

TOWN BOARD
APRIL 10, 2002

A public hearing of the Town Board of the Town of Bethlehem was held on the above date at the Town Hall, 445 Delaware Avenue, Delmar, NY. The meeting was called to order by the Supervisor at 7:30 p.m.

PRESENT: Sheila Fuller, Supervisor
George Lenhardt, Councilman
Doris M. Davis, Councilman
Daniel G. Plummer, Councilman
Thomas Marcelle, Councilman
Kathleen A. Newkirk, Town Clerk

ABSENT: Robert J. Alessi, Esq., Town Attorney

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SUPERVISOR FULLER: Good evening and welcome to a meeting of the Bethlehem Town Board. I would like to invite all of you to join us in the pledge of allegiance.

The first item on tonight's agenda is the public hearing to consider proposed local law concerning the rezoning of property to Planned Residence District for premises located at Elsmere Avenue and Feura Bush Road. Ask the Clerk to read the call of the hearing.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING
TOWN OF BETHLEHEM, ALBANY COUNTY

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on April 10, 2002 at 7:30 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider proposed Local Law concerning rezoning of property to Planned Residence District, PRD No. 13 for premises located at Elsmere Avenue and Feura Bush Road, Delmar.

All parties in interest and citizens will have an opportunity to be heard at the said hearing.

The Town of Bethlehem provides reasonable accommodations for the disabled. Disabled individuals who need assistance in order to participate should contact Nan Lanahan at 439-4131. Advanced notice is requested.

BY ORDER OF THE TOWN BOARD
TOWN OF BETHLEHEM
Kathleen A. Newkirk, CMC, RMC
TOWN CLERK

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State of New York)
County of Albany)

ELIZABETH BRADT of the Town of Bethlehem, being duly sworn, says that she is the RECEPTIONIST for THE SPOTLIGHT, a weekly newspaper published in the Town of Bethlehem, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said THE SPOTLIGHT ONCE A WEEK FOR 1 WEEK consecutively, commencing on the 27th day of March 2002.

/s/ Elizabeth Bradt

Sworn to before me this 27th day of March 2002.

/s/ Sharon A. Doldo
Notary Public, Albany County

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STATE OF NEW YORK)

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

COUNTY OF ALBANY) ss.:

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on March 27, 2002 a Notice of Public Hearing, a copy of which is hereto attached, on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Kathleen A. Newkirk
Town Clerk

Sworn to before me this
13th day of April 2002.
/s/ Catherine T. Picarazzi
Notary Public

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The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.

SUPERVISOR FULLER: Mr. Rosen, Mr. Sipperly and Mr. Michaels are all going to be...

MR. ROSEN: Thank you very much. My name is Lee Rosen and I am here tonight to present the Waldenmaier Planned Residential District and with me tonight is Lynn Sipperly who is the project engineer and also with me is Dave Michaels of The Michaels Group who will be the builder for this project. And, we are very happy to have The Michaels Group as the builder. They are probably the best at this type of housing in this area and we are very happy to have them.

This project is located along Elsmere Avenue between Feura Bush Road and the By Pass. And, more than half of the units are located on the west side of Elsmere Avenue in the empty field that we see up to where the Ni Mo power lines cross the road. Then the balance of the project, the other half, is split on either side of Elsmere Avenue just to the north of the By Pass.

This project is designed to meet the needs of the empty nester which we identify as the person who has lived in a large home and wants to remain in single family homeownership but does not want to maintain a large home and particularly a large lot. So, these are basically single family homes that will be attached in groups of two. It will be upscale homes and they will be located on relatively small lots and the maintenance for those lots will be handled by a homeowners association in terms of the lawn mowing and snow removal.

I'm going to turn the microphone over to Lynn Sipperly to give project details but I just wanted to give a brief overview of the concept and what we are trying to do here. There hasn't been a lot of development of this type of housing in the Town. We were involved and The Michaels Group were involved in Chadwick Square which is really a similar project to this except we are taking it to the next level and that there is only 2 homes attached here and in particular we are going to be featuring first floor master bedrooms for the units which Dave will be able to address it more specifically. What we have done here is located the homes, again, on Town streets and have left the balance of the development in an open space system which will be undeveloped.

And, I would like to address also, the reason that we were going for the Planned Residence District which is essentially a rezone is because the present zoning while it allows for a similar type density and, in fact, similar type units 2 units attached together or in many cases 4 units attached together, this type of project the units will be owned individually. Under the current zoning, you would have to have a

single owner for both sides and that's not really conducive to today's world where you would... most people want to own one side and have somebody else own the other side. So, that is really the key reason that we are seeking a Planned Residence District here. Otherwise, our density is basically consistent with what's in the existing zoning.

So, with that I would like to turn it over to Lynn Sipperly to give the details of the...

MR. SIPPERLY: Members of the Town Board, ladies and gentlemen, I can put a few facts or numbers to our plan. What we are requesting the Town Board consideration of the rezoning of a 52.75 acre parcel of land. That's made up of these 3 parcels that are shaded in green and outlined in the red shading. Our development area is essentially less as the green indicates, it is approximately 30.21 acres which leaves the open space area... these whiter areas over here... at approximately 22 acres which represents 43 percent of the total land area that is going to be committed to green space open areas.

The project proposes an entrance road on Elsmere Avenue at this location here which is approximately 800 feet north of the Feura Bush Road intersection and another cross street at this location here approximately 600 feet north of this first entrance. The first section is a looped street in configuration and the following sections would be cul-de-sacs with a stub street here to service adjacent lands. Abutting ownership here and use is large undeveloped parcel along our east boundary owned by Harold Magee. Here is a single family residence, lands owned by Sogus and Thompson to our north, a large piece of land that is partially occupied toward Elsmere Avenue owned by Woodside, Delmar Bypass. On the west is the City of Albany supply conduit right-of-way and this area here is Briarhill Subdivision and then we have some single family residences along Feura Bush Road that are owned by owners.

There is water along Elsmere Avenue which we propose to use as... to service the development. There is also a trunk sewer along our westerly property line which, again, will serve to sewer this project.

What's proposed, as you can see, that all lots really back up onto open space with the exception of probably 2 lots – 1 being here and the second one being here – but we've left up to an adjacent single residential property. Where properties abut Elsmere Avenue with their rear line and Feura Bush Road, we propose to berm or landscape heavily those areas to give privacy in their rear yards and also to just ... the buffer from Elsmere Avenue up here from traffic passing by.

The project proposes to construct sidewalks along Elsmere Avenue for the length of our project and we have been studying continuing those sidewalks to the Bypass and have had conversations with DOT with that regard. The land is quite suitable for what we are requesting here. We feel that it's Planned Residential development. That's exactly what we have done here. We planned a development to really work with the land and what parts of the land are already cleared. We provided a large buffer areas between the development and our neighbors so that for both parties it should be very suitable development. That's part of the facts and figures.

One other thing, the area of the property that is on the east side of Elsmere Avenue is currently zoned Residence A and on the west it is zoned Residence AB. And, as Lee indicated, the densities that we are proposing here are less than what would be allowed if were to develop these properties under the current zoning.

Thank you.

SUPERVISOR FULLER: Thanks. Are there any questions from the Board?

COUNCILMAN PLUMMER: How many parcels would... under the existing

zoning... how many parcels would you be able to put on the site?

MR. SIPPERLY: Under the existing zoning, we could construct 152 units and we are proposing 92. Under a conventional PUD zone which allows up to 8 units an acre, we could develop 240 units... if... using just strictly density numbers highest times area. And, again, that was not the goal here. The goal was to come up with a reasonable size in the area that works with the land.

COUNCILMAN PLUMMER: And, the sidewalks on the west side.

MR. SIPPERLY: Yes.

COUNCILMAN PLUMMER: For your project specifically.

MR. SIPPERLY: The sidewalk is on the west side and, you know, the part that we control as far as frontage along Elsmere Avenue is where we are proposing to construct sidewalks.

COUNCILMAN PLUMMER: Do you know how far south you are from the bypass? About how many parcels?

MR. SIPPERLY: We're probably about 800 feet, 800 to 900 feet and there's probably... I'm going to say... maybe half a dozen to maybe 6 to 8 land parcels in there.

COUNCILMAN PLUMMER: Okay, thanks.

COUNCILMAN LENHARDT: Mr. Sipperly, you indicated there is a master bedroom downstairs, I assume there is 1 bedroom upstairs?

