

TOWN BOARD  
JUNE 23, 1999

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  
Robert C. Johnson, Councilman  
Susan Burns, Councilman  
Kathleen A. Newkirk, Town Clerk  
Bernard Kaplowitz, Esq., Town Attorney

SUPERVISOR FULLER: Good evening and welcome to the Town Board. Would ask all of you to join us in the pledge of allegiance.

Okay, the first item on tonight's agenda is a public hearing to begin at 7:30. I would ask the Clerk to read the call of the hearing.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING  
TOWN OF BETHLEHEM

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on June 23, 1999 at 7:30 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider proposed Local Law No. 5 of 1999, concerning rezoning of property to Planned Commercial District for premises at 1240 New Scotland Road, Slingerlands.

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 David Austin at 439-4131. Advanced notice is requested.

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

Public Hearing  
rezoning  
Planned  
Commercial  
District  
for premises  
at 1240 New  
Scotland Road  
First Columbia  
Medical Center

This was published in the Times Union on June the 12th. The notice was also published in the Spotlight on the 16th of June.

State of New York)  
County of Albany )

JAIMIE WILLIAMS of the Town of Bethlehem, being duly sworn, says that she is the Classified Manager of 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 16 day of June 1999.

/s/ Jaimie Williams

Sworn to before me this 16th day of June 1999.  
/s/ Kathryn Olsen  
Notary Public, Albany County

STATE OF NEW YORK)  
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 June 16, 1999 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 23rd day of June, 1999.  
/s/ Catherine T. Picarazzi  
Notary Public

- - -

The motion was made by Ms. Burns 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. Johnson,  
Ms. Burns.  
Noes: None.

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SUPERVISOR FULLER: With us here tonight is Mr. Kevin Bette who will do a presentation for the community and Town Board.

MR. BETTE: Good evening, everyone. Kevin Bette, First Columbia, we are the proposers here for the zoning for a Planned Commercial District but more specifically to build a medical office building on a 16 acre parcel of land at the north end of the Town along New Scotland Road that borders the Normanskill Creek. We've been before the Town before for their preliminary plan. Since that time, we were referred to the Planning Board for a detailed review of site considerations and not much has changed through the process. A few minor things I can point out to the Town Board that we have updated since then. We have the conservation buffer that remains 3.85 acre portion of the site. The building footprint is roughly 40,000 square foot for the first 20,000. It's a story and a half building with... has great access on both sides of the building which is important for a medical building. The parking area was reduced slightly and we have provided 220 parking spaces from what we had originally proposed due to the Planning Board's recommendations. But, what we have done is reserved 32 spaces along this side of the parking lot that could be installed depending on the demand of the facility. We had asked for parking ratio that was in excess of what the Town requirements were because we feel for a medical building it's important to have plenty of adequate parking for the peak hour periods of inpatient. But, just to try to temper that, we don't want to have a sea of asphalt out there so we took a portion, little over probably about 15 percent of the spaces to set aside. We put the sub-base down, top soil over the top of that and grass and regraded for paved area would be very easy for us to... if we needed additional parking for this facility to pace those spaces. Those spaces were originally going to be dedicated for employees of the building so that we could keep the areas in front of the main entrances available for patient parking.

Other than that, there are a few minor site adjustments. In working with the Planning Board, so the site plan remains pretty much the same. To update you on a couple of the issues that don't appear on the plan that you probably would be... they're probably important to you. We took a lot of time taking a look at the traffic situation here at this site and we did some updated traffic reports for the Planning Board. The good thing about this project, actually our previous location was... DOT is well aware of the situation out here in ... We've been trying to relate to the community and the Board the activities DOT is undertaking to extend Route 85 up behind Price Chopper. That work is ongoing. The first stage of that the bridge replacement over the Normanskill which would be parallel to this but on Route 85, is scheduled to be let, I believe, this summer. So, that bridge will be replaced and that is the first phase of that road improvement program. The balance of the road improvement program to extend the highway behind Price Chopper is being designed right now by D.O.T.'s consultants. It's on their work program to be constructed in the near future and I think that we have been very sensitive to the traffic issues and trying to work with everyone as far as how to site the building without negatively impacting the traffic. And, I think we have done that. We did a study here, being it's just north of the heavy intersection at New Scotland and

85 and through the traffic patterns of the medical building, I think we're able to demonstrate to the Planning Board that we're not going to have any more negative impact here on traffic. And, we also did an updated study to make sure that the traffic will be able to get out on Route 85 during the afternoon peak hour period of gaps in the traffic. So, we did the little traffic analysis. And, we were told that the traffic situation is held as well as possible with this particular point.

In addition to traffic, we had agreed to engage an archeologist to follow-up with the original Terramere archeological study which indicated an area someplace in here that they had recommended doing additional digs on this to try to reclaim any artifacts they may find in that area. That work is going on right now by Ed Kirk who is an archeologist. They have a series of square test digs that they go down about 8 inches and they sift through the material to try to recover whatever artifacts they may find. I was out talking to them the other day. They found, I think they called them, projectile points. I said is that an arrow head and he said yes. And then they found a couple other things like that. So, we were going to try to... we're going to finish that up probably in a couple weeks and we will reclaim whatever they find in that area, depending on the significance, we had felt that we might put some of the stuff in the building if they find anything that's interesting. They are digging away right now and that will fulfill the requirements that SHIPO or the State Historic Preservation Office has on the project as part of this. Our duties are to in that area reclaim those materials, document that for history. So, that will be complete shortly.

I think both the water and sewer storm water issues were addressed at the Planning Board and the Town Engineers. The architects... we've been working on the architecture of the building. We have Keystone Architects from Delmar working with us on the details of the building design. This is generally the elevation design that we were planning right now. This would be the north elevation of the building and this is down here, it's 2 stories high. We're trying to design something that is a modern medical building type of look to incorporate some of the features that work within the core plan of the building. There is a need for some additional exits for the building and we have these areas recessed and we will have some walkways coming into the building at those points. The front rendering with the blueprint elevations is kind of hard to tell what it's going to look like but this would be the north elevation. The sides because there is a slope would be on an angle. We'll have windows continuing down as far as we can on the east and west elevations. The south elevation would be single story reflecting the same type of design. Hard to pick-up in these plans but this center portion of glass arches out slightly and the door arches back in slightly so we are trying to create a little bit of a feature with the type of glass that we are incorporating ... be it tinted architectural glass, dark... mullions around the windows and be an all brick facility. As I referred to it, class A metro building.

SUPERVISOR FULLER: And, we do have the definition of that now.

MR. BETTE: Yes. I think that's pretty much the update. I'd be happy to answer any questions any of the Members of the Board may have. Thank you.

SUPERVISOR FULLER: Members of the Board we can start with.

MR. LENHARDT: Mr. Bette, I just have one question. In the resolution given us by the Planning Board, there's a condition that's states limiting future land use at the site to office use and related accessory uses. Can you describe or maybe a Member of the Planning Board can describe what related accessory uses might be.

MR. BETTE: Well, I guess underneath the Planned Commercial District I guess there is a much broader occupancy use than we had intended ourselves. We had agreed in addition to the zoning requirements to dedicate the use of the property to health care and health related services and what we mean by health related services, there may be the American Cancer Society, or business office of the hospital or some other things that related to health care that may end up in the

building -- predominately St. Peter's Hospital's primary care practices will be in the entire first floor and the second floor we have a number of specialists. Our intention is that it is a medical building. We don't want to have mixed tenancies in an office building because the parking utilization is quite different and the ... elevation is quite different. So, we'd like just to be a medical building. So, when the Planning Board had brought up would we be willing to restrict the use, we said sure. We don't really have any intentions of turning this into just an office building so that must be the language that got attached to this recommendation.

COUNCILMAN DAVIS: Mr. Bette?

MR. BETTE: Yes.

COUNCILMAN DAVIS: Did you have any other questions, George?

COUNCILMAN LENHARDT: No.

COUNCILMAN DAVIS: I think I've asked this question before -- I know I have but I will ask it again. Have you determined what the estimated taxes on this parcel will be for the Town?

MR. BETTE: We, of course, don't do the assessment...

COUNCILMAN DAVIS: Right.

MR. BETTE: But, Mr. Leafer, your assessor...

COUNCILMAN DAVIS: Right, have you spoken with him?

MR. BETTE: We have talked to Dave.

COUNCILMAN DAVIS: Yes.

MR. BETTE: He has... we think the taxes...

COUNCILMAN DAVIS: Roughly... roughly...

MR. BETTE: They are going to end up being around \$70,000 a year or somewhere around there.

COUNCILMAN DAVIS: Okay.

MR. BETTE: But, depending on the final assessment that is determined by the Town for it, we have had 2 or 3 discussions.

COUNCILMAN DAVIS: Okay, good, thank you. And, thank you for doing this. How many parking spaces do you anticipate roughly for employees? I know that may be difficult for you to answer not knowing exactly what offices will be there but can you guesstimate that?

MR. BETTE: Yes, there will probably be a need for on the order of 80 to 90 parking spaces for employees. They, of course, work on some different shifts. There will be more employees than that so that is generally what we are planning.

COUNCILMAN DAVIS: And, if you are not going to be building all of the parking spaces that you initially had planned, where will you be putting the employees because of the change in your original estimate?

