

**TOWN OF SKANEATELES PLANNING BOARD**  
**SPECIAL**  
**MEETING MINUTES**  
**May 25, 2021**

Donald Kasper  
Scott Winkelman  
Douglas Hamlin  
Jill Marshall  
Scott Molnar, Legal Counsel  
John Camp, P.E. (C&S Engineers)  
Howard Brodsky, Town Planner  
Karen Barkdull, Clerk

Chair Kasper opened the meeting at 6:30 p.m.

**Discussion- 9 Lot Subdivision**

Applicant: Emerald Estates Properties, LP  
3689 Yosemite Ct  
Naples, FL 34116

Property:  
2894 East Lake Rd  
Skaneateles, New York  
**Tax Map #036.-01-37.1**

Present: Marc and Read Spear, Applicants; John Langey, Costello Cooney & Fearon, PLLC; John Delaney, Costello Cooney & Fearon, PLLC; Robert Eggleston, Eggleston & Krenzer Architects; Rudy Zona, RZ Engineering;

Counsel Molnar; Back on March 16, 2021, determined that the DEIS with exhibits, submitted by the applicant was complete. Under applicable regulations it was considered an FEIS for SEQR notice of completion with the state, completed April 30, 2021. Within the time permitted by the regulations, the Planning Board is required to complete a final determination on both the FEIS and the preliminary plat plan. The time for that to occur will be at the end of this month with after an extension by the applicant, for that the board could fully review the file, review the information in the Planning Board's file as submitted by the applicant, including testimony from public hearings previously held, to consider deliberation of both the final determination of the FEIS and the preliminary plat. In connection with that endeavor and requirement, a draft determination resolution was created. It was circulated to all members of the Planning Board for consideration and review as well as to the applicant and its professionals for their review as well. It is his recommendation to the Planning Board that the draft resolution is reviewed in full by paging it, paying specific attention to the concerns that are addressed that are directly out of the FEIS and related to the preliminary plat. They are his words and suggestions for determination. The conclusions were based on conversations with Planning Board members, review of the relevant documentation, and communications with the applicant and its professionals. This draft resolution, if acceptable to the Planning Board, can be reviewed at this meeting so that each individual component can be reviewed. Members then can speak on each of the given topics, providing their rationale, agreeing or not, the conclusions drawn. Afterwards, the Planning Board can hopefully consider rendering a determination on the FEIS and the preliminary plat.

In review of the resolution that has been proposed and prepared with standard Whereas clauses that describe the project itself, being a conservation density subdivision. He read below

**WHEREAS**, application was made by **Donald G. Spear and Emerald Estates Properties, L.P.**, (collectively "Applicant") for property located at **2894 East Lake Road** in the Town of Skaneateles, to re-subdivide an 80.9 acre parcel into a conservation subdivision of 9 lots

with an average of 6.00+ acres per lot, served by a re-developed private driveway to a conservation subdivision private road to accommodate a total of 12 residential lots, located in the Rural and Farming and Lake Watershed Overlay District (“Premises”, “Property” or “Project”), as set forth on a **Revised Sketch Plan, dated May 4, 2018** prepared by Robert O. Eggleston, Architect, (“Sketch Plan”) and as set forth on the **Hidden Estates Subdivision Overall and ESC Plan, Demo Plan, Road Layout, Grading and Profile, and Details dated May 10, 2018 and last revised June 8, 2018**, prepared by **R.Z. Engineering, PLLC** (“Road Plan”) together with other materials submitted by the Applicant, as more fully set forth herein (the “Application”).

Skipping ahead to the second page is getting to the meat of what to consider this evening, that is the first Whereas paragraph:

**WHEREAS**, at its meeting of December 21, 2020, the Planning Board concluded that the DEIS dated December 7, 2020 with exhibits to DEIS, submitted by the Applicant, was completed under applicable regulations for filing of a SEQR Notice of Completion, and determine that a public hearing was required for consideration of the DEIS, which public hearing on notice was duly held February 16, 2021.

**WHEREAS**, at its meeting of March 16, 2021, the Planning Board concluded the DEIS dated December 20 with exhibits submitted by the Applicant was complete under applicable regulations to be considered a Final Environmental Impact Statement (“FEIS”) for filing of a SEQR Notice of Completion, completed April 30, 2021 as required by SEQR Regulations and §276 of the Town Law of the State of New York; and

**WHEREAS**, while undertaking the foregoing, the Planning Board reflected on Project materials pertinent to its review under SEQR and under Chapters 131 and 148 of the Town of Skaneateles Code, concerning preliminary plats and approval thereof. He continued saying that the documentation is listed that has been reviewed to date and he will skip the recitation of all of that for purposes of time. It is clear that we all know these documents are the most important when the Planning Board and the applicant are considering the project. One date that will need to be provided is the Draft Stormwater Pollution Prevention Plan (“SWPPP”) prepared by R.Z. Engineering, PLLC. (The date provided later is June 18, 2018). All of the plans, engineering plans, including the preliminary plat plan prepared by Paul Olszewski dated December 4, 2020, are relevant to these determinations and this decision.

