

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

Present: Chairman Tom LaPerch; Boardmembers Paul Jonke, David Rush, Michael Hecht, Phil Wissel and Dan Armstrong; Town Planner Ashley Ley; Secretary Victoria Desidero. Absent and Excused: Boardmember Eric Cyprus; Town Attorney Willis Stephens

**PUBLIC HEARINGS:**

**REGULAR SESSION:**

Chairman LaPerch said I am going to change the order of the agenda tonight to get this one item done. He asked for the person representing Verizon to approach the Board.

1. **NYSMSA, d/b/a VERIZON, 3925 Danbury Road** – This was a review of a request for Exemption from Site Plan and Conditional Use Permit review. Attorney Michael Sheridan of Snyder & Snyder appeared before the Board and said I am here for a requested exemption for some work being done at an existing tower at 3925 Danbury Road. Chairman LaPerch asked where the cell tower is and Ms. Ley said it is the cell tower on Route 6 heading toward Connecticut. Chairman LaPerch asked what they are doing and he said we are replacing existing antennas within the tower that you cannot see and add some equipment in the compound which you cannot see. He said I think the only thing you can see is a gps antenna which will be raised about two feet above but sits along two or three others so it won't be very visible. The motion to Grant the Exemption from Site Plan and Conditional Use Permit review for NYSMSA d/b/a Verizon at 3925 Danbury Road was introduced by Chairman LaPerch, seconded by Boardmember Jonke and passed by a roll call vote of 6 to 0 with 1 absent.
2. **GUARDIAN VETERINARY SPECIALISTS, 4 Hardscrabble Heights** – This was a review of an application for Site Plan Amendment and Special Permit. Chairman LaPerch recused himself saying someone on his sales team was involved in the transaction and left the dais. Jamie LoGiudice of Insite Engineering and Doctor Jason Berg appeared before the Board. Ms. LoGiudice said this project is at 4 Hardscrabble Heights off of Fields Lane; it is a 3-acre parcel in the OP-1 Zone with an existing two-story metal building with associated parking. She said we are proposing a change of use to allow for an emergency animal hospital with some minor site plan amendments including some light poles, three additional poles and one fixture on the building and she showed them on the plans. She said the other site improvement is the addition of a handicap access ramp because the existing ramp does not meet Code and the new ramp will be closer to the middle of the building. She showed this on the plans as well. Dr. Berg explained how his practice works saying he is a Veterinary Neurologist dealing with seizures and things like that. He said the specialist practices have been growing in recent years so if you have a pet with a heart issue, for example, you take it to a Veterinarian Cardiologist. He said I have a practice like this in Yonkers and we get every single Vet in Putnam and every single Vet in Westchester sending their patients to us. Dr. Berg continued: it is sort of two-tiered thing in that it is a specialty hospital and also an emergency clinic and maybe the closest one of those is in Katonah or Connecticut. He said it is made up of 50 employees including about 10 to 15 Veterinarians plus techs and then mostly local people as support staff. He said we see about 20,000 patients per year at our facility in Yonkers and expect we will do about 5,000

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

here so it is about a quarter of the size of our other practice. Boardmember Jonke asked if this is the old Touchstone building and Ms. LoGiudice said yes. Boardmember Armstrong asked how much space they will have and Dr. Berg said it will be about 29,000 square feet but we are just renovating the top floor of the building: about half is office space and half is warehouse but we are only utilizing the top floor and the rest is storage. He asked how many parking spaces they have and Ms. LoGiudice said 61 parking spaces which is what is required. He asked if they think it will be enough and she said yes. He asked how high the lighting poles are and she said 18 feet. He asked if there are residences nearby and she said no. Boardmember Armstrong asked if they will operate 24 hours a day and Dr. Berg said yes and explained that there is a night shift that comes in. He asked if it would be possible to use motion detectors wherever possible to keep the lighting spillage low at night. Acting Chairman Rush said I am looking at the light chart and the levels are pretty low and yet it is always great to look at those options to keep the lighting low. Acting Chairman Rush asked Dr. Berg about the types of animals they treat and he said it is dogs and cats and maybe some exotics but only animals that you can bring into a building. The motion to Classify this as a Type II Action and Minor Project was introduced by Acting Chairman Rush, seconded by Boardmember Wissel and passed by a roll call vote of 5 to 0 with 1 absent and 1 recused. Town Planner Ashley Ley said I am suggesting that the Board waive the Public Hearing because the Town Board is required to hold one on the Special Permit for this application and because as a minor project they are not required to have one. Acting Chairman Rush asked if there were any objections and there were none. The motion to Waive the Public Hearing was introduced by Acting Chairman Rush, seconded by Boardmember Armstrong and passed all in favor. The motion to Refer the applicant to the Architectural Review Board was introduced by Acting Chairman Rush, seconded by Boardmember Hecht and passed all in favor. The motion to Refer this to the Town Board for a Special Permit was introduced by Acting Chairman Rush, seconded by Boardmember Armstrong and passed by a roll call vote of 5 to 0 with 1 absent and 1 recused. Acting Chairman Rush said it will be great to have you in the neighborhood and the Board discussed where the closest emergency Vets are located.

3. **DONUTS BY DE BONIS, 1041 Route 22** – This was a review of an application for Site Plan Amendment. Chairman LaPerch said this applicant lost his approval because he did not pay attention to the expiration date. Boardmember Hecht recused himself saying his son works at Dunkin Donuts and left the dais. Jamie LoGiudice of Insite Engineering represented her client before the Board. She said we received Site Plan approval in July of last year and the applicant failed to submit his inspection fees or bond and never pulled a Building Permit so now he is ready to get this approved again and get the ball rolling. Chairman LaPerch said typically we give a little leeway when the approval has just expired but this kind of went longer than our expiration grace period, correct? Ms. Ley said yes. He said typically we give a little leeway but... Secretary Desidero said it wasn't because it was that much longer than others it was because the applicant was originally asked to come in because he had a violation and one way to preserve the Site Plan approval is to pull a Building Permit and get your work done. She said because he is still in violation it is like a whole year went by and he still has the violation. Ms. Ley said there are no changes proposed to the previously approved plan so we are recommending classifying this as a Type II Action and a Minor project. Chairman LaPerch said it is a whole new set of fees?