MR. BETTE: Well, that's a good question. We have still probably a 20 parking space lot on the side here. We would simply ask the employees to park on the further... tenants of this upper floor probably use along this line but the lower floor along here. And, that's just... that's actually common in a medical building because the employees like to leave those spaces close to the doors.

We're not going to assign them. We're just... you know, tenants are really pretty good in a medical building about parking where they are supposed to but there won't be signs all over the place.

COUNCILMAN DAVIS: Right, okay. I just assumed that but I just wondered generally how many there were and where they... because you aren't going to be building them all, where they were going to go. How long... I was at the Planning Board meeting where you discussed your new arrangement with not developing all of the parking spaces initially as a result of request of the Planning Board. And, you were very receptive to that idea and there was no problem with that. How long and how disruptive will it be to develop those parking spaces once your facility is in operation?

MR. BETTE: Yes, well, I think that, you know... we were able to come up with actually a very good plan for handling it. The problem with going back later on and adding parking spaces is that you... you interfere with all the drainage calculations and all the gradings and landscaping that you have done. By doing it here, we accomplish one very important thing which is provide additional 18 feet green space in between the road and where the parking lot starts. Because that area will just have a grass surface on it, we're going to put top soil right on top of the gravel sub-base would be. All we would have to do is scrape away the top soil in the parking area and pave one strip of pavement, one roller, if you will. You'll have 1 seam, it will be... they'll be able to do that in a morning on a weekend because of the way we planned it.

COUNCILMAN DAVIS: Okay.

MR. BETTE: And, it won't interfere with the drainage because that's already been designed into how we are handling this.

COUNCILMAN DAVIS: Okay. One of the questions that I remember came up was related to what your arrangement will be with... will you have enough parking spaces and again, I am getting back to the whole parking spaces issue with you're asking for a certain number and now reducing them. When it comes to winter and we know that we're going to have those winters where we have an awful lot of snow, will you be plowing? Will you be actually removing the snow? Where will it go? I mean, if you don't have the additional parking spaces that you've requested, what will happen?

MR. BETTE: Yea, well, 2 parts to that... we think we have a nice snow plowing plan the way the parking lot is laid out and will be pushing snow down here. There's drainage is already existing down here that will pick up the majority of that snow melt.

COUNCILMAN DAVIS: And, that doesn't interfere with the flood plain and what you...

MR. BETTE: Doesn't interfere with the flood plain. It's integrated into our storm water management plan.

COUNCILMAN DAVIS: Okay.

MR. BETTE: Where the catch basins are located, we have a pretty clear area to plow so we won't have a lot of lost spaces, I don't think because of snow. The parking, number of space question is kind of a difficult one, usually I get accused of not putting in enough parking spaces and here we have the availability of room so we said gee, let's put a lot of them in. I think we're just in between that area where everyone wants to have the right amount. Here we have the availability to be a little flexible with that amount depending on actual use. So, we were willing to put them in up front but I think that the arrangement that we came to is actually a nice way to handle it. You know, so...

COUNCILMAN DAVIS: Currently... you know, the medical arts building out on Delaware Avenue has a real shortage of parking spaces.

MR. BETTE: Right.

COUNCILMAN DAVIS: I mean, it was a problem 15 years ago.

MR. BETTE: Right.

COUNCILMAN DAVIS: St. Peter's, even though you have a very large parking garage, has parking problems. And, I guess, I'm just rather than have a problem down the line, you know, I'd rather make sure on your end and on our end that we're not creating a problem that can be eliminated now.

MR. BETTE: I think we still have enough. Just to give you some comparisons, old buildings were usually built with 3 parking spaces per 1,000 square feet of building. The new... I think their code is 4 spaces per thousand.

MR. FLANIGAN: Yes.

MR. BETTE: We have been trying to build medical buildings at 5 spaces per thousand and that's getting a little tight in some of the locations. We still have 5 and 1/2 spaces per thousand here on this plan, so we were asking for 6. We were going to change the standard from 5 per thousand to 6 per thousand. We haven't built a lot of buildings with 6 per thousand to... we're just hearing from the medical tenants that they want more space. So, we were going to up the standard here because we had more room rather than upping it all the way to 6, I think we went to 5 and 1/2. That should be okay. We're not going to have anything near the problem at that existing building.

COUNCILMAN DAVIS: You... In your drawing on the board, you do have some landscaping. Very often, what we see there and what actually happens is really not the same. Is this something that is going to be very visible from New Scotland Road? Is it going to be not visible at all? I am thinking, for example, of Price Chopper.

MR. BETTE: Landscaping, yes.

COUNCILMAN DAVIS: And the landscaping that was done there. How will it relate to that on your project?

MR. BETTE: Well, we're trying to do a lot of landscaping. Actually Ed might be able to tell exactly what he was planning if you want to get into the details.

COUNCILMAN DAVIS: Just generally, Ed.

MR. KLEINKE: Sure. Well, a lot of the building because of the nature of the slope...

COUNCILMAN DAVIS: It's down.

MR. KLEINKE: A lot of the building will be hidden from the general flow of traffic until you get relatively close to it and then because a lot of the hillside has existing vegetation to remain, there's going to be a blending, I think, of that view automatically. But, the areas that are developed around the building proper will have a treatment of combination of street trees and shrubbery plantings both around the perimeter and around the building itself to really compliment the building architecture, as well as, to define some of the public spaces and some of the parking area. But I think the overall context of it will be well landscaped from the development areas. There will be an extensive around area of natural landscape that will remain on the site. And, the ... will make a very good setting for the building and that view as you go in either direction along New Scotland Road.

COUNCILMAN DAVIS: Okay, thank you. A last question, relating to the traffic. The traffic study that was done, the peak hours and this is typical, a.m. are between... a.m. hours are 7:30 to 8:30, p.m. 4:30 to 5:30 and as was indicated in that to be safe, it was done... considered between 7:15 and 8:45 and 4:15 and 5:45 so that there was a pretty safe window there. Typically what kind of vehicle trips for this project do you anticipate to be done during the a.m. peak hours? That's question number 1. Who would actually... I can't imagine that too many patients, then again maybe I am wrong about the usage of this... who would be traveling to the building in those early morning hours between say 7:30 and 8:30?

MR. BETTE: Well, that's...

COUNCILMAN DAVIS: The employees?

MR. BETTE: There's some employees. Pat may be able to... that would have to be from St. Peter's, might be able to give you an indication from her programs, what the traffic generation might be.

MS. WISNEWSKI: During the early morning hours, starting probably around 7:30, staff would begin entering the building and the staff is staggered throughout the course of the day in terms of coming in and leaving. But, the first line of staff coming in at 7:30, another group may come in at 8 and another at 8:30. It depends on the program, programs are going to run into the evening hours when they have staff coming in at 10 o'clock, they're working til 6 or later. So like some of them will be working until 8 p.m. But, you know, early staff come in at about 7:30 is when they start and then staff begin leaving then around 3:30... 3 or 3:30 and then they transition out as they have come in. So, it's not everyone comes at the same time and leaves at the same time, it's very gradual.

MR. BETTE: The same thing happens with the patients. Actually the peak patient hours are around 10 in the morning for the morning hours to see patients and around 2 again in the afternoon. So, those are the peak hours for the building which the traffic during those periods is very adequate. The real problem is those peak hour periods. When you say how many trips are generated, depends on which direction... the good thing here is remember before we were looking at the southwest corner, that traffic was contributing to the traffic problem. Being on the northeast corner, we're opposite the traffic problem.

COUNCILMAN DAVIS: Well, actually according to the trip generation comparison... according to the numbers that we were given, the project has significantly lower numbers than what was projected for the Terramere usage... of the commercial usage for Terramere when it was previously done.

MR. BETTE: Yes, that was...

COUNCILMAN DAVIS: Do you think that that's accurate?

MR. BETTE: Yes, well, our guideline really for the site was trying to make sure that whatever we proposed here was not going to exceed what was previously reviewed through the Terramere project, to use that as a guideline and then we put some updated numbers to confirm the existing traffic -- DOT has this 1998 traffic study data when Price Chopper was built. We looked at those numbers to confirm what was projected then in 1992, the Terramere study and then we laid on top of that what the demand for the medical building which was conceived as a component of what might happen to Terramere originally and we think the trip generations are below what originally was planned. So, we don't think we are asking for an increase in the traffic from this project.

COUNCILMAN DAVIS: And, the traffic study shows that?

MR. BETTE: Yes.

COUNCILMAN DAVIS: Okay.

COUNCILMAN DAVIS: Thank you, those are the questions I have for now. Thank you.

SUPERVISOR FULLER: Kevin, are you open 24 hours... or maybe this is Pat's question. Are you planning on a 24 hour?

MS. WISNEWSKI: No.

SUPERVISOR FULLER: Definitely no?

MS. WISNEWSKI: No.

SUPERVISOR FULLER: Okay. And, what type of offices will be in the building as far as St. Peter's is concerned?

MS. WISNEWSKI: We're planning on bringing in all medical services -- pediatric programs, ob-gyn, high risk obstetrics and an adult internal medicine. And, those are the 4 programs basically that will be on the first floor of that building. And, that's all we are planning on. In addition, probably on the other side... another part of the corridor will have phlebotomy which would be a laboratory area and radiology which would be .... that's all that we are planning on right now for that building. Kevin may have some other tenants plans for that space. From St. Peter's perspective, that's all we are planning.

