

STATE OF NEW YORK : COUNTY OF ORANGE

TOWN OF DEERPARK : PLANNING BOARD

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IN THE MATTER

OF

RIVENDALE

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HELD VIA VIDEO CONFERENCE AND IN PERSON

August 12, 2020

B E F O R E :

ROBERT VICARETTI, CHAIRMAN

CRAIG WAGNER, MEMBER

WILLARD SCHADT, MEMBER

THERESA SANTIAGO, MEMBER

ROBERT WHITNEY, MEMBER

A P P E A R A N C E S:

GLEN A. PLOTSKY, ESQ., Town Counsel

ALFRED A. FUSCO, III, Engineer

AMANDA GORR, Secretary to the Planning Board

JOHN FULLER - Engineer for Applicant

ROCKLAND & ORANGE REPORTING

2 Congers Road

New City, New York 10956

(845) 634-4200

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Proceedings

MR. PLOTSKY: I'm going to try to reread the public hearing notice. Willard, can you hear me.

MR. SCHADT: Loud and clear now.

MR. PLOTSKY: Notice of Public Hearing town of Deerpark Planning Board. Notice is hereby given of a public hearing to be held by the Town of Deerpark, Planning Board, Orange County, New York, pursuant to Article 7 of the Town of Deerpark Zoning Law on the application for Site Plan Review. The application affects the following premises:

Record Owners: LM Property Holdings, LLC.

Applicant: LM Property Holdings, LLC.

Tax Map Designation: Section: 50, Block: 1, Lot: 38.22.

Zone Designations: Hamlet Mixed Use (HMU).

Description of Application: 20 lot subdivision.

Located at: 515 Neversink Drive, Port Jervis New York 12771.

Information on this application is posted on the Town website at townofdeerpark.org. The hearing shall take

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Proceedings

place at 7:00 o'clock p.m. on the 12th day of August, 2020, or as soon thereafter as practicable. IF TOWN HALL IS OPEN the meeting will be conducted at the Town of Deerpark, Town Hall 420 Route 209 Huguenot, NY AND via Zoom; IF TOWN HALL IS NOT OPEN, the meeting will be conducted virtually through Zoom only. Information on how to join the and participate in the public hearing via Zoom will be available on the Town website; specifically, a link with access to connect to the public hearing will be posted on the website townofdeerpark.org. That is the public hearing notice.

Just as a matter of explanation, mechanically, Mr. Chairman, because the meeting is quasi open, that being that the planning board consultants can now consultant are present in the building. Everyone else will be observing this via Zoom. The comments will either be transmitted via chat through the Zoom program. I'm not sure mechanically how we're going to be able to see that, because the computer is across the

1 Proceedings

2 room from everybody who would need to see it.

3 MS. GORR: Glen, I have it on my phone.

4 MR. PLOTSKY: So, Amanda will be able to
5 read it from her phone if there are any
6 comments via chat. All comments whether via
7 they be Zoom or in the room will be recorded.
8 The computer that's broadcasting the Zoom and
9 recording it, is actually recording the
10 transcription, and ultimately a transcript of
11 this public hearing will be prepared by a
12 Court Stenographer, and then that transcript
13 will be made part of the planning board file
14 and will be accessible.

15 At the conclusion of the hearing this
16 evening, however it pans out, I would
17 recommend to the planning board that you hold
18 the hearing open for, at the board's
19 discretion, between two and four weeks to
20 allow for receipt of that written transcript,
21 and also for any written comment from any
22 member of the public or other who wishes to
23 submit such a written comment. And after
24 that, of course, Mr. Fuller, I am sure can
25 respond to those comments.

1 Proceedings

2 So, anybody who does speak in the room,
3 board members, consultants, Mr. Fuller,
4 other, you must -- you can see I'm three
5 inches from the microphone. Apparently
6 that's what you have to do to be heard.
7 Standing near the microphone didn't work for
8 Amanda, and she was speaking loud because it
9 was in my left ear. So please, if you're
10 going to speak you have to be right at the
11 microphone, and that would include you,
12 Mr. Chairman. I only make that comment
13 because it's about a foot from your mouth,
14 have you to move it.

15 Willard, were you able to hear all of
16 that?

17 MR. SCHADT: You're speaking now the
18 volume and the clarity was fine, if everybody
19 does that you're in great shape.

20 MR. PLOTSKY: Thank you. That's what we
21 needed to know. Those are your marching so,
22 all right we got it.

23 MR. VICARETTI: Willard you can hear me,
24 right?

25 MR. SCHADT: Yes, that is perfect, Bob.

1 Proceedings

2 MR. VICARETTI: At this particular time
3 we will turn it over to Mr. Fuller.

4 MR. FULLER: Did we do the notice?

5 MR. PLOTSKY: Yes, we did.

6 MR. FULLER: Good evening to the Board
7 and to the public. My name is John Fuller.
8 I'm a licensed professional engineer that's
9 representing the applicant that is before a
10 public hearing this evening for a proposed 21
11 lot subdivision on a parcel of land, 43 acre
12 parcel of land that is here in the Town of
13 Deerpark, specifically in Huguenot. The
14 property is traditionally known and bounded
15 by Neversink Drive and New York State
16 Route 209, not far from the Town Hall. The
17 proposal is to create a 21 lot subdivision
18 with a private road. That road would
19 approximately a thousand feet in length to
20 create a loop within the property.

21 We have gone through extensive
22 engineering and several presentations before
23 the board prior to this public hearing. The
24 project will involve a community water and --
25 sorry -- community septic system, sewage

1 Proceedings

2 disposal, but individual wells on each of the
3 21 lots or the 20 lots, I should say. The 21
4 lot is the balance of lands that will remain
5 undeveloped.

6 The project will require New York State
7 -- sorry -- Orange County Department of
8 Health review and approval for the wells and
9 septic system.

10 The project has been referred to a
11 number of agencies thus far.

12 We represent the applicant. We met with
13 the Orange County DPW at the site. The
14 property has historically had a commercial
15 entrance off of Neversink drive to county
16 road. They've agreed to allow that entrance
17 to maintain as the entrance to the proposed
18 road for a subdivision. They will have
19 future correspondence in relation to that.

20 We've also done traffic studies which
21 have come back and been submitted showing
22 minimal impact for such a development. We've
23 also had an archeological study done as part
24 of the environmental review, and SHPO has
25 come back and said that there is no impact in

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Proceedings

the development of the site as well. And there is a number of other agencies the upper county -- I'm sorry, I can't say it correctly. But the Upper Delaware counsel, I should say, that development is no impact to them as well.

So, the proposal again, is 21 lots, 20 residential lots, which will be single family homes, that will be developed on parcels within the subdivision. They will all have individual wells and a community septic system.

Again, we have advanced all of the engineering to the point that we can present this before the board and the public this evening, and certainly the project will, again, be Department of Health review and approval at the appropriate at time.

With that introduction I will turn it back to the chairman and answer any questions that either the board and/or the public may have with regards to this application.