MR. SIPPERLY: I think that would be best described... that's my understanding but I think Dave Michaels could sure tell us about the floor plan of the units.

COUNCILMAN LENHARDT: I'm just curious, regarding the bedrooms as to what constitutes an empty nester home as opposed to a full family.

MR. MICHAELS: Okay. Regarding the housing, I can maybe go into that in a little more detail and give everybody an idea. On the side here we have 2 typical twin unit town house buildings. It is basically 2 single family homes that are connected to each other. So, as a You get the benefits of single family living and we have 3 sides to the home that is opposed to this. We don't have a unit in the middle which is the case of a lot of homes in Chadwick Square or the 4 units we are building... the 2 center units, 2 end units. This is all designed with just 2 end units.

The market for this project, we call the empty nester. I define empty nester as people that have... are in a home now that is large in size and the home doesn't meet their needs any more. They have a lot of yard to maintain and upkeep, all the bedrooms are upstairs, the kids are off and away to college or whatever and the home just doesn't fit their lifestyle needs any more. And, what they want to do typically is... we have requests all the time and because of the market we have a number of communities that just cater to this but we find people still want to stay in the Town and in this case, the Town of Bethlehem, and they're just looking for an alternative type of housing.

The homes are designed with... all would have basements. Each home would be master suites on the first floor, there would be at least 2 added designs that would be offered and most likely 3 2-story designs which would be really typically 1 ½ stories. In all cases, the master bedroom would be on the first floor. And, then each plan has a lot of flexibility where as the den could easily be converted to a bedroom or a library or that kind of thing which is quite... the flexibility with the floor plans themselves. The home in size in the small ranch would be probably

1300 square feet to a... maybe the larger 1 ½ story homes would go up to 2400 square feet. All the homes would have garages. All the homes would be part of the homeowners association which would provide, as Lee said, full grounds maintenance and snow removal services.

And, what you do is you have to put together an offering plan, it has to get approved by the State Attorney General's office and it is a very detailed document that ensures that anyone purchasing in the community... it assures them of what the guidelines are... i.e. covenants and restrictions and all clearly spelled out... what the budget is for all these various maintenance type provisions, the grounds keeping... all the budget items are in place, reserves for replacement. It is very detailed and involved. And, it has to be updated every year. We're accustomed to doing these offering plans and taking it over while we are building and then what we do is, when we get to the end, we turn it over to a board of directors of people involved in the community. That's never been an issue because the people living in the community just generate easily more than an adequate number of people that have an interest and be involved in the HOA to take it further on.

Besides the individual homeowners having maintenance of their own grounds through the HOA, there is common area that will be handled by the HOA. The green space... and as an example, that backs up to these homes, this again would be heavily landscaped and bermed to provide privacy. The green area here along Elsmere Avenue the buffering will have to go into place with berming and planting there. The entrance... all the areas that are what you call common in nature will also be maintained by the homeowners association. So, it wouldn't be necessary in these areas for the Town to have a worry or consideration because that will be built-into the overall budget that the people are paying for. Maintenance fees including the common area and their own home for full grounds keeping and snow removal... usually ends up in the low \$100 range per month. So, it's a fairly reasonable fee for what services are really involved.

Getting back to the homes themselves, even though the homes are somewhat smaller with the master suites on the first floor, we really cater to... what I call the move-up upgrades and amenities. The homes are going to be really well featured inside, lots of open spaces, lots of windows, very quality oriented. That's a real priority with people that want to move down. They really want to have the nicer finishes. All those things that we realize are very important in how you structure the design. In terms of the community, itself, especially after doing Chadwick Square years back with Lee... I really wasn't involved in it, I was sweeping houses at the time... but there is a lot of interest that we've had from the community themselves. Like I said we build the same type of product in different themes and different price ranges. In Clifton Park we have a community going right now. We have 1 that we just opened up in Queensbury that's very similar to what we will be proposing here which we just opened up. I would say over the course of the last 5 years, we've done at least 10 communities that just cater to this kind of market. So, we're pretty familiar with it and we really think there is a need in the Town.

SUPERVISOR FULLER: Thank you.

COUNCILMAN DAVIS: Question, and I'm not sure who wants to answer this or who should be answering it. One of the... I'm looking at your photo, do all the units have garages facing the street or will some of them be side garages so that the garage isn't the predominant feature when you look at the plan?

MR. MICHAELS: As far as... the way... the cluster and the small lot it's really difficult to come up with too many variations... if you have garages, too many variations on the garages. Where we can, we are going to offer side entries wherever we can.

COUNCILMAN LENHARDT: Can you give... there's people in the back that can't hear.

MR. MICHAELS: To answer your questions, wherever we can put in the side entries, where side entry will fit, because you need at least 20 feet to swing on the side yard to swing it in. We're going to offer it and make it... It would be like a standard amenity for that home site. A lot of the cases, though, you want to have the garage and you're clustering the lots and if you are trying to give them smaller home sites which is the whole idea of this kind of project, it is difficult. To mitigate the feeling of the garage, you know, we paint the garage door to match the siding color. We come up with some upgrading of the garage doors in terms of lights and ... lights and things like that to try to minimize the look of the door so it isn't such a standout feature. Just the fact that it blends in with the color... the body color of the building, that's been a real good way of trying to minimize the ... of the garage.

These homes and the way the whole community is laid out, they really work to the rear, in terms of the living and the living spaces and the windows and light. That's why we try to create the green spaces wherever we can behind it.

COUNCILMAN DAVIS: Another question relating to garages and I don't mean to dwell on garages but it appears to me and maybe it's just a... where I'm sitting but are all the garages going to be double garages or are some single?

MR. MICHAELS: There will be both.

COUNCILMAN DAVIS: There will be?

MR. MICHAELS: Yes.

COUNCILMAN DAVIS: And, what I'm thinking and I guess the reason I'm asking is if you have single garages today, you know, most people have 2 cars and even some of the empty nesters have 3 because they have... you know, their are young families do come to see them and, you know, there is a concern about... for neighbors about the number of cars...

MR. MICHAELS: Size of the garage...

COUNCILMAN DAVIS: Yea, and where you going to park all the cars.

MR. MICHAELS: In the proposal that we have here, the smallest ranch design which is a 2 bedroom about 1300 square feet, still nicely done, that comes standard with a garage and a half which is in the gray, it is the building on the left and you can see the little side window on the side of the garage... so, there's still extra space to store stuff. That's really geared for a single household because there are a lot of single households that are empty nesters now and they don't really need the big home, they still want a quality home and for them the 1 car garage with the extra storage space really works. But, that's a smaller percentage. All the rest of the designs will be offered standard with a 2 car garage.

COUNCILMAN DAVIS: Okay.

MR. MICHAELS: So, it wouldn't be, you know, an option whether they come standard with 1 and then they can go to 2. They all are designed with the 2.

COUNCILMAN DAVIS: Okay. One of the things that I do have to say is... you mentioned that this is for people living in the community who want to stay in the community... frankly, I think there are a number... I know, I've heard this, there are people who have left our community because we don't have this kind of housing and they would like to come back. And, I think this does suit what they are looking for. And, one last question for Lee... Lee, you did refer to this as upscale – when you say upscale can you explain what you mean by that? I mean, is this going to be affordable to people who live in this community and want to come back?

MR. ROSEN: Yes, I think that we are targeting a... in terms of targeting people who are moving out of homes who have lived in their home for a long period of time, they've built up equity and they want to stay in the community or they return to the community and they want, frankly, a nice place to live – we expect that the homes will be very well pointed and people will be able to put as much value into their homes as they desire. And, I think, by associating ourselves with the Michaels Group that they do quality homes and we expect them to be... to respond to the market which we feel is here. As far as the price point, we would like them to be affordable, certainly affordable. I think that we're looking to be in the range of \$150,00 to \$200,000 but that will depend on factors frankly... not all the factors that we control. But, we will... these will be affordable to people who are used to this community.

COUNCILMAN DAVIS: Thank you, you answered my question.

SUPERVISOR FULLER: Okay. The purpose of tonight's public hearing is to consider the rezoning of this parcel. You have the opportunity to ask questions and also I would request that you speak in favor or in opposition. There is a large audience here, I would assume you're all dying to either speak in favor or ask some questions, or possibly be in opposition.

