

**PLANNING BOARD  
TOWN OF BETHLEHEM**

**May 3, 2005**

The Planning Board, Town of Bethlehem, Albany County, New York held a **Public Hearing for FEENEY-CASTRONUOVO #3 SUBDIVISION**, on May 3, 2005, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY. Chairman Mathusa presided and called the meeting to order at 7:30 pm.

Present: Parker D. Mathusa, Planning Board Chairman  
Daniel Odell, Planning Board Member  
Howard Engel, Planning Board Member  
Christine Motta, Planning Board Member  
Thomas Cotrofeld, Planning Board Member  
Katherine McCarthy, Planning Board Member

Jeffrey Lipnicky, Town Planner  
Randall Passmann, Town Senior Civil Engineer  
Janine Saatman, Deputy Town Planner

Paul Hite, LLS, 230 Delaware Avenue, Delmar  
Michael DiPaulo, Albany Land Conservancy  
Peggy Sherman, Albany Land Conservancy  
Trisha Driscoll, 35 Forest Rd., Delmar  
Suzanne McDermott  
Marissa McQuide  
Norm Drapeau, 316 Orchard St., Delmar

CHAIRMAN MATHUSA: I would like to thank you for joining us here at the Town of Bethlehem Planning Board meeting on Tuesday, May 3<sup>rd</sup>, 2005. I note the presence of a quorum as we begin our meeting. And the first item on our agenda is the scheduled Public Hearing of a two-lot subdivision located on Orchard Street, which we call the Feeney-Castronuovo Project #3. I will begin by asking for a resolution that would indent the public notice of this meeting into our record. Do I have a motion for that please?

MR. ODELL: So moved.

MS. MOTTA: Second.

CHAIRMAN MATHUSA: All in favor?

ALL MEMBERS PRESENT: Aye.

CHAIRMAN MATHUSA: We'll indent that as the public record.

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For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.

## ***NOTICE OF PUBLIC HEARING***

Notice is hereby given that the Planning Board of the Town of Bethlehem, Albany County, New York, will hold a public hearing on Tuesday, May 3, 2005 at 7:30 p.m., at the Town Offices, 445 Delaware Ave., Delmar, New York, on the application of Dr. William Feeney and Dr. Susan Castronuovo for approval of a two (2) lot subdivision located on Orchard Street, Delmar, NY 12054, Albany County, N.Y., as shown on map entitled: PRELIMINARY PLAT, PROPOSED FEENEY & CASTRONUOVO, SUBDIVISION NO. 3, Orchard Street, Town of Bethlehem, Albany County, State of New York, dated March 3, 2005, map prepared by Paul E. Hite, Licensed Land Surveyor, 230 Delaware Avenue, Delmar, NY 12054.

CHAIRMAN MATHUSA: I would ask the applicant, Mr. Hite, to make a short presentation on the status of the project for the public, the Board and our record. Mr. Hite, please make a presentation.

MR. HITE: Thank you Mr. Chairman, members of the Board and audience. My name is Paul Hite, Land Surveyor & Land Planner, Delmar, NY. I'm here tonight representing Dr. Feeney and Dr. Castronuovo on a proposed subdivision of their remaining lands located on the southerly side of Orchard Street, approximately a half mile westerly from it's intersection with Fisher Boulevard. The parcel of land consists of approximately twenty-three (23) acres, which we are proposing to develop into two lots. The rear lot consisting of 17.5 acres, the front lot consisting of 5.86 acres. Driveways will be developed as you see here, outlined and shaded in the heavy area and also into this one. All utilities are available, sanitary sewer on the northerly side of the road, which we will connect to; water is on the southerly side of the road, which we will connect to. Cellar drains will be developed by installing what we call seepage pits with the cellar drains from the basement connected to those. The lots are very large and we had looked at trying to develop this into three lots but because of the severity of the slopes here and trying to connect to Orchard Street with the slopes that are on Orchard Street, it was determined that two lots would be much more desirable than trying to get three into here and bringing the driveway through here just didn't work. The project is bounded on the west by the original farmhouse that was sold off this past year as an approved one-lot subdivision. On the east by two lots that were originally sold off by Dr. Feeney and Dr. Castronuovo and both these lots have beautiful homes built on those. We delineated the federal wetlands, that was done by Bagdon Associates, who is a biologist here in Town recognized by the Corp and the Town and I've presented a letter to the Town stating that the organization did mark out the wetlands. Our intention in building this driveway across that is to not disturb more than one-tenth of an acre of land, as a matter of fact it's a very small acre that we will disturb. We feel that the homes that will be built on these two lots will be very, very beautiful and probably in the theme that was built here and the ones that are being up the road further to the west. Culvert pipes across the driveway as they intercept Orchard Street have been designed and laid in this area and in this area. And also the driveways coming down onto the road at this point were both widened so that in case a car came up here and happened to meet at the same time a vehicle was coming out, there would be room to pass each other on these two driveways. On the easterly side of this property is a very large wetland