**WHEREAS**, in addition to the foregoing, the Planning Board has made site visits to the Property, has reviewed and considered all of the material contained in the Board's file, has heard and considered submissions made on behalf of the Applicant, has heard and considered submissions by the public and other interested parties, has considered the Onondaga County Planning Board Resolutions, and obtained engineering consultation; and

**WHEREAS**, in consideration of the foregoing, and in consideration of the FEIS and Preliminary Plat Plan, the Planning Board has considered the following findings and determinations concerning the FEIS, This has been followed directly out of the FEIS with some additional language proposed for the Planning Board’s approval. Beginning with:

**A. Findings and determinations concerning FEIS:**

As more particularly set forth below, the Planning Board has deliberated upon the FEIS, its exhibits and all materials submitted by the Applicant with respect thereto, as well as the Preliminary Plat, by which the Applicant has proposed mitigating measures and/or alternatives to eliminate and/or minimize potential environmental impacts recited in the FEIS, by choosing means and methods, as well as alternates and suggested mitigating measures, to ensure to the maximum extent feasible that the Applicant will eliminate and/or minimize potential environmental impacts, as follows:

**(a) Concern 1: Magnitude of excavation on steep slopes, creating steep slopes.**

The Applicant proposes and the Planning Board concurs that proposed construction of the Conservation Road will occur in an area where no mature trees are to be excavated, all areas to be excavated will be revegetated as detailed by Applicant's engineer per written materials and detailed on January 22, 2019, and that Applicant is committed to full compliance with the SWPPP Permit, as part of the SPDES General Permit for Storm Water Discharges from construction activity, to be reviewed and approved by the NYS Department of Environmental Conservation ("DEC") per guidance provided by the United States Department of Agriculture ("USDA"), Soil Conservation Services ("SCS"), and NYS Standards and Specifications for Erosion and Sediment Control. Per the FEIS, construction of the Conservation Road is proposed on areas of steep slope identified in the Conservation Analysis as an area which is attributed to high conservation value. As a result, the Planning Board requires that disturbance of the area must be managed by the Applicant and its contractors with caution, and by the use of mitigating measures to minimize soil exposure, to restore remaining soils to a vegetated state as quickly as possible, and to minimize all impacts to high conservation value land. Accordingly, construction of the overall Conservation Road shall, where applicable, including creation of side slopes, be treated with LANDLOK 450 Turf Reinforcement Mat, manufactured by Propex Geotex Mat(s), or approved equal, for slope stability and revegetated by the Applicant in a timely manner to minimize disturbance areas while providing long term stabilization of slopes created, as more fully set forth in the FEIS, and Chapter 5 of the NYS Stormwater Design Manual. In addition, as additional mitigation to impact(s), the Planning Board requires the Applicant to prepare and submit, for Planning Board Approval, a Steep Slope Planting and Management Plan (hereinafter the "Steep Slope Planting and Management Plan"), and to comply with same during the course of construction of the Conservation Road, and thereafter until soil disturbance has been fully stabilized.

Counsel Molnar: The steep slope planting and management plan is something the Planning Board considered at length in terms of this determination and the application in general given that this application is unique to Skaneateles. It is a project with, under SEQR review, was found to have potential environmental impacts with a positive declaration issued that was management by way of the DEIS and FEIS by proposing mitigating measures. All of that is material sensitive to the board. As a result, the Planning Board looks at the FEIS and the proposal submitted by the applicant, considered them at length and determined that the proposed mitigation measures are important and

should be captured as mitigation requirement in connection with the overall subdivision. It is the position of the board that a steep slope planting and management plan is pivotal for construction and continued compliance by the subdivision with all of the mitigating measures set forth in the FEIS. As a result, a suggestion to the Planning Board is to require such a document and compliance therewith with compliance in conjunction with any subdivision approval. I would like to open up the discussion to the board for any comment regarding concern 1.

Chair Kasper: I would like to say that the reason we are pushing for the landscaping plan is that it is for the long term to keep this project viable. That is why it is so important for the long term.

Member Winkelman: Shouldn't the last sentence be during the course of construction of the conservation road and thereafter until soil disturbance has been fully stabilized and then thereafter for maintenance and long term or is that covered in the conservation easement.

Counsel Molnar: It would be covered in the conservation easement with subsequent compliance after construction of the road. Concern 1 has to do with magnitude of excavation of steep slopes and creating steep slopes. I tried to pinpoint the discussion to that concern. The potential for erosion and the potential for impact on lake water quality also picks up that piece of continued compliance to the steep slope planting and management plan. Which would be well after construction is completed.

Member Marshall: At one point we discussed who would be maintaining this long term to make sure. If there are failures in it who is responsible. Are you saying that it is addressed elsewhere.

Counsel Molnar: Yes, and the recommendations if for the board to consider the requirement of chapter 131, establishment of a homeowner's association to be the sponsor who will be obliged to make sure this subdivision is compliant with the steep slope planting and management plan and is otherwise to preserve compliance with the conservation road and easement, the maintenance agreement, all of that. That is under a potential approval on this document after the board gets through the concerns 1 through 6.