MR. VICARETTI: Thank you, John. It's the phone. I guess you did answer, just for

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Proceedings

the record, I want to enter for the record that you did answer our Town engineer's questions on the last meeting, and you do have your written responses here.

Al, do you have that.

MR. FUSCO: I have given that to Mr. Fuller. I just gave it to him tonight. We reviewed it yesterday.

The plan hasn't really changed much since the last time we reviewed it, but with that being said, all technical items are, you know, pretty much been addressed. Now it's more a procedural thing, getting through the health department and you know, the few things that we would say, is you know, we have to work with the Army Corps of Engineers to get that buttoned down. Landscaping plan, if the board wish to add any landscaping, you know, we -- now is the time to take a look into that. We did, you know, we have on our comments that we need a SHPO sign off, but we do have that now. Mr. Board [ph] forwarded that today as well as we can see. Homeowners agreement, that should be reviewed by the

1 Proceedings

2 counsel at some point. Towards the end, as
3 is always our comments, you know, when this
4 was going to be filed it's going to need to
5 be stamped by licensed surveyor.

6 And I don't know that the Orange County
7 DPW has gotten the traffic study, I don't
8 know that we had sent that to them.

9 Mr. Fuller, did you send that to them at
10 all?

11 MR. FULLER: I'm not confident on that.
12 But certainly we will do that immediately.

13 MR. FUSCO: I think that's appropriate.
14 We did put down New York State DOT. I don't
15 know that they need to be involved in that.
16 Is there any reasons they would be? Is the
17 entrance close to 209?

18 MR. FULLER: Well, the property is
19 bounded by 209, so and again, there is no
20 issue with us submitting the study to them.
21 They have yet to come back with any comments.
22 Certainly we're not proposing a driveway on
23 the state road. And the county, as I
24 indicated, the county entrance is an existing
25 entrance, which they indicate is acceptable

1 Proceedings

2 to continue.

3 MR. FUSCO: Now, were you planning to
4 wait to do well testing until the department
5 of Health stage?

6 MR. FULLER: Yeah. And the reason why
7 is they certainly will require my expectation
8 at least two wells, and they usually prefer
9 to identify those locations. And so, I would
10 rather have them tell us what locations they
11 want tested prior to drilling any wells.

12 MR. FUSCO: The only other item that I
13 had was the road detail, just to modify the
14 read detail -- other than that, that's you
15 know, technically we're satisfied with the
16 layout and that it meets zoning. So that
17 should be fine.

18 MR. VICARETTI: That's Good. We will
19 make sure that was acknowledged that you did
20 answer the last meetings questions. That's
21 fine.

22 MR. SCHADT: Bob, before you start, I
23 would just like to make one procedural thing.
24 I don't know what the intention is, but you
25 cannot see Mr. Fuller, you cannot see the

1 Proceedings

2 podium, you can see his arms. I don't know
3 if it's -- (technical issues) to turn the
4 camera a little bit. We certainly don't need
5 Mr. Dean. I don't know if it is fixed -- I'm
6 just pointing that out that you cannot see --

7 MR. VICARETTI: It's being recorded so
8 --

9 MR. SCHADT: I'm understand. I'm just
10 pointing that out. I don't know what the
11 intent is. That's perfect. That's perfect.

12 MR. VICARETTI: Thank you, Willard.

13 So, at this point in time we can turn it
14 over to the public comment portion of the
15 meeting.

16 Amanda, is anybody on Zoom?

17 MS. GORR: There are quite a few. I
18 have no questions as of yet.

19 MR. VICARETTI: Okay. Well, if we can
20 wait for that. But we can acknowledge that
21 we did get some written material from a
22 couple of people, couple of organizations and
23 one consultant, one engineering company. We
24 got a 36 page packet from a CEA engineering a
25 Kevin Dragchuk, DE. We have a packet from a

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Proceedings

local resident, Robert Zeller. We have a packet from a Matt Levy, and he's with the nature conservation in Albany, New York. And the other written comment -- the other written things we had were SHPO and UPC, which you had already mentioned. So I assume you have something else that's written. That's all I --

MR. PLOTSKY: Mr. Chairman, if I may, Amanda has been good enough to pass me the phone. It looks like the first comment was a question by a Kevin Dragchuk, D-R-A-G-C-H-U-K, asking, will the chat be opened up? And at the same time or near thereafter same individual, thanks. And Alex Scilla, S-C-I-L-L-A, wrote, given that the Rivendale application is missing significant documentation and incomplete in many areas, what is the reason for holding a public hearing now at this stage of the process? Why is this hearing not being delayed until the point in which the applicant is able to submit a full file including the traffic study, which we have not seen, and received a

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Proceedings

copy for review, especially his permit mentioned, and other relevant information. What is the anticipated procedure for this application moving forward? Has there been a determination under SEQRA, if and EIS is going to be required. That's the question. That's it.

MR. VICARETTI: The question of John -- John, did you receive the packet from CEA --

MR. FULLER: I have not. The correspondence other than EEC SHPO, none of those correspondence have been given to me, so I can't speak to any of them tonight. We will make sure we get a copy of it.

(Speaker not heard.)

MR. PLOTSKY: Mr. Chairman, Kevin Dragchuk inquires, have permits been applied for regarding the development in the flood plain and the flood plain?

MR. FULLER: Well, there is no development in the flood way. And only a portion of the couple of the lots to the rear have, are in the flood plain. But none of the homes, their actual physical development

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Proceedings

is within the flood plains, that being the
hundred year flood plan.

MR. PLOTSKY: John, did you receive in
any mail from -- I got it today, it had to do
with various restrictions --

MR. FULLER: From who --

MR. PLOTSKY: From the Nature
Conservancy. Thank you, Mr. Chairman.

MR. FULLER: If I did I have not seen it
and I'm not aware of it to speak to it
tonight.

MR. PLOTSKY: Essentially there are
restrictions placed on the property, which
was initially purchased, and then
subsequently there was an amendment to that
1985, 1995 perspective.

MR. FULLER: I will look for the e-mail.

MS. GORR: I will forward it to you.

[Not heard.]

MR. PLOTSKY: Amanda, I lost it.

Mr. Dragchuk inquires has a New York
State DEC protection of water permit been
applied for or issued for installation of the
sanitary pipe below the class C trout

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Proceedings

stream -- trout stream, sorry. On Kevin Dragchuk says, community walkways gazebos are walkway. And says the house is in driveways in lots 12 and 13 are in the flood plain based on June 2020 drawings. I presume you will respond to this.

MR. FULLER: I can respond to that.

I'm not writing everything down as we speak. Someone a transcript, the question and we will reply.

MR. VICARETTI: We will get the transcript.

MS. GORR: Actually, when I can get all of those comments and I get them, I can download them, so I can send you a copy of the comments that were done during the meeting.

MR. FULLER: Okay.

