

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
PUBLIC HEARING - CONTINUATION
MAY 23, 2006

A Public Hearing Continuation was held by the Board of Trustees on Tuesday, May 23, 2006 at 8:08 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Wm. Lee Kinnally, Jr., Trustee Marjorie Apel, Trustee Peter Swiderski, Trustee Jeremiah Quinlan, Trustee Diggitt McLaughlin, Village Manager Francis A. Fobel, Deputy Village Attorney Marianne Stecich, and Village Clerk Susan Maggiotto.

CITIZENS: Thirteen (13).

AGENDA

Mayor Kinnally declared the Board in session for the purpose of conducting the continuation of a Public Hearing to consider approving the Saw Mill Lofts Concept Plan as submitted by Ginsburg Development LLC for the property located on Route 9-A in the Mixed Use Planned Development District zoning district.

Mayor Kinnally: Since the public hearing on November 15, 2005 the Planning Board has completed its deliberations and has issued its findings in connection with the proposal. The Village Board is in possession of those findings and, I assume, has reviewed them.

This being a public hearing I will open up the floor for anyone wishing to speak on this topic. Please come forward, give you name and address for the record, and then please give you comments. Try to limit your comments. You can speak once until everybody has had an opportunity to be heard. There are not too many people here tonight, so we will not have that problem. But anyone wishing to come forward and give their comments, please do so.

Jim Metzger, 427 Warburton Avenue: I have appeared before this board and the Planning Board several times on this particular matter. As most of you know, I have serious issues with this project. First, but not least, is the fact that I believe we are developing an enclave which, even in our short Vision Plan, was something that we had decided Hastings did not want to do. We are creating housing that is surrounded by an industrial zone and a river and a park. There is no way to get in and out of that project except by car and, with the exception of putting a fence and a gate up, it is essentially a private community.

Secondly, and I think maybe more important, it has never been demonstrated that this project is actually going to generate any positive rate of return to taxes for the Village. The idea of

development in this day and age that does not increase the coffers of the Village in which it is being built really seems to be a huge mistake to me. We have an increasing tax problem in the Village, in the area in general. Those of us who were at a regular meeting last night, it is an issue all up and down the waterfront. We should be looking at these projects more critically, I think, so that when they are being built they not only benefit the developer, they are in business to make money, there is no reason they should not make that money, but the costs should not be borne by the people that live in the Village. I fear that our taxes are going to increase due to increased services that have to be provided. It has been enumerated many times. I really think that it is something that should be investigated further before this is allowed to be built. I personally do not want to subsidize a private development, and I feel that that is what the Village is being asked to do.

Those are my two main issues. There are tertiary issues of traffic that have been discussed. There are questions of flooding in the area. We have experienced flooding in this past year. I do not know if this project actually addresses that problem, given development that is happening in other areas, and I think we need to look at the bigger region. There are other developments going on in the area, such as Ridge Hill, that are going to increase traffic flow in this area, and I think we are going to be contributing to a problem and not trying to solve it. I think we need to start looking a little bit more into the future as opposed to looking at what is going to happen tomorrow. Thank you.

Mayor Kinnally: Thank you. Anyone else? Any other public comments? If not, let me say for the record that I am in receipt of four letters, one from Lorraine Kuhn from Ardsley and three from Hastings residents Karen and Burt XXX Myers, Allen XXX Katz, and Joanne Hayman XXX. All of these should be made part of our record.

For purposes of allowing full opportunity for people to submit written comments, the comment period will remain open until the close of business on Tuesday, the 30th of May, at which time the record will be deemed closed. I would assume at that point the Board of Trustees will commence its deliberations and discussion on what to do in connection with this application. One of the things that the Village Board has not done, really, is to publicly comment on the various findings that were approved by the Planning Board at its most recent meeting. I would anticipate that the Village Board will be in a position to deal with this situation on either the 13th or the 20th of June, and I open it up for a brief discussion just on timing from the Board of Trustees if they feel those dates are appropriate.

Trustee Apel: I would prefer later in the month, I mean the second.

Mayor Kinnally: The 20th?

Trustee Apel: Yeah, much better later. I need a little more time.

Trustee Quinlan: In terms of timing, there are some questions that I think have not really been answered yet. I do not know if we have the answers tonight.

Mayor Kinnally: Questions of the consultants?

Trustee Quinlan: No, Peter brought up the question of possibly performing more tests on the 1.75 acres that are being donated to the Village. That was going to be addressed, and I thought it was going to be determined whether there had been, and I guess I could be using the wrong terminology, a phase 1 or a phase 2 testing, Peter, do we know the answer to that?

Mayor Kinnally: Was there a phase 1 and a phase 2 on this property?

Trustee Quinlan: Well, which one? Phase 1 or phase 2, or both?

Special Counsel Chertok: There is both a phase 1 and a phase 2 on the property, which revealed no problems and no concerns from environmental hazards.

Trustee Quinlan: There were no problems?

Special Counsel Chertok: No significant concerns, or no recognized environmental concerns, to use the language of the reports.

Trustee Quinlan: Good. That solves that problem. The other question I had, Mark, and I asked you, I believe, was a question on the tax assessment on the component of the live/work unit.

Special Counsel Chertok: I think that was addressed to Marianne, but it was a tax issue.

Trustee Quinlan: Are you familiar with that?

Village Attorney Stecich: On the tax issue, yeah.

Trustee Quinlan: Did they explain it to you?

