact the whole situation. I think we should find out if there is any reality to it.

Special Counsel Chertok: It would arguably reduce impacts that some of the people have identified. The first question is whether or not you believe those impacts, in the first place, are significant. Because if they're not significant, then there really is no obligation to consider mitigating them. Although looking at that may be a prudent thing to do, it's not a requirement. So the issue is whether or not traffic is significant, and therefore this would reduce traffic; whether the impact on schools is significant; and similar types of issues. Or whether this is an enclave, and if that would be a significant impact if you considered this to be an enclave, etc.

Chairperson Speranza: I think one of the things that maybe would be helpful in terms of the development of the findings--and certainly this is something which, when the section of the findings that deals with the evaluation of schools--we, the Board, are going to want to see and have a lot of input in terms of actual writing of that. Do you follow what I'm saying?

Special Counsel Chertok: Particular aspect, or the entirety? I presume the entirety.

Chairperson Speranza: Well, the entirety. But there are some things which, frankly, we have all taken as a given. We have no argument, and there has been no major impact shown, on the vegetation and the wildlife. Those are things that we have looked at and said, Okay, we understand this, this is fine, it's not a major topic. The schoolchildren is. In terms of the relative import of some of the areas of findings to focus on, certainly schoolchildren is one.

The traffic, I'll be honest. I have never had an issue with respect to the traffic generated by this particular proposal in terms of the numbers. Just anecdotally, again this week I travel down Jackson Avenue, and two days I was stuck at Stew Leonard's driveway and it took me five minutes. And the other three days I flew through the intersection. So it is one of those situations where it's very, very difficult to say that on a regular basis there is anything. And I don't think the generation of potentially 44 trips is going to have a tremendous impact on it.

Boardmember Lee: The elements we're looking at: the water and the flood waters, looking at traffic, and at schoolchildren and who buys into this place. Water is totally predictable. It's an element that's been studied forever and ever, and it behaves rationally. Water always

goes where it's supposed to go. Traffic goes where traffic generators and traffic receptors are located. So we know that there's a tremendous backup on Jackson Avenue before you get to get to 9-A intersection. Basically, it flows off toward Ardsley with its tremendous shopping centers and traffic generating and traffic receiving systems, or towards Yonkers. A minor proportion of it flows through Hastings. Traffic behaves rationally because it goes to where the things are generated, the things that accept it, are located.

People do not behave rationally. So that's what I'm worried about is, does the Ardsley school district--with its peculiar emphasis on autistic children, or however big it is--draw a particular clientele and therefore draw more families with students than normally. Now, the data we've gotten recently does not indicate that's true. I mean, logically, I'm surprised. But it doesn't indicate...if that data holds up, then I have less of a problem with that.

But the first two, water and traffic. I think I understand what's happening to them and I think I know why it's happening to them, so I'm not as concerned about them.

Special Counsel Chertok: On that topic, just so it's clear, we're gathering information, and STV will be doing its own independent further evaluation. We've just got the numbers, I think, today from the Ardsley school district--or yesterday, rather--and those will be assessed.

Village Attorney Stecich: You say if the numbers hold up. Yes, those are the real numbers. Those are the numbers from the superintendent.

Special Counsel Chertok: But you need to compare those numbers to the units.

Village Attorney Stecich: The one thing about those numbers, they could be a little high. Because I think the number of buses also includes the kids who might be bused to a private school. That's included in their busing numbers. So that might account for why our consultant had 79 schoolchildren from Boulder Ridge. Joann had said 97, this number says 91. The difference is probably which year, and also it could be the school. So what's got to be done is to correlate the number of units there are and the number of bedrooms, and then do a projection from those units. I do know that several of them are fairly large. That is being done, and we should have that.

Special Counsel Chertok: We should have that probably in the next week or so, and that'll be provided and presented to the Board well before the findings. In terms of, Patty, your comment about the findings, I anticipate having a draft two weeks before the next meeting. I'm gone next week, and that Friday after I return it should be in your package. That will give you plenty of time to look at the language on the planning areas where you have the greatest concern. So you're not going to get them the night before or anything like that.

Chairperson Speranza: Okay. And we've talked about a couple of topics. The traffic, storm water: are there things with respect to storm water? Again, it seems to me that the plans have been done and they've shown mitigation to potential impacts.

Special Counsel Chertok: You have the report from Carpenter, which basically said that Carpenter and the Village forced them to go beyond what's required by state law for dealing with storm water.

Boardmember Barr: Yes, the same is true of contamination of the site.

Special Counsel Chertok: Contamination, we actually have some information. We got the number that was indicated in terms of the spill. Not the open spill, the spill. I seem to have the wrong document here, but my recollection is that it took place in 1994. It was at 44, which is an address that doesn't exist, so I expect it was 440 because it says Ciba-Geigy. The amount of oil and gasoline that was spilled was zero. There was no contamination. It was reported because it was an old tank. And because it was an old tank pull, that was reported to the DEC. We have the information, and will be providing it. So there's no apparent basis for believing that an event that occurred in 1994 has any currency today, particularly since the DEC closed it and they have a file on it.

Chairperson Speranza: Okay, are there other areas people want to provide input to? You know, we can talk about this, certainly, when we see the findings. I spoke to Dave Hutson, who couldn't be here tonight, and he mentioned to me that he still has concerns with respect to the treatment of the affordable housing units; the fact that they are smaller, and the fact that they don't include workspace. As well, the ability for the applicant to trade off, or to get an increased density in MUPDD in exchange for dedicating open space to the Village. Again, that was something that was done at the Board of Trustees level, not by the Planning Board. So again, is the density something that we are comfortable with? That's something else that we should consider.