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

Ms. Desidero said it is one fee. The motion to Classify this as a Type II Action and Minor Project was introduced by Chairman LaPerch, seconded by Boardmember Armstrong and passed by a roll call vote of 5 to 0 with 1 absent and 1 recused. Chairman LaPerch asked if there were any comments about waiving the Public Hearing and there were none. The motion to Waive the Public Hearing was introduced by Chairman LaPerch, seconded by Boardmember Wissel and passed all in favor. Ms. LoGiudice said my client is very prepared to push this forward very quickly now.

4. **Report and Recommendation on the Proposed Workforce Housing Zoning Text Amendment for Barrett Hill** – This was a continued discussion of a report and recommendation to the Town Board. Attorney Richard O'Rourke of Keane & Beane, Terri Ann Hahn of LADA Engineers and Harold Lepler appeared before the Board. Chairman LaPerch said we discussed this at our last meeting and I have told the applicant that tonight they can speak specifically to the Zoning change issues. Mr. O'Rourke said we were not aware we were on a Planning Board agenda a couple of weeks ago so we weren't here and we apologize for that. I know many jurisdictions would send you a letter and tell you, he said, that you were on the agenda and give you a whole litany of dos and don'ts and, in any event, we don't do it here but that's OK. He said what we have is a request made by petition for the creation of a Floating Zone, that is a Zoning technique that has gained acceptance and is used throughout the Hudson Valley and many other areas. Essentially, back in 2006 there was approval of a housing unit of 168 units for senior housing and construction was commenced but you know what happened to the market in 2007 and 2008 relative to real estate and the economy in general and, frankly, Mr. O'Rourke said, to finance senior housing at this time is practically impossible. He said so with that and due to the close proximity of UCP (United Cerebral Palsy) and the crying need for, among other populations, housing for the disabled, there is this opportunity to provide for that to be permitted through the Floating Zone. What is proposed is that, by way of the Floating Zone, is that if you meet the qualifications to have your property re-zoned for this particular purpose then the property is mapped and thereafter the applicant must go through customary Site Plan review and for the granting of a Special Permit by the Town Board for the project to come into reality, he explained. What's proposed here, he said, obviously is a text change so as to create that possibility and once the text is in place we would move forward to the mapping and the Town Board would decide if this particular site makes sense for this use. So, the text is being proposed, he said, it is just the text change and later is the mapping and development. Mr. O'Rourke continued: in addition to that, what is part of this is something called a Community Benefits Agreement which is a voluntary commitment that's made by the proponent of the application to have the property re-zoned and that voluntary commitment includes all kinds of commitments that are part and parcel of the particular proposal being set forth. Community Benefits Agreements, he said, are also becoming quite prevalent: I just did one down in Somers and a massive one in Tyrone, NY with a casino up there. Southeast may not be familiar with this concept but I know Ms. Ley is aware of some others. He said so with this particular application we are suggesting there be 50 priority units set aside of the 168 units for full-time employees of the Town of Southeast and employees of the school district serving the Town of Southeast; people who are 55-plus; the disabled; Putnam County first responders such as qualified members of the fire department and EMS; and Veterans. Mr. O'Rourke said I know you are in receipt of a

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

letter from the Director of Veterans Affairs, as well as an approval letter that was submitted by the Putnam County Department of Planning, and I also know that from the Public Hearing last week there was testimony from the Commissioner of Emergency Services Ken Claire, and there have been other statements made in support of the proposition that there is a need for this. Mr. O'Rourke said there has been other speculation and we often get the question about who will populate this and who are the people who are potentially eligible. At the Public Hearing last week, I presented evidence and objective information as to what is, according to the United States Census Bureau, what is considered the median income in the County of Putnam, which is \$96,260.00, and then using a formula that is in here in terms of affordable housing is a person who has to be making less than 80% of that which is \$77,000.00. Chairman LaPerch said is that individually or combined? He said that is combined household income. Mr. O'Rourke said who are these eligible people? He said what I presented is: what is the salary of teachers in the Brewster Central School District and every one of them with less than five years in the system would qualify for this and that is in here. He said that is an illustration of school district employees and it is very difficult for them to find affordable housing in the area and the same is true of the disabled. He said with that I will turn it over to Harold (Lepler) because he has a wealth of knowledge about that segment of the population. Mr. Lepler said three years ago at a Public Hearing, Ken Claire as Fire Chief and Commissioner of Fire Services, said what can we do for housing for our young volunteers? He said we can't recruit and we can't retain and that has been borne out with other agencies in the Town of Southeast. He said that's what started this and, at the same time, the issue was brought to us of what can we do for Veterans who are returning in terms of affordable housing, and especially for those who need special consideration due to physical disabilities and where can they receive treatment. He said I have been involved with Hudson Valley CP (Cerebral Palsy) for a number of years on the Board of Directors and we have been working with various agencies to address that need. So part of this, in terms of preference and priority and affordability, 17% of these households will receive financial assistance from us... not the City, County, the State or Federal Government, just internally, so we are making a commitment to do that and it is a 99 year deed restriction and it stays. We said we would work with a Marketing Plan, he said, that would give a period of time and work with all the other agencies that can help support the endeavors to these various groups and we are open to doing it. Mr. Lepler said architecture and site plan is not going to change. Chairman LaPerch said the site plan is not an impact issue, the impact issues are how you are getting the program up and running and how it works: that is what I am understanding. He said you have 168 units, correct, and you would like to have how many units are in play for this program you are talking about? Mr. Lepler said 50 units. Chairman LaPerch said and there is going to be a third party group hired to work on advancing this for the Veterans and all the groups who would benefit as you just spoke of, is that correct? Ms. Ley said but not all of those would be affordable. Mr. O'Rourke said that's correct: what Harold (Lepler) said he wants to set aside of the 168 units that would otherwise be market-based and no preference or whatever and out of that we are taking 50 units which will be preference units for teachers, EMS workers, all I read before. Now, of those 50 units, he said, 17 of those units would be affordable housing units and to qualify for one of those you have to be making less than 80% of the Putnam County median income. Ms. Hahn said and be part of a priority group. He said and to be part of the affordable housing group, who are these people, I used the salary of