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area through here that when this subdivision was approved over here, the Town took an easement for drainage purposes that covers this entire area that in case anything ever happens to the stream that meanders through here known as the Phillipin Kill, the Town would be able to go in and clear that out and clear out any possible flooding that would occur that would cause damage into the road. Lands to the south of the project are vacant, may someday be developed but we have not heard of anything at this time. I will try to answer any questions that the Board may have or the audience.

CHAIRMAN MATHUSA: Thank you Mr. Hite, do the Board members have any questions or points at this time? If not, I'll open the meeting to the public, those of you who may be interested in making a comment for or against the project. I'll ask you to come up to the microphone, identify yourself. Give us your name and address and to make your comments known for the benefit of the Board and the applicant. Is anyone interested in making a comment at this time?

PEGGY SHERMAN: My name is Peggy Sherman and I live at 1583 New Scotland and I'm a Board member of the Albany County Land Conservancy which owns twenty (20) acres along the Phillipin Kill at the intersection of Delaware and Fisher, behind the Mansions at Delmar and our interest is really in preserving this stream corridor and preserving public access to this stream corridor. Right now there is an opportunity to set it aside and to over time link up our preserve and Five Rivers and from Five Rivers to New Scotland Road and really fulfill that dream of greenway through the Town of Bethlehem that's been talked about as part of the comprehensive plan. So, I guess a question is what possibility is there to do something along the Phillipin Kill to preserve public access here?

MR. HITE: I don't know really how to answer that question, it has been discussed before this Board, my client had originally wanted to keep this parcel of land for himself and his children because he had a tree house in the back as an area of recreation for him and his children. The Board was concerned that once those children were grown, he would let this go the county would take this for taxes, someone would buy it and be back in here for a building permit on a piece of property that is actually unbuildable. So with that in mind we then changed our proposed our two (2) lots to include those wetlands and that's what you see before the Board tonight. I spoke with the lady that just spoke and also one of the other gentlemen here, Mr. DiPaulo, and I said that at this point in time, this has been going on for about a year, that they would be better off discussing this with the people that will eventually purchase these two (2) lots. The Town has an easement through here that allows them to go in here and maintain it if they have to. I have to be honest with you, I asked a question of both of these people, why would you want to put a walking trail through a pristine area that the wildlife is in and so far no one's been able to answer that question maybe they have an answer to it, I don't know but it would seem to me at this time if they want to try to occur that access to the lands that they should make their efforts towards the people that would buy these lots.

CHAIRMAN MATHUSA: With the new owners. Who owns the land that is just to the right of that?

MR. HITE: To the East of this, is lands owned by Mr. Averill, who he purchased as kind of a protection for his property, he built a beautiful home up here and he owns this entire piece here. This parcel in here was conveyed to Drapeau and he built a nice home up there. Nowhere near

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the size of the lot that this gentlemen bought but he owns down to this point and the other guy owns to this line, this through here was owned by right here.

CHAIRMAN MATHUSA: So all that land along the Phillipin Kill is owned privately at this point?

MR. HITE: It's owned by Dr. Feeney and Dr. Castronuovo with an easement to the Town over the entire piece.

CHAIRMAN MATHUSA: For maintenance purposes?

MR. HITE: This is basically an unbuildable lot; it can never be built on.