Village Attorney Stecich: Are you saying it was done? It wasn't.

Chairperson Speranza: It was included in the MUPDD zone.

Village Attorney Stecich: Oh, that you could. I thought you said that they approved.

Chairperson Speranza: I'm sorry, no. It's getting in.

So within a couple of weeks, Mark, then we should expect to see the findings in terms of time frame?

Special Counsel Chertok: You will have the findings just less than two weeks. On that Friday, but two weeks before the meeting.

Village Attorney Stecich: March 31st, if it's two weeks from tomorrow.

Special Counsel Chertok: No, two weeks before the next meeting, which is April 7th, I believe. The meeting is the 20th, right? Something like that? I'm not writing them next week in Colorado.

Boardmember Lee: I wish there was some way to separate the question of the affordable

housing unit size and our rules of affordable housing. There's the utopian approach in affordable housing which says they should all be the same size. Which we would end up building affordable housing...the Village, the average size of any house in the Village, or a few larger. And there's a practical side outside the framework of this rather controversial project. I think the discussion is, the Village is better served, and I think the issue is better served, by discussing it. I can't make the meeting.

Chairperson Speranza: I know, but you're on the committee.

Boardmember Wertz: Bob, are you suggesting...and I remember the last discussion we had about the affordable housing. And it sounded like the sentiments of many members of the public, as well as members of our board, indicated that some change in the Village's phrasing of the affordable housing regulations is in order; and in order to express the spirit of our sentiment with regard to equivalence between the affordable units and the other units; and that the regulations aren't quite specific on that point. Are you saying that we ought to address those issues independent of this particular project and clean up those regulations so they really express the Village sentiment? And then when we come back to this project or any other proposal we'll have a better ground to express the will of the Village?

Boardmember Lee: I think it's too sensitive a conflict. Personally, I'm in total agreement with the builder. I just don't think it can be made to work. So I'd like to have a detailed discussion on that subject.

Boardmember Wertz: Yes, I agree with you totally, if I understand what you're saying.

Boardmember Lee: I don't either, but...

Chairperson Speranza: So maybe we'll get this on the agenda for the Affordable Housing Committee.

Boardmember Logan: That's right.

Boardmember Lee: Okay, fine.

Village Attorney Stecich: And they're the ones who proposed the language the first time.

Boardmember Smith: And if we could have that discussion as soon as possible, I think the Village would be well served.

Boardmember Barr: There was also an issue about paying for parking to someday put on the agenda. If you're required to provide parking, whether it be free parking or public parking.

Chairperson Speranza: Okay, anything else with respect to the Saw Mill Lofts? The environmental thing had been an issue, and something that I was concerned with to make sure that we have everything that we need to confidently say, again, this site is okay with respect to the contamination.

Boardmember Smith: Because it came up once before, four or five months ago.

Special Counsel Chertok: The problem is, you can't search the DEC Website very well on oil spills unless you have either a number or some precise information. The town searches don't yield you much. So we were given a number last time, and the number yielded the facts and the report result. I have a recollection that I actually did this a number of years ago, and did a search under Ciba-Geigy and picked up the spill and it was closed. But I'd have to go back and double check our records. But in any event, we have several records from the state and they're all same; that it was closed.

Chairperson Speranza: Okay, any comments?

Mr. Metzger: One of the issues that was brought up at the joint meeting was the possibility that the school board may be cutting back on bus service in the Village, which would probably increase the car traffic around the school during drop-off and pickup. I want to make sure the traffic studies reflect that if, in fact, that's what's going to be happening.

A comment to Mr. Lee. It would be nice if we knew exactly what water would do, but we don't. Because if we did there'd be no mudslides, Katrina wouldn't have had the effect that it did. So we need to keep a little bit broader perspective on those sort of things. I'm not saying that in this case the engineer did not exercise due diligence, but it's not quite as simple as it might seem.

The other thing I'd like to say, and this is a little bit far-reaching, for every minute of a traffic accident in Los Angeles on a freeway the length of time it takes for the traffic to start flowing again is four minutes, I believe. So there's not necessarily a correlation, if you put 44 extra cars on the road that are trying to make a turn in a given hour, of just 44 cars. There is a time lag factor with those cars moving through an intersection. I'd like us to keep that in mind when we're reviewing these statistics. It's not simply a number, but there's a real effect in terms of time frame and how that affects the community. Thank you.

Boardmember Lee: Jim, since you raised the issue, Katrina proved exactly what I was saying. The 9th Ward has flooded about 12 times in the last 30 years. The French Quarter has never flooded. Water goes to the bottom.

[END TAPE TWO, SIDE A] [START TAPE TWO, SIDE B]

Chairperson Speranza: Okay, Mark, do you have what you need to do the findings?

Special Counsel Chertok: In terms of the School Board, and elimination of some busses. I'm not sure if they're considering eliminating busses, but the Ardsley School District may have to look at the impact of that action on traffic as a general matter, as opposed to this project, taking into account what the school board might do at some point in the future. That would be speculative at this point.

Chairperson Speranza: Okay, I want to adjourn the meeting, but I do need Boardmembers

to stay. I'd like to have a meeting with advice of counsel. It won't be long, okay?

Boardmember Smith: Are we going to go in the little back room, or are we going to stay out here?

Chairperson Speranza: We can stay here if everybody leaves.

VI. Adjournment

On MOTION of Boardmember Smith, SECONDED by Boardmember Lee with a voice vote of all in favor, Chairperson Speranza adjourned the Regular Meeting at 10:45 PM.