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

teachers put together by the Northern Westchester Putnam County BOCES as an example because teachers in the Brewster School District who have less than five years experience, based on the pay scale, all would qualify if that was their household income. So the question of who are these people, they are teachers, they are professionals... Chairman LaPerch said let me get back to the math so 17 are qualified for affordable of the 50, which leaves 33, bring me back to what those are: who are they? Mr. Lepler said this third party, not-for-profit group, much like we used the Putnam County Office for the Aging to help with senior housing when we developed Stonecrest: it is the same concept. By having representatives of the various groups, i.e., the first responders, serving on this commission, he said, we would get that (inaudible). He said people with disabilities and Veterans with special needs can't find housing that works for them: even to say we are building housing that is ADA (Americans with Disabilities Act) compliant, that's not enough. He said some of these people we are looking to serve need physical, mechanical lifts, they need specialized facilities for the kitchen and bathroom for those who are not as mobile, who are in wheelchairs. Both the State, and Federal Government in terms of Veterans, provides for bringing that equipment in and modifying that home before they move in and whatever else they need. Mr. O'Rourke said back to the who are the 33 question: the 33 could be a Cerebral Palsy victim who does not qualify under affordable housing: that person might have preference in those 33. He said similarly a Veteran who does not qualify under the affordable housing requirement, could qualify because of his disability. Chairman LaPerch said of the 50 units, what is the mix? Mr. Lepler said it becomes whatever the need in the community is in whatever time period is -- whether it is six months or a year -- we will advertise and publicize to make the agencies aware of what we are offering so they can go out to their communities... Chairman LaPerch said so let me back up one more step so the Board understands, I am all about trying to dumb this down: of the 168 units, what is the mix of number of bedrooms and such? Mr. Lepler said there will be 64 ones and 104 twos. Chairman LaPerch said so 64 are one bedrooms and 104 are two bedrooms? Ms. Hahn said that is correct. He said and of that 50, what I am hearing is you can't tell the Board what the mix is because you don't know who your audience is. Mr. O'Rourke said that is correct. Mr. Lepler said one thing that is important we are not looking to build a building to suit this segment of the community: we want it interspersed. Chairman LaPerch said I understand that but you can't tell us now about the 50 until you go out and start marketing? Mr. Lepler said yes. Chairman LaPerch said I was at the Town Board meeting and I got some feeling of the core issues and moving parts for this meeting. He said describe to me who is going to be monitoring this and rolling it out; who is the third party that is going to make sure the 50 units are going to the right people in perpetuity as your consultant said? Mr. Lepler said our proposal, if you favor it, would ask representatives of the Planning Board, the Town Board and County to oversee the selection of a not-for-profit to represent the people we are looking to serve: people with disabilities, first responders, employees of the school district, employees of the Town, etc. and you are going to have three or four or five people on that commission that is going to stay in existence. He said the affordable component is a 99-year deed restriction. Chairman LaPerch said are you going to do it or is it a Town function... Mr. O'Rourke said it is not a Town function. Chairman LaPerch said so it is a third party, independent and who building this Board? The Board is going to ask who is going to be on this Board and how is it being created, Chairman LaPerch said. Mr. O'Rourke said it has to be a third party independent organization... Chairman LaPerch said

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

that's my question: who is the Board? Mr. O'Rourke said it could be Putnam Housing Corp., it could be a commission set up just to do this... Chairman LaPerch said OK so you haven't identified the third party yet? Ms. Hahn said we have a couple of ideas but it will be a third party... not in control of the applicant or... Chairman LaPerch said not associated with the applicant? She said correct: similar to what happened with Stonecrest, that is exactly what happened at Stonecrest and the property owner is not involved in the selection of the third party... Chairman LaPerch said so it is an arm's length type of coordination? Ms. Hahn said and it does not require oversight by the Town or the Town Board because it functions on its own and, from what I understand, at Stonecrest they have to provide documentation to the State. Chairman LaPerch said I understand: this is all I am trying to get at and as I understand from Ashley (Ley) I think I am saying it correctly: have you picked a third party and the answer is no. Mr. O'Rourke said that is right: we have no one now. Chairman LaPerch said when you do, does the Town have any involvement in that decision? Mr. Lepler said yes.... (*several people speaking at once*) and Mr. O'Rourke said I understand the question and it is a good question but we have no idea, however, I would say to you this: clearly by having the Town Board have the authority to grant the Special Permit, part of the conditions attached to it, which of course we are not going to have any objections, we are proposing it, is it (the Special Permit) could define the entity that would objectively administer the selection and supervision of the third party commission. He said that is something that is not unusual: it is done in other communities. Chairman LaPerch said where? Mr. O'Rourke said Rye Brook: they have had affordable housing, workforce housing for the past 15 to 20 years. Chairman LaPerch said so there are other models out there? Mr. O'Rourke said yes, there are models all over the place and, in fact, the very criteria I see that Ms. Ley has in the draft letter is right out of the affordable housing model ordinance which we have absolutely no objection to with respect to those provisions. Chairman LaPerch said OK. Ms. Ley said I'd like to draw the Board's attention to H2 on their proposed Zoning Law, it says that: "*The Project Marketing Plan or Community Benefits Agreement shall identify the organization, group or company who shall ensure compliance with the eligibility requirements for the project.*" So that would be the third-party marketing group, she said. Boardmember Wissel asked if it says the Town has the right to say yes or no... Ms. Ley said it does not. Boardmember Wissel said sometimes when it is an LLC or whatever, it is tough to know who is behind the screen (inaudible). Chairman LaPerch said that is a good point. He asked Mr. O'Rourke: you said there might be an opportunity for a Town Board member and/or a Planning Board member to be part of that selection committee? Ms. Ley said to Mr. Lepler: what you suggested is not what is written in your proposal. She said the way it's written it would be more a part of the Special Permit process: you would present this is my third party person and then the Town Board would make the decision but what Mr. Wissel is saying is that we would like it to be so that the Town Board has more ability to say yea or nay on the entity you select. Chairman LaPerch said on who sits on that Board? Ms. Ley said on who is the third party: it is not a Board. Mr. Lepler said we have absolutely no disagreement: you actually did just that with the Stonecrest Senior Housing. He said if I could ask the Chair one favor, there are people in the back of the room and one lady who came to listen. She can speak to the need, he said, and I think everyone would appreciate it. Chairman LaPerch said Harold (Lepler) I think this Board gets the fact that Stonecrest is very well run... Mr. Lepler said no, no, no this is someone... Chairman LaPerch said she is probably going to say some very