SUPERVISOR FULLER: Thank you. Other tenants?

MR. BETTE: We have been talking to a number of the physician specialties in Town from pulmonary on, different kinds of specialists that would be complimentary to the primary care services that St. Peter's is bringing in, all of which are medical offices basically is what we envision there.

SUPERVISOR FULLER: Back to the parking, I share some concerns that Doris mentioned. I don't think anyone wants to go back and have to approve additional parking for you and yet I can understand the request to lower the numbers. But, are we being realistic?

MR. BETTE: Well, I think that we actually reached a good solution. I mean, we all have the same question and we were trying to be more conservative and provide more than what the Town had requested. We don't want to run into the situation where we have paved and no one is using the spaces. And, the only way to confirm that fact would be utilization. You know, every medical building isn't the same it depends on who the occupants are, actually the physicians and the times they practice together. I think that we have adequate parking for what's on here for today. My concern was 5 years from now, if the trends continue with the parking requirements are we going to be short. Am I going to have a property that... as Doris pointed out... terrible parking years from now. And, I think that the way we had come to the ... at the Planning Board is actually the smart thing to do, design it so that it's easily implemented if there is, in fact, a problem. What we will do I would imagine is if we felt that there was parking problems, come back in with our numbers to the Planning Board and say hey, you know on this date we had people searching for spaces, we think we need to implement that. And, it's economical installation to add the parking the way we have it designed and it's not very time consuming. I think it's the best we can do at this point. I think we certainly have enough for today. I was concerned about the future. We also have additional and on this side. We didn't put any parking... side of the building is more of a slope. It's more difficult to park on it so we didn't plan any parking on this side. And, that's why we ask employees to park over there. So... we'll put more in if the Board feels strongly that...

SUPERVISOR FULLER: Well, the Washington Medical Arts Building, to be very specific, is a fairly new building. There is not enough parking.

MR. BETTE: Right. Correct, that's why we built a parking deck.

SUPERVISOR FULLER: St. Peter's built their garage. St. Peter's is still without parking.

MR. BETTE: Right.

SUPERVISOR FULLER: So, I would hate to see this happen.

MR. BETTE: Well, it's kind of funny because we were involved in planning for St. Peter's garage and it's very strange but some days you go there... because I have a lot of tenants in that building and they call me up and complain about parking, there's not enough and I go down there and half the garage is empty on the Tuesday at 10 and your like, how could it be when yesterday... it's a very strange parking situation at the hospital because of all the different things that are going on. They post a lot of meetings. They have, you

know, sometimes they have school for nursing students come over and they have business meetings. Here it's a little more predictable than at the hospital. Frankly, if people don't have enough room to park, they're probably going to park on the sides of these roads. I don't envision anybody ever parking on New Scotland Road.

SUPERVISOR FULLER: No, we don't either.

MR. BETTE: I guess, you know, within the Town's parking requirements, medical buildings are a different animal from regular commercial use. And, I guess they're ... close lately so when we came to the Planning Board and they were reading the regulations, they are saying hey you have to go and meet this many, why are you adding 100 extra and we're trying to say, well because we think we need them.

SUPERVISOR FULLER: Sure.

MR. BETTE: I don't know... I think it's a pretty good compromise where we settled out and it shouldn't be a problem to ... the plan if there is a problem.

SUPERVISOR FULLER: Well, okay. We don't need to belabor parking any longer but it is a concern that needs to be watched carefully. If this goes through this evening and you are going back to the Planning Board, I am sure you will be discussing it again.

The traffic, all of us know, all of us experience the Route 85 adventure, morning, evenings and we all know that it's a bottle neck and that it is a major inconvenience for all of us. But, until the State of New York is ready to address the issue, there is nothing that can be done from the Town. We are the first ones to constantly be harping at them over the problem and they actually were here Monday for a meeting and it's the same thing. You know, it's on the TIP and it's funded for the year 2001 and all of us have to sit and wait for the year 2001 and hopefully it will be done then. But, as far as this project is concerned, this is not any more of an impact for that bypass traffic than we've had right along. So, I would hate to see us hung up on traffic studies for the intersection of New Scotland and the bypass when in fact, this does not appear to be the impact.

Other questions.

COUNCILMAN BURNS: I guess I will continue with traffic question. The traffic studies you did were... you studied at the site, what it would be now, today. Across the street is the old Blue Cross/Blue Shield building that has probably 250 parking spots which isn't being used right now but within the next several years that could be -- did you look into what the impact might be with that... building were occupied and all of those cars were coming out on the same road?

MR. BETTE: Yea, we certainly looked at that and that's actually the reason that we had situated our building the way we did with the entrance drive being across from the entrance drive of that parking lot. If those driveways were off center it would create a conflict in the future with vehicles trying to get out of that parking lot so this is a desirable solution if the other side does in fact become occupied again. I guess, you know, we took that into consideration but I don't know of any plan currently for that property. We did talk to the owner of the property and they said that they didn't have anything in the wings for that building currently, they were just doing some asbestos abatement and some renovations. So, we don't know of any eminent plans to handle that and I would imagine that if they had some renovation plans and modifications they would be back into the Town you could ask some of those questions to. ...

COUNCILMAN DAVIS: Actually, I believe in relation to that, a comment that is made in the traffic report is that it was very beneficial to the traffic situation that the Blue Cross/Blue Shield building has that side entrance which parallels yours because it alleviates some of the problem there and that they did... he does refer to that in here.

MR. BETTE: Actually, when did they go out of that building? ... even in use when they did the original Terramere study work.

COUNCILMAN DAVIS: 19...

SUPERVISOR FULLER: Yes, some of them were still there.

COUNCILMAN DAVIS: Yup.

MR. BETTE: That's not the problem either. The problem is as our traffic engineer explained to us there is a tremendous volume of traffic that gets through that... comes off 85, there's in excess of 20,000 vehicles, trips a day coming through that corridor and most of it through peak hours which is an enormous volume of traffic. Traffic engineer says to us that DOT actually has done a marvelous job at the timing of signals and moving that volume of traffic through there. It's the through traffic that creates all the problems. You have virtually no traffic impact from the locals... the local businesses around there including Price Chopper. The road systems would handle that, it's that through volume that really creates the problems. That's why DOT wants to take that through volume and the existing divided entrance highway the whole size. That's what...

COUNCILMAN BURNS: I just... I wanted to ask that question because probably once a week I get somebody talking to me about that intersection and it may be in 2002 we'll get the bypass or whenever and it just... it's a big concern and I constantly get people asking me about it.

MR. BETTE: I guess, you know, that's a good thing about ... gotten DOT ... a dozen times ... the project. They are well aware of the problems out here and I know they tell you the same old thing... 2001 on DOT's TIP schedule. That's how they work.

SUPERVISOR FULLER: Yes.

COUNCILMAN BURNS: My next question, I don't see Jeff here but...

SUPERVISOR FULLER: Janine is in charge of this project, not Jeff, he has a conflict with it. His wife is employed by St. Peter's.

COUNCILMAN DAVIS: Which he has mentioned before.

COUNCILMAN BURNS: Right. I...

SUPERVISOR FULLER: That's why he's not here. It's Janine.

COUNCILMAN BURNS: I saw him on Feura Bush Road as I came here as a matter of fact doing something. Anyway, I have a question as far as in the resolution it says that the use of the site will be generally consistent with the uses recommended for the area in the Town's Land Use Planning Reference Resource. Can you respond to that, what generally consistent means?

MS. SAATMAN: Well, it indicated for office park, research and development, certainly an office use which would be something that could be compatible with that. The report also went on to state a lot of conditions that would go along with that type of land use where there would be a lot more stringent... landscaping, lighting, green space requirements that are not currently in our code that would be incorporated into an office park use. You know, that is not in place now but through the building project approval process it might afford looking at those factors and ultimately the Town Board again. So, the use is consistent with the use that would be proposed but all the other factors that were anticipated or recommended as part of that by LUMAC are not necessarily in place at this time.

COUNCILMAN BURNS: Thank you.

SUPERVISOR FULLER: Any other questions from the Board?

Other questions from the audience?

MRS. MOORE: That's all I'd like to do. You need me to identify myself?

SUPERVISOR FULLER: Yes please.

MRS. MOORE: I am Ann Moore. I live at 39 Borthwick Avenue. Mr. Bette, I am kind of new to this so if I am asking you things that you have already answered, I apologize. First of all, what kind of waste is going to be generated by this particular complex?

MR. BETTE: Well, we have a regular sanitary sewer connection, storm water connection and we have, you know, normal trash, waste generated by the building office type of trash.

MRS. MOORE: Any red bag?

MR. BETTE: Red bag material from any medical office in the building. All the red bag material would be handled by licensed medical waste hauler.

MRS. MOORE: And, who would that be?

MR. BETTE: It would be up to the individual tenants to do that. Anybody that... the medical waste haulers come right into the tenants areas, there is actually red plastic boxes that they come and take the medical waste out. And, they have to be licensed to transport it to waste... landfill for medical waste. That's not something that we would be involved in. The individual medical practice would take care of that.

MRS. MOORE: Okay. And, can you tell me, is there anybody in the... who is licensed to do business in the Town of Bethlehem to cart waste? Are any of those folks licensed to also handle red bag waste?

MR. BETTE: I don't believe any of the regular waste haulers anywhere are licensed to do medical waste, it's a special...

MS. WISNEWSKI: We contract with BFI and they handle medical waste. We do that for all of our primary care offices.

MRS. MOORE: And, where is the local landfill that that is deposited in?

MS. WISNEWSKI: I don't know where BFI disposes their medical waste.

MR. BETTE: I don't know, there are incinerators and there are landfills.

MRS. MOORE: Right.

MR. BETTE: I not sure what exactly.

MRS. MOORE: Okay and I want to make sure the red bag waste is... consists of tissue, and needles and that kind of thing. Does red bag waste also consist of radioactive material?

MR. BETTE: I have no idea.

MS. WISNEWSKI: We have no radioactive material that we would be...

MRS. MOORE: Well, one of... I know that you mention that some of the extra services that you were looking at are radiology, would be one of the services that would be available, as well as, some pulmonary stuff and digestive things and some eye doctors. The digestive folks from personal experience, I know, use heavy metals if there is any lab work that is going on and those heavy metals, some of which are radioactive, need to be discarded and I am wondering if that goes into red bag waste or not... will they not be doing things like upper and lower GI series at your facility? I realize I am asking you questions you may not know.

MR. BETTE: Yes, you are getting ahead of us. I think that another department handles all that stuff.

SUPERVISOR FULLER: Pat Wisniewski is here, she can answer.

MS. WISNEWSKI: No, no...

MRS. MOORE: Okay.

MS. WISNEWSKI: They won't be doing those types of services. The phlebotomy that will be done is really phlebotomy. We are not going to be doing the laboratory testing itself on site. Those would be transported to some of the other laboratory facilities. The only x-ray types of x-rays that would be potentially performed would be maybe chest x-ray or soft tissue x-ray, perhaps mammography but that is really all. And, there wouldn't be any waste, you know, radiology waste that would be done at that site.

MRS. MOORE: Are we considering dentists as well in this facility?

MR. BETTE: I think they would fit in, sure.

MRS. MOORE: How will we deal with mercury if they choose to use it for an amalgam?

MR. BETTE: Anybody that's performing any service that has kind of medical waste, that is reviewed by the Health Department as far as their compliance. If there was a use that wasn't regulated, we would certainly be willing to regulate that. It is within our building lease agreements. We have never really had any problem with the medical practices in the area at all. You know, we help them with their waste so it is pretty...

COUNCILMAN DAVIS: Wouldn't they have to do the same thing that other dental offices in this Town have to do?

SUPERVISOR FULLER: Yes.

COUNCILMAN DAVIS: I mean, we have multiple dental offices in Town, it's not unique.

MRS. MOORE: No, I understand that. But, I...

MR. BETTE: There is some special... for instance for an x-ray machine, the film processor... there's chemicals that are involved in that. And, when our architects were laying them out, we make sure that they have an area to store those. You know, it's a normal point of their use. We normally don't get into regulating that, certainly somebody who is dumping the stuff down the drain -- you know, that would be a problem but we've never really had anybody do that.

MRS. MOORE: Okay. All right. My comment to that is, you know, 30 years ago we never had any problems with GE dumping, you know, things into the Hudson either but we do now. So, I'd like to be a little pro-active about that kind of thing. The last thing I have is really more of a statement and it's not going to be a read statement, just about traffic. I've a statement for later on in the meeting when we get to that. I had the opportunity to have to go to St. Peter's not too long ago and it was actually a little bit past the peak hours that were given by the Traffic Report that you have talked about. It took me longer to get from my house which as you know is right around the corner here to St. Peter's than it takes me to get to Clifton Park in the morning. And, that is with the existing traffic as it is right now. I cannot imagine given the fact that we now have 70 new houses that will be going up and this project, that that is not going to have a negative impact. And, that is just from personal experience. Thank you for your time.

SUPERVISOR FULLER: Any other questions? Okay, now I would ask those wishing to speak in favor of the rezoning from Planned Residential District to Planned Commercial District to come forward or those speaking in opposition take turns. Come to the mike please and we need your name for the record.

MR. DEER: My name is Paul Deer. I am one of the eye physicians who may be interested in becoming a tenant in the building. I am also a resident in Bethlehem. I have both of my children in Slingerlands

school. I've seen the development of the... good for the Town of Bethlehem. Certainly be very good for the school district. My son has 27 children in his class. There are lots of development taking place. There is another housing development taking place next to this proposed site. And, I know there is a problem with the availability of classes in the schools in Bethlehem. I think the Town can use the source of tax money that now I go... now that I spend in Albany, not in Bethlehem. I'm not additional residence.

I think the traffic problem will not be a substantial one because the traffic in a medical practice is evenly spread through most of the day and it doesn't come in large chunks at a time with the exception of some employees that will probably come at similar times in the morning.

I think it is a clean business that is not going to be in any way causing an unpleasant impression on the cities and on the people of Bethlehem. And, I think more developments like this would be good for the Town.

SUPERVISOR FULLER: Thank you. Anyone wishing to speak in opposition or in favor?

MRS. MOORE: Well, I guess I should have stayed up here.

I'm Ann Moore. I live at 39 Borthwick Avenue. For the past 3 years, my husband and I have spent an inordinate amount of time in this building. We find ourselves here again tonight to speak about a topic that never seems to go away, changing the zoning of a parcel of property. We all saw each other frequently when CMI's assistive living project was in front of you. We and by that I mean our group that was here in front of you had valid concerns about that project from the beginning.

We were concerned about the precedent changing zoning can set. Our concerns were dismissed. We even had a member of the Board insinuate that we were not involved enough because we had not presented our concerns about the Price Chopper plaza. We were NIMBYs. Well, tonight we are in front of you again because of a change of zone. We are not NIMBYs tonight because this project is not in our backyards. We are here tonight because of all of the warning we did with CMI has come to fruition. We have public officials admitting to basing zoning decisions not on a master plan, not on the zoning code or what is prudent or imprudent but on the fear of a lawsuit. The precedent set by one incredibly core decision will continue to negatively affect the integrity of our zoning and you had really better do something to fix it. This is your responsibility and I think, in my personal opinion, you have waited too long to assume it. People move to the Town of Bethlehem for a variety of reasons -- open space, quiet neighborhoods with unique houses, a school district that is small enough to meet the needs of our children and tree lined streets. Your arbitrary manner of changing the givens so compromises the quality of life in this Town that eventually no one will want to live here. You are cramming our open spaces with housing that crowds our schools as well. Mature trees have to make way for bike paths and our zoning code means nothing. The recent request by the Planning Board to adopt LUMAC as our master plan is ridiculously simplistic and does little to alleviate the problems you've created. It is time that businesses wanting to move to the Town of Bethlehem undergo the same scrutiny given to long time residents. We take very seriously the keeping of horses and other animals in this Town. Residents must attend many meetings, answer many questions and provide support showing that there is no business intent on their part in residential areas. However, we permit businesses to purchase property with the intent of applying for a change of zone as if our code was a document in need of change.

In closing, I would like to say that it won't be long before you don't recognize the Town in which you live. You wonder how such a nice place turned into what you see. You wonder why industrial parks are next to \$600,000 homes. This is what a lack of planning and zoning does for a town. You collectively have the responsibility to protect the quality of life for all residents and the time to start is now.

MRS. CAPONE: I think you have Republican, you have Democrat -- no matter what comes in they're against it. This is what we need, CMI we need. You have to look at what is best for society and to hear people are not coming into this Town, I hate to think of all the development that are coming and all the traffic in front of my house. But, I love it where I am.

SUPERVISOR FULLER: Is there anyone else wishing to speak in favor or in opposition?

MR. MOORE: My name is David Moore and I live at 39 Borthwick Avenue. And, I would like to second everything that my wife said, better get that on record. One thing that bothered me about these changes in zoning and these plans to streamline the process of approving these commercial districts led me to take a look at the Supervisor's annual reports that are on file at the Town office. And, Ms. Newkirk graciously brought them out for me earlier this year. And, I discovered that there seems to be a starting point for this need to bring in commercial ventures and put them on residential properties. And, I traced it back to 1997 when the Town lost, apparently a lawsuit... a major commercial business in this Town, won a \$28,000,000 reduction in their assessment. Now, it never says who that business is but I think there aren't too many businesses in this Town that have that kind of an assessment to be reduced. But, that's neither here nor there. And, it was at that point when the sudden need to bring in commercial businesses, I assume to take the place of that revenue... that tax revenue. And, where I find... where I have problems is the way that we are doing that because I think we are rushing into things simply to try and make up a tax revenue. In fact, if I may, quote from the 1999 report, the Supervisor says although positive direction is still... that does not restore us to the level we were at in 1997 prior to a significant reduction in our commercial properties. We must promote economic development through aggressive efforts and I assume these aggressive efforts are what the Supervisor referred to in the December 30th issue... December 30th 1998 issue of the Spotlight in her annual report where she said the Town Board is in the process of exploring the possibility of rezoning parts of Town so business people looking to invest here will have a clear understanding of the zoning regulations which may apply. And, I am just wondering since the Board has not adopted the LUMAC report and they seem to be changing the zoning as they see fit, I am just wondering how much of the Town they plan to rezone to commercial property and where these lots are. I mean, what is the plan? That's my question.

SUPERVISOR FULLER: The plan has not been adopted as you are well aware. Some of the recommendations in LUMAC have been used. The recommendation from the Planning Board that Ann referred to I haven't seen yet. So, I wasn't familiar with the recommendation from the Planning Board. I think the bottom line is we need help with the tax base in this community and what you are referring to, I believe, could have been the ConRail litigation. It wasn't Ni Mo but it was a major industry, it wasn't your local businesses here. But... I'd go back, I could tell you for sure.

MR. MOORE: I am just concerned that we're turning things upside down because of one poor showing in court, that's all.

SUPERVISOR FULLER: No, absolutely, not. It's people constantly talking about the amount of taxes they have to pay in this community and mainly it is the school taxes. So, it's more the need for businesses in the community since they do not send the children to schools here.

COUNCILMAN DAVIS: Just to add to what Sheila has said, I think the new... one of the new buzz phrases is smart growth and I think as part of smart growth, again, commercial... wise commercial development... commercial development in suburban areas and urban areas is critical for the tax purposes which has been a problem in all communities or almost all communities. Particularly suburban communities like ours, and thinking back to the last 3 or 4 elections, Matt Clyne who was the candidate who ran unsuccessfully against Mrs. Fuller, major campaign issue was increased commercial and economic business development and felt that that was a very

critical part of our community or should be. And, on top of that, had fabricated adding an office of economic development which would have increased the staffing in our Town on top of it. So, I don't think that you can blame this particular administration for something that other people have tried to do or would wanted have to do even more.

MR. MOORE: Well, I'm not against... let me just close by saying, I am not against commercial development in this Town either, I'm just for having it where it is zoned to be. The CMI project, they themselves said there were 9 other parcels available in the Town, which they passed on. In fact, I believe one of them is now being used by the VanAllen project.

COUNCILMAN DAVIS: But, they argued... they admitted they all would have had to also require rezoning if I recall. They were not there as commercial, they would have required rezoning. I think you should have listened to that, Mr. Moore.

MR. MOORE: But, not from residential. And, this parcel, also I am sure there's plenty commercial...

COUNCILMAN DAVIS: This is Planned Residential, which is not Residential. This is different and it did have as part of it, the original plan as a PCD, had as part of it a planned commercial area which would have had a much higher traffic use. It was a... I don't know if you are aware of this, Mrs. Moore said that she had not... that this was new to you. It had a day care center and a health care facility as part of it which would have been significantly higher traffic use and that was all part of the traffic study. So, I think that this is, frankly, is you know, less a problem in that particular area and than that might have been. That was part of the original usage.

MR. MOORE: Okay but just wanted to be on record that we don't have a plan and we don't know what the plan is until each one of these projects comes along and I don't think that's good government.

SUPERVISOR FULLER: We do have a plan.

COUNCILMAN BURNS: Mr. Moore, I'd just like to thank you for your comments and we are listening and I won't lecture you. It is not our job here. But, I will say that I am in favor of an office of economic development. I have been and perhaps some of those things you mention tonight could be incorporated into somebody being in that office and looking into those things.

COUNCILMAN DAVIS: Mr. Moore and Mrs. Moore, I appreciate your comments as well. I think they are important, we need to hear them and I don't... if I sounded like I was lecturing, I certainly didn't mean to. I am not known for lecturing. I'm known for my honesty.

MRS. MOORE: Well, one thing I would like to set the record...

SUPERVISOR FULLER: The discussion tonight is for...

MR. BETTE: Yes, you guys are way off...

MRS. MOORE: No, I understand...

SUPERVISOR FULLER: this development.

MRS. MOORE: I understand but I...

COUNCILMAN DAVIS: That's right and this is a disservice really to Mr. Bette and his representatives.

MRS. MOORE: I just but I want... I just really... I want to set the record straight, however, since we are... we did digress into CMI that I was here on January 6th when Steven Insoft said that the choice of his lot was because it was the cheapest one that was available to him and I want that in the record about this. Now, I don't know what decision was made about this particular choice for this particular complex, okay. But, again, I do know that about this

particular project in the Times Union of last week, one of our... one of the Planning Board members was quoted as voting yes on this project to send it to you folks because he was afraid of a lawsuit. And, I have to say that that is a tremendous...

SUPERVISOR FULLER: Well, I didn't see it.

MRS. MOORE: ...precedent to set. And, that is the precedent to set.

TOWN ATTORNEY KAPLOWITZ: I don't think many of us...

MRS. MOORE: And, that is the precedent...

TOWN ATTORNEY KAPLOWITZ: Excuse me, I don't think many of us feel that way.

SUPERVISOR FULLER: Why would we feel that way?

TOWN ATTORNEY KAPLOWITZ: I tell people to line up... get in line we are being sued all the time, wait your turn which is normal.

MRS. MOORE: Well, the only thing is is when you have a public official who is quoted as saying that that is the reason that he is making a decision about a project...

TOWN ATTORNEY KAPLOWITZ: I would agree with you that it's a foolish reason.

MRS. MOORE: That is a precedent that I specifically said we were setting when we start changing zoning. And...

TOWN ATTORNEY KAPLOWITZ: You have to understand a change... all our zoning ordinances would probably be unconstitutional if we didn't make changes now and then. Neighborhoods change, 20 years ago these uses on New Scotland Avenue probably would not have been even considered. But, that's why you do have methods of changing zoning because things change. You say don't go from residential, Mr. Moore, to commercial... we got the school district, the Superintendent of Schools beating on us, saying don't bring any more residential people in. We can't tell people they can't use their land. We don't have that ability.

MRS. MOORE: I understand but what you can also do is encourage businesses that want to come in here to use pieces of property that are already developed and standing empty. And, we have plenty of those.

TOWN ATTORNEY KAPLOWITZ: Your going to buy a lot of lawsuits from the people who don't get ... I think.

MRS. MOORE: Well, you have... you have plenty of those in this Town.

TOWN ATTORNEY KAPLOWITZ: Well, I'm not sure I know the answer to that.

MRS. MOORE: And, that would be my recommendation for that particular item that we are talking about.

MR. BETTE: Can I just add a couple things?

SUPERVISOR FULLER: I have something related to... go ahead... I have a statement. Someone couldn't be here tonight and they sent their letter in.

MR. BETTE: Well, I just don't want to get off the target. I don't have anything to do with CMI and I don't have anything to do with economic development. I don't have anything to do with really changing zoning. What we're here tonight to do is to get the land use regulations set up by the Town to accommodate a medical facility being built in the Town of Bethlehem. We talked about the schools and the problems of crowding in the schools. What would happen if you're... if there wasn't enough classrooms and your kids had to go to school in Albany. How would you feel about that? That's exactly the way the elderly in this Town feel. Their physicians moved out.

The health care business has been changing. It's been growing and consolidating. They need larger facilities. They need more parking. They need more accessible locations. They need to have those services in convenient locations to provide the services competitively. That's what we are trying to do here in the Town. We're trying to bring back some of those physicians because actually what happens in St. Peter's, they move one of their practices to Albany because they didn't have any facilities here in the Town. Now, you know, there's people here in the Town that have to travel that terrible drive that you just expressed to go some place else where they could be receiving quality health care here in the Town of Bethlehem. We're not here for economic development, no one brought us in to bring in to bring in a tax base. We came here and said you, as a Town, don't have quality health care accessible to your residents. Let us try to do it here. And, the only reason we are here for a rezoning -- we could have been here as an accessory use to a Planned Residential District. Our attorney reviewed it's final. The Town wanted to take a public process and have everybody be aware of what we are doing. Have us demonstrate to them that we can meet all the SEQR requirements and that we can be a good neighbor and I think we've done that. You're taking our meeting here where we are trying to do something positive for the Town and complaining about all kinds of other stuff. You need to be able to change zoning and be flexible. This is a good use and I think that we are not trying to drum up problems, we are trying to provide a solution to work cooperatively with people. I think we can work cooperatively with you also. I had never met you before this meeting and we've been in the planning process here for probably about 8 or 9 months. If you had concerns we could have addressed them all during the process. We're here tonight to try to finally get our property rezoned. And, I never heard from you whether you support the project or not. I know you have a lot of complaints about a lot of other things but I think the project is good.

COUNCILMAN DAVIS: Just one more thing. You mentioned, Mrs. Moore, that there are a number of empty buildings in Town and hopefully we can use those some way. This, I remember at one of the early meetings that we had, the representatives of St. Peter's were asked about the possibility of using the Blue Cross/Blue Shield building because of its accessibility and because of its location, because it was so close to the original site that was requested and the owners of that property are not willing to let St. Peter's use it because they... the conditions that they have set. So, that question was asked. Mrs. Fuller had apparently addressed that initially with St. Peter's and with the owners of that building. So, this happens on a very regular basis. You may not be aware of it but it does happen.

SUPERVISOR FULLER: And, it did happen here with the Town Board meeting when they first came in.

COUNCILMAN DAVIS: And, it was addressed here and that territory was covered.

MRS. MOORE: With all due respect, Mr. Bette, I realize that you are not involved with CMI. I realize that I have said nothing about your project and I'm sure and I have... I've been quoted a number of times saying this, I am sure that your facility is state of the art. I am sure that the plans and everything else that you have for your facility are some of the finest that are out there. Okay. I have nothing against your facility. What I have against your project is the fact that you're requesting a change of zone which I am vehemently against. Now, as far as, my driving a half an hour... I come from the New York City area. I used to go for my health care in Manhattan, driving that distance in that traffic is nothing compared to what I used to go through but the advantage that I have that some other folks who didn't grow up where I do, is I saw my community where I grew up go from one very similar to this to one that I couldn't wait to get out of because I couldn't get anywhere. And, part of the reason was not because my particular village had anything that changed because it was a Victorian village with nothing to change, but everything around it did. And, everybody had the same attitude, I'm bringing you a service. I'm doing you a favor. I'm doing this for you. What I also want to remind you, Mr. Bette, is that you are also making a lot of money on this and you are making

money on it based on the fact that you're trying to change the zone of a piece of property that wasn't zoned for this particular use. So, with all due respect, I'm sure you have a very nice facility. It shouldn't be in a place where you have to ask for a change of zone.

SUPERVISOR FULLER: Is there anyone else who would like to address the Board in favor or in opposition? I have a letter that was faxed in at 4:00 o'clock this afternoon from Mr. Richard A. Puff, 1494 New Scotland Road, Slingerlands. He is in opposition of the rezoning on New Scotland Avenue. It will be filed and become part of the minutes... part of the record.

May I have a motion to close the public hearing?

The motion was made by Mr. Johnson and seconded by Mr. Lenhardt to close the public hearing at 8:35 p.m. The motion was passed by the following vote:

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

  
Town Clerk

The Supervisor convened the regular Town Board meeting following the close of the public hearing.

Supervisor Fuller said the proposed project has gone through the Planning Board for the last 9 months roughly and it had been before the Town Board prior to that. She asked for a vote on the rezoning of the Planned Residence District to Planned Commercial District. She said the Board had a SEQR resolution before them for approval, as well as, a draft Local Law.

The following resolution was presented for adoption:

TOWN BOARD  
TOWN OF BETHLEHEM  
SEQR RESOLUTION  
DETERMINATION OF SIGNIFICANCE/NEGATIVE DECLARATION  
APPLICATION TO ESTABLISH PLANNED COMMERCIAL DISTRICT NO. 6  
1240 NEW SCOTLAND ROAD  
FIRST COLUMBIA, L.L.C.

Local Law  
and SEQR  
Resolution  
rezoning for  
Planned  
Residence  
District to  
Planned  
Commercial  
District

WHEREAS, the Town Board of the Town of Bethlehem has received an application from First Columbia, L.L.C. to establish a Planned Commercial District (PCD) on a portion of Planned Residence District No. 2 located at 1240 New Scotland Road; and,

WHEREAS, establishment of the PCD would amend the current zoning district designation on the 16.91+/- acre parcel from Planned Residence District to Planned Commercial District; and,

WHEREAS, First Columbia, L.L.C. has submitted a conceptual plan for further development of the District in the event that the zoning amendment is granted and said plans entail construction of a 40,000 square foot, two-floor medical office building, with parking for up to 256 vehicles; and,

WHEREAS, Chapter 128, Article V of the Code of the Town of Bethlehem contains procedures for the establishment of a Planned Commercial 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 V of the Code of the Town of Bethlehem for the establishment of Planned Commercial Districts; and,

WHEREAS, in accordance with the SEQR regulations at 6 NYCRR Part 617.6(a), the Town Board at its meeting of March 24, 1999: (1) determined that the PCD 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 an "Unlisted" 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 not located in a certified agricultural district and therefore not 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 March 24, 1999 also initiated a coordinated review of the action, declared its desire and intent to be lead agency for SEQR review, and subsequently circulated the PCD 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 March 24, 1999 also referred the PCD application to the Planning Board for a recommendation on both the application and on a SEQR Determination of Significance; and,

WHEREAS, the Planning Board at its meeting of June 1, 1999, after careful review of the PCD application, the full Environmental Assessment Form and supporting materials submitted by the applicant, and the potential environmental effects of the

proposal, adopted a Resolution recommending that the Town Board issue a SEQR Negative Declaration and approve the PC D application; and,

WHEREAS, the Town Board has independently reviewed and considered the PC D application, the full Environmental Assessment Form and supporting materials submitted by the applicant; and,

WHEREAS, supporting materials include, but are not limited to, traffic reports, a slope stability evaluation, a Phase 3 Archaeological Investigation Plan (Data Retrieval Plan), and a conceptual project plan which addresses site layout, utilities, storm water management, grading, landscaping, location of federal wetlands and the Normans Kill's 100-year floodplain, and other site development factors; and,

WHEREAS, the Town Board has reviewed and considered the Planning Board recommendation, staff comments and memoranda prepared by the Town Planning Department and Town Engineering Division, and comments received from involved agencies, which address potential areas of environmental concern in establishing a PC D and constructing a medical office building at the proposed location; and,

WHEREAS, the applicant has submitted materials which respond favorably to the comments and correspondence noted above, and said materials satisfy the Town Board; and,

WHEREAS the Town Board at its meeting of June 23, 1999 held a Public Hearing on the PC D application to consider public comments both for and against establishment of the PC D; and,

WHEREAS, the Town Board has conducted its own independent analysis of the application and its potential environmental effects; and,

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

NOW, THEREFORE, BE IT RESOLVED,

that based upon its review of the PC D application, the full EAF and other supporting materials submitted by the applicant; the recommendation of the 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 concludes that approval of the First Columbia, L.L.C. application to establish a Planned Commercial District, for the purpose of constructing a 40,000 square foot medical office building, 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 based on the fact that the Town Zoning Code identifies various commercial land uses permitted in a PC D, some of which may be inappropriate for the subject site due to their potential incompatibility with adjacent land uses and the general character of the area, and to ensure that the use of the site will be generally consistent with the uses recommended for that area in the Town's Land Use Planning Reference Resource, the Town Board deems it appropriate to attach the following conditions to the rezoning:

1. that rezoning of the parcel to PC D be conditioned on limiting future land use at the site to office use and related accessory uses,
2. that appropriate notice of the above-referenced zoning restriction be incorporated into the deed to the parcel to serve as notice to any future purchaser of the property that there are certain land use limitations associated with the zoning amendment,
3. that the plans submitted as part of the Building Project application shall be consistent with the concept plan submitted as part of the rezoning application, and
4. 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 as determined by the Town Board, and that in the event that construction has not begun within said time period, the zoning of the parcel shall revert to its former designation, Planned Residence District; and,

## BE IT FURTHER RESOLVED,

that this negative declaration is based upon the following facts and conclusions:

1. The majority of the project will be constructed on land with slopes less than 10%. A slope stability evaluation done by Myers Engineering (summarized in a May 19, 1999 letter to First Columbia) indicates that the proposed project should not have an impact on the steeper sloped area along the southwest parcel boundary. This evaluation provides an update to the slope stability analysis done for the SEQR review of the proposed Terramere Planned Residence District, of which the subject parcel is currently a part.
2. The proposed action will not have a significant effect on a protected water body. The site is located adjacent to the Normans Kill, which is a protected stream (Class B) in the vicinity of the project. However, the proposed development area is located over 350 feet from the Normans Kill and stormwater runoff from the site will be discharged into the rip rap channel to the Normans Kill which is being constructed by Terramere, L.L.C. in order to minimize erosion along the Normans Kill. In addition, an erosion control plan to mitigate erosion during construction will be required as part of any Building Project plans submitted for the development. Any permits required by the NYS Department of Environmental Conservation will be obtained by the applicant as a condition of any Building Project Approval issued for the project.
3. The project will not have a significant adverse impact on wetland resources. There are no State designated wetlands in the vicinity of the project site. Clough Harbour and Associates has delineated 0.047+/- acres of federal wetlands within the parcel, almost all of which is located outside the area to be developed. The small amount of wetlands which would be filled as a result of the project would not constitute a significant impact. The applicant is responsible for obtaining any permit(s) which may be required by the U.S. Army Corps of Engineers.
4. The proposed action is currently located outside of the municipal water district. Sufficient capacity exists within Water District No. 1 of the Town of Bethlehem to allow this area to be added to the district, and the Town anticipates that a district extension will occur, thus providing mitigation for this impact. As a condition of any Building Project Approval issued for this proposal, the applicant will be responsible for providing all materials necessary for the district extension, as required by the Town. The applicant will extend a water main along New Scotland Road across the front of their parcel from the adjacent Terramere development and the ownership of this improvement will be transferred to the district upon completion.
5. The project site is located within the Bethlehem Sewer District and adequate capacity exists within the district to serve the proposed office building. The applicant will relocate, within the parcel, a portion of a force main which exists on site.
6. Stormwater runoff from the proposed development will be collected and discharged into the Normans Kill by the proposed storm sewer system which will connect to the rip rap channel constructed for Terramere's storm drainage outfall. This outfall structure was designed with sufficient additional capacity to accommodate the runoff from the proposed medical office building site.
7. The proposed action will not affect a designated floodway. The project was designed to be located outside of the 100-year floodplain of the Normans Kill. A small amount of fill is shown on the concept plan as overlapping into the 100-year floodplain, which would require the applicant to obtain a development permit from the Town Building Inspector (pursuant to Chapter 69 of the Town Code). If such a permit is needed based on the more detailed plans submitted for the Building Project

- application, the applicant will obtain the permit in conjunction with the issuance of a Building Permit.
8. The project will not have a significant or long term adverse effect on existing air quality. The nature of the land use is such that it will not produce industrial-related air emissions. The project involves the relocation of existing medical facilities within the area, therefore the net auto-related emissions resulting from trips to and from the site will be minimal. 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, and can be minimized by employing good site development practices.
  9. No significant adverse effects on wildlife or vegetation have been identified in connection with the proposed action. The plan submitted by the applicant indicates that 87% of the site will remain as green area. The area to be developed is not characterized by mature tree growth or significant habitat area and does not contain any known occurrences of rare or endangered species of plants or animals.
  10. The project will not have any significant impact on agricultural resources. The site is not located in or near a certified agricultural district. The site is not currently used for, nor has it been used in the recent past for, agricultural purposes. According to the Albany County Soil Survey, the area to be developed does contain soil within soil group #4, which is considered to be agricultural soil of state importance. However, the location and size of the parcel make the use of the parcel for agricultural purposes unlikely.
  11. The proposed action will not have a significant adverse effect on aesthetic or recreational resources. The developed area of the site is located over 350 feet from the Normans Kill. 87% of the site will remain as green area. Review of proposed site landscaping, as well as the proposed architecture of the building, will occur during any subsequent Building Project review.
  12. There are no historic sites or structures on, or in the vicinity of, the site.
  13. The project will have an impact on a previously identified archeological resource, the "Terrace Site". A report prepared by Consulting Archaeologist Edward Curtin entitled "Phase 3 Archeological Investigation Plan / The Terrace Site" outlines a plan for further investigation of the site in conjunction with the removal and documentation of artifacts located within the site. This data retrieval plan has been accepted by the NYS Office of Parks, Recreation, and Historic Preservation (OPRHP) with the condition that "the information will need to be disseminated to the archeological community and the lay public through publications, presentations and/or exhibits." An end-of-field-work letter will be submitted to the OPRHP for their sign-off prior to the start of construction. With the implementation of this mitigation plan, the OPRHP concurs that the project will have "No Adverse Impact on historic properties" (letter to Town Planning Department dated May 7, 1999).
  14. Two traffic reports, titled "General Comparison of Traffic Impacts / Slingerland Medical Arts Building vs. Terramere" and "Supplemental Report on the Traffic Impacts of the Proposed Medical Office Building, New Scotland Avenue, Bethlehem, NY" and fax dated May 11, 1999 and May 28, 1999, respectively, have been prepared for the proposed project by Transportation Concepts. The reports conclude that the proposed action will not have a significant adverse impact on the existing transportation system. The reports indicate that the nearest intersection, the Slingerlands Bypass (NYS Route 85) and New Scotland Road intersection, is currently operating below generally acceptable levels-of-service during peak hours. However, the two most critical turn movements at this intersection, the northbound left-turn and the eastbound right-turn, will not be affected by the traffic generated by the

proposed medical office building. Although the project will result in slightly longer queues for some of the other intersection movements, this impact is not viewed as significant and will be relieved when the Slingerlands Bypass is extended. The Bypass Extension project is currently on the Regional Transportation Improvement Program (TIP) and is anticipated for construction in or about the year 2001 or 2002.

15. The supplemental traffic report cited in Item 14, above, indicates that during peak hours southbound traffic on New Scotland Road waiting for a green light at the Slingerlands Bypass will occasionally queue past the proposed driveway to First Columbia, thus impeding egress from the site. First Columbia is proposing separate left and right turn exit lanes within their driveway, in order to provide some mitigation for traffic exiting their site. This is the only practical mitigation measure available to the applicant. This condition is not considered significant and extension of the Slingerlands Bypass will alleviate this situation.
16. The project will not have a significant adverse impact on noise levels in the vicinity of the project site. Noise associated with construction will be temporary and of short-term duration.
17. The proposed action will not result in a significant increase in the community's energy use levels nor will it create a hazard to human health.
18. The project will not have a significant adverse effect on community character and the surrounding neighborhood. The existing land use on the opposite side of New Scotland Road (to the northwest) is office use. The future residential area to the southwest and the existing residential area to the east/northeast (in the City of Albany) are buffered from the site by a steep slope and the Normans Kill (and conservation easement area), respectively.
19. Review of the site in the field and with available environmental data revealed no other environmentally sensitive characteristic of the parcel, issues which have not been addressed, or areas requiring further study.

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 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 is carried out.

On a motion by Mr. Johnson, seconded by Mrs. Davis, and a vote of 5 for and 0 against, this RESOLUTION was adopted on June 23, 1999.

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Supervisor Fuller asked if there was any further discussion. Councilman Davis mentioned that this particular resolution does specifically mention, as Councilman Lenhardt had mentioned, that rezoning of the parcel for PCD be conditioned on limiting future land use at the site to office use and related accessory uses. She said this was noted for the record.

Supervisor Fuller next asked for a motion to adopt Local Law No. 5 of 1999.

The motion was made by Mrs. Davis and seconded by Mr. Johnson to adopt Local Law No. 5 of 1999 concerning rezoning of property to Planned Commercial District for premises located at 1240 New Scotland Road, Slingerlands.

Councilman Lenhardt indicated this particular area is very sensitive to him, noting he grew up in the area. He said they worked on the farm that this proposed project is to be located on and it is

near and dear to his heart, noting the character of the neighborhood has definitely changed. He said it will never return to where it once was. He said he does not feel that this facility will impact the traffic and therefore, he will be voting in favor of the zone change. He added that the land use reference resource does depict this particular area for this kind of use. He also noted this is the only procedure to do this with the existing zoning code.

Councilman Burns said she had a lot of difficulty in making this decision because of her vote on CMI. She said she did talk to county planners about this extensively and they talked about change and the need for changing zoning codes. She said she will be voting in favor of this proposal and noted it was a hard decision.

Councilman Johnson commented that he spent a lot of time looking this over and thanked Chairman Hasbrouck and the Planning Board for their handling of this issue. He said he knows traffic is a difficult thing to work with and hopefully it will work out. He also thanked them for the detail that was referred to the Town Board.

The motion was passed by the following vote:

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

- - -

Frist Columbia  
Building Project  
approval  
referred to  
Planning  
Board

Supervisor Fuller noted there is also a request for preparation of the Building Project Approval. She said this is a referral to the Planning Board. She said rather than have First Columbia wait 3 weeks until the Board meets again, this could be referred to the Planning Board from this meeting. She said First Columbia has to provide the information needed.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to refer the request for Building Project Approval for First Columbia to the Planning Board for review and recommendation. The motion was passed by the following vote:

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

- - -

Supervisor Fuller said the next step will be before the Planning Board. The Planning Board will be holding the public hearing on the Building Project Approval and then it will return to the Town Board for final approval, according to Supervisor Fuller. She thanked the representatives of First Columbia. She also thanked Ms. Wisniewski for her attendance from St. Peter's Hospital and their patience as the process proceeds. She said she thinks it is a welcome addition to the Town of Bethlehem and one that is needed. She noted this will not have an impact on environmental issues or be a burden to the school district which we often hear about. She said it is a perfect solution for economic development for our community.

Supervisor Fuller stated she wanted to assure the taxpayers that she will continue to bring this type of business to our community -- office park, medical facilities. She said they are businesses that are needed and are without smoke stacks and do provide help for our tax base.

Supervisor Fuller thanked everyone for their attendance.

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Parks and  
Recreation  
approval  
seasonal  
personnel

The next item was a request from David Austin, Administrator, Parks & Recreation Department, for approval of seasonal personnel.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to approve the appointment of seasonal personnel as requested by David Austin, Administrator, Parks & Recreation Department, as listed on his Memorandum dated June 23, 1999 at the titles and salaries indicated. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Johnson,  
Ms. Burns.

Noes: None.

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The next item was a request from Comptroller, Judith Kehoe, for authorization of the Supervisor to sign the Fee for Services Agreement with American Housing Foundation, Inc. for senior housing apartments, Route 9W, Glenmont. Supervisor Fuller said this was discussed 2 weeks ago and they do not have to pay taxes, however, they have come forward to adopt a fee for services agreement to provide partial reimbursement to the Town and the ambulance and fire district to help defray some of the cost to provide services to the project.

Comptroller  
authorization  
for Supervisor  
to sign fee  
for services  
agreement with  
American  
Housing  
Foundation for  
Seniors

The motion was made by Mr. Johnson and seconded by Mrs. Davis to authorize the Supervisor to sign the Fee for Services Agreement with American Housing Foundation, Inc. for the senior housing project known as Van Allen Apartments, located on Route 9W, Glenmont.

Supervisor Fuller asked if there was any discussion. Councilman Johnson thanked them for the ambulance and the fire department.

The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Johnson,  
Ms. Burns.

Noes: None.

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Supervisor Fuller said the next item was to acknowledge election of our Town Clerk, Kathleen A. Newkirk, to the position of District Director with the New York State Town Clerks Association, Inc. She said she received a letter informing the Board of this election. She read the letter forwarded from the Association. Supervisor Fuller and the Board thanked Kathy for bringing positive recognition to the Town of Bethlehem.

Acknowledge  
election of  
Kathy Newkirk  
to position  
District  
Director with  
NY State Town  
Clerks Assoc.

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Supervisor Fuller noted there was a Boy Scout in attendance working on a badge.

SUPERVISOR FULLER: Is there anyone who would like to address the Board this evening?

MR. KELLEHER: Bill Kelleher, 182 Roweland Avenue. I've already presented by statement to you people (see following minutes) and I hope you have read it by now. I was going to wait until this report on the dredging came in. Hopefully, the report will never come in, as far as, I am concerned. It won't help the lawsuit any. Dredging didn't work. Anybody who knew anything about it knew it wouldn't work.

Kelleher on  
Water

Now, the reason I'm here tonight though is because July 10th where you may consider the dredging report if you get it -- I'm not going to be here, I'm going to be at Ocean City, Maryland. I wasn't able to attend the last meeting and maybe it was a good thing I didn't because I would have said something I might have regretted later on. So, tonight I'm going to ask a question of every one here on the Town Board -- are you... anyone of you aware of the fact that Rust and Fraser in the lawsuit have claimed that all we need is 2 million gallons of water a day? Anybody here looked at the lawsuit and the responses of Rust and Fraser?

ATTORNEY KAPLOWITZ: Bill, what does that have to do with anything?

MR. KELLEHER: Plenty. It has everything to do with it. It is obvious to me that Rust and Fraser intend to show that all we need is 2 million gallons of water a day to pay off the bonds. Nobody will be hurt, everybody will be satisfied.

ATTORNEY KAPLOWITZ: I don't want to be argumentative but if that's what they are thinking, they are crazy but I don't think they are thinking that.

SUPERVISOR FULLER: I think that Mr. Alessi asked us not to be in these discussions.

COUNCILMAN DAVIS: That's right.

SUPERVISOR FULLER: So, I would ask that it end.

MR. KELLEHER: I'm still going to address the issue, okay?

SUPERVISOR FULLER: It's up to you, Mr. Kaplowitz.

ATTORNEY KAPLOWITZ: Bill, let me...

MR. KELLEHER: Will you let me finish, Bernie?

ATTORNEY KAPLOWITZ: Please do.

MR. KELLEHER: All right. Now, where did they get the idea from? Where did Rust and Fraser get that idea from? Is this something that Mr. Secor and Rust and Fraser dreamed up when they schemed to blame this poor well yield on an act of God?

SUPERVISOR FULLER: You know, Mr. Kelleher, I would ask that we not get into this this evening. I think the statements have been made by you before, they are part of the record. I don't think we need to continue with this. We've all received your statements.

MR. KELLEHER: You don't want me to explain my statement?

SUPERVISOR FULLER: I think you did explain it. We all read it. The media has it. They were handed out tonight for the public.

MR. KELLEHER: Okay, all right. All right, I just...

SUPERVISOR FULLER: The only thing I...

MR. KELLEHER: I just wanted to point out that we're taking a terrible gamble trying to convert this well... this poor excuse for a well. It's an absolutely poor excuse for a well. Any competent engineer knows this. And, we have a very strong lawsuit but who knows what the outcomes going to be. Can you predict it, Bernie?

ATTORNEY KAPLOWITZ: We were taught in law school, the most difficult thing in the world to do is to predict what a jury will do.

MR. KELLEHER: That's right. Yea, right.

ATTORNEY KAPLOWITZ: I can't predict that.

MR. KELLEHER: And, why should we accept... why are we accepting a... this idea that we can get 2 million gallons of water a day and that will satisfy everybody? Why are we accepting this? Why don't we... didn't we go into the lawsuit and say look at, we were promised 6 million gallons per day of excellent quality drinking water? And, this is what we were promised. I sat here and listened to you all when you approved this project.

SUPERVISOR FULLER: And, we did listen to all of the experts and we are in litigation.

MR. KELLEHER: Mrs. Fuller, I agree with you 100 percent. Therefore, I don't think I am hurting the lawsuit at all. I will testify before the court, before the judge, anybody as I am here now, you've had complete and utter faith in Fraser and Rust. No question about it. As a matter of fact, you had too much faith in them. And, again I would like to point out publicly, that Secor, Rust and Fraser do on the very first day of operation what that well yield was. Did you? I am asking a question...

SUPERVISOR FULLER: I'm not answering your question.

MR. KELLEHER: ...of everybody here on the Town Board. When did you become aware of this poor well yield?

SUPERVISOR FULLER: Mr. Kelleher, all of us will be taking the stand at some point and I don't believe that we are answering any of these questions at this time.

MR. KELLEHER: You refuse to answer it? Okay.

SUPERVISOR FULLER: Would you identify for me page 2 to your letter to Town resident what the date of that letter is? This is where you are speaking about your relationship with Clearwater for Bethlehem.

MR. KELLEHER: Yea, it's June 23rd, isn't it on your...?

SUPERVISOR FULLER: 19?

COUNCILMAN DAVIS: 1997?

MR. KELLEHER: Oh, I'm sorry, it should be 1999.

SUPERVISOR FULLER: I didn't know if this was one that was done before...

MR. KELLEHER: No, no, no, you're absolutely correct, that should be 1999. I apologize.

SUPERVISOR FULLER: Thank you, I just wanted it correct.

MR. KELLEHER: Yea, very good.

SUPERVISOR FULLER: Corrected, so that we have it.

MR. KELLEHER: Just in case you were to be asking me, you know, as somebody claimed that I fully supported Clearwater for Bethlehem in splitting the water supply, I did because you people wouldn't listen to me. Linda Burtis made it very clear that I had to have positive proof concerning the poor well yield. At the time, I had no proof. You want to know something, I don't have any proof today. I don't have that positive proof today. Why, because you refuse to give me data which I requested under the Freedom of Information act. I called up Mr. Freeman -- you know, he has been in the paper today, Spotlight -- Mr. Freeman's... I went over the whole thing with him. He has my appeal down there and guess what, he told me at the time when I got all done, I would have to sue the Town. I would have to sue my own Town to get information through... that the well yield... what the well yield was before this so called 100 year flood, which it wasn't of course.

So, let me say this too, I'm just... I'll say this... as long as I'm alive and a resident of this Town, and am healthy, I'm going to demand an investigation of what went on after this lawsuit is settled. Thank you.

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Supervisor Fuller asked if anyone else would like to address the Board. There were none.

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The Supervisor asked for a motion to adjourn to Executive Session to discuss negotiations.

The motion was made by Mr. Lenhardt and seconded by Mrs. Davis to meet in Executive Session following the close of the regular Town Board meeting to discuss negotiations. The motion was passed by the following vote:

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

Adjourn to  
Executive Session  
No formal action  
taken.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to adjourn the regular Town Board meeting at 8:53. The motion was passed by the following vote:

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

*Kathleen A. Newkirk*  
Town Clerk

EXECUTIVE SESSION

There was no formal action taken at the Executive Session.

## STATEMENT SUBMITTED TO THE TOWN BOARD JUNE 23, 1999

By  
William J. Kelleher

The defendants in the town's lawsuit claim that the town only needs 2.0 million gallons of water per day. It is obvious that Rust and Fraser hope to show the judge that with additional water from vertical wells that the bonds can be retired and nobody will be hurt that much. Did Rust and Fraser get the idea in discussions with Bruce Secor when the three of them schemed to blame the poor well yield on an act of God?

When the well was being constructed in the fall of 1994 the question of well yield must have come up. Rust submitted a \$619 bill for the "assessment of potential system clogging". Bruce Secor saw the bill and approved payment.

In December of 1994 Clearwater for Bethlehem uncovered a secret hidden report that had never been submitted to the State. Any competent engineer would have recognized why the well yield was far below that promised to the town. Attorney Joseph Glazer submitted a petition to DEC to have the permit revised or revoked because the secret design report had never been submitted to the State nor placed in the town's library. Bruce Secor submitted pages of rebuttals but Fraser submitted nothing. Why?

By March of 1995 Glazer's petition was completely rejected by the State. In the spring of 1995 supervisor Sheila Fuller announced that the water supplies would be split. This certainly must have pleased Rust and Fraser because the low demand would delay public recognition of the poor well yield and the statute of limitation might run out. However I knew that when the well started operation January 2, 1996 that the levels of water in the well would prove that there was a poor well yield on the first day of operation.

I made a request and a formal appeal in accordance with the freedom of information act. Bruce Secor had Sheila Fuller submit the false information that there were no water level measurements made in the well. On a number of occasions I appealed to the town board to help me get the information. I was completely unsuccessful. However when Fraser, Rust, Secor blamed the poor well on an act of God I found the town board very willing to accept the scheme.

**We were promised 6.0 million gallons of excellent quality drinking water. Are we going to accept far less? The town board hired a lawyer to pursue the case but tied one hand behind his back and restricted what he could do with the other hand. When did Bruce Secor, Sheila Fuller and other town board members become aware of the poor well yield? Was it before the decision to split the water supplies?**

I know that I will be accused of hurting the lawsuit. I believe just the opposite. All of my experience with the town board from 1994 to 1997 showed they had complete confidence in the engineering capabilities of Rust and Fraser.