**(b) Concern 2: Potential for erosion and its potential for impact on lake water quality.**

The Applicant has proposed in the FEIS, and Planning Board concurs, that construction of the Conservation Road, and overall development of the Project, will be subject to strict compliance with written policy and procedures for cut process, specifying maximum cut exposure time, name of landscape products to be used to secure loose earth before established time elapsed, and name of products to be used to revegetate all areas, which shall be subject to Planning Board Chair and Town Engineer review and approval. The Applicant has further committed to strict compliance with the SWPPP and SPDES General Permit for storm water discharge and construction activities, as required by the DEC and any agency or authority having jurisdiction, and in particular as per Section 12 of the SWPPP, "Site Stabilization" by the Project Applicant will require its contractor to initiate stabilization measures as soon as practical in every portion of the Project site where construction activities have temporarily or permanently ceased, but in no case more than seven days, and all work shall be subject

to weekly inspection, and certain control measures being employed during construction activities as required by the SPDES Permit. Further, the Applicant is required to ensure that all proposed construction activities of the Conservation Road will be mitigated within the existing storm water system at the Project site, through proposed modifications of the outlet control, subject to review and approval by the Town Engineer. The Applicant has also proposed, and the Planning Board concurs, that each individual lot created in the overall subdivision shall be subject to small scale storm water management and Site Plan review for each of the proposed homes to be constructed thereon.

As set forth in the FEIS, Applicant has proposed and the Planning Board concurs that mitigation against potential erosion shall be accomplished by the Applicant utilizing a LANDLOK 450 Slope Stabilization System to quickly and effectively stabilize slopes steeper than 1H:3V, and to utilize LANDLOK Turf Reinforcement Geotextile mats, or approved equal, specifically designed for erosion control, in accordance with the SWPPP and NYS SPDES requirements and to further:

- i. For construction sites where soil disturbance activities are ongoing, the Town Engineer (to be paid for via Applicant escrow funds as referred to herein) shall conduct a site inspection at least once every seven calendar days;
- ii. For construction sites where soil disturbance activities are ongoing and the Applicant or its successor has received authorization to disturb greater than five acres, the Town Engineer shall conduct a site inspection at least twice every seven calendar days;
- iii. For construction sites where soil disturbance activities have been temporarily suspended, and temporary stabilization measures have been applied, the Town Engineer shall conduct a site inspection at least once every 30 days to assure said stabilization measures are effective.

With respect to areas of disturbance due to construction of the Conservation Road and its side slopes, Applicant shall assure that, at all times, the Stormwater Management Facility located on the Project site is functional and is adequately sized to accommodate construction of the Conservation Road, with capacity to handle runoff for the entire project site, including all nine proposed lots to be created therein.

With respect to the stockpiling of soils outlined in the Plans and addressed in the FEIS, regarding soils to be placed either temporarily or permanently on the proposed Lot 11, Applicant has proposed in the FEIS and the Planning Board concurs that mitigation of potential erosion shall be achieved by Applicant's compliance with the SWPPP and SPDES Permit referred to herein, and by utilization, where applicable, of the LANDLOK 450 Stabilizations Systems, including use of landscape products to secure loose earth before time elapses, and to revegetate exposed and stockpiled soils in a timely manner according to the Stock Pile Grading Plan (Drawing SG-1) and after permanent placement of same, entirely grade and topsoil the area, and hydroseed same to initiate revegetation.

Counsel Molnar: Does any member of the Planning Board have any additional comments or observations concerning Concern 2.

Member Hamlin: Back in the first paragraph it was referred to re-vegetation after the cut, that is subject to the Planning Board chair and Town Engineer review and approval. Would it be more efficient to make that part of the overall steep slope planting and management plan or keeping that separate because it is construction activity.

Counsel Molnar: That is a good point, that is subject to your consideration further. The steep slope planting and management plan can be created and subject to Planning Board Chair and Town Engineer approval. That would cover both construction and long-term maintenance of those steep slope areas, and the overall subdivision.

Member Hamlin: It might be more efficient to tuck it in there as it could be one review and approval process for the board rather than separate ones just for the Chair and Town Engineer.

Counsel Molnar: I agree, and it can be managed effective and efficiently in the document. I don't know if we need to cut in our and make it a separate provision in this concern 2 but having that document created subject to review and approval would cover it. We can make sure that we address it.

Member Marshall: I am assuming that the steep slope planting and management plan would be completed and approved prior to any construction in the steep slopes. We don't want them starting before the management plan approved.

Counsel Molnar: It would be required prior to final plat approval.