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

nice things... Mr. Lepler said it's a little different and I think it's important. Chairman LaPerch said OK, I will give you two minutes. Chairman LaPerch said good evening and welcome: what's your name? She said Dr. Margaret Gianini said I don't know what I can tell you, I am not involved in this whole project, but I was the former Chief Medical Administrator for the Veterans Administration for all Disabled Veterans. She said in particular, for housing, there is a very serious need for appropriate housing, especially for our returning Veterans that have difficulty getting affordable housing in an adaptable environment in order to live appropriately. So, Dr. Gianini said, I would make a plea for any consideration for the fellas who served us, to keep us safe and who went over there and became injured: I think that is the least we can do is to help them get proper housing. It's very serious throughout the United States and not just for housing but for employment and medical care and, as I understand it... Mr. Lepler said Ms. Gianini also served on commissions for people with disabilities and was appointed by several presidents to serve. Dr. Gianini said my last appointment was by George W. Bush and I served as the Director of the Office of Disabilities for the Nation. Chairman LaPerch said well thank you for serving. Dr. Gianini said so I know a little bit about dealing with those issues and would be happy to answer any questions. Chairman LaPerch asked the Board if they had any questions and there were none. He said thank you for coming and for your service to our country: it sounds like you did a great job. Chairman LaPerch asked for questions from the Board. Boardmember Jonke said I am the parent of a developmentally disabled child so I know maybe better than most the need for this kind of housing not just today but somewhere down the line. He said I don't think six months is enough for the marketing plan, just personally, I think six months just comes and goes rather quickly and you may have some trouble getting everything done in just six months. He said the question I have is the first 15 units, it seems like there will be a rush on those because it is not traditional low income housing, it is affordable. Mr. O'Rourke said it is 17 units. Boardmember Jonke said it is this third-party, independent group that is going to decide who gets these 17 units? Mr. Lepler said and verify the qualifications: that is exactly what we did with the Stonecrest Senior Housing. Boardmember Jonke said is it a lottery because I think you are going to have... Mr. O'Rourke said let me tell you in some communities, there is such a demand, it is a lottery so that can be the issue. Boardmember Jonke said my concern is you will have such a demand for the first 17 units and I like the idea of helping our Veterans and our special needs community but those first 17 units, it just strikes me that you will have a rush on those. Mr. Lepler said I had suggested that if this is to be built in four phases, serving that population should be evenly spaced and marketed the same way and I agree, it should be a longer period, and if you are building 25% of the project you should address the needs of the designated groups in each of the phases, not try to do it in the first 30 units because then it is an over concentration and that is exactly what we don't want. Boardmember Jonke said this population is going to be spread throughout all of the buildings and I would expect that. I would expect this type of construction to take a couple of years, he said. Mr. Lepler said it would probably be three years. Boardmember Jonke said three years, OK, that's it. Boardmember Hecht said for the 80%, who does the income verification? Mr. Lepler said the not-for-profit agency. Boardmember Hecht said so the organization we were talking about? Mr. Lepler said if I may: Stonecrest Senior Housing, with 138 homes, we did that at the time with the not-for-profit organization, members of the Town Board at that time and the Planning Board, there were so many people that you