MRS. CAPONE: You wouldn't believe how many years I sat in the back row of room 106 with Mr. Rosen's father. Rosen and Michaels are known to be beautiful builder. Now, his is building 150 houses. What happens if 100 of them are his age with just a girlfriend, they spend a week there, they spend a weekend in Lake George. You cannot refuse these people. You have to look that Bruce Secor said this development would use a lot more water than the new shopping center coming up. Can we afford to loose the water? Thank you.

SUPERVISOR FULLER: You're welcome.

MR. WEBER: My name is Fred Weber and I am here as an individual just as a resident of the Town. No one has asked me to be here and I have no financial interest in this in any way whatsoever. I'm interested in good zoning and good planning and this is good planning and good zoning. There is a tremendous need for this in this Town. Look at Chadwick Square what's happened over there. The prices keep going up but there is a need for this greater density housing. Not only in these but in apartments and so forth. We should look closely at more of this type of housing. It does not affect adversely any of real estate values. We've had high end communities built right next to a 22 unit apartment house and it did not affect the value of it at all. It's in a perfect location, as far as, I am concerned. There's no engineering problems because of the sewer and the storm sewers that are available. The facilities, you have a traffic light down at the corner. Another thing that will happen too, is there'll be a great – in my opinion – you're going to have very, very few children, it will be like Chadwick Square. The school district is going to make out very well in regards to money. The Town is going to be okay because these are very easy to take care of. I just think it's a win-win situation for everyone concerned. And, I'd like to see a lot more of it. Save one for me.

SUPERVISOR FULLER: You're free to come up to the mike as soon as it's available.

MRS. BENNETT: I'm Allison Bennett and I was one of the first people in Chadwick Square and I've lived there for 22 years and I've loved every minute of it. My only... these look great to me. In fact, my husband and I are interested in them very much, getting on one floor because when we bought our house in Chadwick, all the bedrooms are upstairs and we're nearly 80 years old so we think we need one floor. My only objection, as it were, is that we have one family... or 1 single garage in some of the units in Chadwick and that's not adequate. Next door to me is 1 car garage and it's a couple and they both work and they have 2 cars and there are tons of 2 cars garages in Chadwick in which the homeowner can only get 1 car in anyway because it's full of stuff. So, I really would suggest that 2 car

garage be seriously considered even for the smallest unit. None of these will have cellars, is that correct?

MR. ROSEN: They all have cellars. They will all have basement standard.

MRS. BENNETT: Oh, they will.

MR. ROSEN: Yes.

MRS. BENNETT: Well, I still think two car garage would be good. But, I like the plan.

SUPERVISOR FULLER: Thank you.

MRS. STEINBERG: My name is Ruth Steinberg. I am very, very interested in the situation... something like this. We have same problem, empty nester etc. I am just curious, I don't quite understand, Elsmere... my understanding before was part of it was going to be on Feura Bush Road. Now, you are talking Elsmere... is that from that little old house... go straight up to the Bypass?

MR. SIPPERLY: That's correct.

MRS. STEINBERG: So nothing will be on Feura Bush Road, is that?

MR. SIPPERLY: No entrances will be on Feura Bush Road.

MRS. STEINBERG: No, but will it back to?

MR. SIPPERLY: Couple back yards will be on Feura Bush Road.

MRS. STEINBERG: I see. And, then I don't quite understand what that other little thing is over there on the right side. Is that still before the Bypass?

MR. SIPPERLY: Yes.

MRS. STEINBERG: Would you just show me where the Bypass is?

MR. SIPPERLY: Bypass is up here where my finger is.

MRS. STEINBERG: I see.

MR. SIPPERLY: Feura Bush is down here at the bottom.

MRS. STEINBERG: That means there would be nobody that would be too close even if you go to that triangle type thing... nobody would be too close to the Bypass.

MR. SIPPERLY: That's correct, there's probably about 600 to 800 feet of distance between our property and the Bypass.

MRS. STEINBERG: Then just tell me why is it cut up like that? Any particular reason?

SUPERVISOR FULLER: Power lines.

MR. SIPPERLY: It was cut up because the power line came through some years ago and divided the property because the north-south quadrant and Elsmere Avenue does the same thing.

MRS. STEINBERG: So some would be over on the north side and most of it on the south side, is that correct?

MR. SIPPERLY: Yes. Actually north and south running off the map so it will be on the east and west side of Elsmere Avenue.

MRS. STEINBERG: Now you mentioned something about there was somebody from Albany was over on one side.

MR. SIPPERLY: No, this is a vacant parcel of land that... on our very west boundary which is where the water line that goes to the City of Albany is located. It's just a vacant parcel of land and I mentioned Albany.

MRS. STEINBERG: Thank you.

MR. SOELLER: Hi. I'm Al Soeller. I'm not known for brevity but I will be. I just want to add my... I was going to say approval, I don't mean it that way. I believe this is the type of project that we need in Town. It's something that might keep folks, like myself, here. I've been here for about 40 years and I would love to stay in Town but I don't want to live in a house that's 4,000 square feet which is about what they are building now in Town. But, having said that, I have one suggestion for the Town and you talk about sidewalks and the possibility of bringing the sidewalk to the Bypass and that's all well and good. And, I'm a walker. I walk all over Town. What happens after the Bypass? You go past the... on Elsmere Avenue there... you can get killed there. I've walked that road and they're not terribly courteous to many people in terms of driving. And, I would like to suggest to the Town that if this does take place and if the sidewalks do go to the Bypass that somehow the Town could find a way in which to extend the sidewalk to the existing sidewalk on Elsmere Avenue which I think ends down somewhere around Merlin Drive.

SUPERVISOR FULLER: There is a proposal for Merlin right down... originally we were looking at going all the way to Feura Bush Road so developer has...

MR. SOELLER: You're well ahead of me. I will shut up.

SUPERVISOR FULLER: But we still don't have the money.

COUNCILMAN LENHARDT: Or the approval for all the right-of-way.

MR. JOHNSON: I'm Ron Johnson and what I'm looking at and what I don't see on there is sidewalks... since he was talking about sidewalks... in the development itself. Is there going to be any consideration of any sidewalks in the development itself? And, another thing I don't see on there is facilities for left turning lanes going into these driveways and allowing traffic to be able to bypass you while you are standing and waiting to get in. I think it's a very important factor that we should look at left turn lanes to allow traffic flow around when people are turning and making left turn lanes into these facilities. Elsmere Road is not a very wide road and it should be a serious consideration.

SUPERVISOR FULLER: Developers are right here to address your questions.

MR. ROSEN: The current proposal has the sidewalk along Elsmere Avenue where the major traffic, obviously, is within the development you really have so few homes within the development that you really just don't have the traffic requirements for sidewalks. It would be really not necessary within the development. As far as the turning into the drives from Elsmere Avenue, we have located the driveways into... from Elsmere Avenue as far away from Feura Bush Road as possible so you have the best traffic conditions along Elsmere Avenue and we've also done a traffic study and DOT has looked at the entrances and they do function adequately. There's only really a small period of time during rush hour where there's any problem at all. Normal time there isn't any problem and given the type of resident that we expect these are not typically people that are going to be tired to rush hour traffic to begin with. So, we really don't expect there to be any problem entering and exiting the project.

SUPERVISOR FULLER: The traffic study that you had done, does this address this question? You said DOT but...

MR. ROSEN: Yes, I did... we did a traffic study, Creighton Manning did the traffic study and looked at all the traffic patterns, as well as, the traffic car counts and concluded that there really is very minimal impact on this project and that the sight distances and the entrances are all satisfactory.

SUPERVISOR FULLER: Thank you. Is there anyone else who would like to address the Board? Wishing to speak in favor, questions, in opposition.

GENTLEMAN: We're probably in favor of it. Just had a question, what happens and who owns that shaded area surrounded by the green that's part of your... and what's going to happen to that in the future?

MR. ROSEN: That shaded area will be owned by a homeowners association and it will be available for people within the development to... you know, take walks and everything... it's essentially wooded area and to the far west of the project is the Dowerskill stream. And, that's a very nice area as well. So, that area is just left aside to be owned by a homeowners association and left in its natural state.

MRS. STEINBERG: I'd like to ask just one more question. Will there be from the house an exit to go into your back yard? Will there be much of a back yard? Will there be patios or anything like that?

MR. ROSEN: Well, if Dave wants to add anything about the homes but there will be exits certainly to the back to the rear of the homes. The homes are oriented that direction and there will be either decks or ... patios depending upon the particular... the particular home site selected. But these, as Dave mentioned, these homes will feature a lot of windows, a lot of open space within them and they will also be oriented to the rear of the home and give the resident very nice living environment.