**(c) Concern 3: Impact of project on view.**

Per the FEIS, Applicant recommends and the Planning Board concurs that impact of the Project on view shall be mitigated by Applicant's strict compliance with a proposed Planting Plan for the west facing bank of the Conservation Road, both during and after construction, by height restrictions on homes on lots 3, 4, 6 and 8 which shall be restricted by Deed to maximum heights of no more than 25 feet above the medium elevation of the building envelopes and for Site Plan review approval which shall include landscape screening, and by Applicant's proposal to manage the appearance of new homes via Covenants and Restrictions, with the Applicant submitting a final Landscape Plan acceptable to the Planning Board to limit the impact of view by utilization of plantings in compliance with the Steep Slope Planting and Management Plan made part of the Site Plan, and by design and construction of a vegetated berm which will screen the Conservation Road from view from the lake and otherwise. Furthermore, impact on view will be mitigated during construction of the Conservation Road by utilization of mitigation measures discussed in Concerns 1 and 2 above to prevent soil erosion from exposed soils, as same will be secured and revegetated in timely manner, as set forth in the FEIS and above, and by Applicant's compliance with

the Steep Slope Planting and Management Plan during the course of construction of the Conservation Road, and thereafter until soil disturbance has been fully stabilized.

Member Hamlin: What is the mechanism to ensure future site plan review includes this.

Counsel Molnar: It will be a requirement as a note on the final plat plan to be approved by the Planning Board and it also has been thoroughly reviewed and is redundantly identified in this approving resolution, that is sufficient to address. It.

**(d) Concern 4: Amount of earth being moved from sensitive steep slope.**

Per the FEIS, the Applicant proposes and the Planning Board concurs that the mitigating measures set forth in detail regarding Concerns 1 and 2 above, and as set forth in the FEIS, will mitigate potential environmental impacts from the volume of earth and soils being disturbed on a sensitive steep slope, and as otherwise proposed to be created by Conservation Road, and/or by development of the houses on each of the residential lots to be created, and/or by stabilization of spoils to be placed and properly managed on the proposed Lot 11, all as set forth above. In addition, the Applicant will adhere to a construction narrative which minimize inconvenience to those who will regularly use the Conservation Road, during the period of construction, and thereafter, as set forth in the Conservation Density Subdivision Road Construction Sequence prepared by R.Z. Engineering, PLLC, and as set forth in the SWPPP and SPDES General Permit.

There were no additional comments from the Planning Board.

**(e) Concern 5: Potential for existing Project to inspire similar future projects on steep slopes.**

Per the FEIS, the Applicant suggests and the Planning Board concurs that the potential for this Project to inspire similar future projects are limited, given the Project is designed as a conservation subdivision with a required density of at least six acres per lot to be created, with homes clustered in the open meadow in the center of the Project, and not near high conservation value area of the overall site, with high and medium conservation value land being preserved in perpetuity pursuant to the Conservation Easement being made a Special Condition of Project approval.

The Applicant proposes and the Planning Board concurs, that Applicant's strict compliance with the terms and conditions in the Plans, as well as the Preliminary Plat Plan, and the FEIS, as applicable, will adequately mitigate against this Project serving to potentially inspire others, as the Project has been designed to be code compliant in all respects, sensitive to potential environmental impacts concerning erosion control and storm water management.

There are no additional comments from the Planning Board.

**(f) Concern 6: Potential for Project Access Easement to be construed as shared lakefront recreation.**

As set forth in the FEIS, the Applicant proposes and the Planning Board concurs that potential for an Access Easement attendant to this Project to be construed as shared lakefront recreation is mitigated by the Applicant proposing, for Planning Board, Chair and Counsel's approval, explicit written language to be included in the Recordable Documents (as defined herein) limiting the rights to be conveyed to potential lot purchaser by granting a right of passage for pedestrian ingress and egress to the lake only, without any other right conferred for use of land adjacent to the lake for recreational purposes, specifically prohibiting use of the easement for shared lakefront recreation, as said terms are defined in the Town of Skaneateles Zoning Code, a violation of which may be enforceable by applicable statutory penalties by the Town Code Enforcement Office, by the Homeowner's Association to be created to manage common features and benefit areas of the Project, as set forth herein, and by the owner of the property burdened by said lake access Easement.

Chari Kasper: This access easement is only for the nine newly created lots. We cannot force the existing lots to abide by this.

Counsel Molnar; Yes that is correct, we cannot. The existing lots are what they are; however, the applicant and project sponsor is the recipient of the existing lake access easement recorded. It proposes and the board should agree that further restrictions for what can be used, and what can be done over that access easement, be incorporated into these recordable documents. So that it is without any doubt whatsoever this will not be shared lakefront recreation as the code defines it. That is for use on land or upland of the mean high-water mark for congregating or shared lakefront recreation. This is simply an access easement as proposed by the applicant and it can be effectively limited by that in both terms of the FEIS and what is proposed in the documents.

The foregoing mitigating measures, alternatives and special conditions proposed by the Applicant are hereinafter collectively referred to as the "FEIS Mitigation Requirements"; and

**WHEREAS**, upon review of the Preliminary Plat Plan, the Board considers same in substantial compliance with the requirements of Section 276 of the Town Law of the State of New York, as well as Chapters 131 and 148 of the Town of Skaneateles Town Code, as may have been amended.