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

couldn't serve them and there was a five year waiting list to get in. Boardmember Hecht said is that an annual verification? Mr. Lepler said it has to be. Boardmember Hecht said my point is that teachers, for example, they do at the five year mark, balloon and the same thing for Emergency Services. He said typically if you are in for five or six years, it balloons and then you are way above the line so I was curious as to whether that would be monitored? Mr. O'Rourke said my understanding is that these organizations do the annual verifications but that is the type of thing that you want to have an objective, third party organization to monitor that. Ms. Ley asked if there is a way to set aside units for people who have to move out of the affordable units? Mr. Lepler said we would not distinguish in any way between what you call a 'market' unit or a preference unit. Ms. Ley said so potentially someone could stay and their rent would just go up? He said absolutely, let's say their income goes up and then the subsidy declines but it is reviewed annually but they stay in the unit. What it does do, he said, is it compels us to open another unit if someone moves away, so we are still serving that population and that is what the not-for-profit oversight is for. Ms. Ley said how would the deed restrictions work on the individual units: you said the units would be deed restricted so how does that work? Mr. Lepler said it doesn't have to be the same unit, it can be and let's say a unit is prepared for someone with physical challenges then we would be looking back into that population if that unit came on the market. But that doesn't mean we can't take a market rate unit... it doesn't mean we can't exceed the number of 50... but it is just putting the onus on us to do at least that, he said. Ms. Hahn said what she is asking is, let's say we have two examples: so if you have a unit that has been identified for a person who qualifies for the affordable component, they are in the priority group because they have to be in the priority group in order to make affordable, they get up enough money to be out of affordable, are we kicking them out or do we then have another unit that would open up for them as a priority... Mr. Lepler said then you have to have another unit if they go beyond... Ms. Hahn said different things can float throughout... Chairman LaPerch said good question: how do you maintain the 50? Ms. Hahn said they don't necessarily have to be in the same location but you do maintain the 50... Chairman LaPerch said that is what she is asking how do you maintain the 50 in the case where someone's income goes beyond where they qualify for affordable? Boardmember Armstrong said what is before us is a letter that Ms. Ley put together with five recommendations to the Town Board so I will focus on that. He said a general question: the 20% subsidy for the units that are reduced, whatever the formula is, does the sponsor pay that or is that just absorbed? Mr. Lepler said we absorb it: the owner of the property, it's a 99-year deed restriction that it is absorbed and we do it going in and if we have a successor they do it. He asked if there is an age restriction? Mr. Lepler said no there is no age discrimination: it is over 55 and under 55. Boardmember Armstrong asked whose concept it was to use the Floating Zone. Mr. Lepler said it was our Counsel's. He asked why. Mr. O'Rourke said I came in the seventh or eighth inning of this and I understand there was a lot of discussion that preceded this and a lot of different plans and I realized there were two things that I could foresee. There was my client's perspective: he is a Veteran, he is on the Board of UCP, and for them he wanted to do something as part of his real estate career, that's what he wanted, he said. Number two, he said, I sensed there was some push back and concern about how do you police this, people were afraid of how do you control and monitor and some people were worried about who are these people and how do you... I've been doing this for 35 years and know there are different ways of doing

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

things and one of the things that I found over time that works is the Floating Zone because there are a lot of controls over time that are different from just the administrative review of, say, a Planning Board. Mr. O'Rourke said they are still built into a Floating Zone even if the text is created for legislative discretion which means a Board and a Town has a lot more latitude in some respects to pick and choose. He said I sensed with what we heard that no one wanted to have an epidemic of these applications; no one wanted to have a lot of these for whatever reason, I am not disparaging or saying what people's motives are. He said but with a Floating Zone, if you understand the concept, it works because, quite frankly, even after the text is adopted you then have to get the mapping done, which is a legislative action, you then have to get the Planning Board approval which is an administrative review and then, lastly, you need a Special Permit from the Town Board and they have more discretion about how this is handled. So that is how it came about, he concluded.

Boardmember Armstrong said as follow up to that: my understanding is this is only going to apply to one site but there are two sites that are eligible? Mr. O'Rourke said the answer is that, based on the text to create the Floating Zone, at present there are two sites that would be eligible for this kind of housing, however, again it has to be mapped each time so it is not just because you created the text, it has to be mapped each time. Boardmember Armstrong said you are proposing to map only one site? He said yes, this is one site.

Chairman LaPerch asked if the other site qualifies with water and sewer and Mr. O'Rourke said yes. Boardmember Armstrong asked Ms. Ley: once this is on the books, in some form, it doesn't mean that another property owner could come in and ask for the provisions of this, using this as a model, to do this on their property? Ms. Ley said they could but in terms of the properties that are available that meet the requirements of the Zone as currently defined, there are two, but a property owner could come in and ask for amendments to this to have their property qualify. He said the point I want to make is that this is not necessarily the end of this: I know you (Mr. O'Rourke) alluded to you don't want them all over the place, let's say, but the fact is there is always a potential that someone will come in and ask for a Zoning change the Town may or may not like. Mr. O'Rourke said just because legislation is adopted doesn't mean that... Boardmember Armstrong said I understand: it stands on its own merit. He asked Ms. Ley about the first paragraph and read: "*The proposed local law has been designed to suite the Barrett Hill project, and while its potential applicability...*" Is that what I was just asking? She said yes. He said and the last sentence says: "*and that it is not so tailored to a specific project that it becomes awkward for the Town to enforce elsewhere.*" He said so what was your meaning on that? She said so my concern relates to the 34% requirement they are proposing: it is so unique to this specific project that if it was to get modified for another property in Town, it is awkward. She said we think it would make more sense to have the affordable housing percentage based on the total number of units rather than on a percentage of the preference units. Boardmember Armstrong said at the last meeting, at least three members raised the issue of the cost of the potential students in the school system and I know that you worked on that. He continued: I am looking at the long perspective, going back. I was not here when the initial re-zoning took place: I was here for the last re-zoning for this site and I think I voted for it and I think I have for everything at Mt. Ebo since I have been on the Board which is about 15 years. My question now, he said, is that... and I know this was discussed at the last meeting and is in the Minutes, which you may have read. The whole development started a boon for the Town as a commercial development that would