Village Attorney Stecich: I forgot. I had a memo from Ira Levy, who does your tax work, that I meant to copy and bring. I will send it on to you, but he said that you could not tax the

work area separately. Since it cannot be sold separately, it would have to be taxed just as one unit. To determine the rent of that unit you would have to try to find comparable units other places in the county and make adjustments up or down. Presumably they would be worth more because they would command a higher rental and then that would make the taxes higher. But you cannot tax the work part of it separately. Each one of them will be as one rental unit.

Trustee Quinlan: Did he cite any statutory or case law for that?

Village Attorney Stecich: No, I doubt very much that there would be case law on something like that. But no, I just got an opinion from him. It did not have law citations in it. Just general principles of assessment. He is extraordinarily experienced in this.

Trustee Quinlan: There will be a memo coming to us.

Village Attorney Stecich: Yeah, right. I will get it around tomorrow, Jerry.

Trustee Quinlan: And then the last thing, and this is just on timing. Again, I am coming in very late to this whole thing, so bear with me if you can. In the statute...

Mayor Kinnally: What statute is that, Jerry?

Trustee Quinlan: The MUPDD, the one we are dealing with here, 295-72.3, there were four factors among the legislative intent that we are supposed to consider. Number four, Marianne, and this is in your memo, was the adequacy of the phasing plan to insure that the uses in each phase will be self-sufficient, and future phases should be delayed or abandoned. I have not seen anything on that. Do we have anything on it?

Village Attorney Stecich: No, that is irrelevant in this case.

Trustee Quinlan: Well, how can it be irrelevant?

Village Attorney Stecich: Because, Jerry, it is all one phase. What that was designed for is, you could easily have a concept plan that only has specific development planned or a particular portion of it. They come in with a concept plan that says on this one acre we are going to have an office building and on these two acres we are going to have a little retail center, but the only thing we are developing right now is the office thing. So it just happened that on this plan it was a development for the entire plan and it is all one phase. So the adequacy of the phasing thing would be irrelevant in this particular application because there

is no phasing.

Trustee Quinlan: Okay, so that answers my three questions. I am at least satisfied with one and three, I do not know about two. But that is it. I think some people have come in, Lee.

Mayor Kinnally: Yeah, I see them but let us keep this going and then we will go back. Peter, as far as timing, that is what we were talking about. When we might be able to get to this, the 13th through the 20th.

Trustee Swiderski: I am totally open and indifferent.

Trustee McLaughlin: I would prefer the 20th.

Mayor Kinnally: I see some people have come in. This is a public hearing, so anyone having any comments in connection with the proposal, if they wish to come forward, give their name and address for the record, and be heard.

Mr. Nevaretay XXX, 357 Farragut Avenue: I am a newbie to Hastings, so excuse my lack of knowledge on how the process works. I am here to ask the Board a question regarding how they came to the decision, or how they are going to come to the decision, on this project. I am from a financial background, so I would like to find out if a cost-benefit analysis was conducted by a consultant that was independently hired by the Board. And how those benefits and how the expenses were weighed, and if there was a threshold level on if there was a positive number. And if, in effect, right now the project has a break even value or a value that is positive enough to continue with this project, or I am sorry, to say yes to this project on 9-A.

Mayor Kinnally: You mean a cost-benefit analysis in connection with the Village.

Mr. Nevaretay XXX: Yes.

Village Attorney Stecich: The Village did have its own consultant hired, Molly McQueen from STV, who was hired actually at the suggestion of the Board. Because there were some questions raised about you can do whatever you want with the numbers to say it is going to come out in the red or the black. The developer's numbers came out in the black, but the Village thought it was important to have an independent analysis done of that. So they hired their own consultants, STV and Molly McQueen, who did calculate the various costs of municipal services versus the tax income they would be getting. At some point, very late in the process, there was an adjustment to the tax numbers because the assessor had come up

with a lower figure than was originally presented. Those numbers were given to here again, and it still came out in the black. It is actually a pretty significant benefit to the Village.

There was a separate analysis done of the benefit to the schools, the benefit or loss to the schools. Because it is not the Hastings school district, it is the Ardsley school district. With the school district, the numbers were projected very, very conservatively in the school district's favor and it was still better than a wash. There would be a net gain to the school district. If you have more specific questions, Molly?

Mr. Nevaretay XXX: Sure. I'm sorry, what I would like to get to is with regard to the benefits, were they mostly hard dollars and were they mostly dependent on the tax base in terms of the property taxes.

Molly McQueen, STV: When you say cost-benefit analysis, you are talking about a tool that is used not necessarily in what is presented to the Board. But what was done was that the tax rates that the Village used when this project was first proposed, and then more recently because we have the Village's proposed tax schedule for this fiscal year, that speaks more to the fiscal costs than it does to the benefits. But what Marianne already talked about was that the costs and the services that are provided by the Village are more than covered by the taxes that would be generated and, I assume, a much lower valuation level for these units.

Mr. Nevaretay XXX: So those are the taxes that are generated from the 60 units?

Ms. McQueen: That is correct.

Mr. Nevaretay XXX: Is there a case where the Village would not receive those taxes going forward?

Ms. McQueen: None to my knowledge. These are taxable units. They are taxed at the rate of a rental unit, as are all condominiums in the state of New York, and we used that as a lower basis.

Mr. Nevaretay XXX: Is there a case here in the state or in any of the surrounding villages where that, on the condos, has been challenged?

Ms. McQueen: Oh, I am certain that occurs, but that is not a question I answer for the Board. I am certain that that does occur.

Mayor Kinnally: Do you mean certiorari challenges?

Ms. McQueen: Yeah.

Mayor Kinnally: Yeah, sure. Everybody has a right to do that.

Village Attorney Stecich: And the Village's assessor would have been familiar with the those, intimately familiar with those, and calculating what the proper tax rate would be for these apartments. He was the one who lowered the estimate of what the taxes would be.

Ms. McQueen: Correct, and the equalization rate was lowered as well, which was a fairly substantial difference.

Trustee Quinlan: Alex, I have a question for you, though. I was just handed this tonight and I have not had a really good chance to take a look at it. You did a study? Is that what this is, like a six-page...

Mr. Nevaretay XXX: Yes, I received some information from Peter, on the Board. It was the beginning of a framework regarding...

Mayor Kinnally: Did you make that available to the Board?

Mr. Nevaretay XXX: No, I have not. Well, I passed it on to Jerry. It was just this evening.

Trustee Quinlan: No, you just got it.

Mr. Nevaretay XXX: It was just this evening. It was not part of the record, but we can put it in the record if you would so deem.

Mayor Kinnally: Well, yeah, if it is going to be part of the record the Board should have it.

Trustee Quinlan: Again, I have not read it, and I do not really understand it right now, to be honest. But I would like to have copies made and have it made part of the record.

Mr. Nevaretay XXX: I can generally say that what I did with that analysis was take information that is available and tried to weigh the cost and the benefits of the project. There are a number of soft dollars on both sides, both on the expense side and on the benefit side. Try to limit, really, what the soft dollars are. Because at the end of the day we are going to be riding the hard-dollar cost and all the benefits that are coming in due to the taxes. At the end of the day, what I came up with was that we are break even on this project. So if there is

a slight variation with regard to the property taxes, which is what we are really going to depend on for this project, then we would be at a loss in terms of that revenue. And that is really what I am concerned about. As a new resident here in Hastings I do not want for us to have a project that goes up that eventually is going to cost us. And I would like the Board to consider, maybe not for this project because perhaps maybe there is a lot of momentum going for this, going forward we really need to consider what the benefits are in terms of the hard-dollar costs and the hard-dollar benefits.

Mayor Kinnally: What were the largest hard-dollar costs that you came up with in connection with this?

Mr. Nevaretay XXX: Well, I was not really prepared to discuss that.

Trustee Apel: Did you want to see this?

Mayor Kinnally: Sure.

Mr. Nevaretay XXX: My apologies. I was not really prepared to discuss that, so I am not prepared for that question.

Mayor Kinnally: Okay, fine. Yeah, thank you.

Trustee Apel: It would be good if we could get some understanding from Alex at some time.

Mr. Nevaretay XXX: I could provide that analysis in a given time.

Trustee Apel: Because I have got it, but I do not understand it.

Mayor Kinnally: Yeah, sure. I think that is valid.

Trustee Apel: A little more of what you did and what it means.

Mayor Kinnally: That is valid.

Trustee Apel: Because you went out 30 years, I think, did you not?

Mr. Nevaretay XXX: Yes. Well, I did it based on the mortgages that they would go out on.

Trustee Apel: Right, so there is a lot of information there.

Mayor Kinnally: Okay, thank you very much. Anyone else? Any other public comment?

Lorraine Kuhn, 38 Judson Ave., Ardsley: Well, you still really do not have good flood control data, and the concept hinges on the underground parking lot. These two village engineers I spoke with do not really see how you are going to keep that thing dry, keep it from flooding. And without it, it does not really make the concept work. Flooding down there will be a problem to the Village, not just to the developer and the residents. The underground wall that is in the southwest corner right next to the county sewer trunk line is in some jeopardy of collapsing. The Village should have an engineer take a look at this and that whole underground installation, which really was nowhere in the FEIS.

You have no idea what kind of commercial is going to be coming in there, and you really have very little control over it. That is a big flaw in the concept. Usually when you have commercial coming into a Village it is reviewed very carefully on a case-by-case basis, and this is pretty wide open.

And I am sorry to say I still feel it is too desolate and dangerous for housing down there. There was a huge car accident down there just today. It is a high-speed road, it is not a good place for housing. I do not know if I can say this, but I still think that maybe a small eco-friendly type little mall oriented perpendicular to the road might have been a better compromise choice for all the parties concerned with this.

Thank you.

Mayor Kinnally: Thank you. Anyone else?

Mary Jane Shimsky, 35 Ashley Road: My main concern with this project and with others that are being proposed and considered in the Village is the effect on traffic and walkability. Now, we have seen the traffic analyses which claim that the amount of traffic in the morning from the area across Ravensdale Road to the train stations will not be great. But the fact of the matter is, as we build a few more houses here, a few more houses there, 60 units of housing there, we have something at Ridge Hill. And you add this all up, then we end up with death by a thousand cuts and we end up with basically a highway bisecting the Village. The problem with that is, at rush hour time that is the time that children are attempting to walk to school. Now, in terms of walkability, it is important that the kids can walk to school safely. And at this point no one should doubt the importance of having a walkable community. This is becoming one of the biggest public health issues in the country. Our

children are going to be the first generation of Americans with a lower life expectancy than their parents. The major reason for that is obesity. The major reason for obesity is that our children get chaffered everywhere and walk nowhere. There are actually large swaths of Hastings where it is not possible for at least middle school and high school children, as long as you can make them walk, to walk to the Farragut complex. The harder it gets to cross Ravensdale Road the more likely it is that parents will feel more and more nervous about their children walking, especially the younger ones. And they are going to get driven more and they are going to walk less. We cannot doubt the public health consequences of this and we cannot doubt the public health costs of this. Type 2 diabetes costs a lot of money, both in terms of children and in terms of the complications which will occur earlier and earlier in adulthood as the onset occurs earlier and earlier in children.

It is really important that as we deal with 60 units of housing on the periphery of our village instead of the center of our village, and as we deal with other proposals big and small that come before us, that we think about what we are doing in terms of forcing people to use their cars more and walk less. And what the consequences of that will be for our community and for our children. Thank you very much.

Mayor Kinnally: Anyone else?

Tim Hayes, 59 Stratford Lane: Two things. I should go on record, since this is a development meeting, as saying that I am very skeptical of the Ridge Hill development and I think that that could choke our village entirely. Anyone who has gone on record with any opposition to Ridge Hill, I hope they take it seriously and I hope the state supreme court does, too.

Secondly, I am in favor of the Saw Mill Lofts, and I have read the 55-page prospectus. I think this is only a plus for our village. I do not think we are in danger of getting type 2 diabetes from having this project in there. Excuse me, I just walked from the middle school. Having read this, I think this is a relief for our village and not a burden. So I would just like to say, as a citizen, I am all in favor of Saw Mill Lofts. Thank you.

Mayor Kinnally: Thank you. Arthur?

Arthur Riolo, 2 Fairmont Avenue: I brought this even, and maybe you all have seen it. On April the 27th the controller for the state of New York did an analysis of the taxes for the state of New York and how they relate to the rest of the states. I made 19 copies for you just in case you had not seen it. They are also highlighted. I am bringing this up because I am in favor of this project because I believe it will be a benefit for people in Hastings who want to

have a live/work situation and also for tax reasons. If you do not mind, if you have not seen this, I would like to give this to you.

Mayor Kinnally: Sure, hand it up and we will make it part of the record. Thank you. This will be in part of the record. Any other public comment?

Ken Tucillo, 14 Edgewood Avenue: I just want to say that I, as I have before, object to the whole concept of the MUPDD. I do not think it should have ever been approved. I would like the Board to consider the fact that this is going to set a precedent if we approve a MUPDD for the first time. I do not think that a developer should be permitted to come to the Village and get us to change our zoning code for their benefit, and I think that has happened more than once of late and I would like to see that procedure stopped.

Mayor Kinnally: Thank you. Anyone else?

David Shapiro, 6 Amherst Drive: Good evening. I will try to be brief. I think I would kind of like to essentially echo and maybe expand just a little bit on what Ken just said. I think that although the size of this project is not enormous conceptually, and procedurally because of the way it has come before this body, it is extremely important. I will not waste everybody's time with the history of this. I think everybody knows. While I had not studied the facts of this development exhaustively, I am not convinced of much, if any, benefit to the Village. I understand this is difficult for the Boardmembers for many, many reasons. I think I am just asking them to search their consciences, not be cowed, and do the right thing.

Mayor Kinnally: Thank you, David. Anyone else?

Tom Brown, 141 Overlook Road: I would like to make a motion that five years from now that this project be named for all of the Trustees who voted in favor of it.

Mayor Kinnally: Thank you.

Mr. Brown: Do I hear a second?

Mayor Kinnally: No, this is public comment, that is all. Anyone else?

Mr. Metzger: I have one question. I seem to remember when we were discussing the rate of return for taxes with our consultant the issues came up, for example, that there would be no net increase in the amount of work for the DPW. I want to know if that is still the way the tax burden is being evaluated. That these additional 60 units would generate no additional

work for our DPW, that they would be able to just sort of drop by on one of their other routes and pick up the garbage. If that was the case, then I want to know what other issues were incorrectly looked at. I believe that was a huge problem when we discussed it the evening that that came up.

I want to know what other issues. For example, are we going to have to build a new firehouse? Because now we have a residential enclave, and I use that term specifically, residential enclave in an area of the Village that typically we did not have to have fire department access to. Police: are we going to need additional police officers, additional police cars? Are we going to need another ambulance because now we have additional people? What has not been considered in our consultant's report that shows that there is going to be a tax benefit? I think we need to look at the issues that were looked at in that report to determine whether that report is correct or not. I also believe the communities that were looked at in determining that report were communities that were nowhere near Westchester County. They were all upstate communities that, I believe, tend to have lower operating costs than we do.

The other thing is, I was just quickly looking through Arthur Riolo's handout here. It seems that, no surprise to any of us, we pay some of the highest taxes in the country. I do not think putting more housing in this community is going to relieve that burden for us; it is going to increase that burden. The bulk of the taxes is due to schoolchildren and trying to maintain our schools. It is great that we have terrific schools in the area, but as you keep bringing more residential in you are going to increase the burden on the schools, taxes are going to go up. If we were looking at commercial, not necessarily retail and not industrial, but if we were looking at commercial for that site, which I think would have been the appropriate choice months ago, that is kind of out of our hands now, we could be deriving the benefit of commercial taxes. They would have their own garbage pickup. There would be no net cost to us. They could be providing their own security. Our costs would be lower, and I think we need to start looking at a balance in our village that is going to help the residents that live here and generate people coming into the Village during the week to work so that they can start using our downtown and increase use of restaurants, pharmacies, book stores, all of those things that are sitting around now saying, Where is everybody? Everybody goes to New York during the day. If we had businesses coming into Hastings those people would be using our services. That would be a win-win situation. Thank you.

Mayor Kinnally: Thank you. Jim, let me address some of those, you do not have to stand there, and backwards, if I can. The first was the school issue. This has no impact on our schools because this is not in our school district. This is the Ardsley school district, so we will neither be raising taxes for schools nor incurring any expenses for schools.

Okay second, you raise the issue of the fire protection. This area is serviced heavily by our fire department. The number of calls in this particular area are probably among the highest that the fire department answers to every year because of dealing with Ciba-Geigy and going farther across to St. Andrews. There are quite a bit of calls that are dealt with on a...

Trustee Swiderski: Lee, you may want to explain why that is so. The relationship between Greenburgh and Hastings on that.

Mayor Kinnally: We have a contract with the Town of Greenburgh to provide fire services for certain portions of the Town of Greenburgh. Included in that area is Donald Park, St. Andrews, Clarewood, and the area of Saw Mill River Road north from the Village up to the Village limits on the west side and across the street on the east side. The entire Ciba-Geigy complex is covered by our fire department, so that is already being covered. These are not sporadic alarms. We have a disproportionate number of false alarms and triggered fire alarms in both St. Andrews and Ciba-Geigy.

The other issue Fran will deal with, on DPW.

Village Manager Frobel: With public works, I would simply point out I think the report did address that concern. I mean, there is no escaping the fact that these homes are going to generate trash and recyclables. We are of the opinion that we have the capacity in our existing system to take on those 60 families. But there is no escaping the fact there will be a tipping charge for the trash. Recyclables are picked up at no charge, but there are costs associated with it.. There is no disputing that.

Village Attorney Stecich: Jim, if you go to the findings, pages 37 and 38 do deal with that in dollars and cents.

Mr. Metzger: Okay, thank you all. I will check that out.

Mayor Kinnally: Anyone else? Jerry, just let me finish with this and then we will get to the Board.

A question was raised by Lorraine about the flooding. Steve Garabed is here. Steve, do you want to address that at all? One of the good things, we have had the consultants here in the past and I find that if we can get this information out sooner rather than later it helps with the entire process.

Steve Garabed, Carpenter Environmental Associates: Lorraine raised the issue about the flooding and the garage.

Trustee Swiderski: Lee, just a question. Was this our consultant, or the developer's consultant?

Mr. Garabed: Carpenter Environmental is your consultant.

Trustee Swiderski: Okay, sorry.

Mr. Garabed: The garage floor elevations are set at two different levels. Building A, which is the north building, is set at elevation 122, which is the 100-year flood plain elevation. That is a standard practice in engineering to use the 100-year flood plain elevation as a starting point. The secondary building has a garage floor elevation of 126, so it is above the flood plain. So flooding really should not be an issue, and this is the 100-year flood so you are talking about a 1% chance that that flood could occur at any time. If it were to occur, you would be looking at displacing cars for a very short duration until the flood water subsided, if it were to occur.

One thing we have done to try to address this issue, say, if the 100-year flood plain changed with the new mapping. I know that issue has been raised. In the findings there is a condition that requires a developer during the plan approval process, to investigate...

Trustee Swiderski: What is the new mapping?

Mr. Garabed: FEMA apparently has been working on mapping, but nothing is finalized yet. So what we did is put a condition in the SEQRA findings requiring the developer to reinvestigate any changes in the flood plain elevations and to redesign accordingly if those changes should occur.

One of the other issues was the county trunk sewer. The county trunk sewer is 15 feet horizontally, at the closest point, away from the south building. It is also 16 feet below the garage floor elevation. It really should not be an issue. I mean, your piping in your street has about 2 feet of cover many times, and it has trucks and buses running over it all day long. However, once again, for the SEQRA findings we have required the applicant to make a submittal to the county to get approval for the development specifically looking at the county trunk sewer. So we really do not think that that should be a problem, but we have taken the precaution to allow the county to take a look at that.

Mayor Kinnally: Thank you.

Ms. Kuhn: What year are the maps that you have seen for the flood plain?

Mr. Garabed: They are the most recent.

Ms. Kuhn: What year is that?

Mr. Garabed: I do not remember.

Ms. Kuhn: Seventy-something, is it?

Mr. Garabed: I called FEMA. They said those were the most recent ones.

Ms. Kuhn: But they're about 30 years old.

Mayor Kinnally: All right, Lorraine, if you could direct your comments or questions here. I do not want to have a debate.

Ms. Kuhn: There was just one question, what year are the maps that he is using?, and I believe they are at least 30 years old.

Mayor Kinnally: Okay. David?

Mr. Shapiro: Just a brief question. Maybe I misunderstood. When Ms. Stecich was speaking she made reference to the impact on the schools and made some comments with reference to the schools. I guess I did not understand it. Would you mind explicating that?

Village Attorney Stecich: Yeah, I just said that the applicant put in an analysis of the fiscal impacts on the schools. We had our consultant look at it. The consultant, I think you made some adjustments, Molly.

Ms. McQueen: We made some adjustments, the per student cost, upwards.

Village Attorney Stecich: Right, and we were more conservative. Then really at the very end of the process, I think it was what was supposed to be the last night before the Planning Board, a representative from the Ardsley school district came and said, We do not think your projections are right; that you haven't calculated in a particular development. So then we

directed the consultants to go back and give us numbers from all of the multi-family projects in the Ardsley school district. Based on that, recalculate the figures. They were recalculated somewhat upward. I do not think the figures show that there is going to be a windfall to Ardsley, but it is going to be cash-positive.

Mr. Shapiro: But this, if I understand it, which I may not, will have no impact on Hastings school growth?

Mayor Kinnally: None at all. It is not in our district.