**NOW, THEREFORE**, upon a motion made by Member Douglas Hamlin seconded by Chair Donald Kasper, and upon the affirmative vote of Members present, as set forth in the Record of Vote referenced below, the Skaneateles Planning Board adopts the following findings and determinations concerning the FEIS and the Preliminary Plat, as follows:

1. The foregoing recitals are incorporated herein as if set forth at length;
2. FEIS Mitigation Requirements. The Planning Board hereby adopts the FEIS Mitigation Requirements, and concludes that the FEIS Mitigation Requirements have adequately

analyzed, designed, and proposed mitigating measures, alternatives, and engineered solutions, which when utilized by the Applicant in connection with development of the Project, shall mitigate and/or eliminate potential environmental impacts reflected in the FEIS, and Applicant's compliance therewith when constructing the Project shall be strictly enforced.

3. Pursuant to and in compliance with Town of Skaneateles Code Chapter 131, Subdivision of Land, the Planning Board accepts and concludes that Applicant's proposed Conservation Road is subject to the requirements of Section 131-2 General Requirements and Design Standards, as well as Section 131-6 Conservation Density Subdivisions, and to meet the requirements of the Skaneateles Fire Chief.

4. HOA Requirement. Pursuant to and in compliance with Section 131-2(G), and to ensure strict compliance with the suggested Mitigation Requirements, the Planning Board concludes that the Applicant is required to create a formal Home Owner's Association ("HOA") under New York State law that shall, in addition to any requirements of the Applicant, be responsible to maintain the: a) drainage facilities located on the Plat Plan, whether or not located within the Conservation Road Easement area; b) to maintain the Conservation Road, including snow removal, and routine maintenance thereof; c) to manage the Parking Easement area located at the beginning of the Conservation Road to assure that said parking easement area is maintained in an orderly fashion, and utilized in an orderly fashion, as required under the Parking Easement Agreement (as defined herein); d) to maintain and manage the Conservation Easement Area as depicted on the Conservation Analysis, and subject to the Conservation Easement (as defined herein); e) to be responsible for and maintain the fire suppression water holding tanks depicted on the Plans, to the satisfaction of the Town Fire Chief, and to assure compliance with the Steep Slope Planting and Management Plan, during the course of construction of the Conservation Road, and thereafter until soil disturbance has been fully stabilized. The language of the proposed HOA must be submitted to the Planning Board's attorney for review and approval with the Planning Board Chair and comply with all regulatory requirements of the New York State Attorney General's Office, be found acceptable to the New York State Attorney's General's Office, and the Applicant must provide proof of said acceptance to the Planning Board Secretary as a condition of submitting the final Plat Plan and other items attendant thereto. In addition, to ensure continued compliance by the Applicant, or its successors, the HOA is required to periodically, but not less than every five years from the date hereof, verify it is a duly qualified and acting HOA in the State of New York, capable of fulfilling the conditions of this approving Resolution.

Member Marshall: It says that the HOA is responsible until the site has been stabilized. Who deems them stabilized, and what happens if they become unstable due to a storm.

Counsel Molnar: A period of three years after construction, the guarantee has been discharged would be satisfactory. The period of time when stabilization as a result of construction will be assured by a construction guarantee, then there will be a period of three years thereafter for stabilization subject to compliance. In our code we have soil and sediment requirements that apply to all lots in the town regardless of if they are subject to subdivision approval or not. The sediment requirements are applicable to all properties and enforceable by the codes officer for erosion control. He can issue an appropriate order to remedy as necessary and followed up by a citation

that is brought about if there is no compliance in a court of law with civil monetary penalties that go with it.

Chair Kasper: If there was sediment going into the lake NYSDEC and the City of Syracuse Department of Water would step in too.

Counsel Molnar: We may not have and our code does not permit a continuing guarantee for longer than three years. The board in their determination should follow the maximum period of time, being three years. Thereafter the zoning code and codes enforcement office have rights and remedies on behalf of the town.

5. Section 131-3(E) Performance Guaranty. Pursuant to and in compliance with Town Code Section 131-3(E)(1), the Applicant must post an irrevocable letter of credit in favor of the Town of Skaneateles, on a form acceptable to the Town Attorney, in the amount to be determined by the Planning Board Chair (hereinafter referred to as the “Construction Guaranty”), which shall extend from the date construction of the Project begins upon the Conservation Road, and extend through completion or improvement of all: a) drainage facilities; b) installation of the fire suppression holding tanks with attendant piping and connections; and c) the Conservation Road. Pursuant to and in compliance with Section 131-3(E)(1), upon completion of the foregoing, the Construction Guaranty may be discharged by following the procedural requirements of Section 131-3-(E)(1). Thereafter, pursuant to Section 131-3-(E)(1), the Applicant must post an irrevocable letter of credit in favor of the Town of Skaneateles, on a form acceptable to the Town Attorney, in the amount to be determined by the Planning Board Chair valid for a period of not less than three years (hereinafter referred to as the “Compliance Guaranty”) to assure compliance that all of the foregoing constructed components, as well as the revegetation, planting and visual screening requirements of the FEIS, including capping of spoils relocated to Lot 11 and revegetation thereof, maintenance of the conservation values of property located within the Conservation Easement, and compliance with construction of all common improvements as set forth on the Plans are all matters found to be fully compliant at or before expiration of said additional three year period, after which the Compliance Guaranty may be discharged by following the procedural requirements of Section 131-3(E)(1).