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

generate tax dollars, he said, and that has changed over the years because some of the commercial uses that had been touted as providing tax revenue but not demanding much service, particularly not schools, was something the Town was interested in but that has all changed now. He said with the senior housing and the original commercial zoning the demand on the school district would have been very little so that revenue would have been a boon to the school district and so now we are going and taking another step and, even though there may still be some... and the school may come out a little ahead... but the revenue question was raised by three members and I am a little surprised we are not seeing that in your recommendation (to Ms. Ley). Ms. Ley said there is a proposed maximum number of people per unit. He said and how is that going to be enforced? Chairman LaPerch said hello? How many years have we been talking about enforcement in this Town: everything we propose sounds good on paper but the reality of enforcement in this Town is another kettle of fish we can't go down, he said. He said how many times have you asked that question about enforcement? Ms. Ley said in this case it would be enforced by the third party. Mr. O'Rourke said obviously if there is a Code violation then the Building Inspector and Code Enforcement Officers... Chairman LaPerch said Dan (Armstrong), that is a good point: what she said is the third party has the ability to enforce this besides the Town... in theory. Boardmember Armstrong said so the maximum number in a two bedroom is five people, is there a Code requirement for number of persons per square foot? Ms. Ley said this particular chart is based on the recommendations from Westchester County and their model for affordable housing. Boardmember Armstrong said and so typically what would it be for five people, what would be the square footage? Ms. Ley said I don't know it off hand. He said so have you come up with any general numbers for the number of square feet in a one bedroom and a two bedroom? Mr. Lepler said I believe it's in what we submitted it is looking at a one-bedroom as 600 to 800 square feet and a two bedroom of about a 1,000. Ms. Hahn said the one bedroom is 750 to 900 and the two bedroom is 1100 to about 1700 square feet and those floor plans have already been developed and they are well beyond the (inaudible). Mr. O'Rourke said whatever we do has to conform with the Uniform Building and Fire Prevention Code to meet all of the minimum requirements per bedroom and, secondly, the model that is being used, we have absolutely no objection to. He said finally I just want to say as to what the vision was for Mt. Ebo... Chairman LaPerch said don't go there... let's keep this on Zoning. Boardmember Armstrong said the units for special needs, we all know what that term means, those units are going to cost more to build, I assume. Mr. Lepler said they will. He asked does the corporate entity absorb that cost or is there a subsidy for that? Mr. Lepler said anything beyond what we have to do throughout the facility to be compliant, there are programs to assist the special needs groups with the State to modify the housing they are occupying. Boardmember Armstrong said so there is some kind of subsidy... Mr. Lepler said that's correct. Chairman LaPerch said the answer is yes. Boardmember Wissel said did you have a chance to look at the recommendations and is there anything in the five paragraphs that you would have any objections to? Mr. Lepler said I'd like to try and identify the people we are trying to serve in the community but, other than that, everything else in that letter is fine. Chairman LaPerch asked Town Councilwoman Lynne Eckardt if she had a copy of the letter and she said no. He gave her his copy. Boardmember Wissel said I am confused as to why there has to be a limit on the marketing: if the 17 units are set aside then why are you limiting the timeframe to do the marketing? Mr. Lepler said what we are doing in

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

marketing to these groups is to say that someone who does not have the financial ability to afford this new housing, that there is an independent, third-party that is going to help... Boardmember Wissel said that is fine but why are we limiting the timeframe to do that? Mr. Lepler said it is not limited... Boardmember Wissel said I believe originally it was at six months and now this letter is asking for a year but my question is why limit it at all? Ms. Ley said the way it is drafted now, if it is not leased to a qualifying person within those six months it would revert to market rate: is that not what you are proposing? Mr. Lepler said that's correct, in each phase... Ms. Ley said it would revert to market rate... Mr. Lepler said we are not talking about the affordable now... Chairman LaPerch said that is what we are asking, the 50... Mr. Lepler said the affordability component is in a deed restriction for 99 years. Ms. Ley said then why are you limiting the marketing? He said forget the percentages, the 17 units that you are referring to, which is 34% of the priority group, has a 99 year restriction. Mr. O'Rourke said let me try to explain, I think I understand the question: what Mr. Wissel is asking is if you have a six month marketing limitation in there with respect to... Mr. Lepler said yeah, whatever. Mr. O'Rourke said I think the point he is making is this: in so far as the affordable housing units, what you are saying is why is there a limitation of six months? Why not just leave it open, he said... Chairman LaPerch said until you fill them. Mr. Lepler said you'd never get a construction loan or a permit but the answer is if you have four phases, you are talking four to five units per phase, and if you are going out, as Ashley (Ley) covered in her draft say for a year, I can't see that you are not going to find the potential occupants that you're going to serve and they are not going to qualify under this program in the Town of Southeast and Putnam County. I think, he said, we will wind up with a five-year waiting list. Mr. O'Rourke said it begs the question, why limit it to six months if you are that confident? Mr. Lepler said it is only on the affordability component so let's say that people came in with the interest groups and they didn't need that subsidy you'd have to transfer it to the next phase or hold it open but you would have to hold 17 units open for that purpose in perpetuity for the affordability component. Boardmember Wissel said I understand that: we have already established that there are 17 affordable units, that are not dealing with preferences or anything else, those 17 affordable units have a 99 year deed restriction, so there will always be 17 affordable units. Mr. Lepler said correct. Boardmember Wissel said we are not saying it all has to be in the first phase, or the 17 units all have to be anything else but we are saying the 17 units will always be affordable housing units. Mr. Lepler said that is correct. Boardmember Wissel said so why limit the marketing to six months, if they are not occupied are you going to do anything about it? That's what I don't understand, he said, why is the marketing of those not open ended? Mr. Lepler said if you have two categories you are trying to serve as priority for the 50 units and have a marketing that is continuous on the 17 units that are affordable, I don't have an issue with that. Boardmember Wissel said I am not saying... Chairman LaPerch said wait a minute, did you say you don't have an issue with it: Mr. O'Rourke, do you want to have a discussion with him (Mr. Lepler): this is a core issue with him so do you want to talk about it because he said he didn't have an issue with it in terms of open ended marketing for those units? Mr. O'Rourke said I think... (*many people talking at once -- in audible*). Chairman LaPerch said Phil (Wissel), I get your point , I am just trying to let them... Mr. O'Rourke said to Mr. Lepler: What Phil (Wissel) is saying is why do we have it limited... Chairman LaPerch said it is memorialized at six months and I guess what Phil is saying is he wants it out. Mr. Lepler said I have no problem with that.