SUPERVISOR FULLER: There is somebody in the back of the room that had their hand up? You need to come up to the mike so we can hear you number one and we need your name for the record, please.

MR. CEAS: Question. All right. Art Ceas. My question to you is that wetland area... are there any wetlands and if so, where are they located?

MR. ROSEN: The wetlands have all been delineated. They are interspersed with... basically, essentially within the open space area and there are... I think it's shown in the heavy shade... you want to show, Lynn, where it is.

MR. SIPPERLY: Yea, the wetlands were delineated... they're... the easterly most boundary was delineated and beyond that we didn't investigate any further because we said, well we'll stop the development at that point rather than try to impact wetlands to get to other upland areas which are further west of that. So, basically the area where we have the dark green is... at least in this instance here, is the limits of wetlands. All the wetlands would lie west of that. On the east side there is only a small probably about one-hundred of an acre of wetlands right at... right here at probably the... maybe 20 feet wide by about 30 feet long. That's proposed to be... actually in the rear yard, it can remain. Although we are proposing to fill in.

MR. ROSEN: I just add that this delineation of the wetlands has been confirmed by the Army Corps and DEC and we have...

SUPERVISOR FULLER: We have that on file.

MR. ROSEN: We have the permit which is on file, I think.

MR. CEAS: Just a few other things I would like to say against the project. My grandparents

LADY: We can't hear anything. We are not hearing anything.

MR. CEAS: My grandparents moved here to 686 Feura Bush Road back in 1952. My wife and I moved there 23 years ago. Since our arrival, we already have been transformed from farms and single families homes built along Feura Bush Road on an average of at least an acre of land to one of development after development on postage stamp pieces of land. As I understand the reason for zoning is to preserve the character of the neighborhood. In order to change zoning, I should have a good reason like financial hardship – I don't think that is the case here. Certainly the developer should be able to turn a profit by building single family homes instead of condos and then there would be no reason to rezone this parcel. Also, you would prevent setting a precedent that most certainly will be regretted later, past the point of no return. I have some personal experience dealing with this developer next to our property with the development of Haswell Farms. They will preach peaches and cream but bottom line, it is how many units can be squeeze into this parcel of land. In my opinion, this is the sole reason for requesting this zoning change. Do we really want another Chadwick Square? I have snow plow customers in Chadwick Square that you can't even push the snow off the driveway because there's not enough room.

These people have no regard for the people who surround their projects. When Haswell Farms was proposed, there was to be a 10 foot no cut zone to separate the project from existing tax paying homes. This no cut zone has since evaporated. Five years of noise and a constant parade of dump trucks, concrete trucks and construction equipment has taken its toll on our domestic tranquility to say nothing of the property damage. When grading started... I mean total devastation the ground water started flowing onto our property from the project causing more than \$40,000 worth of damage to our property. Most of our water problems were solved not by the developer but by the Town of Bethlehem by installing storm drain system complete with manholes and a tap for our cellar drains. All this at the cost of the taxpayers.

For 6 years I was on the committee for special education and am familiar with the overcrowding of the school system. There is soon going to be a need for major construction projects in order to keep up with the booming student population from all the new developments that the current zoning now allows. You will often hear that the Army Corps of Engineers gave us a permit. Truth is, the Army Corps of Engineers are so understaffed that they told me that they can't possibly send someone out unless at least 10 acres of wetland is being illegally filled in. They don't have the staff.

The Town of Bethlehem has a serious water problem to solve before we should consider any large building projects. The 14 million dollar water plant still doesn't work and it didn't solve the problem. This needs to be solved first... first things first. The Board must decide shall we save what is left of our country setting and water or let the developers turn it into another Clifton Park. Thank you.

SUPERVISOR FULLER: Thank you. Is there anyone else who would like to address the Board?

MR. JOHNSON: Ron Johnson. I didn't catch whether there was going to be any further consideration of more developments into the undeveloped areas later on down the road?

SUPERVISOR FULLER: Tonight what we are dealing with is simply one project and this is the project that is before us tonight. We're not dealing in what other development. This is the development for tonight, the public hearing is for a rezoning.

MR. JOHNSON: Well, I know what you are saying but if there's any possibility of any further development into those undeveloped areas, and that down the road...

SUPERVISOR FULLER: Are you talking about Mr. Rosen's development only?

MR. JOHNSON: Whoever you want... whoever's going to be in charge of developing. If there's any...

SUPERVISOR FULLER: Of this project itself.

MR. JOHNSON: ...consideration of it at all.

SUPERVISOR FULLER: Of this project?

MR. JOHNSON: Of this project.

SUPERVISOR FULLER: You can answer.

MR. ROSEN: Yes.

MR. JOHNSON: And, because I am opposed to the idea of not having left turning lanes for these driveways going into this project. I am really opposed to that. And, I mean, for the few bucks that would cost to make an extra lane for each one, and for the amount of money you are putting into this project and to say that the department has done surveys and done everything to say that it would not interact with the flow on Elsmere Road, I think we're being very foolish to set there and say it won't bother because you know it's going to bother. And, for the added cost that it would cost to put left turning lanes in to improve the flow of traffic around vehicles that are turning into these projects. I think we're being blindsided there and that's my, you know, opinion.

SUPERVISOR FULLER: Thank you. Is there anyone else who would like to address the Board?

MR. TROUT: My name is Michael Trout. I live in Selkirk. I have to agree with what Mr. Ceas said, I think this is a bad precedent in changing the zoning. I see no reason why the developer can't build what he wants under the existing zoning and I think the argument that change in zoning allows the developer to go to something the way he likes it is kind of a spurious argument. Otherwise, any developer could say the same thing about any project and then what's the point of any zoning at all. Thanks.

SUPERVISOR FULLER: Thank you.

MRS. ESTES: I'm Cindy Estes. I have been a resident in Bethlehem for over 30 years. I have a financial interest in this project in the standpoint I hope to be able to make that my home some day. I am speaking in favor of it because I have watched this Town change. Change in the last few years in ways I never expected. We're seeing development going up all over Town in any place that there is a vacant area that can be built on. Most of that building is single homes designed for larger families with really sizeable plots of land. There has not been any building for people such as myself, an empty nester. I have a home. I've been hanging onto it. I have looked in other areas in desperation to find a smaller place but my heart belongs to Delmar and Bethlehem. I also fell into The Michaels Group back in the early 1980s when they were building across the river. I came that close to buying at that point in time but decided, no, it wasn't the right move for me at that time and I have followed them all of these years from East Greenbush and Troy, up to Kingsbury... or Crown Point and Clifton Park and up in Queensbury and I have yet to find a developer and a builder who do a better job and care about their properties and put in quality and a well done manicured properly groomed piece of property.

And, for those in Town who are nervous about changing the zoning, I'm a little bit puzzled because we are not asking for a drop in the zoning to a lesser zoning, we're upgrading. To me that is a plus for the Town and I urge anyone who's not familiar with what Michaels builds to go up to Clifton Park, Summit Hill or up to Queensbury and take a look. It would be nothing but an asset and a very needed asset in this Town. Thank you.

SUPERVISOR FULLER: Thank you. Okay, is there anyone else wishing to speak? Okay, may I have a motion to...

COUNCILMAN DAVIS: Sheila, I have a question. Lee, I may have asked this earlier when you came before the Board with your proposal – a long time ago – are you planning on having any kind of recreational paths on the perimeter of your property? Many of these people, I think, like to walk and that's part of, I think, our lifestyle.

MR. ROSEN: At this point, that's not planned and that would be something the homeowners association would... could evolve to but essentially the land that is shown stripped on the map, is supposed to be left in its natural state. And, particularly, areas adjacent to the Dowerskill that would be... it would probably be better not to have much activity in that area. But, that land is suitable for natural trails to go through it and that can be done. But, primarily it's going to be undeveloped.

COUNCILMAN DAVIS: I guess that's the kind of thing that I was thinking of. That is sort of in the background.

MR. ROSEN: Yes, it's in the background but it's really intended to be undeveloped.

COUNCILMAN DAVIS: Okay, thank you.

SUPERVISOR FULLER: Thank you, Lee.

COUNCILMAN MARCELLE: And I ask a question of Lee?

SUPERVISOR FULLER: Sure, Lee.