6. No building permits shall be issued for construction of residential structures or dwellings on any of the lots created in the Subdivision until the Construction Guaranty has been discharged.

Counsel Molar: This would be to accommodate the road. The road would be constructed according to the plans and requirements of this resolution to its completion and compliance before the construction guarantee would be discharged. That would then permit individual lot owners to develop their lots according to these requirements.

7. Adoption of Conservation Analysis. After thorough review of the Conservation Analysis, the Board concurs that it provides an accurate and representative analysis of the property, and accurately depicts the areas of high, medium and low conservation value (the “Conservation Findings”) which will be adequately and perpetually protected by imposition of the Conservation Easement required hereunder, the minimum requirements of which are as follows:

- a. That consistent with the Conservation Analysis, the Conservation Easement shall preserve open space, forest area, wetlands, steep slopes, and the perimeter of the entire overall property, which shall remain as required by Section 10-13 (formerly 131-6A(2)) of the Skaneateles Town Code, and applicable sections of Section 247 of the General Municipal Law and/or Sections 49-0301 through 49-0311 of the Environmental Conservation Law, without adjustment, modification or change, except upon the express written consent of the Town of Skaneateles Planning Board, and as more fully set forth in the Conservation Easement.
- b. Conditions and restrictions. The building envelopes for each lot shall be designated on each of the nine building lots, configured so that each building envelope is no greater than as set forth on the Preliminary Plat Plan, within which the principal residence and all structures shall be built, except the driveways, landscaping and/or sidewalks shall be permitted between the building envelopes and the Conservation Road, and no building envelope shall be placed in areas of high conservation value as set forth in the Conservation Analysis. No other improvement shall be permitted for construction within the high conservation value areas without the express site plan approval from the Planning Board, except that the Applicant may exercise management and control of forested areas to enhance the health of same by removing and/or replacing diseased vegetation; and
- c. As a result of the Conservation Findings set forth herein, the following uses shall be prohibited within the area designated in the Conservation Easement:
  - i. Subdivision or further subdivision, or the legal or de facto division of said land in Conservation Easement;
  - ii. Construction, placement, or enlargement of any Conservation Road, parking area or lots, or other structures, drainage structures or other improvements of any kind are prohibited in the Conservation Easement area, except as set forth on the Preliminary Plot Plan;
  - iii. Waste disposal, the dumping, processing or burial, injection or disposal of wastes in the Conservation Area is prohibited.
  - iv. Land alteration and/or clear cutting. No subsurface disturbance or alteration of the topography is permitted in the conservation area, including excavation or removal of soil, sand, gravel, rock, etc., clear cut removing of trees or other vegetation is prohibited, and alteration or manipulation of any water course or wetland is prohibited.

8. Easements and recordable documents, to be reviewed and approved by the Planning Board and its counsel, shall be prepared by the Applicant and shall address the following:
  - a. Conservation Easement.
  - b. Parking Area Easement.
  - c. Road Maintenance Agreement.
  - d. Lake Access Easement.

The foregoing items are hereafter referred to as the “Recordable Documents”, which shall be submitted for review and approval by the Town Attorney, the Planning Board Chair and the Planning Board Attorney, and as approved shall be executed and recorded by the Applicant in the Onondaga County Clerk’s Office contemporaneously with the filing of the Final Plat (as defined herein);

9. Development and construction of the Project, according to the Preliminary Plat, and the Recordable Documents, shall be fully complied with by the Applicant, at no cost to the Town.

10. That the Applicant shall obtain all necessary approvals from any agency or authority having jurisdiction over the Property or Project, including the Town Board, the Town Highway Superintendent, and the Skaneateles Fire Department, and Applicant shall build all required infrastructure, including, but not limited to, drainage basins, storm water drainage facilities, the Conservation Road, the fire suppression tanks, lines and connections, all according to Town standards and specifications, at no cost to the Town, and install same where depicted and as set forth on the Preliminary Plat, as specified in the Plans.

11. The Applicant shall make application to the Town Board of the Town of Skaneateles for the extension or creation of any lighting, drainage or other required district, and that the Applicant fulfill any conditions required by the Town Board in consideration of granting extensions to or creation of said districts (collectively the “District Approvals”);

12. The Applicant shall, as soon as practicable hereafter, provide boring results for proposed septic systems, and locate same on the Final Plat (as hereinafter defined), and obtain all necessary septic approvals from the Onondaga County Department of Health, and fulfill any conditions proposed therewith, as required by Town Code Chapter 131;

13. The Applicant shall deposit an amount to be determined by the Planning Board in escrow to cover reasonable costs of review by the Town Engineer and Planning Board Attorney, and shall deposit additional escrow as determined necessary by the Planning Board;

14. That prior to the start of any construction, the Applicant, its Engineer and Contractors shall arrange for a preconstruction meeting with the Code Enforcement Officer, Town Highway Superintendent, the City of Syracuse Department of Water, and Town Engineer to assure the parties mutual understanding of the conditions and requirements of this Resolution, and the sequence and/or requirements for construction of the Project.