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

Chairman LaPerch said all right, next question. Boardmember Rush said I want to focus on a couple of quick things: first one was to key off what Ashley (Ley) talked about with the teachers: so I am a teacher, I have a wonderful opportunity to move in there and what happens when my income goes up and I am over qualified and I am renting... so your solution is I can move to a different unit? Mr. Lepler said no. Boardmember Rush said so I can stay in the same unit but some of the subsidy goes away... Boardmember Wissel said correct me if I am wrong but I think what he is saying is that all of the units are basically the same so the ones that are affordable are not built without upgrades or whatever, that all the units are built the same except for the ones for people with disabilities so that there is no distinguishing the affordable housing units from the others. Boardmember Rush said so the unit I am in can stay the same but I am no longer distinguished as an affordable housing tenant? Mr. Lepler said that's right. Boardmember Rush said will we see a revised site plan in phases that shows the disbursement of these units because what could happen is a shifting and sooner or later you could get an odd clustering of the... you are building 168 units? Mr. Lepler said yes. Boardmember Rush said so you need a plan to make sure the fabric of the homes are planned so I don't get any clusters of things here or there... it's possible, right? Mr. Lepler said if you plan out the percentages throughout the buildings, there comes a point in time that you may have a greater concentration but what we don't want to do is it plan it out to work that way. Boardmember Rush said aren't you building 168 units? Mr. O'Rourke said in phases. Boardmember Rush said so what is this concentration... Mr. O'Rourke interrupted and said: I think what Mr. Rush is saying is you have 168 units and you have a soft plan but you should have some concept, or some plan, as to where these units are located throughout the ... Boardmember Rush said yes and also does each phase have a pro rata share of the different types of units? Mr. Lepler said what you said is correct: a person who physically has issues of ingress and egress into a unit, ideally you want ground floor access even though everything is ADA compliant... He said we don't want to create a stigma, you don't want to have an over concentration but you want to have it spaced in a way that it is an integrated community. Boardmember Rush said and we are calling these senior... they're really above 55 living, right? Ms. Ley said not necessarily. Ms. Hahn said they could be seniors but... Mr. Lepler said there are no age restrictions. Boardmember Rush said I remember seeing floor plans when we looked at this previously, right, and I actually had a problem with how much space you were giving people in the garage to pull in and out if they were handicapped. He asked if they have a universal design consultant they brought on to make sure because he doesn't think what they had designed before ... Chairman LaPerch said can I just cut in here: I think these are all good questions but this is a Zoning issue and yours are more about space planning which I think is a site plan issue. Boardmember Jonke said how affordable is affordable? Ms. Hahn said the affordable lease rates are \$1444.00 to \$1733.00 and typical market rate is \$1700.00 and \$2100.00 for one and two bedrooms respectively. Ms. Hahn said someone testified at a Public Hearing, not us but someone else, and he said even our market rates are low compared to what is out there. Boardmember Armstrong said I have a Comprehensive Plan question: I understand in some previous version of this there was a reference to the Comprehensive Plan, was that taken out? Mr. O'Rourke and Mr. Lepler both said yes. Boardmember Armstrong said does this application trigger any kind of Comprehensive Plan amendment or review? Ms. Ley said the argument set forth in their EAF (Environmental Assessment Form) is that it does not. Boardmember Armstrong said who

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

makes the decision? Ms. Ley said the Town Board. Chairman LaPerch asked if anyone in the audience wanted to say anything before he takes this to a vote. There was no one. Ms. Ley said I can go through the amendments to this draft letter I have been recording as the Board members have been speaking. He said to the letter we would send? She said yes, it is a Report and Recommendation to the Town Board that is non-binding to the Town Board but they should consider it. She then read the changes: Item 1: we talk about more clearly defining the market requirements and will add that there should be no limit on the marketing. No changes to 2 or 3, 4 or 5 and then we would add a new Number 6 this would be an amendment to H2 and I am suggesting to add to the bottom of that: "*As part of the Special Permit approval process, the Town Board shall have the authority to approve or disapprove of the organization, group, or company that shall manage and ensure compliance with the eligibility requirements for the project.*" Chairman LaPerch said Mr. O'Rourke, have you got that? He said I am trying to find my copy of the Zoning text. Boardmember Armstrong said what is the time frame: is that something we talked about? Ms. Ley and Chairman LaPerch talked about this and the only timeframe they could think of was the one for the marketing. Chairman LaPerch said Mr. O'Rourke I'd like your input before we go to a vote here: do you have any objections to what Ms. Ley just read? Mr. O'Rourke consulted with Mr. Lepler and said no objections. Boardmember Wissel said can we put a line at the end that says these provisions were discussed with the applicant and they had no objections? Mr. O'Rourke said are you saying as far as H2, you want the Town Board to have the authority to approve the selection of the organization, group, or company that shall manage and ensure compliance with the eligibility requirements for the project? Ms. Ley and Chairman LaPerch both said yes. Mr. O'Rourke and Mr. Lepler said no problem. Chairman LaPerch said I want everyone on the same page here: that was a great add-on (to Boardmember Wissel) and you (Mr. O'Rourke) should review the changes to the letter: Rick (O'Rourke) please come up here. While Mr. O'Rourke was reviewing the letter, Chairman LaPerch told the Board that the revisions Ms. Ley stated would be provided to them via e-mail tomorrow for one final review and then he asked her to go over them again, which she did: The first revision was to Item 1 which is that the proposed zoning should more clearly define the marketing requirement in terms of when it is initiated and we recommend removing the six month reservation in H7. Mr. O'Rourke said with regard to the affordable housing? She said correct. He said we have no objection. She said we're suggesting a new Item 6 which would be an amendment to H6: H6 as it is written now says "*The project marketing plan and Community Benefits Agreement shall identify the organization, group or company who shall ensure compliance with the eligibility requirements of this project.*" We recommend a second sentence to say: "*The Town Board shall have the authority to approve or disapprove of the organization, group, or company that shall manage and ensure compliance with the eligibility requirements for the project.*" Mr. O'Rourke said agreed. Ms. Hahn said we need to object to Item #2. Chairman LaPerch said Rick (O'Rourke) didn't say anything... Mr. O'Rourke said I haven't confirmed this with our consultant, I was looking at H2, I apologize. Ms. Hahn said Item #2 refers to separating the affordable housing from the priority units. Ms. Ley said Item #2 says: "*The percentage of affordable housing units should be based on the total number of housing units, as opposed to a percentage of the preference list units. In addition, a minimum number of affordable housing units should be required.*" Mr. O'Rourke said we have no objection to the minimum number of affordable housing units being 17, is that correct? Mr. Lepler and