COUNCILMAN MARCELLE: Lee, if I could bother you for one second. Just want to go over just a couple things. 1. Right now, tonight, all you are asking for is the zoning, we're not talking about whether we need left turning lanes... that's going to go back to the Planning Board for that type of thing, is that correct?

MR. ROSEN: Well, that is correct but we have... not to... not to look at the issue again... but we have looked at that issue and you know, that was addressed right up front. Now, if more issues need to be looked at in the design of the project, that certainly would occur with the Planning Board.

COUNCILMAN MARCELLE: And let me... also so I understand, the way that we are going to zone would... the zoning goes from currently a more dense to a less dense.

MR. ROSEN: Well, it's... we are at approximately the same density that is anticipated for that project under the current zoning. And, even the buildings themselves, on the west side of Elsmere Avenue that is zoned AB. That allows 2 family units, 2 units together. The only difference here is that you would have an owner... 2 owners, one owner of one side and one owner on the other side. Otherwise, we're perfectly consistent with what was planned for that site. So, the zoning here really is more of a legalistic change than any kind of change in use or the density or anything of that nature. So, we're really just providing for the 2 units to be owned by 2 separate people. That's essentially all we are doing here.

COUNCILMAN MARCELLE: Thank you.

SUPERVISOR FULLER: Any other questions from the Board? May I have a motion to close the public hearing.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to close the public hearing at 8:25 p.m. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.

Town Clerk

Supervisor Fuller noted the Board had before it a resolution for SEQR and a recommendation from the Planning Board and the draft local law. She asked for a motion with regard to the SEQR resolution.

TOWN BOARD
TOWN OF BETHLEHEM
SEQR RESOLUTION
DETERMINATION OF SIGNIFICANCE/NEGATIVE DECLARATION
APPLICATION TO ESTABLISH A PLANNED RESIDENCE DISTRICT
PLANNED RESIDENCE DISTRICT NO. 13
WALDENMAIER PLANNED RESIDENCE DISTRICT
ROSEN DEVELOPMENT COMPANY, INC.

WHEREAS, the Town Board of the Town of Bethlehem has received an application and Environmental Assessment Form (EAF) from Rosen Development Company, Inc. to establish a Planned Residence District (PRD) on 52.75 acres of land located along Elsmere Avenue (NYS Rt. 335) north of its intersection with Feura Bush Road (NYS Rt. 910A); and,

WHEREAS, establishment of the PRD would amend the current zoning district designation on the parcel from Residence A District and Residence AB District to Planned Residence District; and,

WHEREAS, Rosen Development Company, Inc. has submitted conceptual plans for further development of the District in the event that the zoning amendment is granted and said plans entail construction of a 92 unit attached single family-housing development; and,

WHEREAS, Chapter 128, Article 5 of the Code of the Town of Bethlehem contains procedures for the establishment of a Planned Residence District, and said procedures authorize the Town Board to establish such a District upon referral to, and recommendation of, the Town Planning Board; and,

WHEREAS, the State Environmental Quality Review Act (SEQR) regulations found at 6 NYCRR Part 617.3(a) require that no agency may undertake, fund or approve an action until it has complied with the requirements of SEQR; and,

WHEREAS, the "Memorandum of Understanding between the Town of Bethlehem Town Board and Planning Board for Planned Development Districts" (MOU), adopted by the Town Board on February 27, 1991, sets forth procedures for incorporating the requirements of SEQR with the requirements of Chapter 128, Article 5 of the Code of the Town of Bethlehem for the establishment of Planned Residence Districts; and,

WHEREAS, in accordance with the SEQR regulations at 6 NYCRR Part 617.6(a), the Town Board at its meeting of June 27, 2001: (1) determined that the PRD application constituted an "action" subject to SEQR; (2) identified other involved agencies for the purpose of coordinated review; (3) made a preliminary classification of the project as a Type 1 action; (4) required a full Environmental Assessment Form to assist the lead agency in its determination of significance; and (5) determined that the proposed action was located in a certified agricultural district and therefore subject to the provisions of the Agriculture and Markets Law; and,

WHEREAS, in accordance with the SEQR regulations at 6 NYCRR Part 617.6(b) the Town Board at its meeting of June 27, 2001 also initiated a coordinated review of the action, declared its desire and intent to be lead agency for SEQR review, and subsequently circulated the PRD application, full EAF and supporting materials to all involved agencies; and,

WHEREAS, in accordance with the procedures outlined in the MOU, the Town Board at its meeting of June 27, 2001 also referred the PRD application to the Planning Board for a recommendation on both the application and on a SEQR Determination of Significance; and,

WHEREAS, the Planning Board has reviewed and considered the PRD application, the full EAF and supporting materials submitted by the applicant, and comments on the application provided by the Town Planning Department and the Town Engineering Division; and,

WHEREAS, the Planning Board, satisfied that its identified areas of environmental concern have been adequately addressed by the applicant, adopted a Resolution at its meeting of March 5, 2002, and said Resolution recommends that the Town Board issue a SEQR Negative Declaration with respect to the application and approve the rezoning from Residence A District and Residence AB District to Planned Residence District; and,

WHEREAS, the Town Board has independently reviewed and considered the Planned Residence District application, the Full Environmental Assessment Form and supporting materials submitted by the applicant; and,

WHEREAS, supporting materials include, but are not limited to, a traffic study, Phase 1A/1B and Phase 2 Archeological Survey, and conceptual project plans for development of the site; and,

WHEREAS, the Town Board has concluded that the applicant has adequately addressed the identified areas of concern and will provide appropriate mitigation for the project;

NOW, THEREFORE, BE IT RESOLVED,
that the Town Board of the Town of Bethlehem hereby confirms that it is lead agency with respect to SEQR review of the Rosen Development Company, Inc. application to establish a Planned Residence District along Elsmere Avenue; and,

BE IT FURTHER RESOLVED,
that based upon its review of the PRD application, the full EAF and other supporting materials submitted by the applicant, the recommendations of the Town Planning Board, comments on the application submitted by the Town Planning Department, Town Engineering Division and involved agencies, its own independent analysis of the application, and comparison with the Criteria for Determining Significance found at 6 NYCRR Part 617.7, the Town Board hereby finds that approval of the Rosen Development Company, Inc. application to establish a Planned Residence District for the purpose of constructing 92 attached single family housing units constitutes an action which will not have a significant impact on the environment and, therefore, does not require preparation of a draft Environmental Impact Statement; and,

BE IT FURTHER RESOLVED,
that this Determination of Significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law; and,

BE IT FURTHER RESOLVED,
that this determination is made in reliance on review of an application indicating a specific land use and conceptual project proposal for the subject parcel, and consequently, is made premised on the following:

1. that future development of the parcel be undertaken in a manner that is substantially consistent with the Concept Plan which has been presented to the Town and relied upon in its deliberations on the zoning amendment; and,
2. that a time limit of three years be established, running from the date of enactment of the rezoning, for commencement of construction on the parcel,

and in the event that construction has not begun within said time period, that zoning of the parcel revert to its former designation, Residence A District and Residence AB District; and,

BE IT FURTHER RESOLVED,

that the Town Planning Department is hereby authorized and directed to file any and all appropriate notices of this determination so that the intent of this Resolution can be carried out; and,

BE IT FURTHER RESOLVED,

that this determination is based upon the following facts and conclusions:

A. Parcel and Project Description

1. The parcel proposed for rezoning from Residence A District and Residence AB District to Planned Residence District (PRD) is located along Elsmere Avenue (NYS Rt. 335) and consists of 52.75 acres of undeveloped land.
2. The zoning classification of surrounding properties and those in the immediate vicinity of the site are Residence A District, Residence AA District or Residence AB District. The Residence A and AA Districts are zoning districts intended primarily for single-family homes. The Residence AB District is also a residential zoning district, but allows up to four-family residential structures.
3. Existing land use in the vicinity of the project site can be characterized as a combination of vacant land, agricultural uses and single-family housing. A single-family residential subdivision is located west of the parcel. Vacant land and agricultural land is located to the east. Residential properties are located to the south. And residential and vacant land is located to the north.
4. The parcel itself consists of vacant land. Approximately, 10.8 acres has been recently farmed, 16.7 acres is forested, and 25.15 acres can be characterized as meadow or brush land.
5. Drainage from the site is tributary to Dowers Kill, an unprotected stream (Class C) that bisects the western portion of the parcel. The Dowers Kill flows in a generally southern direction and passes through a culvert under Feura Bush Road.
6. Generally, site topography is gently sloping on the eastern portion of the site where future development activity is proposed. In contrast, the western portion of the site consists of ravine area with steep slopes and floodplain along the Dowers Kill. The western portion of the parcel, however, will remain as undeveloped open space.
7. The applicant's stated intent in requesting a zoning amendment to Planned Residence District is to allow the construction of attached single-family housing in two unit structures with zero lot line development. Portions of the parcel would remain in common open space owned and managed by a homeowners association. This type of development cannot be attained under current zoning provisions in the Residence A or AB Districts.
8. Under existing zoning designations, the density provisions of the Town Zoning Code would permit a maximum of 177 dwelling units on the project site. However, when development constraints are considered, it is reasonable to expect that only 120 dwelling units could actually be developed.
9. Under the proposed PRD zoning classification, the maximum development density that can be obtained on that portion of the site with developable land area is 241 multi-family dwelling units.
10. Conceptual plans for development of the parcel indicate that if the zoning amendment is approved, the applicant would construct 92 attached single family housing units. This proposed density figure is below that which might reasonably be obtained under existing zoning, and significantly lower than that which might be obtained under the PRD classification.
11. Conceptual plans and the applicant's EAF indicate that project construction would impact approximately 30.21 acres of currently undeveloped land. This land would be converted to parking, building and lawn area. Included in this impacted area is approximately 0.35 acres of federal regulatory wetland, which would be filled as a result of project construction.
12. Conceptual plans and the applicant's EAF indicate that upon project completion, approximately 22.54 acres of the site would remain undeveloped. This would include approximately 9.5 acres of forested land, 14.15 acres of meadow or brushland and 0.1 acres of water surface area.
13. Conceptual plans indicate that provisions will be made for storm sewers, water supply, sanitary sewage disposal, and landscaping.

14. The project site is located in both the Town water and sewer districts. Both services are available to the parcel.
 15. Access to the site would be provided from three points along Elsmere Avenue. Elsmere Avenue (NYS Rt. 335) is a State highway that functions as a collector street through this area of Town.
 16. The Planning Board in this Resolution has recommended that certain conditions be attached to rezoning of the parcel to PRD. The purpose of these conditions is to allow the proposed development concept to proceed, while at the same time limiting the potential density of the development to a unit total that is generally consistent with the proposed concept plan.
- B. Evaluation of Potential Environmental Impacts**
1. The project will not have a significant or long-term adverse effect on existing air quality. The nature of the proposed land use is such that it will not produce industrial related air emissions, nor will it result in the generation of significant traffic that might contribute measurably to auto related emissions. Any potential impacts to air quality which may result from the project are expected to be construction related (i.e., dust), of short-term duration and minor impact. Impacts will be minimized by employing good site development practices and by implementation of an erosion control plan to be developed at the time of application for Building Project Approval.
 2. The project will not have a significant or long-term adverse effect on ground or surface water quality. The project site is not located over a significant aquifer, nor is the site located adjacent to, or in the immediate vicinity of a protected stream (Class C (T) or higher).
 3. Although the site is not located in the vicinity of a protected stream, it does lie proximate to the Dowers Kill. As with most development activity, site construction has some potential to impact this water body in terms of runoff from construction activity (e.g., erosion, stream siltation and sedimentation). These impacts will be mitigated, however, by implementation of an erosion control plan to be developed at the time of application for Building Project Approval.
 4. The project will not have a significant adverse effect on wetland resources. There are no State regulated wetlands in the vicinity of the project site. Although 0.72 acres of federal wetlands have been delineated on the project site, only 0.35 acres of such wetlands will be filled as a result of project construction. The applicant will secure any necessary permits for such fill activity from the U.S. Army Corps of Engineers and will obtain Water Quality Certification from the NYS Department of Environmental Conservation.
 5. The project will not have a significant or long-term adverse effect on existing noise levels in the vicinity of the project site. The land use does not involve the operation of heavy machinery or other activity that would produce a noticeable increase in outdoor noise levels. Any increases in such noise level would be construction related and of short-term duration. To minimize any such impacts, the applicant proposes to limit hours of construction on the project site to normal business hours of construction.
 6. The project will not result in a substantial increase in solid waste production. The project would entail the construction of only 92 dwelling units.
 7. The project will not result in a substantial increase in traffic volumes or create traffic congestion on area roadways. The traffic study prepared for the project indicates that during the weekday p.m. peak hour the project would generate only 57+/- additional vehicle trips on the adjacent street system. During the weekday a.m. peak hour, 48 additional vehicle trips are projected. According to the traffic study, intersections and roadways in the vicinity of the project site have sufficient capacity to accommodate these additional trips.
 8. Intersection capacity analysis was performed for the intersections of NYS 335/NYS 32 and NYS 335/NYS 910A. The analysis indicates that level-of-service at these intersections would not be diminished by project development. In addition, all approaches to the intersections would continue to operate at LOS D or better during both a.m. and p.m. peak hours. Communication received from the NYS Department of Transportation concurs with the findings of the traffic study.
 9. The above referenced traffic study identifies certain site distance deficiencies at proposed roadways B and C where said roadways intersect with NYS Rt. 335. The study indicates, however, that these deficiencies will

be corrected by removal of selected vegetation along the right-of-way of Rt. 335.

10. The project will not have a traffic impact on local neighborhood residential streets. Access to the site would come from Elsmere Avenue, a State highway and collector street in Town.

11. A limited number of residential structures shown on the development concept plan are located on or adjacent to steep slopes (up to 30% grade) that form a ravine down to the floodplain of the Dowers Kill. Soils along these ravines consist of Hudson silt loams that may be susceptible to slumps or landslide when found on areas of steep slopes. Potential slope stability issues associated with development in these areas will be mitigated by the preparation of a geotechnical study/soil study for the affected building lots. The study will establish development criteria and or limitations for said lots, and will be prepared prior to the issuance of final approvals for the project.

12. The project will not have a significant adverse impact on vegetation or wildlife resources. Communications received from NYS Department of Environmental Conservation and the U.S. Fish and Wildlife Service, and review of the Town's environmental inventory files, indicates that the project site does not contain any known occurrence of a threatened or endangered species, significant habitat area, or any unique habitat characteristic that is associated with such species.

13. Review of the Town's environmental inventory files indicates the project site does not contain any designated Critical Environmental Area.

14. Project development would result in the removal of approximately 19.4 acres of vegetation from the site. Approximately, 23.65 acres of existing vegetation would be maintained.

15. The project will not have a significant adverse impact on agricultural resources. Although the project site lies within an Agricultural District, only 10.8 acres of the site has been recently farmed (cultivated field). According to the project applicant, agricultural activity on the site is not self-supporting and can be easily duplicated elsewhere in the area.

16. The project will not have a significant adverse impact on archeological resources. A Phase 1A/1B and Phase 2 Archeological Survey was prepared for the project site. The study identified three prehistoric archeological sites on the parcel. The study concludes that two of the sites have limited ability to produce additional information important to the study of pre-history.

17. The third site was identified as having potential to meet the criteria for listing in the State and National Registers of Historic Places. The study recommends that the site be avoided by construction activity, or that a Phase 3 data retrieval program be developed if the site cannot be avoided.

18. Communication received from the NYS Office of Parks, Recreation and Historic Preservation indicates the Agency's opinion that the third site does indeed meet the criteria for State and National Register listing. NYSOPRHP recommends that if the site cannot be avoided that data retrieval excavations should be conducted in order to mitigate project impacts. The agency also recommends that as part of Phase 3 work, additional surface collection should occur in the vicinity of the other two sites.

19. In order to mitigate project impacts on archeological resources the applicant will undertake the necessary Phase 3 work as recommended by NYSOPRHP and coordinate such efforts with the agency.

20. The project will not have an adverse impact on historic properties. Although review of the "Reconnaissance Level Survey of the Town of Bethlehem", prepared by NYSOPRHP for the Town in 1996, indicates there is a structure located immediately south of the project site that may have historic value, recent communication from the agency indicates that the agency has no concerns regarding historic buildings/structures/districts within the project area.

21. The project will not have a significant adverse impact on scenic resources. No significant scenic resources exist in proximity to the project site.

22. The proposed project will not have a significant adverse impact on visual resources in the project area. In order to minimize the visual impact of the project from the adjacent highway system, the applicant is proposing to install landscaping and berming adjacent to the public right-of-way. A detailed planting plan will be required from the applicant and reviewed as part of the Building Project Application for the project.