15. Prior to the start of any construction the Applicant shall submit, as necessary, any additional erosion and sediment control plans, grading plans, construction sequences, or any plans as may be required by the Planning Board, the Code Enforcement Officer and/or the Town Engineer.

16. That all approvals required from or by the New York State DEC for stormwater runoff control in conformance with the NYS SPDES Phase II Program be received, and complied with by the Applicant when completing the construction of the Project.

17. That in accordance with the requirements of Town Code Chapter 131, the Applicant shall place an agricultural disclosure notice (the “Agricultural Disclosure Notice”) on the face of the Preliminary Plat, within all marketing materials used in the marketing for sale of residential lots within the Project, within a Declaration of Restrictive Covenants and Conditions to be recorded concerning the Project, on each survey for each lot created within the Subdivision, and further on each deed conveying a residential lot(s) in the Project to others, providing notice that: a) this Property adjoins land used for agricultural purposes; b) Farmers have the right to apply approved chemical and organic fertilizers, pesticides, herbicides, and animal wastes, and to engage in farm practices which may generate dust, odor, smoke, noise and vibration.

18. That within six months after this conditional approval of the Preliminary Plat, the Applicant shall comply with the requirements of Sections 131-3(C), (D) and (E) of the Town of Skaneateles Code, and make application to the Planning Board pursuant to Section 131-3(D) seeking final plat (“Final Plat”) approval by submitting a Final Plat in substantial agreement with the Preliminary Plat and these special conditions, where applicable, for the Planning Board’s consideration.

Counsel Molnar: Included in all of that is our standard conditions as well as special conditions required to address this project after the FEIS and all of its mitigating measures . At this point the discussion is concerning the performance construction guarantee and compliance guarantee, and address that because there are fairly significant requirements. The numbers have not been included in this resolution. We have received correspondence of the securities calculations prepared by John Camp, PE of C&S Engineers, that thoroughly evaluates construction costs and makes recommendation for the construction guarantee and the compliance guarantee. This has been circulated to both the Planning Board and the Applicants and their representative. John concludes that a suggested 40% of construction cost be the amount, \$492,400 as the construction guarantee which would assure that the town has adequate resources available in the event that the sponsor/developer defaults during construction of the conservation road prior to its completion. Not to move forward and have the town take on any obligation for completing the road, rather to stabilize it, cap it, and maintain it so that mitigation measures set forth in the FEIS are complied with. It is obvious that the Planning Board and the Town of Skaneateles have no interest in completing a project in the event of a default of an applicant., which would be a default to the term and conditions of this resolution and arguably nullify any subdivision approval that has been granted. It is in the town’s best interest and their inclination to utilize resources available for mitigation measures to stabilize any construction that is incomplete or otherwise stabilize the property so that it is not a threat to the environment or any of the concerns set forth in the FEIS. The construction guaranty is important, and its value should be arrived at as a result of stabilization.

It is also providing an evaluation for the compliance guarantee and suggests that it be valued at 25% of the construction cost \$307,750 to ensure that the construction according to the plans and specifications being reviewed, is adequate and complete and is compliant. In the event there is noncompliance, or the compliance deteriorates, the town will have an available resource to fix it. In terms of the FEIS and the concerns raised, the compliance guarantee is very important and arguable required by chapter 131-3E(1). With that John has suggested that a compliance guarantee of 25% of the overall construction cost be arrived at, and in this case, \$307,750 based on the estimates and calculation.

Chair Kasper: I would like to hear the response from the applicant on all of this so that we are all under the same understanding on everything. Maybe they had comments we had not thought that could be considered. If the board wishes to do that, to be fair with everybody to make sure it is a workable project.

Members Hamlin and Marshall : I agree with that comment.

Attorney Mr. Langey: the estimate they received this afternoon so the clients have not had time to digest it. They would like to request more time to review it with their engineer and contractor for some of the raw numbers on the correspondence from John Camp, as the raw numbers drive the percentages for the two guarantees. Our engineer could interact with the town engineer to take a look at how some of the numbers were arrived at. It would be fair to give us additional time to review as this is an important aspect of the resolution.

Mr. Camp: I support that as I would admit that I know the project well and have looked at it carefully, it was not my place to spend an inordinate amount of time calculating the quantity. I took my best guess in a reasonable amount of time. If Rudy has other information to refine those, it would be a good discussion to have.

Mr. Langey, We are not saying that they are right or wrong, we just want to take a breath to make sure that we arrive at the proper number.

Mr. Camp: It is always good to have another set of eye on this.