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

Ms. Hahn said yes. Ms. Hahn said but you can't put it in the Zone that way. Ms. Ley said usually when you have an affordable housing Code you would say a minimum of... or a certain percent of the total and you may say if there are 10 or less units you have a minimum of one. Mr. Lepler said we are agreeing to a minimum percentage of the project to stay in perpetuity as affordable and that's without any government subsidy. Chairman LaPerch said Mr. O'Rourke give us the language. Mr. O'Rourke said what Ashley (Ley) is saying is whatever the math is why don't you just say of the 168 units then X percent would be affordable... Chairman LaPerch said that is what they are saying on the left hand side here, are you comfortable with that? Mr. O'Rourke said so it is 10 percent, is that... Mr. Lepler said you want the exact percentage? Chairman LaPerch said yes, at 168 units it is 16.8. Mr. Lepler said so 10 percent of the project? Ms. Hahn said the objection is the idea that the affordable housing is somehow operating separate from the priority housing group. The important part of the affordable housing is that it is targeted for the preference group: it is not affordable housing that is somehow being offered to people who are not within those preference groups. Mr. O'Rourke said that is a good point. Boardmember Armstrong said so say "including preference groups." Ms. Hahn said no, it is limited to that group: that is the whole point here is the affordable housing is tied directly to the priority groups, it is not a whole different group of people over here. Ms. Desidero said you have to be both: you have to be in the preference group and qualify for affordable housing: you can't just qualify for affordable, that's her objection. Ms. Hahn said right, that is what we are trying to accomplish here. Mr. O'Rourke said that is different from Westchester: totally different. Ms. Ley said that is different. Chairman LaPerch said fair comment: how do we bridge that in a legal manner? Boardmember Wissel said 10 percent of the project shall be reserved for those in the special needs or priority group who qualify for affordable housing. Mr. O'Rourke said what we said was... Ms. Hahn said 34 percent of the 50 or whatever... Chairman LaPerch said you have to be comfortable with this. Ms. Desidero said you can keep asking if they are comfortable but the Town Board might not accept it anyway. Boardmember Wissel said they don't have to accept any of this. Chairman LaPerch said I don't think we are off base with asking them that. Ms. Desidero said you aren't off base with asking but it might... Mr. O'Rourke said so we are saying that of the 168 units, 50 of those units shall be for the priority groups identified; of the 50 units 17 of those are to be affordable housing: whatever the percentages are that make you comfortable... Chairman LaPerch said what's the matter with that? Ms. Ley said they are proposing 34% of 30% and this is suggesting doing a percentage off the total number of units so that if this was ever applied to another property it wouldn't be so awkward. Mr. O'Rourke said do you want to say something like 'for the sake of clarity, there shall be 17...' Chairman LaPerch said 'for this specific property.' Boardmember Wissel said you can't use gross numbers because... Ms. Hahn said right, it can't be gross. Ms. Ley said yes it has to be percentages and typically it is a percentage of the total. Ms. Hahn said the reason is... I just want to be sure because if you say 10 percent of the total it could be... you know how Zoning Codes tend to have a life of their own after you put them out, it could be separating them so they are not part of the priority group because we don't want to create a scenario where you have a 10 percent affordable housing component of people who are not part of the priority groups. Ms. Ley said Item #2 is not specifically recommending text at that point, it is suggesting it be a percentage of affordable housing off the total... Chairman LaPerch said let's not get carried away with this because the ultimate decision is with the Town Board: they are

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
August 22, 2016**

going to drill down to this but I think our message is pretty clear here in terms of the numbers even though it will be finalized at the Town Board level. He said what I am hearing here is the applicant is comfortable with the letter we are going to send to the Town Board if we vote the recommendation. He said the final details of the Zoning will be worked out at the Town Board level so let's cut to the chase here and vote. Ms. Ley said the last sentence added to the letter is that: *"The Applicant was present at our meeting and we discussed the proposed revisions with them. The Applicant stated that they have no objections to these revisions, with the exception of item 2."* The motion to accept the letter as amended was introduced by Chairman LaPerch, seconded by Boardmember Jonke and passed by a roll call vote of 6 to 0 with 1 absent and Boardmember Armstrong stating he has a reservation about the fact that the school taxes are going to go up.

The motion to approve the Meeting Minutes as written for July 25, 2016 was introduced by Chairman LaPerch, seconded by Boardmember Jonke and passed all in favor with Boardmember Wissel abstaining.

The motion to approve the Meeting Minutes as written for August 8, 2016 was introduced by Chairman LaPerch, seconded by Boardmember Wissel and passed all in favor with Boardmember Rush abstaining.

Chairman LaPerch said we are heading into September and October when we have just one meeting per month, right? Ms. Desidero said yes, there are a lot of holidays in those months.

The motion to close the meeting was introduced by Chairman LaPerch, seconded by Boardmember Rush and passed all in favor.

**September 15, 2016/VAD**