23. The proposed project will not have a significant adverse impact on existing neighborhood or community character. Although the project site is currently undeveloped, it is zoned for residential development, including the construction of up to four-family residential structures. The proposed rezoning and concept plan for subsequent development of the parcel, indicates that the proposed density for the site is below what might otherwise be accomplished under existing zoning.

24. The nature of the proposed land use is such that it will not result in a major change in the use of energy or create a hazard to human health.

25. The project will not have a significant adverse impact on open space resources. Project development would convert 29.1 acres of undeveloped land to urban use in an urbanizing area of the Town. Approximately, 23.75 acres would remain undeveloped.

26. Review of the site in the field and with available environmental data revealed no other environmentally sensitive characteristic of the parcel, or issues that have not been addressed, or areas requiring further study.

On a motion by Mrs. Davis, seconded by Mr. Lenhardt, and a vote of 5 for and 0 against, and 0 absent, this RESOLUTION was adopted on April 10, 2002.

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Supervisor Fuller said next is the local law changing the zoning for premises Elsmere Avenue and Feura Bush Road.

The motion was made by Mrs. Davis and seconded by Mr. Marcelle to approve the adoption of Local Law No. 3 of 2002 Establishing "Planned Residence District No. 13" and Amending the "Zoning Map, Town of Bethlehem, Albany County, New York" by Changing the Zoning District Designation of Certain Lands from Residence A District and Residence AB District to Planned Residence District. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

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Supervisor Fuller said the next step is to now submit the Building Project Application and that comes back to the Town Board. She thanked Mr. Rosen, Mr. Michaels and Mr. Sipperly and mentioned that many people in the community have not only been supportive of the project from day 1 when they first heard about it but it is a need for this community and it is time that we are able to provide this type of living to keep the residents in Bethlehem. She wished them good luck.

Councilman Lenhardt added that as said at the last presentation, tonight's the first time he has heard anyone opposed to this project. He said from day 1, he has only heard people say why does it take so long, why are you holding this project up. He said it is process that the State and the law mandates that the Board go through that causes this to take this amount of time. He wished them good luck.

Mr. Rosen, Mr. Michaels and Mr. Sipperly thanked the Board.

The next item was to consider adoption of a resolution to enter into an agreement with Town of New Scotland regarding Colman property on Font Grove Road, Slingerlands. Supervisor Fuller said Mr. DeAngelis is the attorney representing Dr. and Mrs. Colman.

Mr. DeAngelis said he represents Dr. Neil Colman and Beverly Colman, his wife, residing at Upper Font Grove Road in Slingerlands. He said they have lived there about 23 years. He said they have some 27 acres of land, part of which is in the Town of New Scotland and part of which is in the Town of Bethlehem. Mr. DeAngelis said they are asking that the part of the land in the Town of Bethlehem be taxed in the Town of Bethlehem. He said presently it is taxed in the Town of New Scotland. A map was exhibited and the location of the property indicated for

clarification. He explained that at this time Dr. and Mrs. Colman would like to give a piece of land to their daughter and son-in-law to build a house. When Commissioner of Public Works, Bruce Secor, was contacted regarding municipal services, the Colmans were advised that he could not provide services to properties taxed outside of the Town of Bethlehem.

Mr. DeAngelis said for some reason in the past this parcel was entirely taxed by the Town of New Scotland. He further explained this was not unusual among assessors. He said normally is a smaller piece of land involved in this type of situation. He said this is unusual because it is 9 acres of land. For simplicity purposes, Mr. DeAngelis noted when this happens and the piece is small a lot of times it is taxed by one municipality.

Mr. DeAngelis said this has been reviewed with Assessor, M. David Leafer, and he has no problem with this. He noted the tax map in the Assessor's office agrees with the line and he has signed off on it. He said the Town of New Scotland has been advised of this and their Tax Assessor has also signed off on it. A letter was presented to the Town Board from the New Scotland Tax Assessor by Mr. DeAngelis.

Mr. DeAngelis said under the Real Property Tax Law, they must go through both Town Boards and both Tax Assessors. He said Mr. Leafer has already signed the agreement and there is a need for the Town Board to approve this and then it will be presented to the Town of New Scotland.

Mr. DeAngelis noted the Town of New Scotland will not reduce the taxes for Dr. and Mrs. Colman. Councilman Davis said the Colmans will end up paying taxes on that 9 acres twice. Mr. DeAngelis said no but if you want to say that they are already taxed on it, that would be true. He said they have been there for 23 years and have Town water.

Councilman Lenhardt asked what the dotted line on the map represented. Mr. DeAngelis said that is the 2 pieces that were purchased, one in 1979 and the other in 1985.

The following resolution was presented.

At a Meeting of the Town
Board of the Town of
Bethlehem held at the
Town Hall, Delmar, New
York on the 10th day of
April, 2002

PRESENT: COUNCILMAN GEORGE LENHARDT
COUNCILMAN DANIEL PLUMMER
COUNCILMAN THOMAS MARCELLE
COUNCILWOMAN DORIS DAVIS
SUPERVISOR SHEILA FULLER
ABSENT: NONE

The meeting was called to order by SUPERVISOR FULLER.

COUNCILMAN LENHARDT moved the following resolution which was seconded by COUNCILMAN MARCELLE:

WHEREAS, the Town Board of the Town of Bethlehem has heretofore created the Bethlehem Water District; and

WHEREAS, the Town Board has entered into an Agreement with the Town of New Scotland, a copy of which Agreement is annexed hereto.

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor of the Town of Bethlehem be and she is authorized to execute the annexed Agreement on behalf of the Town of Bethlehem.

The adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

AYES: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
NOES: None.

The following item was a request from Director, Karen Pellettier, Senior Citizens Services, for acceptance of a gift in memory of Marie M. Peters. The Supervisor noted Mrs. Peters was a frequent senior transportation passenger and asked that the bequest be used toward the senior transportation service.

The motion was made by Mrs. Davis and seconded by Mr. Marcelle to accept a \$5,000 check to be used for senior transportation vehicle replacement from the estate of Marie M. Peters. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.

The next item was a request from Bruce Secor, Commissioner of Public Works, for approval to go to bid for repairs to Town Hall Lower Roof area. Supervisor Fuller said the advertisement would appear in the April 17, 2002 issue of the Spotlight and bid opening be at 3:15 p.m. on May 1, 2002.

The following resolution was offered by Mr. Lenhardt and seconded by Mrs Davis:

WHEREAS, the Town desires to advertise for bids for the repairs to the Town Hall Lower Roof area, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 17th day of April, 2002 and that bids be received up to 3:15 p.m. on the 1st day of May, 2002 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.

The next item was a request from Commissioner of Public Works, Bruce Secor, for approval to go to bid for repairs to clarifier media retainers located at the Clapper Road Water Purification Plant.

The following resolution was offered by Mr. Marcelle and seconded by Mr. Lenhardt:

WHEREAS, the Town desires to advertise for bids for the repairs to clarifier media retainers located at the Clapper Road Water Purification Plant, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for

such bids in THE SPOTLIGHT issue on the 17th day of April, 2002 and that bids be received up to 3:00 p.m. on the 1st day of May, 2002 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.

The following item was a request from Michael Cirillo, Engineering Services Administrator, for acceptance of general purpose easement for Glenmont Manor Apartments, Route 9W, Glenmont.

The motion was made by Mr. Marcelle and seconded by Mr. Lenhardt to approve the acceptance of a general purpose easement from Carmelo Crisafulli, Jr. and Helen J. Crisafulli, Delmar, New York for Glenmont Manor Apartments, Route 9W, Glenmont as requested by Engineering Services Administrator, Michael Cirillo. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.

The next item was a request from Nan Lanahan, Administrator, Department of Parks and Recreation, for approval of appointment of seasonal personnel.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve the appointment of seasonal personnel as per the Memorandum dated April 10, 2002 from Nan Lanahan, Administrator, Department of Parks and Recreation, at the titles and salaries listed. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.

The next item was a request from Comptroller, Judith Kehoe, for consideration of adoption of Revenue Recognition Policy. Supervisor Fuller asked Mrs. Kehoe to give information on the item. Mrs. Kehoe said in accounting rules there are choices as to which methods are used. She said she was asking for the Board to make an election on one of the choices. She said the 60 day recognition period such that if a receivable at the end of the year, it will be considered as revenue in that year if it is collected within 60 days of the year end.