CAROL NEMORE: I didn't prepare a statement. I'm Carol Nemore, I'm a resident of Bethlehem, I'm a member of the Mohawk-Hudson Land Conservancy or the Albany County Land Conservancy, we're changing our name. Soon. I was here last summer talking about this subdivision, I actually have a copy of my written testimony that I put in the record urging the Planning Board to consider exercising your authority at this point in time to require a set aside of the land along the Phillipin Kill. It wouldn't really affect the privacy or the esthetics of the subdivision. I'm not opposing the development per se but this is the time to have vision and to listen to the public about the potential for a very beautiful trail system that doesn't currently exist. Some of it does now, just the other day the Conservancy held a public walk on the twenty area we own and its extraordinarily beautiful and its an opportunity for the public in the Mansions or anywhere along that area to just walk out of their homes and have this really quite beautiful, esthetic experience. Not only would it be a public amenity that I think that we want to see in our Town as more walkways and we're concerned about our health and obesity and we want to encourage this kind of thing. Where you don't have to get in your car and drive to some destination in order to have these experiences. Like Peggy said this has the potential for being connected to some amazing assets, like the rail trail and New Scotland and to Five Rivers and perhaps to the Town Park, the Elm Avenue Town Park, along Delaware Avenue. There is just a potential here that I would really hate to see lost and once you allow it be in privately owned hands, that potential is lost. It is your authority, you can do the set aside and it's really important for the stream as well. The Land Conservancy are stewards of the land and I don't know if I can speak for the Board without a resolution and all that, but I know that we have a real interest in seeing the stream corridor protected and I would venture to say we would take a responsible role. So that the Town wouldn't have to take on an expense of maintenance or something. And I was just browsing the Draft Comprehensive Plan before I came here and I just want to read one sentence if you'll bare with me from the draft plan. It says thought there are only very limited development opportunities remaining in this area and we're talking about a pedestrian connection within neighborhoods, that's the heading of the paragraph. The Town should consider recreational trail connections as any development does occur, critical links could be established by utilizing the Town's parkland reservation requirement to set aside actual land rather than accept payment in lieu of property. So I urge you to consider this now.

CHAIRMAN MATHUSA: Thank you.

MICHAEL DIPAULO: Hi my name is Michael DiPaulo, I'm a retiree and a volunteer with the Albany County Land Conservancy which will now become the Mohawk Hudson Land Conservancy. Mention was made of the preserve created at the Mansions, I just wanted to emphasize that I'm one of the people who physically did the work on creating those trails and people like me would be involved in stewarding and taking good care of any land that the Town chooses to establish as a set aside to be used in its pristine condition and kept in its pristine condition as Paul notices that it's important to do. Keep in pristine condition and connect and assist the Town in furthering its comprehensive plan by connecting to other existing and potential public recreation areas. It's also a generational opportunity as part of our vision. It's not something that is geared just for the most physically fit; it's a generational thing where young and old people with various physical challenges and just enjoyment of the sunshine and fresh air and who want to walk near their homes can enjoy. In fact the Mansions uses the existence of the Phillipin Kill, which they helped to create, in their brochure advertising to potential customers and owners and renters, the advantages of living there. So this would enhance the neighborhood, enhance property values; enhance the Town's image in the area, when we read about what's happening in Clifton Park and Colonie with respect to planning. Bethlehem is light years ahead of the other Towns in its thinking and it's view point on connecting people to the outdoors. Thank you.

CHAIRMAN MATHUSA: Do we have any other points, comments or thoughts?

JOHN ABUL: My name is John Abul, I live at 34 Pine Hollow Road, Slingerlands and I was a founding member of the Albany County Land Conservancy. I'm no longer on the Board but I'm on subcommittees, one of which is involved in promoting trails in the Tri Village area. Since we already have the Phillipin Kill preserve this is an ideal area to extend the trail system in the direction of Five Rivers and I want to support any effort that can be done to promote that, thank you.

DAN LEWIS: My name is Dan Lewis; I live at 164 Orchard Street in Delmar. I'm kind of a neighbor of this project but I'm also president of the Friends of Five Rivers. We on the Board of the Friends of Five Rivers also support a set aside of the Phillipin Kill corridor for all of the reasons mentioned and I don't want to repeat what's already been said so I did want to register our support. It's important to realize that any corridor like a stream corridor, the health of that corridor is not, it's based on what happens in other parts of that corridor as well, particularly with a stream. What happens upstream significantly effects what occurs downstream. So we can't take a look at something like a stream corridor in a single lot or two lots but we need to look at the entire corridor for its overall ecological health and we at Five Rivers are committed to doing that which is upstream of this project. These two parcels are upstream of the Phillipin Kill Preserve that the Land Conservancy currently has and to take a look at a larger picture, while at the same time not negatively impacting potential land owners for these lots seems to me to be win win situation. So we do support a set aside.

CHAIRMAN MATHUSA: One point, just to the south the lower part there. Is that private property in terms of access to the overall trail system that potentially would go to the Mansions?

MR. HITE: This area here is owned presently by the Land Conservancy.

CHAIRMAN MATHUSA: Okay, so that butts up to this property. So theoretically, if you had a set aside from there to Orchard Street, you could get to Orchard Street.

