

1 INCORPORATED VILLAGE OF BROOKVILLE

2 BOARD OF TRUSTEES

3 SEPTEMBER 20, 2022

4 7:00 P.M.

5
6 APPLICATION OF THE TAM O'SHANTER DEVELOPMENT PROJECT

7
8 P R E S E N T:

9 DANIEL SEROTA, MAYOR

10 CAROLINE BAZZINI, DEPUTY MAYOR

11 JOHN BURNS, TRUSTEE

12 EDWARD CHESNIK, TRUSTEE

13 JOHN CHASE, ESQ., VILLAGE ATTORNEY

14 TIM DOUGHERTY, BUILDING INSPECTOR

15 WINSOME CITARELLA, CLERK/TREASURER

16 ANGELA MANNINO, SECRETARY TO THE BOARD OF TRUSTEES

17 KEN LACK, POLICE CHIEF

18
19
20
21
22 JENNIFER DEVLIN
23 COURT REPORTER
24

1 MAYOR SEROTA: Good evening everyone. I
2 just want to make sure everyone signs in on
3 the sign-in sheet. It's in the rear of the
4 room. If everyone can put their phones on
5 vibrate or mute, that would be beneficial.

6 If we can all rise.

7 I pledge allegiance to the flag of the
8 United States of America, and to the Republic
9 for which it stands, one nation under God,
10 indivisible, with liberty and justice for
11 all.

12 Good evening everyone. Thank you for
13 coming. Our Trustee Bob Spina who's also our
14 director of emergency management, had an
15 emergency. And he's not able to attend this
16 evening.

17 I just have a brief few words I want to
18 say before we open up our session tonight.
19 I'd like to call this meeting to order. With
20 respect to the Tam O'Shanter Country Club, by
21 way of introduction, as some of you are
22 aware, this March of 2022 the village's
23 Planning Board granted preliminary
24 subdivision approval to permit the

1 subdivision of the property into 27
2 single-family residential building lots.

3 According to the law and as a condition
4 to that approval, the developers were
5 required to obtain the sign off by the Nassau
6 County Department of Health. The Health
7 Department's review has revealed some issues
8 with respect to the soil quality of the
9 property.

10 I want to repeat this. This is an
11 informational meeting solely to apprise all
12 of you of the issues so you're all aware of
13 the Health Department's concerns and how
14 these health concerns may result in the
15 possible modification to developer's
16 development and the possible alternative
17 proposals the developer may have.

18 I want to emphasize this meeting is not
19 required by law, that absolutely no decisions
20 have been made by the village with respect to
21 this development. And no decisions are going
22 to be made tonight with respect to the future
23 development of this property.

24 Again, the only purpose of the meeting

1 tonight is to be completely transparent with
2 all of you, our residents, so you're fully
3 aware of the Health Department's position
4 with respect to this development, and to hear
5 all of your comments, concerns and questions
6 with respect to the same.

7 At this time I would like to introduce
8 Jack Martins, the developer's attorney, and
9 Kevin Walsh, the developer's engineer, to
10 explain the issues they are facing with the
11 Department of Health and Nassau County.
12 After their presentation we will open the
13 floor to our residents for any questions,
14 comments and concerns.

15 Thank you.

16 MR. MARTINS: Mayor, thank you very much
17 for the opportunity. Thank you to the Board
18 for allowing us to come before the Board this
19 evening. And certainly thank you to everyone
20 for coming out this evening. Mayor, as you
21 said, March 16th we did receive preliminary
22 approval from -- site plan approval from the
23 Planning Board.

24 What does that mean? Preliminary site

1 plan approval means it's subject to the
2 developer getting further approvals from the
3 County of Nassau, in this case from the
4 Department of Health with regard to specific
5 items, and from the Department of Public
6 Works with regard to other items. Only after
7 getting sign off from the county can we then
8 come back before the village and get or apply
9 for final site plan approval.

10 In that process, in complying with the
11 requirements of the Nassau County Department
12 of Health, the developer was required to do
13 extensive soil sampling throughout the
14 property. As a result of that soil sampling
15 it showed elevated levels of arsenic.
16 Arsenic is an element that is found in
17 fertilizer. Over the years it was used to --
18 as part of maintenance of the golf course.
19 Again not unusual for golf courses. Not
20 unusual for agricultural uses.

21 The difference between golf courses and
22 other agricultural uses is that typically for
23 putting purposes the ground is tilled. And
24 so that element is incorporated into the

1 ground to levels below the thresholds that
2 are normally allowed in New York State.
3 Because it is a golf course that metal tends
4 to accumulate. And it accumulates in the top
5 6 inches to 12 inches of the soil.

6 So as a result of that, there is a
7 requirement -- again in other places that
8 until recently out in Suffolk County, but in
9 other states -- they allow for the developer
10 to simply till the soil in order to reduce
11 the levels to acceptable levels. The levels
12 aren't zero. And so by doing so they would
13 be able to.

14 But that has not been the practice of the
15 County Department of Health. They require
16 that it be removed, which is, you know, an
17 option. And certainly if you're going to
18 disturb it it would require it to be moved.
19 Now, you're dealing with smaller properties,
20 that obviously is an issue. When you're
21 dealing with a property of this size,
22 approximately 150 acres, and you're dealing
23 with removing approximately the first 6
24 inches to a foot, it's significant.

1 And so faced with that we approached the
2 village and asked if there was an opportunity
3 for a conversation given the impacts of
4 actually doing that. We would have to do
5 that in advance of moving forward with our
6 application for final subdivision approval.
7 And, therefore, it would be a lengthy
8 process. There would be impacts obviously as
9 a result. And we looked for alternatives.
10 And so we thank the village for that
11 opportunity and that discussion. But it
12 really is up to the village.

13 I want to make it clear that the
14 developer is prepared to move forward on the
15 conditions that the Department of Health has.
16 The developer has applied for assistance.
17 There are programs out there that offer
18 assistance for this type of cleanup. They
19 have applied. They are assured that they can
20 get the necessary financial support through
21 these programs to absorb the costs.

22 And they're prepared to move forward on
23 the application as it exists; that is, 27
24 single-family homes built in conformance with

1 the Village Code and certainly in conformance
2 with the Planning Board's decision, and then
3 move forward in the regular course. But
4 given the impacts, we thought it was
5 important we have at least a conversation.

6 The concerns -- and we'll be very clear
7 about it is -- one, it would require the
8 removal of a significant amount of soil over
9 the course of the entire property.

10 Significant. The exact totals we can provide
11 from our engineers. But it has been
12 estimated, between removal and return, of
13 thousands of truckloads of dirt. Upwards of
14 10,000 and probably close to 15,000. So
15 there are impacts that are significantly
16 associated with that.

17 Two is the impact on the property itself.
18 If you're going to be removing topsoil over
19 that length and that size, what is now green
20 will now no longer be green. And obviously
21 there are impacts to that. There are impacts
22 to the trees that are on the property that
23 may be impacted as a result of significant
24 soil removal over that process. So those are

1 the impacts that we had, that we analyzed.
2 That's what we're concerned about. And we
3 welcome, again, the conversation.

4 The alternative that we've asked --
5 there's one place that doesn't have elevated
6 levels of arsenic. That's the driving range,
7 because they did not fertilize the driving
8 range. And so there's a piece of property
9 that is approximately, I'm going to say, 10,
10 15 acres or so. That is the driving range.
11 Give or take.

12 MR. WALSH: Seven, eight.

13 MR. MARTINS: I was -- I'm corrected.
14 It's 7 or 8 acres. That is not -- does not
15 have elevated levels of arsenic. And we
16 believe -- we understand that we would be
17 able to build there without having to disturb
18 the rest of the property.

19 We would not have to go through the
20 process of removing the soil. And not only
21 removing it, but carting it away. And we
22 would be able to keep the balance of the
23 property open, open space. You know, there's
24 been discussions about whether it maintains

1 or will continue to be maintained as a golf
2 course or whether it would just be left as
3 open space.

4 Mayor, that would be up to the village.
5 Certainly if there's an interest in keeping
6 the golf course, we can have a conversation.
7 If there is an interest in keeping the
8 property open, entirely up to the village.
9 We don't have a preference one way or the
10 other.

11 But the alternative would be to build
12 carriage houses on the property. The
13 carriage houses would total 46 units. The 46
14 units would be approximately 2,500 square
15 feet, 2,500 to 2,700 square feet. They would
16 be contained to the area that is currently
17 the driving range. You would come in through
18 the same entrance that you have now. And
19 that parking lot into the driving range would
20 be used for that purpose.

21 Again, those are the areas that are --
22 that have lower levels or acceptable levels
23 of arsenic. And it would allow for the
24 development of the property, with the balance

1 of the property remaining open. That is the
2 alternative. It's there for your
3 consideration.

4 And certainly -- I want to make a point,
5 if I may. You know, in this process I know
6 that we've received questions from residents.
7 Obviously we have friends in the -- the
8 neighbors. And they asked, how could this
9 have happened? Why wouldn't you have known
10 about this ahead of time? Why would this
11 have come to your attention now?

12 Because that is the process. There is a
13 timeline of a process where in our
14 application we do not have a level of
15 environmental analysis that is required by
16 the Department of Health. You simply don't
17 do it as part of a normal Planning Board
18 application.