The motion was made by Mrs. Davis and seconded by Mr. Marcelle to adopt the Revenue Recognition Policy as requested by Comptroller, Judith Kehoe. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Ms. Davis, Mr. Lenhardt, Mr. Plummer.
Noes: None.

The next item was a request from Judith Kehoe, Comptroller, for approval of designation of a portion of General Fund's Fund Balance. Mrs. Kehoe said this item and the next item relate to have the financial information as presented within the financial report. She said this one relates to the General Fund. She used the previous bequest gift and noted these are the types of funds that this relates to. She said these were reported in the trust and agency funds which is a separate fund. She said in talking with the auditors they are recommending that they are reported within the General Fund but in order to show them as not available for other general budgetary expenditures, it would be a carve out of the fund balance. She

said the cash would be reported in the General Fund and then a portion of the fund balance designated for these restricted gifts.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the designation of a portion of the General Fund's Fund Balance. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.

The next item was a request from Comptroller, Judith Kehoe, for approval of designation of a portion of Sewer Fund's Fund Balance.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the designation of a portion of Sewer Fund's Fund Balance. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.

The next item was a request from Building Inspector, Kevin Shea, for approval of construction trailer permit for P.S.E.G., River Road (Route 144), Glenmont. Supervisor Fuller said this was formerly known as the Niagara Mohawk Steam Plant. She said this is a sign of progress.

Building Inspector Kevin Shea said this is the permitting process for trailers outside of a trailer park. He said this is a normal request. He said there are 2 locations for the trailers. Mr. Shea noted during this large renovation, there will be 10 trailers and 20 trailers in another location. He said the trailers are basically interconnected between the specialty people in regards to the technology. He said he tried to wrap it up into 2 locations which they are pleased with. The said the duration is a little longer than normal. He said the trailers will be removed with the completion of the project which is between 3 and 5 years.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve the issuance of a construction trailer permit for P.S.E.G. for a period of between 3 and 5 years to permit renovation to the former Niagara Mohawk Steam Plant location, River Road (Route 144), Glenmont. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.

The next item was a request from Building Inspector, Kevin Shea, for approval of a dumping permit (clean fill) for premises 191 River Road, Glenmont. Mr. Shea noted this was for clean fill and has been in review since last October. He said notification of adjacent landowners has been done. He said there are recommendations from the Engineering Division, noting there are a few more in here because there are more items to be dealt with in regard to the gas line. He said the Corps of Engineers, as well as, State and Federal wetlands were consulted.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to approve the issuance of a dumping permit for clean fill for premises 191 River Road (Route 144), Glenmont, New York with stipulations as indicated by the Engineering Division, Department of Public Works, as requested by Kevin Shea, Building Inspector. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.

The next item was to consider a recommendation from the Planning Board regarding rezoning of premises Meyers Funeral Home, Delaware Avenue, Delmar. Supervisor Fuller noted the day before around 4 p.m. Mr. Meyers arrived at her office with a letter from his attorney requesting this item be adjourned for a period of 30 days to enable them to prepare a presentation for Mr. Meyers. She said in this event, this item will not be on the agenda.

The next item was to acknowledge receipt of the Annual Report of 2001 from Receiver of Taxes, Nancy Mendick.

The motion was made by Mr. Marcelle and seconded by Mr. Lenhardt to accept the 2001 Annual Report from the Receiver of Taxes. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, MR. Plummer, Mr. Marcelle.
Noes: None.

Supervisor Fuller asked if anyone wished to address the Board. Mrs. Marie Capone, resident, said she read in the Spotlight that the dollies are coming back in the middle of the road. She said they have multiplied during the winter. She said she thinks it is very inconsiderate of the Board to put them in the middle of Delaware at the corner of Roweland. She said it is terrible for the Fire Department and the ambulance people. She said if there is an accident she would push with all she has for the people to sue the Board, the Town, go for the throat, get Dan Santola.

Supervisor Fuller said the stanchions that go up in the middle of the road in the spring and summer noting she did not know if anyone has noticed them by the post office and there is one outside here at the crosswalk. She said there are 12 of these that will be placed around Town and mainly it is an awareness for pedestrian safety but really to get the drivers attention that this is a crosswalk and they should be stopping at crosswalks. So, she explained, it is really a public awareness, education, enforcement, police, fire, ambulance, school buses – you know, this is not new to them. They knew this was taking place, according to Supervisor Fuller, and Delaware Avenue is a State highway and it was done with their cooperation as well.

Ms. Capone said she does a lot of walking and she thinks they are dangerous because the cars go up onto the shoulder of the road to avoid the stanchion. She said she has nearly been hit 3 times at this corner. She said she has also seen a woman with a stroller nearly get hit because an SUV has a hard time getting around it. Mention was also made that people are afraid to stop because they might be rear-ended.

Supervisor Fuller gave an update on the water. She said the Vly Creek reservoir elevation has come up some. She said we have moved out of the emergency stage and are now in the warning stage. She said while it is good news, the reservoir needs to continue to refill at least another 5 to 8 feet before the draught can be declared behind us. She said the restrictions still remain in place despite 2 inches of rain that we did get. She said the end of March and beginning of April has not eliminated the need to conserve water.

Mr. Ron Johnson, resident, said it is probably of little consideration to him but he can hear what is being said and he said on this other project about the turning lanes. He said back in 1995, he argued with the Board about the water plant and everybody said the engineers knew what they were doing, trust the engineers. He said he was over the water plant on Tuesday and took a tour to see

what was going on. He said he hears the same thing, the engineers know what they are doing, trust them as long as we get the water we can treat it but we have to get the water first. He said they are not able to get the water because nobody would listen to the Town's people. He said he is very upset over this situation and has been for many years. He said the quantity will never be produced at the plant unless the pipe remains in the open river.

Mr. Johnson said the engineers and developers have proven that they are not to be trusted and they are not in the public interest. He said they are only interested in their own interest to make money out of the projects.

Mr. Johnson said the people are concerned about these stanchions and why can't this be looked at and put suspended signs up or something. He said he was very upset with Councilman Lenhardt's remarks about that's why you get driver's licenses. He said that is only showing him supreme ignorance in the face of the Town's people. He said the Town Board does not care about what the people feel.

Mr. Johnson made additional comments regarding the Selkirk Cogen plant and the water situation which should have held up the building of the plant until a water supply was secured. Supervisor Fuller said they have been involved in the Town process and this development has been here. She said it is in the Water District, there is no district being added to accommodate this plant. Mr. Johnson said the Town still has to supply these places with water. He said now there is a proposal to build the Town Center and asked where the water was coming from. He further noted the Town Board, developers and now the engineers have fallen flat on their face. He said he would like to ask what is being brought out to the people about this situation on Clapper Road. He said he understands there are bankruptcies, which the money may never be gotten for.

Supervisor Fuller asked Mr. Johnson to be real, noting that she has met with him on several occasions and she has given all the information and all the truthful information. She said he needs to be reminded that this was a subject of litigation which he did know and is aware of. She further said he knows it is an entirely new company that took over the Rust company. She noted this company is new called Earth Tech. Mr. Johnson said he knew that. Supervisor Fuller said they will be at the next meeting for the public hearing. She said no one has ever mentioned Clapper Road plant going bankrupt. She said that is not an accurate statement.

Mr. Johnson said the Town Board integrity is on a very low scale right now with the Town people. Supervisor Fuller said she would hope not.

Councilman Lenhardt asked when the next meeting was schedule for the Pedestrian Committee. Supervisor Fuller noted it was April 26, 2002. Councilman Lenhardt asked it would be possible to invite Mr. Johnson to participate in that meeting. Supervisor Fuller said sure. Mr. Lenhardt said he was going to note for Mrs. Capone, that he was going to be prepared to bring her concerns back to the committee. He said they also have statistics and the last campaign with the stanchions. He said as he eluded to in his comments, the improvement was as significant as he would have thought they were. Supervisor Fuller said the meeting was scheduled for April 26 at 8 a.m. and noted it is usually in room 106 at the end of the hallway.

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Supervisor Fuller asked if anyone else wished to address the Board. Ms. Capone noted she did not think a stanchion was going to prevent drive inattentiveness. Councilman Lenhardt said he does not think anything can change that. Ms. Capone said if there was a problem with speed, get another cop.

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The motion was made by Mr. Marcelle and seconded by Mr. Lenhardt to adjourn the regular Town Board meeting at 9:15 p.m. The motion was carried by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.
Absent: None.

Town Clerk