MR. HITE: I'd just like to make one comment for the Board in their consideration of this. I don't really know what the procedure of the Land Conservancy is now but in the two instances in which I was involved with the Land Conservancy, they required of us on a piece of land that we were giving to them, willing to give to them, some twenty-three (23) acres of very, very pristine wildlife green area. We had to pay them a fee of twenty thousand dollars in order to for them to have money in their fund to... whatever they did with it. So I'm not sure if that's the case here. Are you going to require that my client pay you some twenty thousand dollars to take this, just a question that I'm asking?

CAROL NEMORE: I just want to read something that the president of our Board. I'm just going to take the liberty to read an excerpt from an e-mail message about this issue. From the president of our Board, he said, since our Phillipin Kill preserve is already endowed, we have an endowment from the developer, he wasn't planning to ask for an endowment for the trail through this particular Feeney-Castronuovo Subdivision because its just such a small addition to our preserve.

MR. HITE: I just brought it up because I thought it was a concern for my client and anyone else involved here.

JOHN ABUL: Sometimes when things get talked about they start one way and wind up through several mouths something else. The particular instance of the large fee had nothing to do with the Land Conservancy it was required by the Army Corp of Engineers as a mitigation for things that were considered that had been done that required mitigation. So the Land Conservancy was merely a recipient of this in order to preserve the land. But had nothing to do with the penalties that were assigned. They were governmental penalties.

MR. HITE: That can be investigated but I don't think that these should be discussed here tonight.

MS. SAATMAN: I was just going to make a comment that I think the predicament I guess that the Planning Board would find themselves in supporting this idea is that the authority for the land set aside really only covers I believe the number is 1,550 square feet per lot. Since you're not talking about a big subdivision here, that amount of land is really nothing in terms of setting aside a corridor through here. So unless the owner was willing to do it voluntarily the Town does not have the authority to require anything that would amount to a substantial or sufficient amount of land that you could put a trail through there.

FROM THE AUDIENCE: I didn't hear the number.

MS. SAATMAN: I believe the number is 1,550 square feet. Is that right Jeff?

MR. LIPNICKY: It depends on what zone it is. Is it double A zone Paul?

MR. HITE: I believe it is.

MR. LIPNICKY: 1,550 square feet per unit. So it's 3,000 square feet so that's about one 15<sup>th</sup> of an acre.

MR. HITE: 15,050 square feet through here would be absolutely insignificant

MR. LIPNICKY: Not 15,000.

MR. HITE: Or 1,500 square feet excuse me.

FROM THE AUDIENCE: There's wetland and a stream.

MS. SAATMAN: That's not part of the set aside.

MR. LIPNICKY: Can I chime in here? There's a couple of considerations, first there's criteria within the Code concerning the fee set aside. And those criteria are very strongly geared towards active recreation use such as ball fields, tennis courts and things of that nature to take land that is actually developable for those types of uses. It was not designed and geared really for something like a trail network. Although I suppose the way it's written one could interpret certain amounts if the Board makes certain findings that they could probably require it. The second item Janine has already said the amount of the that the Board can take, I shouldn't use the work take, but required be set aside is only 1,500 square feet, 1,550 per lot or unit in this particular case. The third item is that that land has to be basically devoted to public parkland. So in others words it wouldn't be land that the Town could require be turned over to a Conservancy it would have to be land that the Town maintains as a public park.

MICHAEL DI PAULO: I'm a person that interested in process as well. I understand that the law's can be interpreted in different ways and are set up for different purposes but since this is a community it's also a community of interests. The Town does have a Comprehensive Plan and it's clear in that plan that public recreation, passive recreation, etc. are high priority for the Town. What I'm proposing at this point is regardless of what the law says in terms of the square footage that would end up being as a corridor that the Town Planning Department somehow encourage the current land owner to potential land buyers and remind them of the importance that the Town holds, the Town gives to recreation, corridors, greenways and connecting to public recreation including the Town park, the high school, Five Rivers, etc. which are all publicly supported and taken care of opportunities. So what I'm proposing is that the Town sit down or contact the owners in a very friendly supportive manner and discuss the possibility. We may find that all parties are agreeable and that an easement or an allowance might be possible and that actually taking land is not necessary or even a work that would be appropriate in this case.

CHAIRMAN MATHUSA: Thank you.