19 It was only after we went through the
20 Planning Board application, got our
21 preliminary approvals and had to apply to the
22 Department of Health that this issue came to
23 the fore because it is a requirement of the
24 application before the Department of Health

1 that we would have had to do all of the
2 borings that we did.

3 And I will let our engineers speak to
4 that, but the borings are extensive. And
5 it's certainly not something that you would
6 do if you hadn't achieved preliminary
7 approval. And so that's when it came up. As
8 we found out about it we communicated with
9 the village. And here we are. So there's an
10 option. There are two options.

11 The first option is, you know, the
12 applicant will simply move forward with the
13 application as it currently sits. We would
14 remove the contaminants from the property.
15 We would restore the property, bring in the
16 necessary soil, move forward, get the
17 approvals from the Department of Health. In
18 turn get the approvals from the Department of
19 Public Works. Once both sign offs are
20 received, come back before the village
21 Planning Board for final site plan approval
22 and move forward with the development.

23 The second is allow the property to
24 remain open, limit the development simply to

1 those areas that are currently accessible
2 because of the contamination, leave the rest
3 of it open, again at the option of the
4 village whether it's a golf course or open
5 space and actually pursue a different course.
6 That's the option.

7 Mayor again and to the residents, thank
8 you for the opportunity to present that
9 question to you. With that --

10 VILLAGE ATTORNEY CHASE: Jack, if I can
11 just interrupt and just ask one quick
12 question?

13 And I don't know if the residents are
14 aware. But we hired -- the Planning Board
15 retained an environmental consultant that did
16 an extensive environmental review of this
17 project. And I believe -- I don't have that
18 file with me. But I believe in the Planning
19 Board's review and its environmental
20 resolution this was at least identified as
21 something that needed to be addressed. I
22 don't remember whether you filed the phase II
23 with our consultant. I believe you did.

24 But just so everybody knows, this isn't

1 something that the Planning Board didn't
2 identify. Was certainly aware of it, and was
3 provided in our environmental review. And,
4 again, you know, this is in the sole
5 jurisdiction of the Department of Health.
6 But I believe it was addressed, identified
7 and made known to the developer when they
8 granted its preliminary approval.

9 MR. MARTINS: Mr. Chase, it's also a
10 requirement of the Department of Health. And
11 as such it was something that would have had
12 to have been addressed in its natural course.
13 It's not something that would have been
14 addressed by the Planning Board during that
15 initial review.

16 But, in fact, when it came up -- and I
17 think it's important that we identify. It's
18 not just for large parcels. There is the
19 same analysis anytime you have a smaller
20 subdivision. It still has to go through the
21 same approval process. It has to go before
22 the Department of Health. You still have to
23 get the approvals of the Department of Public
24 Works.

1 It's just that given the size, the scope
2 and the nature of this particular contaminant
3 and the remediation that's required and the
4 possible impacts -- well, I think we can say
5 the impacts to the community -- we felt it
6 important that we have this conversation.

7 VILLAGE ATTORNEY CHASE: Thank you. And
8 I'm sorry to interrupt, Mr. Martin.

9 I just want to be clear that this was
10 identified in the environmental review at the
11 Planning Board. We didn't do the test
12 borings, but it was certainly identified in
13 our review.

14 Thank you. Proceed.

15 MR. MARTINS: Would you like to just
16 speak to the proposal?

17 MR. WALSH: Sure.

18 MR. MARTINS: To the alternative.

19 MR. WALSH: And just before I do that,
20 Kevin Walsh, VHB Engineering.

21 Just to add a little more color to what
22 Mr. Chase said and what Mr. Martins said.
23 Until such time as you have a configuration
24 for the subdivision, you don't know where all

1 this analysis has to take place on the site.

2 So as you correctly -- as everybody
3 correctly pointed out, we have to get through
4 the preliminary subdivision process. The
5 issue of possible impacts to the soils were
6 identified during that process, knowing that
7 it's a golf course and knowing that these are
8 fairly typical impacts on a golf course. And
9 then that's -- reaching that stage of the
10 process is what allows us to go ahead and
11 make the application to the Health
12 Department.

13 It includes an entire testing regime that
14 has to be developed with consultation with
15 the Health Department. Extensive soil
16 borings. Between 200 and 250 soil borings.
17 And then the analysis that goes into that.
18 And that's why there's a considerable amount
19 of time and effort that goes into this after
20 the establishment of the preliminary plan.

21 As to the proposed alternative -- and
22 this is something that was developed by the
23 owner's architects -- that we've had a chance
24 to take a very brief look at, as Mr. Martins

1 said, 46 residential units, what they're
2 referring to as "carriage house" units.
3 They're attached. Between three and four --
4 three and five units I believe per building.
5 There would be about a dozen buildings.

6 That's how we're able to -- that's how
7 they're able to configure the development in
8 such a way that it limits the disturbance to
9 the area up to and around the driving range.
10 Any disturbance of that area that would
11 assist in dealing with whatever impacts there
12 are in those soils, even though they're
13 lesser impacts than the driving range, there
14 may still be some areas that can be taken
15 care of.

16 Most of that disturbance would take place
17 anyway during the course of construction
18 because you have a much more concentrated
19 area that you're building on, different than
20 27 individual lots spread out over 100 and --
21 whatever it is -- 42 acres.

22 So again this would be 46 units attached.
23 Confined to the area around the driving
24 range, in or around the driving range.

1 Within that same area would be accommodated,
2 you know, the drainage requirements, the
3 sanitary sewage disposal requirements all
4 concentrated within that area in and around
5 the driving range, leaving the rest of the
6 golf course essentially untouched.

7 MR. TAXEL: Question.

8 Would you just go ahead and just have 46
9 houses, carriage houses and that's it? The
10 property -- the golf course just stays as it
11 is and nothing else happens to it?

12 MR. MARTINS: That -- that is an option,
13 sir.

14 MAYOR SEROTA: Yeah. We were going to
15 open up to the questions if you're done
16 with --

17 MR. WALSH: Yes.

18 MAYOR SEROTA: -- with the presentation.

19 MR. MARTINS: So to answer the question,
20 sir. Thank you.

21 MR. TAXEL: I'm Nelson Taxel, T-A-X-E-L.

22 MR. MARTINS: Yes. The answer is yes.
23 If there are 46 carriage houses in the area
24 that -- in and around the driving range,

1 there would be no need frankly to do anything
2 else with the property. And the property
3 would be frankly for the village to
4 determine. I know that we would probably
5 have to work through some legalities with
6 regard to ownership of the property in common
7 with all of the 46 units.

8 But whether it is actually used for any
9 purpose, whether it's a golf course or open
10 space, there's no expectation or need or
11 requirement that the developers retain any
12 use or control of the property. They would
13 build 46 units. And the property would
14 remain open.

15 MR. DIAMOND: You still have to replace
16 the soil, correct?

17 MR. MARTINS: Mayor, we --

18 MAYOR SEROTA: John?

19 MS. MANNINO: If anyone is going to
20 speak, you have to stand up and state your
21 name for the record.

22 TRUSTEE CHESNIK: Come up.

23 MR. MARTINS: And for purposes of the
24 record.

1 MR. DIAMOND: I'm Don Diamond.

2 MR. MARTINS: So the soil, the balance of
3 the property would not have to be remediated.
4 If we don't touch it, the developer doesn't
5 touch it. If it's not disturbed, there's no
6 requirement that we have to do it. We would
7 have to focus on the areas in and around the
8 areas that are going to be developed. And we
9 can leave it wide open, or it can continue to
10 be used again.

11 I don't want to keep reiterating. But
12 whatever the village would like to do. But
13 we would not require -- the developer would
14 not be required to remove the soil and
15 replace the soil.

16 MAYOR SEROTA: Sir.

17 MR. FRANK: Bobby Frank, or Robert.

18 MAYOR SEROTA: Can we just get the
19 address?

20 MR. FRANK: 65 Fruitledge.

21 Been to every meeting. Just want to
22 recap. Is this your first time buying a golf
23 course and developing it? Is this your first
24 time buying a golf course and developing it?

1 I want to recap. There's a lot of new faces
2 in the audience that haven't heard the whole
3 story.

4 MR. MARTINS: Mayor, my client, as I
5 understand it, has owned golf courses in the
6 past. I'm not familiar with what their past
7 experience is, but I do know that they do
8 have other course golf courses that they do
9 own.

10 MR. FRANK: So, you know, the
11 professional method of determining all of
12 these things in the beginning. So in the
13 beginning it was going to be a multi-unit and
14 multi one-family homes. And then the village
15 put in to act the requirements in the village
16 to be 5 acres or 3 acres or average. And
17 that lead to the multi-family probably
18 becoming 27 families on 5 acres each, right?
19 So is that kind of what happened?

20 MR. HALEMAN: No, sir.

21 Edward Haleman.

22 MR. FRANK: So clarify that.

23 MR. HALEMAN: Back in the 90s, maybe
24 actually earlier, the property was upgraded

1 to 5-acre zoning as part of a master plan for
2 the village. When the developers came they
3 knew it was 5-acre zoning.

4 In order to preserve open land and to
5 have water for the village, because it was in
6 a water zone, they proposed to have lot
7 averaging. Some would be 7 acres. Some
8 would be 8 acres. Some would be 4 acres and
9 would open up the space so that the water
10 would be available to the village and to the
11 north shore. But they didn't do anything to
12 change it. It was a 5-acre zone. And they
13 just asked for a modification to have lot
14 averaging.

15 MR. FRANK: Through the meetings we got
16 to the point where it would be lot averaging
17 for 27 homes?

18 MR. HALEMAN: Yeah. It would have been
19 the same number of homes at 5 acres each.

20 MR. FRANK: Right. Okay.

21 MR. HALEMAN: It's just a matter of just
22 changing the configuration.

23 MR. FRANK: So now they're proposing they
24 want to put 40 homes within --

1 UNIDENTIFIED AUDIENCE SPEAKER. 46.

2 MR. FRANK: Forty-six within the clean
3 soil area of approximately 8 acres. Is that
4 what I'm hearing?

5 MR. HALEMAN: That's what I heard. And
6 what I also heard is what they're looking for
7 is 46 townhouse type of homes in the area, in
8 the 7 to 8 acres. I haven't heard anything
9 about the status of the clubhouse which was
10 originally part of the offering. Obviously
11 other things may have to take place, because
12 originally the traffic study was for 27
13 homes.

14 MR. FRANK: That's what I was leading to.

15 MR. HALEMAN: Now you have 46. So
16 there's a considerable amount of cars going
17 in and out of there. I don't know how it
18 affects the school district, because I don't
19 know if it's a 55-and-over community.

20 MR. FRANK: That's what I was getting to.

21 MAYOR SEROTA: Just for everyone's
22 edification. The gentleman sitting in the
23 front row, his name is Ed Haleman. And he is
24 the chairman at our Planning Board. And he

1 has been with this development almost four
2 years. And his board has been involved with
3 it since day one. So he's very knowledgeable
4 with what has transpired.

5 Get up and state your name. She's typing
6 it all down.

7 MR. MARTINS: I can -- I will just try to
8 recap. And correct me if I'm wrong.

9 What the chairman said is that because
10 we're now talking about 46 units as oppose to
11 27 units, the traffic study that was provided
12 for the village and Planning Board was for 27
13 units, not 46 units. So if there were to be
14 a consideration, we would have to adjust and
15 see whether or not there would be a
16 difference with regard to our findings under
17 the traffic study to accommodate the 46
18 carriage houses as oppose to the 27 homes.

19 There would also have to be an analysis
20 with regard to potential impacts to the
21 school district. Because now you're dealing
22 with 46 units as oppose to 27 units. Fair?
23 And so --

24 MR. HALEMAN: And actually what also --

1 the status of what would happen to the
2 clubhouse.

3 MR. MARTINS: Yes.

4 And to answer that --

5 MR. FRANK: And that status to where
6 traffic would enter into the community that
7 was mapped out and redesigned numerous times.

8 MR. HALEMAN: Well, let me say this. It
9 would have to be an entire reanalysis of
10 everything from beginning to end.

11 MAYOR SEROTA: Mr. Tolkin, you want to
12 come up to the podium?

13 MS. BALLEEN: I'm Lauri Ballen,
14 B-A-L-L-E-E-N. 35 Evans Drive. Please bear
15 with me. I just have a few questions. I
16 just want to back up a bit.

17 I know we all know our sense of poison,
18 but I wonder if you can speak to exactly what
19 the concern is. Can it be inhaled once it's
20 disturbed like an asbestos? Is it we are
21 afraid of it leaching into the water system?
22 So can we go back to the arsenic and just
23 explain that for me, please?

24 MR. MARTINS: Yes. I will defer to our

1 engineer who will speak to it. This is
2 Heather Waldman. She's also with VHB.

3 MS. WALDMAN: Heather Waldman,
4 W-A-L-D-M-A-N.

5 So this is typical of any sort of a golf
6 course or an agricultural property. Arsenic
7 is used in pesticides and fertilizer. It's
8 present in the surface and the subsurface.
9 It's typically bound up in the first top
10 couple of feet. And your topsoil typically
11 doesn't go below 4 feet. You do not normally
12 see it leach in the groundwater. The
13 groundwater at this site is somewhere between
14 120 and 225 feet below grade. So it would
15 have to go at least 100 feet down to affect
16 groundwater. It's not a concern on this
17 site.

18 With respect to the concern of the
19 arsenic, when it's in the subsurface right
20 now and it's covered on the golf course
21 there's really no exposure pathway. The
22 grass is covering it. It's preventing any
23 sort of airborne issues. It's when you start
24 developing the property and start stripping

1 that topsoil and redeveloping where arsenic
2 could become airborne.

3 MS. BALLEEN: That's my question. So
4 we're worrying about it being airborne.

5 MS. WALDMAN: That's why we remove it, to
6 eliminate that. It's also -- for a
7 single-family the concern is exposure to any
8 sort of children. You don't want any
9 gardening that has an arsenic impact. That's
10 where those regulations come from where they
11 want it to be taken from the property.

12 (The court reporter interrupted and
13 instructed all parties to speak one at a
14 time.)

15 MS. BALLEEN: So to follow up with that.

16 How -- what is the process to prevent
17 when you're removing it this going into the
18 air and all of us breathing it in? And how
19 long does that process take?

20 MS. WALDMAN: Anytime that material is
21 being disturbed there are engineering
22 institutional controls that we put in place.
23 We have a plan to put in place that would
24 involve wetting down the soils so that the

1 soil -- that the dust does not become
2 airborne.

3 Typically there would be some sort of a
4 monitoring to make sure there's no dust
5 particulates in the air. That can be done in
6 -- most of the states require you do
7 something with air monitoring around the
8 perimeter of the site to make sure it's not
9 getting into the surrounding communities.
10 And that's been typical of our experience
11 with the Health Department as well. So there
12 would be things put in place to ensure that
13 it was not impacting any of the surrounding
14 community.

15 MS. BALLEEN: And how long does the
16 process take?

17 MS. WALDMAN: The process would depend on
18 how much of the volume of soil we're taking
19 out.

20 MS. BALLEEN: Give us a ballpark. Is it
21 going to take a month? Is it going to take
22 six months? Is it going to take a week?

23 MS. WALDMAN: If we have to remove all of
24 the impacts from the entire property,

1 ballpark we're talking 50 trucks a day, 11
2 months. We're talking at least 11,000 trucks
3 coming in and out of the site based on what
4 we know now.

5 MS. BALLEEN: Where does this contaminated
6 soil go?

7 MS. WALDMAN: To a landfill or a facility
8 that's allowed to take it and mix it into
9 something to make it reusable somewhere else.
10 So it would be a permitted facility that
11 would take it.

12 MS. BALLEEN: All right. Thank you.

13 MR. TOLKIN: I do have one question.

14 MS. BALLEEN: I believe this gentleman was
15 next.

16 MAYOR SEROTA: Mr. Tolkin.

17 MR. TOLKIN: Jeff Tolkin. 33 Evans
18 Drive.

19 Just a question for the Brookville
20 people. It was positioned by -- I'm sorry.
21 I forget your name -- the attorney that it's
22 an either/or proposition. Either the 27
23 houses or the 46. But there -- is there an
24 option to just deny the application? In

1 other words, is there a third option here?
2 I'm just trying to figure out what the
3 options are.

4 Thank you.

5 VILLAGE ATTORNEY CHASE: Maybe I can
6 answer that.

7 The answer is no. There's not a third
8 option. They have filed a map. And the
9 Planning Board has approved a map which fully
10 complies with the village's zoning
11 regulations. And because of that approval
12 and it's permitted by our zoning regulations,
13 the developer at this point has the absolute
14 right to proceed with that development if it
15 so chooses.

16 Again, going to have to get the
17 Department of Health approval though. The
18 Planning Board's approval was conditioned
19 upon them complying with the Nassau County
20 Department of Public Works, Nassau County
21 Department of Health. And until they get
22 those sign offs, this development is stopped
23 dead. But the -- I don't believe in my
24 opinion the village would have the right to

1 just somehow say you can't develop the
2 property. I don't think that's an
3 alternative.

4 MR. TOLKIN: Thank you for the
5 clarification. Just one follow-up question
6 if I may.

7 VILLAGE ATTORNEY CHASE: Sure.

8 MR. TOLKIN: So the county -- if I'm
9 hearing this right, the county has
10 procedures, which if they are followed, the
11 developer would have the right to develop the
12 property as approved. The 11,000 trucks, the
13 year of topsoil removal, whatever the impact
14 to the village, is effectively a fait
15 accompli. Have I got that right?

16 VILLAGE ATTORNEY CHASE: Yeah. And
17 that's one of the big concerns that the
18 village is now grappling with. Putting aside
19 whether it's 27 homes or 46 townhouses, it's
20 just not that analysis. It's the analysis of
21 the impact to our roads and our
22 infrastructure that would result from all of
23 this trucking.

24 So that's something that, you know, the

1 village is grappling with. Not to get too
2 deep into the woods or in the weeds, I'm
3 sorry, you know, we did an environmental
4 review. That environmental review was
5 completed. There's a question that in light
6 of this new information the village may have
7 the right to reinstate the environmental
8 review and ask for some mitigation under
9 SEQRA, the State Environmental Quality Review
10 Act, to address mitigating the impacts that
11 can happen to the village as a result of
12 this.