MR. PLOTSKY: There is another one. Grace Woodard writes, one, how does this development and new century film dragon springs interact with each other, especially given the dragon springs in their draft EIS states unequivocally that the development

1 Proceedings
2 will not lead to an increase -- in
3 development in the town. And the applicant
4 incredibly states this development is not
5 plan to dragon springs -- two, given that the
6 plan open capacity for further development
7 what is the applicant's intent for further
8 development following their initial proposal?
9 Why is that not mentioned in their overall
10 plan? And segmentation of [not heard] --
11 where is the expansion? What is the nature
12 of the [not heard] -- three, please explain
13 the special use permit. Four, given this
14 intense cul-de-sac development, is it in line
15 with the Town's comprehensive plan?
16 Promoting the character of the Town for the
17 benefit of homeowners and the environment
18 this was initially promoted as a green
19 development, and I felt the courage forward
20 you lust, L.U.S.T --
21 [Not heard]
22 MR. FUSCO: Supposed to be clustered.
23 MR. FULLER: Is there a special use
24 permit? Because as far as I know special use
25 permits were done away in zoning

1 Proceedings

2 approximately four to six years ago.

3 MR. PLOTSKY: No this is not a special
4 use permit. This is a subdivision. It's
5 completely unrelated.

6 MR. FULLER: So, there are special use
7 permits in the town, but this doesn't have
8 one?

9 MR. PLOTSKY: This application is not
10 for a special use permit. It's for a
11 subdivision.

12 Ms. Woodard continues, I felt the
13 courage [not heard] cluster house, that is
14 not the case. Is a tight urban development
15 cram job, one third acre are most houses
16 uniform size, cookie cutter, all same
17 distance set back, etcetera. This is a New
18 Jersey or Staten Island plan, not for a rural
19 historic district on a protected river. Not
20 in the spirit of comprehensive plan
21 maximizing space for an unknown number of
22 people. By how many cars per garage? Is
23 guest parking on the street? Sidewalks,
24 emergency nightmare is a cul-de-sac, where s
25 an access road? Six, environment [not heard]

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Proceedings

development.

Mr. Dragchuk states, were the infiltration tests performed by the infiltration bio retention done so in accordance with appendix E of the New York State DEC storm water management design manual? If so, what were the resulting infiltration rings? Were infiltration tests performed in the locations of the proposed dry wells planned for storm water management of roof top run off of the proposed 20 houses? Ms. Woodard, why was the special use permit marked yes, number nine, in the papers on page three?

At this moment that's all of the comments. I would indicate Mr. Fusco and his comments, had said that the community, [not heard] I would indicate to the board that I reviewed it sometime ago. I sent Mr. Fuller changes that would be necessary. He has since provided me with an updated version.

So, from the planning board perspective, [not heard] is sufficient. I defer to others otherwise the agreement is relative to the

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Proceedings

property owners.

Mr. Dragchuk, at 7:28, were soil borings performed in the location of the proposed infiltration bio retention lot?

It appears that with regard to Ms. Woodard's questions about the special use permit, the question that was answered was, is the use permitted or allowed by a special use permit? And the answer to the question is yes. The use is permitted. It's not by a special use or conditional use permit, so clarified that.

A Paul Rubin says, has the applicant produced calculations in the engineering design that address the risk of glass impact to people project homes approximately to the millennium pipeline should a pipeline rupture occur? And it appears he signs himself Paul Rubin professional geologist.

I thought I already read this. Kevin Dragchuk says, were slow borings performed in the location of the proposed infiltration bio retention [not heard] I thought I read that already. Desonka [ph] says, given this is

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Proceedings

one more suburban style plan development in a rural area what will be the affect on the residential wells in the area drinking? Drinking water has not been studied for many years. Has that plan by town or county afford more developments are improved?

Mr. Dragchuk, are the details available for elements of the sediment base and bio retention infiltration on the rock output protection?

Mr. Dragchuk, sediment based and proposed for use during construction, the same location as the infiltration bio retention pond, according to the New York State DEC storm water management design manual locations for infiltrations storm water management practices do not use sediment control licence during construction activities.

MR. VICARETTI: Glen, given the fact that it is a public hearing, do we actually have a time limit tonight on how long the meeting, the public section will go on for or do we --

1 Proceedings

2 MR. PLOTSKY: Well, that's up to the
3 board.

4 We just got another comment, I will read
5 in. Candidly anyone can do continuous
6 comment in and written comments could be
7 afforded could be provided to Mr. Fuller or
8 the board so that everybody could be
9 reviewing.

10 MR. VICARETTI: That's my question, is
11 it go being to be recorded irregardless
12 whether we orally recite it tonight or not,
13 it's still going to be recorded. And
14 secondly, we're going to hold the meeting
15 open anyway. We have a written portion after
16 tonight, so in the state of mind to say that
17 even another minute or so --

18 MR. PLOTSKY: I suggest I read this one,
19 since it's already here. There might be
20 another one after it, at least this one. And
21 then you know, perhaps say by 7:40 close it
22 per this evening subject to written comment.

23 MR. VICARETTI: I think that only seems
24 fair because this is kind of open. It could
25 go forever.

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Proceedings

MR. PLOTSKY: I'm going to read a portion of this. And then the rest of it, I'm going to allow to be printed and distributed. It's Mrs. Woodard talking about Mr. Rubin's qualifications. So, she starts with, Mr. Rubin is recognized for his unbiased hard core tentacle assessments of proposed projects, as well as his expert advice on geologic, hydro geologic environmental issues. And then she just goes on to talk about all of the things he writes about. And then she lists a bunch of his curriculum vitae, which basically are associations that he is affiliated with. So I would recommend that, like I said, this will be forward to the board and kept as a record.

It may be that Mr. Rubin should actually submit a report and/or Ms. Woodard should obtain a report and submit it on her own.

Mr. Dragchuk says, the septic system maintained scenario for a 50 percent capacity extension. Why is this additional capacity required? Well, how is this in addition to

1 Proceedings

2 the 20 currently proposed in the future?

3 Desonka says, can Mr. Fuller answer the issue
4 of the proximity of the pipeline?

5 Ms. Woodard goes on to talk more about
6 Mr. Rubin. And again, I'm not going to read
7 it now. I will share it with the board at
8 the appropriate time in the future.

9 Just to fill in a couple of minutes, I
10 will indicates to Desonka in response to her
11 question and Mr fuller I'm sure has the
12 answer to these of proximity of the pipeline
13 in this development, that will be coming,
14 right? Mr. Desonka just said, thank you.

15 MR. VICARETTI: You're welcome, Desonka.

16 Public hearing you get your three
17 minutes or five minutes whatever we allow
18 your time, to speak on project or make
19 comments on a project. And they actually --
20 the way we're doing this now with the written
21 comments over Zoom, we're well beyond the
22 three minutes, you know a participant for the
23 comment.

24 But to make a long story short, I don't
25 want Kevin or Grace trying to rush something

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Proceedings

through an e-mail for us to read it when, in fact, they will probably have four weeks to actually submit those questions to us. So, it's kind of a double edged sword. We want to allow them the time to do the research, you know, after this portion of the meeting is shut down. And to get it into us. You will have time to do it. I don't want them to feel pressure to get something in to us at this particular point in time.

MR. PLOTSKY: At this point Mr. Chairman, in light of your earlier comments, it is 7:40. It's been at least a couple of minutes since somebody has sent in a writing. So, if the board wishes you could close this portion of the hearing, hold it open for written comment for an appropriate period of time. The only reason why I suggested the four weeks is because that will ensure that will get the transcript so that Mr. Fuller can see exactly what was said tonight and also so that any member of the public in terms of making their comments will see the other questions that others have asked and,

1 Proceedings

2 therefore, maybe less likely to be
3 repetitive.

4 MR. VICARETTI: I mean given the
5 situation it seems better to extend it for
6 four weeks beyond this date for myself.

7 MR. PLOTSKY: For the written comment.

8 MR. VICARETTI: For the written comment.
9 That allows the transcripts hopefully in the
10 meantime. And everybody can read those also,
11 the comment back on those two so.

12 MR. WHITNEY: You're going to close the
13 oral --

14 MR. VICARETTI: Yeah. I'm going to
15 propose a motion right now to close -- what
16 do we call this, the oral presentation?

17 MR. WAGNER: This is the oral portion of
18 the public hearing yes, sir.

19 MR. WHITNEY: Make a motion to close the
20 oral portion of the public comment of this
21 application.

22 [Cannot be heard].

23 SPEAKER: All in favor? All in favor?

24 SPEAKER: Motion carries.

25 Next motion is, I think, that again,

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Proceedings

given the fact that the transcript and a few other things, I think we should keep the written portion of the public hearing open for a second -- I'm not going to be here that meeting, so September the ninth, right?

MS. GORR: Yes.

MR. WHITNEY: Right.

MR. WHITNEY: I make a motion that we keep the written portion of the public hearing open until September the ninth.

MR. SANTIAGO: Second.

MR. VICARETTI: I need a motion. All in favor?

[Not heard].

SPEAKER: Yes.

MR. VICARETTI: Motion carried. So, we will keep it open to September the ninth. Gives us enough time to get the questions in and get the response to them.

MR. FULLER: If I may ask, anything that's available now or as it comes in if Amanda could forward to me so we could begin preparation responding to them.

MR. VICARETTI: Sure. I know we have

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Proceedings

stuff that was transmitted to us through e-mail, correct Amanda now?

MS. GORR: Yes. It was done prior to the meeting.

MR. VICARETTI: Forward that to the office.

MR. FULLER: Then we can begin the process of responding to those items. I think there will be a lot of repeats but we need to answer them that's for sure.

MR. VICARETTI: Anything else pertaining to this project?

MR. FULLER: Not in regard to this.

[Not heard].

MR. VICARETTI: Mr. Dean, you're good?

All right.

MR. PLOTSKY: That's closed, so that's where the transcriptionist can stop this.

(Recording ended.)

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THE FOREGOING IS CERTIFIED to be a true and correct transcription of the original stenographic minutes to the best of my ability.


Debra Boggs



<p style="text-align: center;">A</p> <p>ability (1) 29:5 able (4) 3:24 4:4 5:15 13:23 acceptable (1) 10:25 access (2) 3:13 18:25 accessible (1) 4:14 acknowledge (1) 12:20 acknowledged (1) 11:19 acre (2) 6:11 18:15 activities (1) 21:20 actual (1) 14:25 add (1) 9:19 addition (1) 23:25 additional (1) 23:24 address (1) 20:16 addressed (1) 9:13 advanced (1) 8:14 advice (1) 23:10 affect (1) 21:3 affiliated (1) 23:15 afford (1) 21:7 afforded (1) 22:7 agencies (2) 7:11 8:3 ago (2) 18:2 19:20 agreed (1) 7:16 agreement (2) 9:25 19:25 AI (1) 9:6 Albany (1) 13:4 Alex (1) 13:16 ALFRED (1) 1:17 allow (5) 4:20 7:16 23:4 24:17 25:6 allowed (1) 20:9 allows (1) 26:9 Amanda (8) 1:18 4:4 5:8 12:16 13:11 15:21 27:23 28:3 amendment (1) 15:16 and/or (2) 8:22 23:20 answer (8) 8:21,25 9:3 11:20 20:10 24:3,12 28:11 answered (1) 20:8 anticipated (1) 14:4 anybody (2) 5:2 12:16</p>	<p>anyway (1) 22:15 Apparently (1) 5:5 appears (2) 20:6,19 appendix (1) 19:6 applicant (7) 1:18 2:15 6:9 7:12 13:23 17:3 20:14 applicant's (1) 17:7 application (9) 2:12 2:13,19,23 8:23 13:18 14:5 18:9 26:21 applied (2) 14:18 15:24 appropriate (4) 8:19 10:13 24:8 25:18 approval (2) 7:8 8:19 approximately (3) 6:19 18:2 20:17 archeological (1) 7:23 area (2) 21:3,4 areas (1) 13:19 arms (1) 12:2 Army (1) 9:17 Article (1) 2:11 asked (1) 25:25 asking (1) 13:14 assessments (1) 23:8 associations (1) 23:15 assume (1) 13:7 August (2) 1:9 3:3 available (3) 3:11 21:8 27:22 aware (1) 15:11</p> <p style="text-align: center;">B</p> <p>B (1) 1:11 back (6) 7:21,25 8:21 10:21 18:17 26:11 balance (1) 7:4 base (1) 21:9 based (2) 16:6 21:12 basically (1) 23:14 benefit (1) 17:17 best (1) 29:5 better (1) 26:5 beyond (2) 24:21 26:6 bio (5) 19:5 20:5,23</p>	<p>21:9,14 bit (1) 12:4 Block (1) 2:16 board (21) 1:2,18 2:7,9 3:19 4:13,17 5:3 6:6,23 8:16,22 9:19,23 19:19,23 22:3,8 23:17 24:7 25:16 board's (1) 4:18 Bob (2) 5:25 11:22 Boggs (1) 29:8 borings (2) 20:3,22 bounded (2) 6:14 10:19 broadcasting (1) 4:8 building (1) 3:20 bunch (1) 23:13 buttoned (1) 9:18</p> <p style="text-align: center;">C</p> <p>C (2) 1:15 15:25 calculations (1) 20:15 call (1) 26:16 camera (1) 12:4 Candidly (1) 22:5 capacity (3) 17:6 23:23,24 carried (1) 27:17 carries (1) 26:24 cars (1) 18:22 case (1) 18:14 CEA (2) 12:24 14:10 century (1) 16:22 certainly (5) 8:17 10:12,22 11:7 12:4 CERTIFIED (1) 29:3 chairman (8) 1:12 3:17 5:12 8:21 13:10 14:17 15:9 25:13 changed (1) 9:10 changes (1) 19:21 character (1) 17:16 chat (3) 3:22 4:6 13:14 City (1) 1:24 clarified (1) 20:13 clarity (1) 5:18 class (1) 15:25</p>	<p>clear (1) 2:5 close (6) 10:17 22:21 25:16 26:12 26:15,19 closed (1) 28:18 cluster (1) 18:13 clustered (1) 17:22 come (3) 7:21,25 10:21 comes (1) 27:22 coming (1) 24:13 comment (15) 4:21 4:23 5:12 12:14 13:5,12 22:4,6,22 24:23 25:18 26:7 26:8,11,20 comments (16) 3:22 4:6,6,25 9:22 10:3 10:21 16:15,17 19:17,18 22:6 24:19,21 25:13,24 commercial (1) 7:14 community (5) 6:24 6:25 8:12 16:3 19:18 company (1) 12:23 completely (1) 18:5 comprehensive (2) 17:15 18:20 computer (2) 3:25 4:8 conclusion (1) 4:15 conditional (1) 20:12 conducted (2) 3:5,8 CONFERENCE (1) 1:8 confident (1) 10:11 Congers (1) 1:23 connect (1) 3:13 Conservancy (1) 15:9 conservation (1) 13:4 construction (2) 21:13,19 consultant (2) 3:19 12:23 consultants (2) 3:19 5:3 continue (1) 11:2 continues (1) 18:12 continuous (1) 22:5 control (1) 21:19 cookie (1) 18:16</p>	<p>copy (3) 14:2,15 16:16 core (1) 23:8 Corps (1) 9:17 correct (2) 28:3 29:4 correctly (1) 8:5 correspondence (3) 7:19 14:12,13 counsel (3) 1:17 8:5 10:2 county (10) 1:1 2:10 7:7,13,15 8:4 10:6 10:23,24 21:6 couple (5) 12:22,22 14:23 24:9 25:14 courage (2) 17:19 18:13 course (1) 4:24 Court (1) 4:12 CRAIG (1) 1:12 cram (1) 18:15 create (2) 6:17,20 cul-de-sac (2) 17:14 18:24 currently (1) 24:2 curriculum (1) 23:14 cutter (1) 18:16</p> <p style="text-align: center;">D</p> <p>D-R-A-G-C-H-U-... 13:14 date (1) 26:6 day (1) 3:2 DE (1) 12:25 Dean (2) 12:5 28:16 Debra (1) 29:8 DEC (3) 15:23 19:7 21:16 Deerpark (6) 1:2 2:7,9,11 3:6 6:13 defer (1) 19:24 Delaware (1) 8:5 delayed (1) 13:22 department (4) 7:7 8:18 9:15 11:4 Description (1) 2:19 design (3) 19:7 20:16 21:16 Designation (1) 2:16 Designations (1) 2:18 Desonka (5) 20:25</p>
--	---	--	--	---

24:3,10,14,15 detail (2) 11:13,14 details (1) 21:8 determination (1) 14:6 developed (1) 8:10 development (18) 7:22 8:2,6 14:19 14:22,25 16:22,25 17:3,4,6,8,14,19 18:14 19:2 21:2 24:13 developments (1) 21:7 discretion (1) 4:19 disposal (1) 7:2 distance (1) 18:17 distributed (1) 23:5 district (1) 18:19 documentation (1) 13:19 doing (1) 24:20 DOT (1) 10:14 double (1) 25:5 download (1) 16:16 DPW (2) 7:13 10:7 draft (1) 16:24 Dragchuk (11) 12:25 13:13 14:18 15:22 16:3 19:3 20:3,22 21:8,12 23:22 dragon (3) 16:22,24 17:5 drawings (1) 16:6 drilling (1) 11:11 drinking (2) 21:4,5 drive (3) 2:21 6:15 7:15 driveway (1) 10:22 driveways (1) 16:4 dry (1) 19:11	emergency (1) 18:24 ended (1) 28:20 engineer (3) 1:17,18 6:8 engineer's (1) 9:3 engineering (5) 6:22 8:15 12:23,24 20:15 Engineers (1) 9:17 ensure (1) 25:20 enter (1) 9:2 entrance (6) 7:15,16 7:17 10:17,24,25 environment (2) 17:17 18:25 environmental (2) 7:24 23:11 especially (2) 14:2 16:23 ESQ (1) 1:17 Essentially (1) 15:13 etcetera (1) 18:17 evening (5) 4:16 6:6 6:10 8:17 22:22 everybody (4) 4:2 5:18 22:8 26:10 exactly (1) 25:22 existing (1) 10:24 expansion (1) 17:11 expectation (1) 11:7 expert (1) 23:9 explain (1) 17:12 explanation (1) 3:16 extend (1) 26:5 extension (1) 23:24 extensive (1) 6:21	film (1) 16:22 fine (3) 5:18 11:17 11:21 first (1) 13:12 five (1) 24:17 fixed (1) 12:5 flood (7) 14:19,20 14:22,24 15:2,3 16:5 following (2) 2:13 17:8 foot (1) 5:13 FOREGOING (1) 29:3 forever (1) 22:25 forward (6) 14:5 15:19 17:19 23:17 27:23 28:6 forwarded (1) 9:23 four (6) 4:19 17:13 18:2 25:3,20 26:6 full (1) 13:24 fuller (30) 1:18 4:24 5:3 6:3,4,6,7 9:8 10:9,11,18 11:6 11:25 14:11,21 15:7,10,18 16:8 16:19 17:23 18:6 19:20 22:7 24:3 24:11 25:21 27:21 28:8,14 further (2) 17:6,7 Fusco (7) 1:17 9:7 10:13 11:3,12 17:22 19:17 future (3) 7:19 24:2 24:8	goes (2) 23:11 24:5 going (14) 2:2 3:24 5:10 10:4,4 14:7 22:13,14 23:2,4 24:6 26:12,14 27:5 good (4) 6:6 11:18 13:11 28:16 GORR (7) 1:18 4:3 12:17 15:19 16:14 27:7 28:4 gotten (1) 10:7 Grace (2) 16:21 24:25 great (1) 5:19 green (1) 17:18 guess (1) 8:25 guest (1) 18:23	6:13 hundred (1) 15:3 hydro (1) 23:10
<hr/> E <hr/> E (5) 1:11,11,15,15 19:6 e-mail (3) 15:18 25:2 28:3 ear (1) 5:9 earlier (1) 25:13 edged (1) 25:5 EEC (1) 14:12 EIS (2) 14:6 16:24 either (2) 3:22 8:22 elements (1) 21:9	<hr/> F <hr/> F (1) 1:11 fact (3) 21:21 25:3 27:2 fair (1) 22:24 family (1) 8:9 far (3) 6:16 7:11 17:24 favor (3) 26:23,23 27:14 feel (1) 25:10 feet (1) 6:19 felt (2) 17:19 18:12 file (2) 4:13 13:24 filed (1) 10:4 fill (1) 24:9	<hr/> G <hr/> garage (1) 18:22 gazebo (1) 16:3 geologic (2) 23:10 23:10 geologist (1) 20:20 getting (1) 9:14 given (11) 2:8 9:7 13:17 14:13 16:24 17:5,13 20:25 21:21 26:4 27:2 Gives (1) 27:19 glass (1) 20:16 Glen (3) 1:17 4:3 21:21 go (3) 21:24 22:11 22:25	<hr/> H <hr/> Hall (4) 3:4,6,7 6:16 Hamlet (1) 2:18 hard (1) 23:8 health (4) 7:8 8:18 9:15 11:5 hear (3) 2:4 5:15,23 heard (14) 5:6 14:16 15:20 17:10 17:12,21 18:13,25 19:19,24 20:24 26:22 27:15 28:15 hearing (20) 2:3,6,8 2:25 3:11,13,15 4:11,15,18 6:10 6:23 13:21,22 21:22 24:16 25:17 26:18 27:4,11 held (2) 1:8 2:8 historic (1) 18:19 historically (1) 7:14 HMU (1) 2:18 hold (3) 4:17 22:14 25:17 holding (1) 13:20 Holdings (2) 2:14 2:15 homeowners (2) 9:24 17:17 homes (3) 8:10 14:25 20:17 hopefully (1) 26:9 house (2) 16:4 18:13 houses (2) 18:15 19:13 Huguenot (2) 3:6	<hr/> I <hr/> identify (1) 11:9 III (1) 1:17 immediately (1) 10:12 impact (4) 7:22,25 8:6 20:16 improved (1) 21:7 inches (1) 5:5 include (1) 5:11 including (1) 13:24 incomplete (1) 13:19 increase (1) 17:2 incredibly (1) 17:4 indicate (3) 10:25 19:17,19 indicated (1) 10:24 indicates (1) 24:10 individual (3) 7:2 8:12 13:16 infiltration (8) 19:4 19:5,9,9 20:5,23 21:10,14 infiltrations (1) 21:17 information (3) 2:23 3:9 14:3 initial (1) 17:8 initially (2) 15:15 17:18 inquires (2) 14:18 15:22 installation (1) 15:24 intense (1) 17:14 intent (2) 12:11 17:7 intention (1) 11:24 interact (1) 16:23 introduction (1) 8:20 involve (1) 6:24 involved (1) 10:15 irregardless (1) 22:11 Island (1) 18:18 issue (2) 10:20 24:3 issued (1) 15:24 issues (2) 12:3 23:11 item (1) 11:12