Village Attorney Stecich: This is in the Ardsley school district.

Ms. McQueen: Yes, Marianne, that is correct. And we recalculated the number of students. We just checked that calculation. We checked the cost per student of education and the net tax glow XXX.

Village Attorney Stecich: And you did calculations a couple of different ways.

Ms. McQueen: I did it a couple of different ways, and I also allowed for the reduced market value of the units that will be available for below market rate.

Mr. Nevaretay XXX: Just a follow-up question about the school. There is a total number of children that has been calculated for the Ardsley school system, correct? What happens if there are more children than that figure? Are those kids going to come here?

Mayor Kinnally: No, they are not in our school district.

Mr. Nevaretay XXX: If right now you are saying that there are going to be 20 kids in that development, there is going to be a break-even number for the Ardsley school system. After a certain number they are not going to want to have kids going into the school system.

Mayor Kinnally: They cannot say no.

Village Attorney Stecich: They have no choice.

Mr. Nevaretay XXX: They have no choice? Okay, that is fair.

Village Attorney Stecich: It is geographic. This is where the limits are, the boundaries, of the Ardsley school district. And it is the Ardsley school district if it has one kid or 100 kids.

Mr. Nevaretay XXX: So there is not going to be any pressure from their school system to try to redistrict that area back to us.

Mayor Kinnally: I have no idea what they want to do.

Mr. Nevaretay XXX: Has there been any pressure lately from that school system right now to the Board or to the Hastings school system to try to redistrict that?

Mayor Kinnally: Have not heard a word. Mary Jane.

Ms. Shimsky: I would just like to bring up a point related to the whole issue of whose burden the schoolchildren is. This brings up a larger point, which is that somebody is going to end up having to educate these children. Somebody's school district may have a tipping point someday, where they are going to have a big bond issue to add on to some of their schools. Whether it happens to be our ox being gored this time or somebody's else's, we should have a little bit more consideration. Because we all know what it is like when the City of Yonkers decides it is okay to dump thousands of cars on Jackson Avenue every day for their economic benefit. So we should really have a little bit more consideration for all of our neighbors, just as our neighbors should all have a little bit more consideration for us. Nothing will destroy local autonomy and bring on regionalism faster that kind of attitude.

Mayor Kinnally: Thank you. Any other public comment?

Ed Weinstein: At this point we probably know most of the facts about this project. I would just like to let the Board know that as a citizen, as an architect and a planner and as somebody who lives probably about as close to that development as you can get at the corner of Fairmont and Clinton, that I support it. I have followed this site since I was on the Planning Board six, eight years ago and we turned down ShopRite. I believe that what we have before us is a project that has been reduced significantly in scope from what was proposed. My personal feeling is it may have been reduced too much. I think a larger project might have been better. But I would just like to express to the Board that I support this project fully and hope the Board will approve the zoning and accept the Planning Board's findings. Thank you.

Mayor Kinnally: Thank you. Any other public comment?

Elizabeth Felber, 415 Farragut: There are just two points I would like to point to for the Board to consider. One is the assertion that is made in the Planning Board's findings, and I

believe it is Ginsburg's assertion, that this project will actually bring less impervious space. I do not think that is accurate. You have to take into consideration the fact that they are giving Hastings the open space area. Unless Hastings is committed to leaving that completely as wild, open land, if you build a tennis court that will be more impervious space. If you build parking for a soccer field, a baseball field, that will be more impervious space. So I do not think it is accurate, the assessment that there is going to be less impervious space. I think you have to consider what, if anything, Hastings is going to do with that space.

And the second point I would like to make because it feel that it has not be adequately addressed by the Planning Board, I would really urge this board to look at it closely and make some kind of finding for the public. That is the letter that is in the SEQRA documents that Martin Ginsburg wrote to Andy Spano on July 1st, 2002. What I would like to direct you to in particular is the sentence that says: We contracted to propose this site and submitted our proposal to the Planning Board in the role of a white knight and only after the Planning Board unanimously indicated informally that they liked the concept of residential on this site. I have a few concerns about that. One is, the way I read that it sounds as if Mr. Ginsburg made it sound like he was induced to buy this by the representation that there would be able to be housing on this site when, in fact, at the time there was no zoning for it. So I am concerned about is there legal liability because of this. And what were the meetings that the Planning Board had with Mr. Ginsburg about this? I think that that should be explained to the public. Thank you.

Mayor Kinnally: Good point.

Susan Newman, 37 Hollywood Drive: I have been the project manager on this project for most of the project. Currently Bruce Lozito is handling this because of other obligations that I have with Ginsburg Development. But I have stayed involved because of my history and my residency in the Village.

The meeting that Ms. Felber referred to was a public hearing held very early on in the review process, long before we submitted an application to the Village while we were still in due diligence on the property. I actually have a tape of the meeting, so if anyone on this board would like to review I could make a copy available to the Board of that public hearing. Given the Board's strong sentiment about ShopRite, and it was an extremely strong sentiment on the part of the Planning Board whether there was any openness to residential which, traditionally and currently, has a lower traffic generation rate than any other use, and in that context only, did the Planning Board say, Yes, this concept has merit because of the fact that we know that residential has a much lower traffic generation rate than commercial or retail and for that reason you should consider submitting an application to us. I would not

say it was an overwhelmingly unanimous vote of support or the project. It was a comparison of what the implications would be between residential and commercial. We as a company knew that the Planning Board did not have the authority to rezone. We know that authority was vested with this particular board. But we felt if the Planning Board hated the idea of residential why go through what is, in every instance, particularly in Hastings, anywhere from a four to a 10-year process on a project approval at a cost of well into millions of dollars if everyone just hated the notion. So the whole point of the discussion was to find out whether it was so distasteful a concept that we should not even bother on it.