13 So I don't -- when you say "fait
14 accompli," I'm not quite there yet with you.
15 I think that under this new information the
16 village could address these issues and ask
17 the developer to address them and to mitigate
18 them to the greatest extent possible.

19 MR. TOLKIN: I'm sorry. I don't mean to
20 monopolize your time.

21 VILLAGE ATTORNEY CHASE: No. Please.
22 That's why we're here.

23 MR. TOLKIN: One more question and --

24 VILLAGE ATTORNEY CHASE: Take all night.

1 MR. TOLKIN: No. No. And the question
2 is the village -- you're thinking about some
3 sort of mitigation, or I assume that would
4 mean payment to the village to repair the
5 roads or what have you.

6 But at the end of the day, if I heard
7 your first answer correctly, the developer
8 has the right to develop the project as
9 submitted: the 27 average 5-acre homes.
10 They come with a proposal that they would
11 offer as an alternative. But as long as they
12 comply with Nassau County Health regulations
13 they have the right to develop this project?

14 VILLAGE ATTORNEY CHASE: Subject to what
15 I probably didn't make clear. The village is
16 considering whether it might want to do a
17 continued environmental review of the
18 impacts, okay, of this removal, that, you
19 know, with this new information that it
20 hadn't considered before. It's a little
21 premature to see where that's going. But I
22 just didn't like the word "fait accompli,"
23 like the village has no jurisdiction over
24 this. I believe it may.

1 MR. TOLKIN: For what it's worth I didn't
2 like it either.

3 MR. HAHN: Michael Hahn, H-A-H-N. 13
4 Wood Acres Road.

5 Putting aside the 27 homes just for a
6 moment, the 46 carriage homes, is this
7 something that the village and you are
8 entertaining?

9 VILLAGE ATTORNEY CHASE: I don't know
10 what you mean by "entertaining." What the
11 village -- they have made the village aware
12 of this alternative. For that alternative to
13 occur the village would have to amend its
14 zoning regulations. The 46 attached units
15 are not permitted under our zoning code
16 today. So the village would have to go
17 through that process of amending its zoning
18 code to permit attached housing, which is not
19 permitted today.

20 I think that what the village is most
21 concerned about -- I don't mean to speak for
22 the trustees, so please tell me to shut up.
23 I think in the process of considering this
24 the most important thing for the village is

1 to hear how you feel and what the residents
2 feel, particularly the abutting property
3 owners and the property owners on Fruitledge,
4 to know what your opinion is. And that's
5 going to be a significant part of whether
6 they consider this any further.

7 MR. HAHN: Understood.

8 MAYOR SEROTA: Mr. Hahn, just to -- just
9 to repeat what Mr. Chase said. The Board of
10 Trustees heard this 40 days ago. And as soon
11 as we heard it --

12 MR. HAHN: The carriage homes you're
13 talking about?

14 MAYOR SEROTA: Yes. And we said we need
15 to have a village-wide meeting. We need to
16 notify the residents. Let everybody know.
17 We want to hear from the residents what
18 everybody is thinking.

19 So nobody is making any decisions. We're
20 not entertaining anything. We heard it and
21 the bells went off. And we said we have to
22 tell everybody and we have to be transparent
23 here. And that's what we're doing.

24 MR. HAHN: Understood. Thank you.

1 MR. SPORN: Randy Sporn, S-P-O-R-N. Fire
2 Lane 3.

3 A couple of years ago we met with the
4 developers of the Tam O'Shanter. And one of
5 the proposals as an alternative which hadn't
6 been discussed -- so the question really is
7 to the developer. There was a one structure
8 building. It was somewhere around 90 to 100
9 units maintained on 50 acres of the parking
10 lot. The pool, the clubhouse all to be torn
11 down, with the remaining 100-acre golf course
12 intact. Private membership of the golf
13 course and ownership.

14 What happened to that proposal? Is that
15 an option that the Board and the village is
16 considering? Is there an option for the golf
17 course itself to be dedicated to the village
18 for their own use, private use, public use,
19 members?

20 MR. MARTINS: That option was presented,
21 Mayor, not formally to the village. But
22 there was a meeting with the residents where
23 the developer did float the idea of having a
24 single structure where the clubhouse is

1 currently.

2 MR. SPORN: Underground parking.

3 MR. MARTINS: Right. So that -- and I
4 think they designed it so it could not be
5 seen from the street or from any adjoining
6 property. And there would be a single
7 structure. And that single structure would
8 allow for the parking -- excuse me -- for the
9 golf course to be maintained --

10 MR. SPORN: Intact.

11 MR. MARTINS: -- intact and that the
12 membership of that would be the membership of
13 the golf club. So there was that option. We
14 got -- the developer did receive some clear
15 direction from the residents who were at that
16 meeting.

17 MR. SPORN: At that time?

18 MR. MARTINS: They did -- yes. At that
19 time we got clear direction, the developer
20 did, that it was not something that the
21 village -- that they wanted. And so the
22 developer did shelf it.

23 MR. SPORN: Other than many people
24 objecting to it I think the consensus was

1 that the village would object to the change
2 of the character as not what the village is
3 about.

4 MR. MARTINS: And it was not --

5 MR. SPORN: So obviously things have
6 changed. The developer can also --

7 MR. MARTINS: Mayor, if I -- just if I
8 may?

9 That wasn't something that was permitted
10 under the code. We did not -- the developer
11 did not feel that it was something that the
12 village was willing to do, to change the
13 village code in order to accommodate. Its
14 choice was to move forward with an
15 application that was essentially as of right.
16 5-acre zoning, average lot -- lot averaging
17 to allow for frankly the configuration, the
18 topography of the site. And as Chairman
19 Halemán said, to allow for, you know, the
20 very purpose of the 5-lot zoning, which was
21 always to allow for greater lots and the
22 ability to replenish the groundwater.

23 So it wasn't something that the village
24 frankly allowed at that time. And the

1 developer made the decision to move forward
2 with an as-of-right application rather than
3 deal with a change of zone.

4 Mayor, if I may. And I just want to be
5 clear. And I don't want this to be taken the
6 wrong way, so I'm just going to say it. The
7 developer is prepared to move forward with
8 the application as it currently exists.
9 Please don't consider this to be a request or
10 an application for a change. That's not the
11 way we're bringing this.

12 Because we understand the concerns that
13 would be generated not only for the village
14 but most likely for the people who are most
15 impacted closely -- those properties that are
16 surrounding this golf course, we felt it was
17 only fair to come in and say this is what's
18 going to happen.

19 It's not our choice. It's not something
20 we would want to do as a developer. It's
21 certainly not something my clients want to
22 do, but it's a reality. It's going -- if we
23 go down this road we are going to be required
24 to take this soil and transport it off. And

1 there are impacts to the community as a
2 result of that.

3 So when I speak to the fact that this is
4 a binary discussion, one is as of right and
5 they're prepared to move forward and it's
6 going to take longer and it's going to be
7 more onerous for them and for the village,
8 they're merely suggesting this as an
9 alternative so that the village has the
10 opportunity and the residents have the
11 opportunity to consider that.

12 And please take it in that light. We do
13 not want and the developer does not want to
14 put any further burdens on the village. But
15 under the circumstances we felt that it was
16 the right thing to do to come in and make
17 this proposal. And that's why we're here.

18 MAYOR SEROTA: Mr. Perlman.

19 MR. PERLMAN: Sam Perlman. 15 Evans.

20 Quick question. I apologize.

21 The 46 units are viewed as multi -- as
22 like family homes where there will be two or
23 three children in each of the homes the same
24 way there would be in the 27 houses as we

1 would expect, or is this some type of gated
2 over 50 community or something like that, or
3 is this a traditional townhouse big enough
4 for a full family of like four, five or six?

5 MR. MARTINS: I would think it's a
6 townhouse about 2,500 square feet. What that
7 translates into I couldn't tell you. It
8 could be a couple. It could be a -- you
9 know, people who are empty nesters and decide
10 that they no longer want to live on 2 or 3
11 acres and would rather move into a carriage
12 house setting.

13 If there's a concern -- I don't think
14 we're quite there yet. If there's a concern
15 from the community where they want to
16 condition approval on it being 55 and over,
17 because somebody mentioned that earlier, we
18 haven't considered that. The developer
19 hasn't considered that. Right now it's what
20 can you build in an area that isn't going to
21 require all the soil to be removed and
22 transported off this site and allow for open
23 space to remain there, but still allow for a
24 certain level of development.

1 MR. PERLMAN: Understood. But 2,500
2 square feet would be big enough for a family
3 of five -- four or five? I don't know 2,500
4 square feet.

5 MR. MARTINS: I don't know.

6 MR. PERLMAN: Second, the overall
7 property tax value of this revised 46 unit
8 versus the 150 acres that you would develop,
9 I assume the contribution from the property
10 taxes, specifically the school tax, would be
11 meaningfully lower than what the initial
12 project was?

13 MR. MARTINS: I don't know that. I just
14 don't. Meaningfully lower? If I --

15 MR. PERLMAN: Eight acres versus 150
16 acres. You're putting in houses on less than
17 half an acre versus 5 acres.

18 MR. MARTINS: I'm looking -- I'm looking
19 -- the developer is looking to develop 46
20 units. They're 46 units in the Village of
21 Brookville. I think there is a high premium
22 to be paid for any home in the Village of
23 Brookville. Whether it's significantly
24 different than what would be paid for a

1 5-acre lot, I couldn't tell you. But I don't
2 think that there's any bargain basement
3 properties or units for sale in Brookville.
4 And I think you would agree with me. So the
5 idea that significantly less ratables
6 (phonetic) would go to the school district or
7 anywhere else I think is probably a false
8 statement.

9 MR. PERLMAN: I don't think that I buy
10 that at all. As I said, as a resident I have
11 one view. As a school board trustee I have a
12 very specific view that it seems like you're
13 going to be contributing many, many more
14 students to this district and not potentially
15 contributing anywhere near the tax dollars to
16 pay for those students.

17 MR. MARTINS: Then I would just suggest
18 -- and, Mayor, honestly, I don't mean to -- I
19 will say it again.

20 MR. PERLMAN: I was asking.

21 MR. MARTINS: I don't know. But again
22 I'm asking the village -- we're here for a
23 conversation about whether or not the
24 configuration makes sense. It may not. And

1 I readily acknowledge that this alternative
2 may actually not make sense and may not be
3 the right thing for the village. It may not
4 be the right thing for the school district.

5 So I don't want to defend it because I'm
6 not here to defend it. I'm here to propose
7 something as an alternative given the
8 circumstances that we find ourselves in.

9 MR. PERLMAN: I'm not here to shoot it
10 down. I'm here to simply get whatever
11 information I can get from you. That's all.

12 MR. MARTINS: That's fair. And I wish
13 that I could provide you with more
14 information. We really have not developed
15 this concept beyond, as Mr. Walsh said, some
16 architectural renderings. And so I don't
17 know.

18 But again if these are concerns, and if
19 those concerns are significant in the
20 community, then we won't pursue it. And I
21 just want to be clear about it. We're
22 perfectly fine walking away and saying it's
23 not the right thing for the village. It's
24 not the right thing for the school district.

1 We'll continue with the process as it is. We
2 just felt it was responsible for us or would
3 be responsible for us to come to the village
4 and tell them about this new alternative.
5 That's all.

6 MAYOR SEROTA: Sam, I got just a
7 question. I'm thinking because this is a
8 conversation. Wouldn't it be beneficial for
9 the school district to make it over 55, not
10 to have children? Just thinking out loud.

11 MR. PERLMAN: I think -- I mean, setting
12 aside all the other issues that people were
13 talking about from a school district
14 perspective, yes. Obviously the more tax
15 dollars, the fewer children is typically
16 always better for the school district.

17 Speaking as an individual and not on
18 behalf of the school district because I don't
19 want to get yelled at by anybody at the
20 school district, yes. It sounds like on
21 paper that would definitely be better for the
22 school district.

23 MAYOR SEROTA: I just mention that.
24 We're not thinking about anything. Just a

1 conversation. Just like Mr. Martins said.

2 MR. PERLMAN: Absolutely. That's what
3 I'm saying. Sounds like yes. Because if we
4 can get more tax dollars and not additional
5 students, that I think would be in the school
6 district's interest financially.

7 MAYOR SEROTA: Mr. Gottlieb, just say who
8 you are and where you live.

9 MR. GOTTLIEB: Ron Gottlieb. 5 Victorian
10 Lane. G-O-T-T-L-I-E-B.

11 Couple of observations and questions for
12 the developer. The observations are I was
13 around during the development of Broadhollow.
14 And I remember the development took years to
15 build. I'm getting the impression that this
16 -- the suggestion that there's going to be
17 1,000 trucks, this is not something that's
18 going to happen overnight. How many years of
19 construction are you contemplating for 27
20 homes?

21 MR. MARTINS: I think we -- Mayor, I
22 think we had a discussion about this before
23 the Planning Board if I recall. And I think
24 Mr. Walsh has confirmed. About five years is

1 what we were expecting the build out to be
2 for the 27 homes.

3 MR. GOTTLIEB: Talking about building
4 five homes a year?

5 MR. MARTINS: Probably on average,
6 because the infrastructure would probably be
7 --

8 MR. GOTTLIEB: Twenty-seven. After you
9 do your infrastructure and the roads, basic
10 stuff. So you're not suggesting here that
11 you're going to strip the topsoil of all 170
12 acres is it?

13 MR. MARTINS: About 150.

14 MR. GOTTLIEB: 150 acres at one time,
15 right? Is that what you're proposing?

16 MR. MARTINS: Hold on, sir.

17 MR. GOTTLIEB: Then you would have
18 maintenance issues.

19 MR. MARTINS: Sir, we're not proposing
20 anything. If we were to comply with the
21 Nassau County Department of Health as a
22 condition of our moving forward we would not
23 be able to pursue our final site plan
24 approval and get our permits to begin

1 construction until we actually comply, which
2 means we would have to first remove the soil
3 entirely before we would even be able to
4 advance this project.

5 So, yes. It would be removed not
6 incrementally, but it would be removed, if I
7 understand it correctly, at the beginning.

8 MR. GOTTLIEB: So you're not going to
9 propose, for example, a phase I or a phase II
10 type of construction to build this over the
11 5-year period?

12 MR. MARTINS: I would like to be able to
13 propose that. I'm sure the developer would
14 like to be able to propose that as well.
15 That is not an option that is open to the
16 developer given the process that they have to
17 follow in order to get their permits.

18 MR. GOTTLIEB: All right. One of the
19 comments made by the young lady is the
20 sampling. I think you said about 250 site
21 borings you have to do if you're going to
22 proceed as of right for the 27 homes. How
23 many borings have you done already?

24 MS. WALDMAN: We've completed around

1 between 200 and 250.

2 MR. GOTTLIEB: How far down does the
3 contamination go specifically, not generally?

4 MS. WALDMAN: Yes. I can tell you that
5 in the top zero to 3 inches 66 percent of the
6 samplings were above standards. We did take
7 some samples from 10 to 12 inches below
8 grade. Fifty-two percent of those were above
9 standards. In 10 to 12 it was only 10
10 percent. Or in the 12 to 24 -- I'm sorry --
11 was about 10 percent of the samples. So at
12 this point we would test it to 2 feet below
13 grade. There's no reason to believe it goes
14 below 4 feet.

15 MR. GOTTLIEB: What did the calculation
16 -- 11,000 trucks, and how deep are you going?

17 MS. WALDMAN: That was based upon the
18 data that we had to date. And we
19 extrapolated that statistically to what
20 volume would need to be removed and then
21 calculated based upon the existing plan what
22 volume of topsoil would need to be imported
23 back to the site, approximately 20 cubic
24 yards per truck.

1 MR. GOTTLIEB: So you will not be using
2 the big one? You will just use the 18
3 wheeler.

4 MS. WALDMAN: If we're using the 20 cubic
5 yard based upon the roadways in the village
6 and restrictions that might be in place for
7 that it would be at this point ballpark
8 11,000 trucks.

9 MR. GOTTLIEB: I mean as an observation
10 to the village fathers and trustees, we have,
11 as aptly related, 5-acre zoning which was put
12 in place because that's what the residents
13 wanted 20-some-odd years ago.

14 MAYOR SEROTA: Over 30.

15 MR. GOTTLIEB: Over 30, which predates
16 the Disiversky (phonetic) Center attempted
17 development.

18 (The court reporter interrupted and asked
19 for clarity.)

20 MR. GOTTLIEB: It was 99 acres. That has
21 been in place now for over 30 years. The
22 village property values are based upon
23 certain size houses. And hearing under the
24 fancy name of "carriage houses," they're

1 basically townhouses, attached townhouses.
2 It completely alters the character of the
3 town. I don't see how you can suggest -- as
4 developers how you can suggest that the
5 village fathers change a 30-year-old in place
6 zoning that has one category of construction:
7 single homes.

8 That's it. There is no B or C. It's one
9 category. You would be permanently changing
10 the entire character of property values for
11 Brookville if you change that to 2,200 square
12 feet. And you're not really suggesting that
13 a family of four or five is going to live
14 comfortably in a 2,200-square-foot house in
15 Brookville? At least I hope you're not.

16 MR. MARTINS: Mr. Gottlieb, I didn't
17 suggest a thing.

18 MR. GOTTLIEB: You said an alternative
19 consideration by the village fathers.

20 MR. MARTINS: Just to be clear. I didn't
21 suggest a thing, nor did I suggest what the
22 occupancy would be of the unit. I also
23 didn't make this -- I made this clear that
24 this isn't a proposal by the village. If the

1 village feels that it is not in the best
2 interest -- and I understand your point. And
3 frankly I respect it. Whatever you like.

4 I'm not advocating nor am I defending it.
5 I'm merely bringing up a concern that we had,
6 and I'm asking for comment. And I'm grateful
7 to the Mayor and the Board that they have
8 assembled the residents here today. If that
9 is the sentiment, then that's fine. We have
10 5-acre zoning. To your point, we'll move
11 forward. That's perfectly okay.

12 And I don't want you to think for a
13 second that this is an ask, a petition or
14 anything that the developer is doing other
15 than frankly as an alternative. And if it's
16 not something that you want and not something
17 that the residents want, Mayor, we will just
18 continue with the process as it is. And
19 that's fair.

20 MR. GOTTLIEB: Have you petitioned the
21 Health Department for a waiver on the
22 complete removal?

23 MR. MARTINS: There has been no petition
24 for a waiver from the Health Department. And

1 I'm not aware of a process for a waiver. I
2 can tell you that it is my understanding that
3 every development that has been done in
4 Nassau County and one that is currently being
5 developed in Roslyn Harbor, which is a golf
6 course, is being done --

7 MR. GOTTLIEB: Engineers Club?

8 MR. MARTINS: That is a golf course in
9 Roslyn Harbor. Engineers is being done in a
10 similar configuration we believe for the same
11 reason. And so this isn't going to be unique
12 to Tam. I certainly -- if the village does
13 not believe that this is the appropriate
14 alternative, we will have the conversations
15 with the county, with the Department of
16 Health, perhaps with other golf courses that
17 are looking at it as well.

18 We're not at that point yet only for one
19 reason. Once you ask for a formal
20 determination, that determination then will
21 dictate the future development of that
22 property. And before we got to a formal
23 determination we felt it was appropriate not
24 to take the decision away from this village,

1 but to allow for this discussion. And that's
2 why we're here.

3 MR. GOTTLIEB: Final question is where
4 specifically would the contaminated topsoil
5 go? Off the island, or to a site on the
6 island that would remix it, burn it, cook it,
7 clean it?

8 MR. MARTINS: Mr. Gottlieb, not being an
9 engineer and not being privy to that I can
10 tell you that it would have to go to a
11 permanent location. Whether it's on the
12 island or off the island, I don't know if
13 it's been identified.

14 MS. WALDMAN: We haven't identified a
15 specific location. Each facility has
16 different allowances for each contaminant.
17 There are certainly different options for
18 that. Some options on the island, some off
19 the island. But they would all be permanent
20 under a state or federal permit to receive
21 that material.

22 MR. MARTINS: And every truck is, as I'm
23 sure you're aware, would have to be tagged.
24 Every load would have to be tagged and

1 accounted for.

2 MR. GOTTLIEB: Okay. Thank you.

3 MR. MARTINS: Thank you.

4 MR. MATOS: Renato, R-E-N-A-T-O, Matos,
5 M-A-T-O-S. 30 Wood Acres Road.

6 First I feel terrible having grown up in
7 a 2,000-square-foot house. But, you know --

8 MR. MARTINS: Was yours?

9 MR. MATOS: Mine was about 2,000. A cape
10 in Mineola.

11 But I guess -- I -- as concerned as I am
12 about the idea of 11 months of trucks, I'm
13 particularly concerned about the change of
14 character like everybody else, having moved
15 from the city here to avoid townhouses. But
16 I -- since the -- since it is a conversation,
17 I'm wondering whether we can consider another
18 alternative, which is the vast majority of
19 this village has 2-acre zoning. And if we
20 were to consider perhaps -- just throwing it
21 out there -- that we did the same 27 homes
22 under the 2 acres of zoning, you're looking
23 at about 54 acres of disturbed property, 7 of
24 which I believe you mentioned was already

1 cleaned. Seven to 8.

2 And perhaps that might be an alternative,
3 as I would rather if we're going to agree to
4 a reduction, would be to see -- if we
5 maintain the character of 2-acre zoning like
6 most of us live in probably, we put 27 homes
7 in that. You will reduce your exposure to
8 probably somewhere around 48 or 49 acres give
9 or take. So that's about a third of the
10 acreage that needs to be cleaned out.

11 And you can still get the -- you know, we
12 can still see grass and trees along instead
13 of seeing dirt. So perhaps that's something
14 that maybe folks might be a little bit more
15 understanding of and might be something that
16 the developers would consider.

17 MR. MARTINS: Mr. Matos, that's why
18 you're a brilliant attorney. And thank you
19 for bringing that to our attention.

20 Mayor, I can tell you that it's not -- it
21 hasn't been part of our conversation, but it
22 is an interesting alternative. You're right.
23 The vast majority of the Village of
24 Brookville is on 2-acre zoning. And to the

1 extent that we're dealing with lot averaging,
2 maybe there's a way of configuring it in such
3 a way that's consistent with the village
4 code. I would also have to speak obviously
5 to the developer. But another alternative.

6 MR. MATOS: Right. But you're looking at
7 a change to the village code assuming this
8 alternative anyway. So I'm just saying it's
9 something that I think we all should consider
10 as a way to reduce perhaps the 11 months by a
11 third. Maintain green space that I'm sure
12 everyone here would love to see. And then we
13 get the -- still preserve 2-acre zoning.

14 MR. EISENBERG: Mark Eisenberg. 2
15 Ferncote Lane. E-I-S-E-N-B-E-R-G.

16 I would like to thank the Mayor and the
17 Board for putting together tonight's session
18 and to the developer for letting us know
19 about what has come up. I think it's great
20 that we can express our feelings. My feeling
21 is -- let me ask a question first. How high
22 are these townhouses going to be? How tall?

23 MR. WALSH: They're typically 35, 40 feet
24 high. But I --

1 MR. EISENBERG: So like three stories?

2 MR. WALSH: That would be 2 1/2
3 stories-ish. But there's been absolutely no
4 architectural design done. It's been a
5 two-dimensional study to see what can fit
6 where on the property. There's been no
7 architectural development as far as I know.

8 MR. MARTINS: I think the closest thing
9 would be a two-story house with a gable roof
10 which would -- is typical of the design that
11 they're proposing. So typically about --
12 usually about 30, 35 feet.

13 MR. EISENBERG: And you have -- would you
14 have an estimate at all what these cost? You
15 know, selling for \$500,000? A million?

16 MR. MARTINS: No. I wish we could tell
17 you. I don't have a concept at all. I don't
18 think they've established yet even the layout
19 for -- or an interior floor plan such that
20 they can get a value for it.

21 MR. EISENBERG: But the houses that you
22 can build, the 27 houses would go for
23 substantially more?

24 MR. MARTINS: I would expect that they

1 would.

2 MR. EISENBERG: Okay.

3 MR. MARTINS: Apparently I would expect
4 that they would.

5 MR. EISENBERG: Thank you.

6 So I feel -- I'm an environmentalist. I
7 don't know how anybody else feels. And I --
8 you would encourage everybody to come up and
9 express their ideas to the Board so everybody
10 -- the Board knows what the people of the
11 village would like. I thought it might bring
12 down my house value because now you're going
13 to have townhouses that aren't \$2 million
14 homes, \$3 million homes. I was looking
15 forward to 27 beautiful homes that I'm going
16 -- that are going to be on 5 acres, 10 acres.
17 I thought that might bring up the value of
18 our homes.

19 So for me I wouldn't be for the
20 townhouses. They look like there's two
21 different issues here. One is building
22 townhouses and then there's the construction
23 with this soil. And my opinion on that, you
24 know -- so, you know, listen. There's road

1 work that takes six months. There's bridges
2 that get built. I can live with 11 months of
3 a little bit more traffic. And in the long
4 run I think to have 27 homes would be better
5 for everyone.

6 What I don't understand is that I kept on
7 hearing that it's "typical." Typical,
8 typical for this arsenic to happen. So if it
9 was so typical, you know, I understand from,
10 you know, the zoning and the legal end that
11 you get your approval and you have to wait
12 until you do the environmental study. But,
13 you know -- it was -- you kept on saying
14 typical. So I -- again, I know you started
15 the conversation, you know, with this. I
16 just don't understand that you didn't have an
17 alternate, you know, plan.

18 MR. MARTINS: Mr. Eisenberg, I will speak
19 from the legal end. It is typical, as it was
20 described to us, after we got the analysis.
21 It wasn't typical as we were making our
22 application before the Planning Board and
23 asking for the subdivision.

24 I can tell you personally I have no

1 reason to understand what the impacts are of
2 arsenic in fertilizer over the course of 50
3 or 60 years on a golf course. I do now
4 having gone through this experience. So when
5 I speak to "typical," that is how it has been
6 relayed to us after the fact. Not certainly
7 as we were coming in before the village
8 Planning Board having this discussion.

9 MR. EISENBERG: Thank you.

10 Last is, you know, I again -- just proven
11 that there aren't two choices. We came up
12 with a third already. And I'm sure that
13 there are more alternatives.

14 Thank you.

15 MR. GOLDBERG: Robert Goldberg,
16 G-O-L-D-B-E-R-G. 17 Victoria Lane. We abut
17 the golf course.

18 I strongly oppose your remediation plan
19 as being proposed. In anticipation of this
20 meeting I went and did some reading --
21 research reading on arsenic that's disrupted
22 from the soil and becomes airborne. And
23 there's plenty of studies that you look at
24 with lung cancers, emphysemas, other cancers.

1 You know all of this.

2 And while I hear you when you say there
3 will be monitors ringing the property, I
4 think I take very little comfort from that
5 and doubt that you're going to be knocking on
6 my door the moment that there is an elevated
7 level, assuming you're checking that every
8 single day.

9 I've watched construction for decades.
10 And I just -- I just don't believe that
11 you're going to be able to remove that amount
12 of soil without arsenic becoming airborne and
13 going onto my property and increasing my
14 health risk as well as, therefore, reducing
15 my property value.

16 What is most astounding to me -- and I've
17 been to several of the meetings leading up to
18 this -- is that there was no discussion about
19 this possibility, and yet here we are talking
20 about how people knew this was a possibility.

21 So my question not to the proposal but
22 really to the village is, if this was a known
23 possibility would the Planning Board have
24 given approval knowing that this is a

1 possibility, realizing what I'm hearing now
2 is that we effectively have no recourse. You
3 said not a fait accompli, but we have no
4 resource. I'm shocked. I'm just shocked.
5 And I can't believe that we have no recourse
6 to an exercise that is going to lead to
7 10,000 trucks and airborne arsenic in my
8 backyard. I'm just shocked this could
9 happen.

10 MR. WALSH: If I could just to go back to
11 the issue of the -- because everybody keeps
12 bringing up the typical impacts and that kind
13 of thing. What I want to reinforce is that
14 when we say that it's "typical," it's typical
15 that we use these materials on a golf course
16 as well as on other agricultural sites and
17 lawns and everything else. What we don't
18 know until we do the sampling is to what
19 degree it exists in that soil --

20 MR. GOLDBERG: Then more to my point. If
21 this is an unusual event, then we're saying
22 that the Planning Board approves something
23 and it has absolutely no remedy if the
24 subsequent findings were outside the norm.

1 So if Nassau County came to you and said you
2 had to remove 20 feet, 100 feet -- and
3 obviously it would be cost prohibitive -- but
4 you decided to do that and it would take five
5 years and 100,000 jobs, there's nothing we
6 can do about that. That's the position the
7 village is taking?

8 VILLAGE ATTORNEY CHASE: Again, as I said
9 earlier, maybe I didn't make it clear. We
10 did an extensive environmental review. I
11 believe we had the phase I and phase II from
12 the developer at that time. And so we hired
13 an environmental consultant very well known
14 to advise the Board, the Planning Board on
15 all of these issues, okay.

16 As I said earlier, if there's new
17 information that comes up or things that were
18 not known to the Board as part of the
19 environmental review that we did, there's
20 possible things that could be considered.
21 And so those can be talked about. But I
22 think what the Board was trying to find out
23 tonight is whether the residents have any
24 feeling at all for the alternative.

1 MR. GOLDBERG: Okay. I have no comment
2 with alternative. I will go with that.

3 MR. TOLKIN: I'm still Jeff Tolkin.

4 Now I have a greater clarity as to what
5 you call this. And in my opinion, one man's
6 opinion is I would rather suffer the short
7 term pain of 11,000 trucks and a year's worth
8 of removal and maintain the integrity of the
9 village than the condos.

10 I happen to like Mr. Matos's idea. Don't
11 know if it's feasible. But when push comes
12 to shove if there is an either or, I would
13 rather maintain the integrity. I think that
14 was some gentleman's -- this gentleman's
15 comments were as well. I just wanted to
16 weigh in and put that in the record.

17 Thank you.

18 MR. WEINSTEIN: Larry Weinstein. 1566
19 Old Cedar Swamp Road.

20 To what depth is the remediation
21 proposed?

22 MS. WALDMAN: We don't know the full
23 depth. We would still need to do some
24 additional investigation in certain areas.

1 Right now primarily to the upper zero to 3
2 inches, 10 to 12. There's some impacts
3 between 12 and 24. We don't anticipate those
4 below 4 feet.

5 MR. WEINSTEIN: And are the environmental
6 impacts, the phase I and phase II studies,
7 available to view?

8 VILLAGE ATTORNEY CHASE: I'm sorry.
9 You're talking to me?

10 MR. WEINSTEIN: Yes.

11 VILLAGE ATTORNEY CHASE: Again what I
12 said was I think that as part of the Draft
13 Environmental Impact Statement I think that
14 that was submitted to our environmental
15 consultant. I don't want to represent 100
16 percent that it was. That's my recollection.
17 But if it was, it's absolutely available to
18 you.

19 MR. WEINSTEIN: Okay. And one last
20 question.

21 How did we come up with the number 46?

22 MR. MARTINS: They asked for a -- a
23 rendering given space that they believed that
24 they have. And they put 46 units there. I

1 think it's as simple as that.

2 MR. WEINSTEIN: But not a fait accompli?

3 MR. MARTINS: But not a fait accompli.

4 Exactly.

5 MR. WEINSTEIN: Thank you.

6 MR. HALEMAN: Edward Haleman. 30 Ormond
7 Park Road.

8 So in terms of the removal of soil and
9 the history of the golf course, prior to it
10 being a golf course it was a potato farm,
11 okay. And as a potato farm it was regularly
12 crop dusted with dioxin. There was a lawsuit
13 brought a few years back by officers of the
14 golf course's families, those who died during
15 the reconstruction of the golf course -- they
16 could never prove it -- when they turned over
17 the soil to build the reconfiguration of the
18 course. And a gentleman in Old Westbury,
19 Frank Jacobson who was the president of the
20 course at the time, he passed away from
21 multiple myeloma, okay.

22 So where am I going on this? You had
23 stated earlier that the golf course soil was
24 treated on the surface and not churned under.

1 However, history is that when it was a potato
2 farm, whatever chemicals were put on were, in
3 fact, churned under. So I don't know if
4 you're totally aware of this or you heard
5 about it or not.

6 MS. WALDMAN: I was not aware of the
7 dioxin issue specifically. But we did as
8 part of our investigation also sample for
9 pesticides. And we did not have any
10 pesticide seedings.

11 MR. HALEMAN: So I don't know how long it
12 stays in the earth and the soil. But this is
13 the history. And Mrs. Jacobson, I sat with
14 her and I told her what was going on about
15 Tam O'Shanter. And she said, are you aware
16 that Frank and some other people who were
17 involved in the reconstruction of the course
18 passed away from multiple myeloma?

19 In terms of my good neighbor on Wood
20 Acres. As many of us have traveled across
21 the country, we've seen different types of
22 developments. And one of the most enticing
23 developments that I've ever seen is in
24 Dalton, Georgia. It's actually owned by the

1 owner of Berkshire Hathaway.

2 But anyway having said that, it's a golf
3 course. Maybe nine holes, maybe 12 holes,
4 not sure what it is. But spaced around the
5 perimeter of the golf course are individuals
6 residences, which whatever the zoning was
7 there, whether it was an half acre there or 4
8 acres, whatever it might be.

9 But I can envision if there was a smaller
10 golf course remaining and homes dispersed
11 around the perimeter of the golf course that
12 were in the 2-acre zoning, which would mean
13 rezoning so that there would be 2 acres and
14 dividing the land with the subdivision map,
15 spin off the golf course itself under maybe a
16 Club Corporation of America or somebody else
17 who would manage the course, and retain that
18 for whatever the remaining acreage is,
19 whether it be 100 acres or 90 acres, and just
20 keep it that way forever where it couldn't be
21 further subdivided.

22 This would retain the character of the
23 village. It would make it quite enticing
24 because the members, those people that live

1 there, could become members or pay as you go
2 or whatever it might be. But visually a lot
3 better than the rowhouses that I grew up in
4 in Queens. It's as simple as that.

5 And I will say that one of my first
6 apartments when I was a young child, there
7 were four people in 900 square feet. So it's
8 possible.

9 Thank you.

10 MS. WEINBERG: Hi. Sherry Weinberg. 11
11 Horse Hill Road. Brookville.

12 You took that from me. I was going to
13 say that. I was thinking also of Woodfield
14 Country Club in Delray. It's a beautiful
15 neighborhood. They have the membership, you
16 know, to the golf course. It's country club
17 living. I was just going to say that. Thank
18 you for -- I like that idea and I like your
19 idea of the 2 acres. Raise some nice
20 families. I'm in the elementary school. I'm
21 in the high school. I'm in the middle
22 school. So I'm on the same wavelength as Sam
23 thinking about the schools. But I also grew
24 up on 32 Evans Drive. I was the first -- the

1 first person to ever live in that
2 neighborhood, in Broadhollow. So I've been
3 here my whole life and now my adult life with
4 my children.

5 No one mentioned tonight the car
6 accidents and all -- and you know what I'm
7 talking about -- that happens right there in
8 that spot. There's been death recently.
9 When I was in high school there was another
10 death right around there. You know, a lot of
11 people that I've spoken to about this whole
12 project, the first thing they say is, oh my
13 God, there's so many accidents there. That's
14 the spot. It's horrible.

15 And living here all these years it
16 affects all of us. Like, you know, traffic.
17 You can't get through. 107. It's one way,
18 one way. So I'm just -- you know, no one
19 mentioned this. Just thinking about these
20 11,000 trucks or whatever the deliveries, all
21 the construction. Already all of these
22 accidents that go on there. I don't even
23 know why this is such a heavily -- I don't
24 know. So many accidents.

1 What can be done? Just to think about
2 that in this whole process. Because, you
3 know, now I have high school kids. Our kids
4 are starting to drive. This is a concern for
5 us. And for all of us I don't know if you
6 realize how many accidents really take place
7 like right there in that spot. I don't know
8 what it is with that spot. No one brought
9 that up tonight. So I just wanted to -- it's
10 something to consider. It's a concern of
11 mine. A lot of people's.

12 MR. RANIERI: My name is Vito Ranieri,
13 R-A-N-I-E-R-I. 4 Glenby Lane.

14 The real question is -- and to kind of
15 echo where she's going with the logistics.
16 You guys talk about the logistics,
17 construction plans, environmental plans. How
18 are you doing this? How are the trucks
19 getting in and out? How is this, you know --
20 where are all of these folks going,
21 construction workers, their rigs? So on and
22 so forth.

23 Has that come up at this point, or is
24 that something that's going to be as handed

1 to the Board for review, to us to review,
2 coming out right in front of my house? You
3 know, that kind of stuff.

4 MR. MARTINS: Sure.

5 MR. RANIERI: Where is it going?

6 MR. MARTINS: Sure. Part of our
7 application before the Planning Board also
8 considered construction, construction
9 vehicles, access to the site, trying to
10 minimize the impacts to the community. So we
11 were given direction from the Planning Board
12 to direct those -- that traffic out and
13 obviously away from Fruitledge.

14 We have not obviously had the opportunity
15 to have a discussion with regard to the soil
16 remediation. But during construction the
17 only element that we discussed was impacts
18 from construction, from construction
19 equipment to construction vehicles coming.

20 MR. RANIERI: Whether you have soil
21 impacts or not you still have the same
22 problem. You still have construction
23 vehicles going in all the same. Are you
24 going to submit construction plans?

1 MR. MARTINS: Mr. Ranieri, I just said we
2 submitted that as a consideration for the
3 Planning Board when we were given direction
4 with regard to access to the site for the 27
5 units that were proposed. Whether -- to your
6 point, whether we're doing remediation or
7 moving forward with construction, the utility
8 work, building the infrastructure, it's going
9 to require trucks to come onto the site,
10 construction crews to come onto the site.
11 And certainly it's part of the Planning
12 Board's consideration. Understanding that
13 that was going to happen, they moved those
14 crews and the access away from Fruitledge, if
15 I remember correctly, towards 107.

16 MR. HALEMAN: Yes.

17 MR. MARTINS: So, yes. That was
18 discussed. That was part of the --

19 MR. HALEMAN: Away from Glenby. Still on
20 Fruitledge because the state would not allow
21 access off of --

22 MR. MARTINS: Closer to 107. Fair.

23 So that discussion did take place. So,
24 yes. It's not going to change I believe for

1 this particular -- this particular need
2 whatever is going to happen is going to be
3 moved as close to 107 as we can.

4 MR. RANIERI: And environmental plans,
5 have they been submitted so that we
6 understand where the water runoff goes?

7 MS. WALDMAN: There are additional plans
8 that will be prepared prior to implementing
9 anything of that nature.

10 MR. RANIERI: For the Board or the
11 village to review?

12 MS. WALDMAN: They certainly will have
13 the ability to review and comment.

14 MR. WALSH: We still have to prepare and
15 submit a final subdivision application.

16 MR. RANIERI: Long Island Water permits,
17 all that kinds of jazz?

18 MR. WALSH: Not water -- we're not
19 digging any wells, so we don't need Long
20 Island Water permits, but we will need --

21 MR. RANIERI: None of the homes will need
22 wells or anything of that nature?

23 MR. WALSH: The proposal -- I should take
24 that back. I apologize. There will be in

1 all likelihood wells for irrigation, not for
2 potable water.

3 MR. RANIERI: Okay. Thank you.

4 MS. GEDANKEN: Jill Gedanken,
5 G-E-D-A-N-K-E-N. 1 Tappantown Lane.

6 That's my point. I live facing the golf
7 course. And on the plan that I saw there was
8 going to be an entrance -- an exit directly
9 into Tappantown in front of my house. And
10 now that I'm hearing about 11,000 trucks
11 passing my front door everyday I have a lot
12 of feeling about that.

13 MR. WEINSTEIN: Larry Weinstein again.

14 The 11,000 trucks, does that include
15 bringing dirt back in?

16 MS. WALDMAN: That's for the removal.

17 MR. WEINSTEIN: So it's 5,500 and 5,500,
18 or --

19 MS. WALDMAN: Not quite, but that's --
20 the 11,000 is to remove and then to bring in
21 topsoil. And that's estimated. That number
22 could go up or down.

23 MR. WEINSTEIN: What depth do you plan on
24 stripping the land?

1 MS. WALDMAN: A maximum of 4 feet.

2 MR. WEINSTEIN: A maximum of 4 feet?

3 MS. WALDMAN: We don't anticipate it goes
4 deeper than 4 feet.

5 MR. WEINSTEIN: The numbers I come up
6 with even at 2 feet, six and a quarter
7 million square feet. It seems to be much
8 higher.

9 MS. WALDMAN: It's not uniform, as was
10 stated earlier. Some of the impacts are the
11 top 3 inches. Some areas it's to a foot.
12 Some areas it's to 2 feet. Some areas we
13 think it could be to 3 or 4. And those areas
14 we're not sure. So it will be gridded out
15 according to the --

16 MR. WEINSTEIN: Pending a lot more boring
17 studies.

18 MS. WALDMAN: Not necessarily more boring
19 studies. The remedial portion has not been
20 scoped out at this point. So it would fit
21 the profile. We're not unnecessarily
22 removing clean material, but we're making
23 sure that the contaminated is removed.

24 MR. WEINSTEIN: Thank you.

1 MAYOR SEROTA: Mr. Goldstein.

2 MR. GOLDBERG: Goldberg.

3 MAYOR SEROTA: I believe this is going to
4 be the last question. If anybody else wants
5 to --

6 MR. GOLDBERG: Robert Goldberg.

7 Just 11,000 trucks over 11 months, I'm
8 getting 50 trucks a day?

9 MS. WALDMAN: That's what we're
10 estimating was a feasible volume of trucks
11 per day.

12 MR. GOLDBERG: Over eight hours? Six
13 trucks an hour?

14 MS. WALDMAN: It's --

15 MR. GOLDBERG: And that's just the one
16 direction. That's not having -- that's not
17 them coming in?

18 MS. WALDMAN: Correct.

19 MS. MCGEE: Ellen McGee, M-C-G-E-E. 26
20 Glenby Lane.

21 We've been residents of Brookville for 50
22 years. We are very opposed to changing the
23 zoning to allow for multi-attached homes. I
24 believe that it would set a precedent that

1 would change the entire character of
2 Brookville. There are still other large
3 parcels of land in Brookville. I do not know
4 how you would maintain your zoning
5 requirements if you changed in this instance.
6 It is possible that going to 2-acre zoning
7 might be feasible and would not change the
8 character of the village. Since you wanted
9 our opinion, I oppose any apartment by homes.

10 MS. JOHAR: Hi. I'm Randeep Johar. 10
11 Quaker Ridge Drive in Brookville.

12 I moved here about eight years ago. And
13 I love this village. I have three kids in
14 the school district. And I'm -- you know, I
15 always say this. I'm like the No. 1 fan of
16 this village and of our schools. I'm so, so
17 proud.

18 I have more of a question. You may not
19 be able to answer it. I would just like a
20 little more information. And it is related
21 to the arsenic. Have there been -- has there
22 been remediation at this level across 150
23 acres in other parts of the country? And,
24 you know, what are the long-term effects to

1 the adjacent residents?

2 I think -- I echo similar concerns from
3 -- that were voiced earlier, you know, about
4 the long-term impact of any -- anything
5 airborne during the remediation process. So
6 that's one question. And if you could just
7 get back to us on it I would appreciate it.

8 My second question as a mom of three and,
9 you know, as if somebody -- you know,
10 somebody I know were to build a home across
11 50 acres or across 7 acres, if they had ATVs
12 or a horse or a dog that was digging into the
13 ground, if you don't remediate the remaining
14 100 or 100 and change acres, you know, once
15 again is there any long-term concern given
16 that 50 percent of the land has the arsenic
17 at the top 3 inches which, you know, if
18 you're running with cleats or have a horse or
19 have an ATV or have a dog that's digging for
20 a bone, is there really a concern about
21 exposure even at that level?

22 So, you know, I just -- once again you
23 may not have this information, but I would
24 just like it. And I think it would just help

1 me educate myself. Thank you.

2 MAYOR SEROTA: Well, I want to compliment
3 all of you for such pointed questions. And
4 everyone spoke in a civil manner. And
5 everybody really did a very good job. And I
6 appreciate that.

7 I want to thank Mr. Martins and Mr. Walsh
8 for coming out as well. As you can see, we
9 got a lot of different points of view. And
10 we're not making any decisions tonight.
11 That's for sure. We have a lot to think
12 about. And we're going to keep this
13 conversation going.

14 I speak to many of you on a regular
15 basis. And we're going to keep the lines of
16 communications open and we're going to work
17 through and come up with some type of a
18 solution and proceed accordingly.

19 So again it's getting late. And I thank
20 everybody for participating.

21 (Continued next page.)
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MAYOR SEROTA: Adjourned.

(Time noted: 8:32 p.m.)

* * *

CERTIFIED THAT THE FOREGOING IS A TRUE AND ACCURATE
TRANSCRIPT OF THE STENOGRAPHIC MINUTES IN THIS HEARING.

JENNIFER DEVLIN
Court Reporter