WILLIAM FEENEY; MY name is Bill Feeney, I'm the present owner of the area and I have been there for a bit. Dr. Maxin sold it to me a long time ago. We bought 42 some odd acres. And over time I had to leave and was forced to sell it. It's been a long time trying to sell this property, as Paul knows. I've never been contacted by anybody from Five Rivers of the Nature Conservancy in terms of any plan in all this time. I've sold off a couple lots over here. 42 acres and I've only sold off two (2) acres here, and I just sold off as you can see, this present lot here

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and then two (2) more lots. When it came to an issue of trying to get three lots out of here, when the driveway slope became an issue, we backed off and just made it two (2) lots. I'm very concerned, I love the area, I grew up loving the area and Five Rivers. I walked the land lots of times. Certainly having these houses here is not going to affect this Phillipin Kill area ecologically. I just would plead with you to let me sell these lots and the approach the next landowners about what you want to do, with them. I've been waiting so long to sell this property. That's all I have to say.

FROM THE AUDIENCE: Do you have buyers lined up?

WILLIAM FEENEY: Yes I do. They seem very ecologically mature people.

CAROL NEMORE: I getting from your remarks that if there was consideration for a trail set aside that it would derail your perspective sale? Is that correct?

WILLIAM FEENEY: I don't think so, I'm just saying I want to sell these lots and I would like you if you strongly about it to approach the new land owners about what plans you may have. The perspective buyers might actually be here, so they would be totally aware of it. I think that they know the possibilities and that you may be approaching them, I don't mind that. I think the land is beautiful enough that they would be open to the idea since the corridor that you were talking about is significantly far enough away from where they might have their house. But that's up to them to decide.

CHAIRMAN MATHUSA: OK, is there any other question?

MARIE CAPONE: If Five Rivers wants it that bad, let them buy it.

PAUL HITE: She said if Five Rivers wants it that bad, let them buy it. Mrs. Capone is very adamant in her statements.

CHAIRMAN MATHUSA: Any other questions, points, thoughts? Does the Board have any questions or thoughts?

HOWARD ENGEL: Parker the only thing that I would want to comment on at this point in time. Obviously, Dr. Feeney has waited a long time to sell this property. And I think that the Comprehensive Plan has been very specific in obtaining lands for conservation and trails and so on that should be that of a voluntary and willing land owner.

MS. SAATMAN: The plan hasn't even been adopted yet.

CHAIRMAN MATHUSA: Yes, I believe the word is a "willing landowner".

MR. ENGEL: So at this point in time to waylay Dr. Feeney's plans at this time would not be fair to him and I don't think it's in our preview to do that at this time either.

PM: On just a theoretical basis, if you have 3,100 square feet, and if you had a trail that was 10 feet wide, to go from Orchard down to the end point, that's more than 300 feet right?

MR. HITE: The link to this line is a total of about 1,324 ft. times 10, so that would give you somewhere in the neighborhood of what...

CHAIRMAN MATHUSA: 13,000. So theoretically you...

MR. HITE: You could have a trail about three (3) feet wide.

CHAIRMAN MATHUSA: So the whole piece is about let's make it two thousand (2,000) feet, the road to the back.

MR. HITE: No, from here to there I believe is a total distance of 1,300 feet

CHAIRMAN MATHUSA: So that would be...

MR. HITE Three feet wide would give you thirty-nine hundred (3,900) feet.

CHAIRMAN MATHUSA: It would be a two (2) foot wide type of thing.

MR. HITE: Two and a half (2 ½)

MS. SAATMAN: That's not realistic.

MR. HITE: I think that one of the things that we have to... I'm not opposed one bit to what you folks are wanting, you have to look at this from a point of view of my client trying to sell off a piece of property and also from these people buying this, is if you don't buy it and you take an easement across here and you create a trail up through here, anyone walking through this pristine area and I still haven't had my question answered, is if someone gets hurt on that property when there's only an easement or something, whose going to get sued. Town's not going to get sued, possibly their organization will but the owner of this property is going to be sued. As I said please don't think that I'm against this at all it's just that it's something that really has to be considered. And in fairness to Dr. Feeney, we've only talked to you maybe twice, you were at the last meeting maybe a year ago and no one has contacted him about buying this from him. We went before the Board and we had a proposal to have this lot preserved and the Board, I've explained their concerns. I think at this point, as the gentleman said there, it wouldn't be fair to my client to ask him to hold on and hold on and hold on.

CHAIRMAN MATHUSA: OK, Let me ask another point. At this point if the set aside for the trails, that theoretically would be taken over by the Office of Parks and Recreation, correct.

MS. SAATMAN: If there was a set aside it would be maintained by the Parks.

CHAIRMAN MATHUSA: so the Town would theoretically take it and theoretically maintain it and so on. But it would be a public property. Like a public park.

MR. LIPNICKY: We wouldn't be able to require the applicant to set aside land under the zoning code that the applicant set aside land and that it be transferred to a third party. We cannot do that.

CHAIRMAN MATHUSA: That was where I was trying to get to.

MR. ODELL: Parkland can only be alienated by an act of the legislature. Once a Municipality establishes parkland, it's subject to restrictions that are placed on it by New York State Parks and Rec Law, just like the Elm Avenue Park right now. If the Town were to sell or want to sell a portion to anyone else they would have to go to the State legislature and get it approved. It's the Legislature's concern that Municipalities not give away or alienate parkland unless it's absolutely necessary.

CHAIRMAN MATHUSA: The point that I wanted to make was to go to Carol's point, in a sense that instead of the Town having it as parkland, having it held hostage in perpetuity, I think that going to Paul's point of selling the property and approach the new owners to see if they would want to donate it. Then you would have much more latitude, then you would have a piece that would be ten (10) foot wide and thirteen hundred (1,300) or fifteen hundred (1,500) long and then you could have what you needed to do. If the owners wanted to do that. And deed it to some third party.

MR. LIPNICKY: Or negotiate an easement.

CAROL NEMORE: Now is the time to do the donation of that portion of the set aside because it would offset your own capital gains for the sale of this property. Where as if we waited until the new owners came in they wouldn't have the capital gains tax concern that you're facing. This would offset it by a donation to the Conservancy if that would alleviate problems with the set aside being insufficient or inadequate for this purpose. I just, in addition I wanted to bring up something that was sent to me it's a model buffer ordinance, it's something that is adopted in the Town of Clifton Park and possibly in Guilderland as well and requires one hundred (100) buffers along stream corridors. For the sake of the protection of the stream this model buffer ordinance came out of the storm water center and I think Cornell recommends a one hundred (100) foot stream buffer with a twenty five (25) foot immediately adjacent to the stream kept wild with natural vegetation. One of the few allowable uses within that twenty-five (25) foot is a footpath. So that's what's recommended for an ecological point of view. I would urge you to think about the donation now as you're facing capital gains.

CHAIRMAN MATHUSA: That's Dr. Feeney's decision.

MS. SAATMAN: I don't think the Town could justify taking over three thousand (3,000) square feet and labeling that as a public park. That's hard to justify. If there were other parkland there that it could be attached to, if there was other Town parkland that you could add that to maybe that you could make that argument.

CAROL NEMORE: Except that it makes more sense to be a donation to the Land Conservancy.

ROBERT JAZINSKY: I'm Robert Jazinsky. I wish to point out to the Board that this trail system that they're all talking about and everything. This hasn't been passed by the Town Board. So...and you do have people that are against some of this trail system because of the problems that it invokes for adjacent landowners. Now I think this Board ought to at this time accept Dr. Feeney's subdivision the way he wants to do it and go on from there. If anything comes about, it

should come about later on, not now. You've way laid him for a year or so, about time you moved forward. Thank you.

MR. HITE: Just one comment, Mr. Chairman. I appreciate him standing up but it wasn't the Board that way laid this project for the past year. It was a combination of myself, trying to design the situation that we have here. I really want to say that. I understand you saying what you did, and I appreciate it, but it was not this Board's way laying the project. It was involved with myself and Dr. Feeney trying to develop two lots that had safe access to them. Just to set the record straight.

CHAIRMAN MATHUSA: Thank you.

DR. FEENEY: You can't do anything within one hundred feet of the stream.

MR. HITE: That's absolutely true. This stream through here is probably, if it came down to it would be under the control of the DEC. And not only that but with the easement that's through here it can't be built on anyways. The Town controls that easement. There's nothing can be done with this land because it's under the Town easement that there. You can't build on a drainage easement except a driveway or a crosswalk or something. So the land in itself is protected in terms of not being built on or not being used for anything else but forever wild.

CHAIRMAN MATHUSA: All right, anything other thoughts? No other comments then I'll entertain a motion to conclude the Public Hearing.

MR. ODELL: So moved.

MR. ENGEL: Second.

CHAIRMAN MATHUSA: All in favor.

ALL BOARD MEMBERS PRESENT: Aye.

CHAIRMAN MATHUSA: The Public Hearing is closed; thank you for your comments.

The Public Hearing concluded at 8:10