I actually feel that as an endeavor and a dialogue we, as a company, always try to engage in a dialogue. It has been one of the reasons this project, I think, has taken as long as it has is because we have tried to garner as much input as we can from a very, very XXX constituency and take it all into account in a project. We like to do it at the very, very start of our projects so that we do not go off in a direction that someone would say five years later, Well, why did you not ask?, I would have told you that was the stupidest idea I ever heard of.

So that was the reason for the meeting, that was the context of the meeting, and I would be happy to provide either the transcript or the tape for anyone who would like to see it.

Mayor Kinnally: Thank you. Tom?

Mr. Brown: I am not even going to go into all of the details. All I am going to say is that don't sound right. Nothing sounds right about that. I mean, if they were really so interested in what the public thought, you think you would have gone a referendum. I mean, who are they talking about? Who do they care about? The Trustees who were sitting on the Board at that period of time, or did they care about the people in Hastings? Because God knows there has been a lot of comment from many, many, many groups of people, neighborhood associations and whole groups of people, who did not think residential was good. So they clearly were not interested in finding out what those people thought and what the people who live in Hastings thought.

So no, Susan, it does not sound right at all.

Mayor Kinnally: Tom, just a point of clarification there. The meeting was not with the Board of Trustees.

Mr. Brown: Oh, who was the meeting with?

Mayor Kinnally: It was with the Planning Board.

Mr. Brown: All right, same thing. They did not seem to care either, did they? Did they care any more than the Trustees cared?

Mayor Kinnally: I do not know if they cared. They were there as the Planning Board.

Mr. Brown: They were there to shake their heads. That is what they were there for.

Mayor Kinnally: Anyone else? I want to find out if anybody else who has not spoken wishes to speak. No? Jim.

Mr. Metzger: Thank you for allowing us to have this extended public comment, by the way.

Mayor Kinnally: What we are here for.

Mr. Metzger: There was a Planning Board meeting, I believe it was about nine months ago. I have sent e-mails around about this meeting. On the agenda was nothing about 9-A. I happened to be at the meeting for another reason. Ms. Newman was at the meeting, and the Planning Board was discussing the MUPDD zone. It was before it was given to you with their approval. The Planning Board was going around and around, trying to figure out, How do we do the zoning on this? Bob Lee, who I just want to send my condolences, I have not had a chance to do that, said, You know, we have been going through this process for 10 years and we need to make a decision on this. I said, Well, you know, this is an important thing. If it takes more time, it takes more time. The point of this story is that at one time Ms. Newman got up and she said, You know, we have this wonderful set of plans and it would be perfect for the site and I would be happy to give them to you and you could use that as a basis for writing your new zoning for the site. Rhoda Barr said, What a wonderful idea, it could really help us make some decisions. Bob Lee said at that point, It is totally inappropriate to use a developer's project to develop zoning for a site that the developer owns because that is spot zoning. Patty Speranza said, No, I think it is a good idea. Amazingly, they developed the zone within the next few days and it was passed to you for recommendation.

So regardless of what happened in 2002, I would tell you at some point in the last year, and I would ask you to go look at the videotape, I can try and find it, but as far as I understand it, plans from Ginsburg were given to the Planning Board to help them develop the zone which was then approved and given to you for your approval. Thank you.

Mayor Kinnally: Thank you. Anyone else?

Ms. Shimsky: I would just like to remind the Board that as part of the history of this project and its predecessors that there was one segment of time where there was public involvement on this, and that was during the mediation that had been started through the auspices of Pace University. If you would like some sense of what the dynamics were of that conversation between the public and the developer, what happened with that mediation, I urge you to go back and check the record on that. Thank you.

Mayor Kinnally: Any other public comments?

Mr. Hayes: Just to put things in perspective, no one who lives in Hastings, I am certain, wants to see Hastings become another LA or Manhattan. Having lived in both places and lived here, I can tell you I prefer it here. This addition, the Saw Mill Lofts, is not going to cause a Manhattanization or Southern Californianization of our village. To put it in perspective, I believe it is equivalent to the size of 445 Broadway. I drive by that spot every day and I certainly do not think it adds to a lot of traffic concerns in Hastings. As for the unfortunate accident this morning, you will find that was driver error. Remedial driver's training would be helpful for a lot of folks around the neighborhood, particularly if they are making an adjustment from having not driven. Sixty units, of which six would be affordable for firefighters, teachers, whoever would like to live in Hastings, with a tax benefit, a positive cash flow to the Village, seems to me like a no-brainer. Again, in perspective, I do not think it is going to harm our village. And as for the exercise complaint, that is a personal discipline that people can take upon themselves. Anyway, thank you.

Mayor Kinnally: Thank you. Anyone else? Lorraine?

Ms. Kuhn: I hesitate to say this, but I did write a letter to this effect and I really feel that the MUPDD opened a door in a bad direction. Approving 60 units on 5 acres, which is fairly high density, is further in the wrong direction. If, indeed, Perdue has left or is leaving, there was talk at one time, I know it is the Greenburgh side, if putting housing over there, if that entire hillside becomes blanketed with housing, we are all in really big trouble, Hastings included. Putting this relatively high-density housing in this little industrial site is going to set a really awful precedent. I did write a letter to that effect. You really, really should think about what you are going to put there because the entire 9-A area east and west is going to be jeopardy because of this. I would be happy if you would repeal the MUPDD, but that is a thought.

Mayor Kinnally: Thank you. Anyone else? Tom.

Mr. Brown: Just one last piece on this. When I said before to you it don't seem right, it don't seem right because at this very time that the Planning Board was going through and supposedly looking to find out what do people in Hastings think, you had the mediation from Pace going on. And no one, no one from the Planning Board, the Trustees, bothered to come and ask the people, any of the people, serving on that Pace University mediation group. Not even after the fact did they want to know. Even after the fact they were not even interested in it. And it was like something they just wanted to push under the table. Absolutely there was no desire to know about this ahead of time; there was every desire to close their eyes and to shake their heads.

Trustee Swiderski I do want to respond to that, actually. I was on that group. No, the idea of the mediation was something I strongly pushed for and endorsed at some risk because I suspected it would not work out. But I thought it was at least an attempt, a creative attempt, at solving this. It did not work out, but it is not that we were not interested or concerned. It fell apart for a number of reasons and it is not a surprise to me that it fell apart. It is very difficult for an effort like that to succeed. It was not that we ignored it or we did not support it; it did not work out.

Mayor Kinnally: It was not for lack of trying.

Trustee Swiderski: Well, yeah. And the mediator himself had skepticism about its goals and objectives and criteria for success and how it moved forward. It is not the only mediation I have participated in, and most mediations do not work out. You know, I cannot be embarrassed for trying.

Mayor Kinnally: Anyone else? Public comments on the issue before the Board.

Mr. Brown: As far as the mediation not working out, I am not quite clear what that means. I mean, Martin Ginsburg paid for that mediation. So what was his goals to start with? Did he want to hear that people want residential in Hastings? Is that what he put this together for? What was the reason? Why was this whole mediation put together in the first place by the developer, by the developer? And as far as working out, mediation was going fine until one day suddenly out of the blue Martin Ginsburg canceled it. He canceled it with little explanation. And mind you now, this is mediation that started out with the threat from Martin Ginsburg of a lawsuit. With the threat of a lawsuit hanging over it right in the beginning, from the developer in his own mediation. So I am not clear what you mean by working out. Working out for who? Working out for Martin Ginsburg? I am not sure.

Mayor Kinnally: Okay, any other public comments? If not, as I indicated earlier the public comment period will be kept open to the close of business on Tuesday, the 30th of May. The Board of Trustees will take up this sometime in June, preferably the 20th of June. We welcome and solicit any additional comments, both written and otherwise, to the Board of Trustees. I would ask that if any comments are given to any one Trustee that they be circulated to all the Board so we all have the benefit of it. The same thing with written materials, things of that nature. And I would anticipate that the Board would discuss this as far as scheduling at our next regular Board meeting, which would be the 6th of June. The consensus, or what I get from the Board earlier this evening, that they would be ready to discuss and act on it, or at least discuss it, at our regular Board meeting on the 20th of June.

Jerry, do you have something?

Trustee Quinlan: I just wanted to ask one question to Susan. I do not know the answer. The Planning Board meeting that you discussed, I would like to see a tape of it.

Ms. Newman: I would be happy to make a copy.

Trustee Quinlan: You can just drop it off, 39 Hillside. You can just put it on the porch area.

Ms. Newman: I will deliver it to the municipal office so it can be disseminated widely.

Trustee Quinlan: Did that meeting take place before the letter? Obviously, I would assume it did.

Ms. Newman: Oh, yes.

Trustee Quinlan: Okay, so do you have the dates? I have heard, and I will go into this later about coming in late to this whole thing, white knight and things like that. Could you just provide me the date of the, well, I know the date of the tape, and a copy of this letter?

Ms. Newman: Sure.

Trustee Quinlan: I just want to see which came first.

Ms. Newman: Sure. The meeting certainly came first, and it was while we were in our due diligence on the site when we were not contractually obligated. So it is sometime in the fall of 2000. It will be on the tape.

Trustee Quinlan: Yeah, I assume it came first, from your response.

Ms. Newman: And then I do not know the context of the Andy Spano letter but, obviously, if we all look at it again we will understand it in that context.

Trustee Swiderski: And Lee, I would follow on to a question earlier by Trustee Quinlan. The phase 2 that was done on the site, I am not sure if we have a consultant or somebody who can speak to that. But what did that consist of, and what was tested? And maybe a quick definition of what phase 1 is and phase 2 is for everybody.

Special Counsel Chertok: Phase 1 is based on a literature search, and information that is publicly available, and prior maps and things. Phase 2 involves intrusive testing, which means there was actually sampling done. I do not remember the exact details because I read the report some time ago, but there was sampling done. Susan may know or recall better than I, but there was sampling done in the entire site, including the 1.75 acres, to determine if there were any issues and nothing was discovered. There was also research done with respect to prior oil spills that are in the area, and they were on the Ciba-Geigy parcel across the street and they were all closed by the DEC.

Trustee Swiderski: What does that mean?

Special Counsel Chertok: That means the DEC found either there was no spill of any concern, or the spill had been remediated to its satisfaction. I can give you more detail, if you like.

Trustee Swiderski: I would like that.

Mayor Kinnally: Thank you, Mark. Do I have a motion to close the public hearing?

CLOSE OF PUBLIC HEARING

On MOTION of Trustee Apel, SECONDED by Trustee Swiderski with a voice vote of all in favor, Mayor Kinnally closed the Public Hearing at 9:15 p.m.