<p>items (2) 9:12 28:9</p> <hr/> <p style="text-align: center;">J</p> <p>Jersey (1) 18:18 Jervis (1) 2:21 job (1) 18:15 John (6) 1:18 6:7 8:24 14:9,10 15:4 join (1) 3:10 June (1) 16:6</p> <hr/> <p style="text-align: center;">K</p> <p>keep (3) 27:3,10,18 kept (1) 23:17 Kevin (6) 12:25 13:13 14:17 16:2 20:21 24:25 kind (2) 22:24 25:5 know (21) 5:21 9:13 9:15,16,20,21 10:3,6,8,15 11:15 11:24 12:2,5,10 17:24 22:21 24:22 25:7 26:15 27:25 known (1) 6:14</p> <hr/> <p style="text-align: center;">L</p> <p>L.U.S.T (1) 17:20 land (2) 6:11,12 lands (1) 7:4 landscaping (2) 9:18,19 Law (1) 2:11 layout (1) 11:16 lead (1) 17:2 left (1) 5:9 length (1) 6:19 Levy (1) 13:3 licence (1) 21:19 licensed (2) 6:8 10:5 light (1) 25:13 limit (1) 21:23 line (1) 17:14 link (1) 3:12 lists (1) 23:13 little (1) 12:4 LLC (2) 2:14,15 LM (2) 2:14,15 local (1) 13:2 Located (1) 2:21 location (3) 20:4,23 21:14 locations (4) 11:9,10 19:10 21:17 long (2) 21:23 24:24</p>	<p>look (2) 9:20 15:18 looks (1) 13:12 loop (1) 6:20 lost (1) 15:21 lot (7) 2:17,19 6:11 6:17 7:4 20:5 28:10 lots (6) 7:3,3 8:8,9 14:23 16:5 loud (2) 2:5 5:8 lust (1) 17:20</p> <hr/> <p style="text-align: center;">M</p> <p>mail (1) 15:5 maintain (1) 7:17 maintained (1) 23:23 making (1) 25:24 management (4) 19:7,11 21:16,18 manual (2) 19:8 21:17 Map (1) 2:16 marching (1) 5:21 marked (1) 19:14 material (1) 12:21 Matt (1) 13:3 matter (2) 1:4 3:16 maximizing (1) 18:21 mean (1) 26:4 mechanically (2) 3:17,24 meeting (11) 3:5,8 3:18 9:4 12:15 16:18 21:24 22:14 25:7 27:6 28:5 meetings (1) 11:20 meets (1) 11:16 member (6) 1:12,13 1:13,14 4:22 25:23 members (1) 5:3 mentioned (3) 13:7 14:3 17:9 met (1) 7:12 microphone (3) 5:5 5:7,11 millennium (1) 20:18 mind (1) 22:16 minimal (1) 7:22 minute (1) 22:17 minutes (6) 24:9,17 24:17,22 25:15</p>	<p>29:5 missing (1) 13:18 Mixed (1) 2:18 modify (1) 11:13 moment (1) 19:16 motion (7) 26:15,19 26:24,25 27:9,13 27:17 mouth (1) 5:13 move (1) 5:14 moving (1) 14:5</p> <hr/> <p style="text-align: center;">N</p> <p>N (1) 1:15 name (1) 6:7 nature (3) 13:4 15:8 17:11 near (2) 5:7 13:15 necessary (1) 19:21 need (7) 4:2 9:22 10:4,15 12:4 27:13 28:11 needed (1) 5:21 Neversink (3) 2:21 6:15 7:15 new (14) 1:1,24,24 2:10,22 6:15 7:6 10:14 13:4 15:22 16:22 18:17 19:6 21:15 nightmare (1) 18:24 nine (1) 19:14 ninth (3) 27:6,11,18 notice (5) 2:3,6,7 3:15 6:4 number (4) 7:11 8:3 18:21 19:14 NY (1) 3:7</p> <hr/> <p style="text-align: center;">O</p> <p>O (1) 1:11 o'clock (1) 3:2 observing (1) 3:21 obtain (1) 23:21 occur (1) 20:19 office (1) 28:7 Okay (2) 12:19 16:19 open (11) 3:4,7,18 4:18 17:6 22:15 22:24 25:17 27:4 27:11,18 opened (1) 13:15 oral (4) 26:13,16,17 26:20</p>	<p>orally (1) 22:12 Orange (6) 1:1,22 2:10 7:7,13 10:6 organizations (1) 12:22 original (1) 29:4 output (1) 21:10 overall (1) 17:9 owners (2) 2:14 20:2</p> <hr/> <p style="text-align: center;">P</p> <p>P (2) 1:15,15 p.m (1) 3:2 packet (4) 12:24,25 13:3 14:10 page (2) 12:24 19:15 pans (1) 4:16 papers (1) 19:14 parcel (2) 6:11,12 parcels (1) 8:10 parking (1) 18:23 part (2) 4:13 7:23 participant (1) 24:22 participate (1) 3:10 particular (2) 6:2 25:11 pass (1) 13:11 Paul (2) 20:14,19 people (3) 12:22 18:22 20:17 percent (1) 23:23 perfect (3) 5:25 12:11,11 performed (4) 19:4 19:10 20:4,22 period (1) 25:18 permit (10) 14:2 15:23 17:13,24 18:4,10 19:14 20:8,10,12 permits (3) 14:18 17:25 18:7 permitted (2) 20:9 20:11 PERSON (1) 1:8 perspective (2) 15:17 19:23 pertaining (1) 28:12 ph (2) 9:23 20:25 phone (4) 4:3,5 8:25 13:12 physical (1) 14:25 pipe (1) 15:25</p>	<p>pipeline (4) 20:18 20:18 24:4,12 place (1) 3:2 placed (1) 15:14 plain (4) 14:20,20 14:24 16:5 plains (1) 15:2 plan (12) 2:12 9:10 9:18 15:3 17:5,6 17:10,15 18:18,20 21:2,6 planned (1) 19:11 planning (9) 1:2,18 2:7,9 3:19 4:13,17 11:3 19:23 please (2) 5:9 17:12 PLOTSKY (21) 1:17 2:2,6 4:4 5:20 6:5 13:10 14:17 15:4,8,13 15:21 16:20 18:3 18:9 22:2,18 23:2 25:12 26:7 28:18 podium (1) 12:2 point (6) 8:15 10:2 12:13 13:23 25:11 25:12 pointing (2) 12:6,10 pond (1) 21:15 Port (1) 2:21 portion (10) 12:14 14:23 22:15 23:3 25:7,17 26:17,20 27:4,10 posted (2) 2:24 3:14 practicable (1) 3:4 practices (1) 21:18 prefer (1) 11:8 premises (1) 2:13 preparation (1) 27:24 prepared (1) 4:11 present (2) 3:20 8:15 presentation (1) 26:16 presentations (1) 6:22 pressure (1) 25:10 presume (1) 16:6 pretty (1) 9:13 printed (1) 23:4 prior (3) 6:23 11:11 28:4 private (1) 6:18</p>
---	--	--	---	--

probably (1) 25:3	qualifications (1) 23:6	required (2) 14:7 23:25	13:17	somebody (1) 25:15
procedural (2) 9:14 11:23	quasi (1) 3:18	reread (1) 2:2	sanitary (1) 15:25	soon (1) 3:3
procedure (1) 14:4	question (8) 13:13 14:7,9 16:10 20:8 20:10 22:10 24:11	research (1) 25:6	SANTIAGO (2) 1:13 27:12	sorry (4) 6:25 7:7 8:4 16:2
Proceedings (27) 2:1 3:1 4:1 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1	questions (8) 8:21 9:4 11:20 12:18 20:7 25:4,25 27:19	resident (1) 13:2	satisfied (1) 11:15	space (1) 18:21
process (2) 13:21 28:9	quite (1) 12:17	residential (2) 8:9 21:4	says (7) 16:3,4 20:14,22,25 23:22 24:3	speak (6) 5:2,10 14:14 15:11 16:10 24:18
produced (1) 20:15	<hr/> R <hr/>	respond (3) 4:25 16:7,8	scenario (1) 23:23	Speaker (4) 14:16 26:23,24 27:16
professional (2) 6:8 20:20	R (2) 1:11,15	responding (2) 27:24 28:9	SCHADT (6) 1:13 2:5 5:17,25 11:22 12:9	speaking (2) 5:8,17
program (1) 3:23	read (10) 4:5 11:14 20:21,24 22:4,18 23:2 24:6 25:2 26:10	response (2) 24:10 27:20	Scilla (1) 13:17	special (10) 17:13 17:23,24 18:3,6 18:10 19:13 20:7 20:9,12
project (8) 6:24 7:6 7:10 8:17 20:17 24:18,19 28:13	really (1) 9:10	responses (1) 9:5	second (2) 27:5,12	specifically (2) 3:12 6:13
projects (1) 23:9	rear (1) 14:23	rest (1) 23:3	secondly (1) 22:14	spirit (1) 18:20
promoted (1) 17:18	reason (3) 11:6 13:20 25:19	restrictions (2) 15:6 15:14	Secretary (1) 1:18	springs (3) 16:23,24 17:5
Promoting (1) 17:16	reasons (1) 10:16	resulting (1) 19:8	section (2) 2:16 21:24	stage (2) 11:5 13:21
property (8) 2:14,15 6:14,20 7:14 10:18 15:14 20:2	receipt (1) 4:20	retention (5) 19:5 20:5,24 21:10,15	sediment (3) 21:9 21:12,19	stamped (1) 10:5
proposal (3) 6:17 8:8 17:8	receive (2) 14:10 15:4	review (5) 2:12 7:8 7:24 8:18 14:2	see (10) 3:25 4:2 5:4 9:24 11:25,25 12:2,6 25:22,24	Standing (1) 5:7
propose (1) 26:15	received (1) 13:25	reviewed (4) 9:9,11 9:25 19:20	seen (2) 13:25 15:10	start (1) 11:22
proposed (9) 6:10 7:17 19:10,12 20:4,23 21:13 23:9 24:2	recite (1) 22:12	reviewing (1) 22:9	segmentation (1) 17:10	starts (1) 23:6
proposing (1) 10:22	recognized (1) 23:7	right (8) 5:10,22,24 24:14 26:15 27:6 27:8 28:17	send (2) 10:9 16:16	state (9) 1:1 6:15 7:6 10:14,23 15:23 19:7 21:16 22:16
protected (1) 18:19	recommend (2) 4:17 23:16	rings (1) 19:9	sent (3) 10:8 19:20 25:15	Staten (1) 18:18
protection (2) 15:23 21:11	record (4) 2:14 9:2 9:2 23:18	risk (1) 20:16	September (3) 27:6 27:11,18	states (3) 16:25 17:4 19:3
provided (2) 19:22 22:7	recorded (4) 4:7 12:7 22:11,13	Rivendale (2) 1:6 13:18	septic (4) 6:25 7:9 8:12 23:22	Stenographer (1) 4:12
proximity (2) 24:4 24:12	recording (3) 4:9,9 28:20	river (1) 18:19	SEQRA (1) 14:6	stenographic (1) 29:5
public (23) 2:3,6,8 3:10,13,15 4:11 4:22 6:7,10,23 8:16,22 12:14 13:20 21:22,24 24:16 25:23 26:18 26:20 27:4,10	referred (1) 7:10	road (8) 1:23 6:18 6:18 7:16,18 10:23 11:13 18:25	set (1) 18:17	stop (1) 28:19
purchased (1) 15:15	regard (2) 20:6 28:14	Robert (3) 1:12,14 13:2	sewage (1) 6:25	storm (4) 19:7,11 21:16,17
pursuant (1) 2:10	regarding (1) 14:19	rock (1) 21:10	shape (1) 5:19	story (1) 24:24
put (1) 10:14	regards (1) 8:23	ROCKLAND (1) 1:22	share (1) 24:7	stream (2) 16:2,2
<hr/> Q <hr/>	relation (1) 7:19	roof (1) 19:12	short (1) 24:24	street (1) 18:23
	relative (1) 19:25	room (3) 4:2,7 5:2	showing (1) 7:21	studied (1) 21:5
	relevant (1) 14:3	Route (2) 3:6 6:16	SHPO (4) 7:24 9:22 13:6 14:12	studies (1) 7:20
	remain (1) 7:4	Rubin (5) 20:14,20 23:7,19 24:6	shut (1) 25:8	study (4) 7:23 10:7 10:20 13:25
	repeats (1) 28:10	Rubin's (1) 23:6	Sidewalks (1) 18:23	stuff (1) 28:2
	repetitive (1) 26:3	run (1) 19:12	sign (1) 9:22	style (1) 21:2
	reply (1) 16:11	rupture (1) 20:18	significant (1) 13:18	subdivision (7) 2:20 6:11,17 7:18 8:11 18:4,11
	report (2) 23:20,21	rural (2) 18:18 21:3	signs (1) 20:19	subject (1) 22:22
	REPORTING (1) 1:22	rush (1) 24:25	single (1) 8:9	submit (5) 4:23 13:24 23:20,21 25:4
	represent (1) 7:12	<hr/> S <hr/>	sir (1) 26:18	
	representing (1) 6:9	s (2) 1:15 18:24	site (3) 2:12 7:13 8:2	
	require (2) 7:6 11:7	S-C-I-L-L-A (1)	situation (1) 26:5	
			six (2) 18:2,25	
			size (1) 18:16	
			slow (1) 20:22	
			soil (1) 20:3	

submitted (1) 7:21	today (2) 9:24 15:5	V	25:15	38.22 (1) 2:17
submitting (1) 10:20	tonight (7) 9:8 14:14 15:12 21:23	various (1) 15:6	written (17) 4:20,21	4
subsequently (1) 15:16	22:12,16 25:22	version (1) 19:22	4:23 9:5 12:21	420 (1) 3:6
suburban (1) 21:2	top (1) 19:12	VICARETTI (23)	13:5,6,8 22:6,15	43 (1) 6:11
sufficient (1) 19:24	town (18) 1:2,17 2:7	1:12 5:23 6:2 8:24	22:22 24:20 25:18	5
suggest (1) 22:18	2:9,11,24 3:4,5,6	11:18 12:7,12,19	26:7,8 27:4,10	50 (2) 2:16 23:23
suggested (1) 25:19	3:7,12 6:12,16 9:3	14:9 16:12 21:21	wrote (1) 13:17	515 (1) 2:21
Supposed (1) 17:22	17:3,16 18:7 21:6	22:10,23 24:15	X	6
sure (7) 3:23 4:24	Town's (1) 17:15	26:4,8,14 27:13	x (2) 1:3,7	634-4200 (1) 1:25
11:19 14:15 24:11	townofdeerpark.o...	27:17,25 28:6,12	Y	7
27:25 28:11	2:25 3:14	28:16	Yeah (2) 11:6 26:14	7 (1) 2:11
surveyor (1) 10:5	traditionally (1)	VIDEO (1) 1:8	year (1) 15:3	7:00 (1) 3:2
sword (1) 25:5	6:14	virtually (1) 3:8	years (2) 18:2 21:6	7:28 (1) 20:3
system (4) 6:25 7:9	traffic (3) 7:20 10:7	vitae (1) 23:14	yesterday (1) 9:9	7:40 (2) 22:21 25:14
8:13 23:22	13:24	volume (1) 5:18	York (11) 1:1,24	8
T	transcript (7) 4:10	W	2:10,22 6:15 7:6	845 (1) 1:25
take (2) 2:25 9:20	4:12,20 16:10,13	WAGNER (2) 1:12	10:14 13:4 15:22	
talk (2) 23:12 24:5	25:21 27:2	26:17	19:6 21:15	
talking (1) 23:5	transcription (2)	wait (2) 11:4 12:20	Z	
Tax (1) 2:16	4:10 29:4	walkway (1) 16:4	Zeller (1) 13:2	
technical (2) 9:12	transcriptionist (1)	walkways (1) 16:3	Zone (1) 2:18	
12:3	28:19	want (5) 9:2 11:11	zoning (3) 2:11	
technically (1)	transcripts (1) 26:9	24:25 25:5,9	11:16 17:25	
11:15	transmitted (2) 3:22	water (7) 6:24 15:23	Zoom (9) 3:7,9,11	
tell (1) 11:10	28:2	19:7,11 21:5,16	3:21,23 4:7,8	
tentacle (1) 23:8	trout (2) 15:25 16:2	21:18	12:16 24:21	
terms (1) 25:24	true (1) 29:4	way (2) 14:22 24:20	0	
tested (1) 11:11	try (1) 2:2	we're (6) 3:24 10:22	1	
testing (1) 11:4	trying (1) 24:25	11:15 22:14 24:20	1 (1) 2:16	
tests (2) 19:4,9	turn (4) 6:3 8:20	24:21	10956 (1) 1:24	
thank (5) 5:20 8:24	12:3,13	We've (2) 7:20,22	12 (2) 1:9 16:5	
12:12 15:9 24:14	two (4) 4:19 11:8	website (3) 2:24	12771 (1) 2:22	
thanks (1) 13:16	17:5 26:11	3:12,14	12th (1) 3:2	
THERESA (1) 1:13	U	weeks (4) 4:19 25:3	13 (1) 16:5	
thing (2) 9:14 11:23	ultimately (1) 4:10	25:20 26:6	1985 (1) 15:17	
things (4) 9:16 13:6	unbiased (1) 23:8	welcome (1) 24:15	1995 (1) 15:17	
23:12 27:3	understand (1) 12:9	wells (7) 7:2,8 8:12	2	
think (5) 10:13	undeveloped (1) 7:5	11:8,11 19:11	2 (1) 1:23	
22:23 26:25 27:3	unequivocally (1)	21:4	20 (5) 2:19 7:3 8:8	
28:10	16:25	WHITNEY (5) 1:14	19:12 24:2	
third (1) 18:15	uniform (1) 18:16	26:12,19 27:8,9	2020 (3) 1:9 3:3	
thought (2) 20:21	unknown (1) 18:21	Willard (5) 1:13 2:3	16:6	
20:24	unrelated (1) 18:5	5:15,23 12:12	209 (4) 3:6 6:16	
thousand (1) 6:19	UPC (1) 13:6	wish (1) 9:19	10:17,19	
three (5) 5:4 17:12	updated (1) 19:22	wishes (2) 4:22	21 (5) 6:10,17 7:3,3	
19:15 24:16,22	upper (2) 8:3,5	25:16	8:8	
tight (1) 18:14	urban (1) 18:14	Woodard (6) 16:21	3	
time (14) 6:2 8:19	use (16) 2:18 17:13	18:12 19:13 23:5	36 (1) 12:24	
9:11,20 12:13	17:23,24 18:4,6	23:20 24:5		
13:15 21:23 24:8	18:10 19:13 20:7	Woodard's (1) 20:7		
24:18 25:6,9,11	20:9,10,11,12,12	work (2) 5:7 9:17		
25:19 27:19	21:13,18	writes (2) 16:21		
	usually (1) 11:8	23:12		
		writing (2) 16:9		