Mr. Langey: I don't know if you can take it under advisement that for purposes of this resolution perhaps the board would entertain action on pulling out those final numbers with a caveat subject to the arrival for the final compliance and construction guarantee number after tonight.

Chair Kasper and Member Hamlin: I would be in favor of that.

Counsel Molnar: So that it should state that "an amount to be determined by the Planning Board Chair in each instance. Would that be acceptable because that would be reflective of and take into consideration of the back and forth, and the rationale supplied by both engineers to one conclusions.

Mr. Langey: That seem fair to me to let the two engineers talk and compare numbers, then give advise to the Chair. The Chair can let us know what the number will be.

Chair Kasper: I am in agreement with that.

Counsel Molnar: In each instance it should read " in a form acceptable to the town attorney, in the amount to be determined by the Planning Board Chair".

Chair Kasper: Back to Mr. Langey, is there anything else in this resolution that you would like to discuss.

Mr. Langey: Not per se, if you let me write it I would write it differently. All credit to Scott as there are many items in here that my client and the board have brought to this conclusion. So much of this was arrived at both mutually and jointly. Overall the resolution reflects the record.

Ms. Barkdull: The FEIS reflects that the last SWPPP submitted is June 18 , 2018.

Mr. Langey: I don't know if there has been a final SWPPP; I think John Camp has to sign off on the final SWPPP.

Mr. Camp: Generally speaking, the applicant had gotten it together that is pretty close. There may not be any final changes and the SWPPP would be finalized with the final approvals.

The SWPPP notes on page 3 will have the word "Draft" and the date of June 18, 2018 added.

Member Winkelman: I just want to confirm the date of the last Conservation Analysis that was submitted. I have the date of April 29, 2015. Did that include the steep slopes?

Mr. Eggleston: It is April 29, 2015 that includes the consolidated findings on page 8.

Member Winkelman: That include the steep slopes?

Mr. Eggleston: Yes it did.

Chair Kasper: Any other comments.

Member Hamlin: I will at the vote. The documents represents fairly well the sum total of the efforts.

Member Marshall: I agree, I think it reflects our conversations that I have been part of.

Chair Kasper: There have been many years on this project, in my fourteen years this one has had an intensive review for a subdivision, although Loveless came close, and has a lot of detail.

**NOW, THEREFORE, BE IT RESOLVED**, upon a motion made by Member Douglas Hamlin and duly seconded by Chair Donald Kasper, and after an affirmative vote of all Members present, as recorded below, the Town of Skaneateles Planning Board adopts the findings and determinations concerning the FEIS and the Preliminary Plat as shown and discussed above.

Member Hamlin: I view the role of the Planning Board, if possible, a journey to yes. And this has been a long journey. Am I in love with every aspect of the project, no I am not. But I respect that the board has exhaustively and effectively employed every process available to us to review it and make the changes that we have requested. I respect and thank the applicant too for their response to modifications they have made. There is no question this has been frustrating and time consuming for them and I appreciate the effort. The result is that the project is compliant with the code, and we can not ignore that. It does not make it perfect but keeps it in the ballpark. I think the twelve page resolution is evidence of the fact that the board struggled with this a little bit. That

said, I believe it manages and captures the impacts and mitigation we discussed. We just have to remember to monitor it and be diligent about what is in it. All that said, it is a yes for me.

Member Marshall: Yes, I share Doug; s concern. I do not love it . I think it is as compliant as it can be and I am grateful to the applicant for working with us . I would like to state my concerns about precedent and hopefully we are not seeing a lot more of this.

Member Winkelman: I am also voting yes. I have never been comfortable with the amount of earth moving required in the watershed. Both the past for the driveway and now for the roadway, especially as it pertains to steep slopes. Every plan, whether it is the City of Syracuse or Onondaga County, or skaneateles, everywhere you read you want to protect steep slopes because they are fragile, and they are very hard to re-vegetate after they are disturbed. I am skeptical about some of the engineering solutions, but we have addressed a lot of those in our resolution. I am a maintenance guy, and I see all these steep slopes and water control structure, all of which is high maintenance in the future for the HOA . All of the extra easements for the code enforcement officer, it is a bit convoluted, but it is what it is.

Chair Kasper: I have to give credit to everybody that has been involved with this very lengthy process; it is really detailed. I have the same concerns as Doug mentioned. We are at the end , they are making it compliant, so my vote is yes.

**RECORD OF VOTE**

			Yes	No
Chair	Donald Kasper	Present	[ X ]	[ ]
Vice Chair	Douglas Hamlin	Present	[ X ]	[ ]
Member	Scott Winkelman	Present	[ X ]	[ ]
Member	Jill Marshall	Present	[ X ]	[ ]

**WHEREFORE**, a motion was made by Member Hamlin and seconded by Member Marshall to adjourn the meeting. The Board having been polled resulted in the unanimous affirmance of said motion. The Planning Board Meeting adjourned at 7:40 p.m. as there being no further business.

Respectfully Submitted,

Karen Barkdull, Clerk

Additional Meeting Attendees: