

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Supervisor Jenkins opened the public hearing at 7:00 p.m.

The Town Clerk called the roll.

Town Board Members Present

Bob Prendergast	Councilman
Gina LeClair	Councilwoman
Todd Kusnierz	Councilman
Preston Jenkins	Supervisor

Town Board Members Absent

Tom Cumm	Councilman
----------	------------

Also Present: Jeanne Fleury, Town Clerk; Joe Patricke, Building Inspector/Code Enforcement Officer; Martin D. Auffredou, Attorney for the Town; Michael J. O'Connor, Attorney from Little & O'Connor, representing Va Va Voom; Joe Bianchine, ABD Engineers; Lee Rosen, CEO of the Home of the Good Shepherd; Scott Varley, Va Va Voom (arrived at 7:10 p.m.); Lydia Wheeler, Post Star Reporter; Town Residents: Jeff & Terri-Jo Nicholson, Vince Sporrer, Huguette & Jean-Pierre Delvaux, Adele Kurtz, Michael Kelly, Opal Ferguson, Betty Wimette, Shelley Englert (arrived at 7:40 p.m.); and Agnes Bakonyi

Supervisor Jenkins welcomed everyone to the meeting and asked everyone to turn off all electronic communication devices.

Supervisor Jenkins explained the format of the public hearing and explained the difference between a workshop and public hearing.

Attorney O'Connor apologized for Mike Vasiliou not being present as he was feeling ill and explained that Scott Varley would be along shortly. He stated that the project before the board at this public hearing was the same project that they presented at a workshop held by the Town Board on May 17, 2011. The proposal is to build two enhanced, assisted, senior citizen facilities on the two lots on the front portion of the property that he showed on a map. The setback from the Nicholson property to the building itself would be 240 feet. There is a commitment for one building on the first lot that would contain 64 enhanced, assisted, senior citizen units that would be built by the Home of the Good Shepherd. This facility would be for seniors who do not have full cognitive abilities. It would be basically a bed facility, but not a full nursing home type facility. The residents wouldn't be driving and coming and going from the facility. He said the question was asked, how many times would ambulances be coming and going. The answer is that it is anticipated that ambulances would be coming and going from the facility one or two times per week. The second building would be on the second lot behind the first building and would be a like facility. There isn't any builder or grant for the second building at this time. This will be a phased project and it will take some time for full build out. The first building is estimated to cost \$7 million to build. The Home of the Good Shepherd has a \$4 million grant to build it and they will secure funding for the rest of the amount through other financing. On the third lot there is proposed a subsidized 94 unit senior apartment building, which will be grant driven. He stated that someone would have to come forward to build it and obtain tax credits from the State Housing Authority in order for it to be built. The lower lot will contain two, fifty unit, senior market driven apartment buildings. He stated that this project would allow seniors to stay within the community and move from one part of the facility to the other part of the facility and this is part of the enhancement that this project offers, as well as,

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

offering a residential setting that will meet the needs of the seniors in the community. The Town has drafted a proposed Planned Unit Development (PUD) Local Law that would basically rezone the property. The local law reads that this property will be used for the purposes set forth in the planned unit development and subject to requirements set forth in the local law. This re-zoning is not the final review of this project. If this property does get re-zoned then the proposed project would have to go back before the Planning Board for subdivision approval in a phased manner. They would ask the Planning Board for approval on lot one and the remainder would be presented to the Planning Board as one parcel.

Attorney O'Connor then went down through the local law and recapped the proposed local law.

Attorney O'Connor then pointed out some changes that he would like to see in the proposed local law and some comments as follows:

Page 1, Section 3 - the first sentence reads 26.1 acres and it should read 26.45.

Page 1, Section 4 (A) – The table of allowed uses contains a column that lists the acreages that each building would be on. It is the opinion of Attorney O'Connor that problems are going to be created by including these acreages. In his opinion, it doesn't add anything to the legislation. There is a minimum lot size of 2.7 acres included in Section 4 (C). The lots may change some as they go through the Planning Board process and he doesn't want to be locked into these acreages. Also, if you add up the acreages in the column the total doesn't allow for the four acre open space that is also provided for in the local law so it is a contradiction. He recommended that the column of acreages in the table under Section 4 (A) be deleted and Section 4 (A) be labeled "Description of allowed uses by type" and the table then would contain two columns, one labeled "Allowed Uses" and the other "Lot Number".

Councilman Kusnierz told Attorney O'Connor that it was his understanding that this public hearing was on the proposed local law. He asked Attorney O'Connor if he was suggesting that as the applicant he was not on board with this draft of the local law.

Attorney O'Connor replied that he was suggesting minor modifications to it to make it clearer so they don't have problems when they go before the Planning Board. He advised Councilman Kusnierz that the board was not locked into the proposed local law as written and the board could change it.

Councilman Kusnierz stated that he understood that, but typically when a local law, like this one on a PUD, comes before a legislative body and for public comment, it is typically worked out with the applicant beforehand. He asked if they were being premature on this.

Attorney O'Connor said he didn't think so.

Councilman Kusnierz stated that it sounds like these are things that should have been discussed in a workshop before the public hearing.

Attorney O'Connor stated that he commented on it when he received it and he was just following up on his comments.

Page 2 – Section 4 (C) (3) – "The setbacks for the two story assisted/enhanced living residence to be located on Lot 2 are as follows: Front setback 87 feet, Side setback 87 feet and Rear setback 51 feet."

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Attorney O'Connor asked why there were specific setbacks listed for Lot 2 and why it doesn't read "The setbacks are the same for all lots". It causes confusion. He recommends that paragraph 3 under Section 4 (C) be eliminated.

Page 2 – Section 4 (C) (2) – Parking Setback – This should be changed to 25 feet rather than the 75 feet in the proposed local law. Attorney O'Connor didn't know where the 75 feet came from. 25 feet is the setback that can be accommodated. None of the plans submitted showed 75 feet.

Attorney O'Connor responded to a comment that was made at the workshop regarding financial information and the wherewithal or the ability of the developer to actually be able to do this project. He submitted to the board at this meeting a copy of the grant from the State of New York in the amount of \$4 million. As part of the grant they reviewed all the financial information of the applicant and the builder, Lee Rosen's firm. They would not have approved the grant if they were not satisfied that they had the wherewithal and the experience to carry out the project.

Councilman Kusnierz stated that he is the one who raised the question about the financial information. He thanked Attorney O'Connor for providing the information. The reason he pointed it out at the workshop was because it is required per the PUD law and the Town Board had not received that information at the time of the workshop. He was not inferring that the developer did not have the wherewithal. He was just saying that it wasn't provided to the board.

Attorney O'Connor stated that the discussions held at the Planning Board level were based upon the fact that the State of New York had approved a \$4 million grant for the project and the Planning Board probably would not have approved it without that. As for the balance of the project, it will be market driven. Somebody will have to come in and show the ability to complete the rest of the project.

Attorney O'Connor also provided a resume of Lee Rosen's Firm, which lists about 15 projects of this magnitude or larger that he has completed. Many were senior housing, some plain apartments and some commercial structures.

Attorney O'Connor stated that another comment was made about the Home of the Good Shepherd having built before under a PUD and that was challenged. He, therefore, submitted a portion of the legislation from the Town of Malta that clearly shows that the senior citizen housing portion of the project was built under a PUD along with apartments. There were a couple other projects that Mr. Rosen was involved in that were also PUD's.

Councilman Kusnierz stated that this issue was brought up at the workshop and what he said was that the project was not put in a residential zone, as this project is being requested. It was put in a commercial zone or zoned something other than residential.

Attorney O'Connor recalled Councilman Kusnierz saying that it wasn't a PUD and he said that Councilman Kusnierz was wrong. He then said it had nothing to do with the merits of this project.

Councilman Kusnierz asked if they were going to allow the public to comment on this at some point.

Supervisor Jenkins replied certainly. They were trying to provide the public with information and then he would open it up to the public for comment as soon as Attorney O'Connor was finished.

Councilman Kusnierz said it is a public hearing.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Supervisor Jenkins replied that he understands that, but they were trying to present information.

Attorney O'Connor said he had nothing further to say.

Supervisor Jenkins stated that since the board members had a chance a couple of weeks ago to listen to comments and give comments he would open it up to the public. The board members may add comments later.

Councilman Kusnierz said he wanted to comment, because that is inaccurate. This local law was provided to the Town Board Members 10 days ago and typically as part of the process the public deserves an opportunity to hear how the Town Board Members feel about it. The public hasn't heard that, because the board hasn't had any discussion on it.

Supervisor Jenkins said he would start. He stated that he would go back to some time ago when the applicant came before the board looking for an apartment complex with seniors on the lower level and non-seniors on the upper level and he didn't think any board member was receptive to that. What is being presented now is a big improvement. The first proposal went through our Planning Board and the Saratoga County Planning Board and we got a letter of approval from them. Both of these boards will be approving the revised proposal again in the next week or so. He was totally in favor of the project. It is something we need in our community. We don't have anything like it in our community. From a zoning standpoint, it is always tough to look at a zone that isn't designed for it, that is why we have zoning. There isn't any other parcel available in the Town of Moreau, right now, to build these apartments. Wherever they go it would have to be a PUD. There isn't any other way to do it under our current zoning without a zoning change. The applicant has tried to leave a lot of green space and to put some distance between the project and neighbor's property lines. This is an R-2 zone, which means, a developer could build houses on the property 15 feet from neighbor's property lines and the houses could be as high as 38 feet under the current code, and 38 feet is the maximum height of the proposed three story buildings in this project. He said again he is totally in favor of the project.

Councilman Kusnierz said the comment was just made that this couldn't be built anywhere else in Town. He asked Attorney Auffredou if a PUD could be built in a commercial zone.

Attorney Auffredou stated that he wasn't sure if the comment was directed at available land or not.

Councilman Kusnierz stated that the comment was "you couldn't build this anywhere in our town".

Supervisor Jenkins said he would like to correct his statement and say "any available land", because there isn't any available land.

Councilman Kusnierz said "so there is no more land ever going to be for sale in the Town of Moreau?"

Supervisor Jenkins replied that he didn't say that. He said it would have to be a Planned Unit Development, because there is no other way of doing it.

Attorney Auffredou asked for clarification from Joe Patricke on what zones PUD's are allowed in and during this clarification it was noted that PUD's are allowed in a commercial zone.

Supervisor Jenkins replied that he didn't say they wouldn't be allowed. He said they would have to be a PUD.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Councilman Prendergast stated that he was here to listen to the public.

Councilman Kusnierz said he would comment, because he hasn't had an opportunity to comment on this local law that is before them until this evening. He wanted to make it clear that none of the board members were against senior assisted housing in our community. The issue tonight for him is an issue of density. It is not about the merits of the project. He said it is a fantastic project, but he is very concerned about the density. He wanted to explain for the public, because this is a very complicated issue, and it hasn't been presented in a fashion where the public can understand what this applicant is asking the Town Board to do. This proposed PUD calls for two assisted, enhanced living buildings at 40,000 square feet each for a total of 80,000 square feet and our town code requires for every 10,000 square feet of building you need 40,000 square feet of land. He asked if this was correct and the answer was yes. He went on to say that this means that for this project, if you do the math, they need 320,000 square feet of land for the assisted, enhanced living buildings. Under the town code (PUD law) it states that non-residential density is 40,000 square feet of land for each 10,000 square feet of building. He went on to say that under the town code it reads "a one-family dwelling (attached Townhouse or multifamily dwelling); innovative uses of land will be considered, but a density of more than eight dwellings per net acre will require exceptional justification". He emphasized the word "exceptional". He asked the board members if they have read the PUD law and the proposed law.

Supervisor Jenkins said he thought this proposal was an exceptional incident.

Councilman Kusnierz asked him if he knows what any of the exceptional incidences are.

Supervisor Jenkins said he knows that this board can act on this.

Councilman Kusnierz said if he read the code then he should know what the exceptional incidences are.

Supervisor Jenkins said he doesn't remember them all. He asked Councilman Kusnierz if he could read them for the board.

Councilman Kusnierz stated that he could, but he thought if they were about to take action on something as important as this then it was a key factor in the decision making process. He stated that the first exceptional justification doesn't make sense. He read the exceptional justifications as follows:

(1) The need for the proposed land use in the proposed location.

Councilman Kusnierz said this doesn't say anything. He doesn't know what it means or what the intent was. A previous board enacted this.

(2) The availability and adequacy of water service.

Councilman Kusnierz stated that we have water available down there.

(3) The availability and adequacy of sewer service.

Councilman Kusnierz asked if our town engineers have looked at this to see if we can adequately fulfill their needs. We don't even have sewer down there right now.

Supervisor Jenkins stated that the sewer goes right by the property.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Attorney O'Connor stated that they have been told that there is capacity to accommodate their project.

Councilman Kusnierz asked if there is documentation to that effect.

Attorney O'Connor replied that this was discussed and the Town Board would have to extend their sewer district.

(4) The availability and adequacy of transportation systems, including the impact on the road network.

Councilman Kusnierz asked if the town did an independent traffic study or has the applicant had an engineer do one.

Joe Patricke replied that the applicant had an engineer prepare one and the town has hired a consultant to review it.

Councilman Kusnierz asked what the results were and Joe Patricke replied that results haven't been received yet.

Supervisor Jenkins stated that we have a commitment from Glens Falls Transit that they will extend their routes down that way. This was as the result of a request from the developer.

Councilman Kusnierz asked if this information was included in the packet of information for this public hearing. He hasn't seen it.

Supervisor Jenkins stated that it was part of another project that is in the works on Sisson Road.

Councilman Kusnierz stated that getting back to density, if you do the math based on the numbers he just presented and what our code allows, then essentially, the developer has 8.6 acres left to put apartments on. Therefore, the maximum density should be 69 dwelling units under our PUD law. The applicant is asking for 194 units, 125 units more than what is allowed under our current law. That is an incredible amount of density, and that is where he has a problem with this project.

Attorney O'Connor told Councilman Kusnierz that his math wasn't correct.

Councilman Kusnierz said he was telling him what he had before him and he asked Attorney O'Connor if he wanted to check his math.

Attorney O'Connor told Councilman Kusnierz that he could check his math and he proceeded to recite the following numbers:

Open Space 3.69 acres

The two buildings, if they were conventional commercial buildings, then 320,000 square feet would represent 7.346 acres.

The only area that is commonly used by anyone including..... Attorney O'Connor wasn't able to finish what he wanted to say when Councilman Kusnierz interjected and asked if he was trying to tell him that they have less acreage than what he just said. He was telling him that they had 8.6.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Attorney O'Connor asked if he could finish and Councilman Kusnierz replied sure, but he wanted to make sure he was following him correctly.

Attorney O'Connor continued on by saying that the only common area that is used between any two lots is less than .5 acres. That is a total of 11.806 acres that would be developed as part of this process. That leaves 14.65 acres, which if they stuck to the code they would have "one 17 apartments".

Attorney O'Connor stated that they have asked for 194 and they have asked for a bonus in the density, but they are dedicating the whole parcel to senior housing and senior housing has different impacts.

Councilman Kusnierz stated he wasn't talking about impacts.

Attorney O'Connor stated that is the exceptional fact.

Councilman Kusnierz stated that at the last meeting he asked for someone to tell him what the density is and nobody could tell him. That is why he went and read the code and came up with the density.

Attorney O'Connor said again that Councilman Kusnierz was wrong.

Councilman Kusnierz asked again for Attorney O'Connor to tell him what the density was then. How much is the applicant asking the Town Board to deviate from what is allowed in a PUD?

Attorney O'Connor said that if you treat the commercial separately and you look at just the apartments they are asking for 194 units as opposed..... Attorney O'Connor was interrupted by Councilman Kusnierz when he said that he wanted the project density, not the commercial, and not breaking them out.

Attorney O'Connor stated that the commercial buildings they have already accounted for by subtracting from the 26 acres the square footage that would be required for those commercial buildings and they did it on the basis that they were run of the mill commercial buildings at 40,000 square feet of offices or 40,000 square feet of retail or whatever and they should get a bonus even on that.

Councilman Kusnierz asked Attorney O'Connor if he was trying to tell him that the density was going to be less than what is permitted under our code.

Attorney O'Connor replied that the impact will be less.

Councilman Kusnierz said he wanted to know what the change in density was.

Attorney O'Connor replied that if he used all his figures and ignored the fact that there are exceptional reasons for granting a bonus here then they are asking for 194 units and they are entitled to 117 units.

Councilman Kusnierz said they were asking for twice the density permitted under a PUD or close.

Attorney O'Connor replied no twice would be 234 units.

Councilman Kusnierz stated "approximately".

Attorney O'Connor replied not even approximately.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Councilman Kusnierz asked if he agreed it was significant under our current PUD law.

Attorney O'Connor replied that he did not consider it to be significant when you consider the impact of the proposed use and the fact that the town would benefit from having the senior citizen complex there.

Councilman Kusnierz said that isn't in the code.

Attorney O'Connor told Councilman Kusnierz that it was one of the first things he read that he said he didn't understand, "The need for the proposed use on the proposed location".

Councilman Kusnierz stated that we don't have a need for that kind of density.

Attorney O'Connor said he disagreed with Councilman Kusnierz.

Councilman Kusnierz stated that he didn't think the public was aware of that. He said the Town Board asked for the people in the area of the project to be notified and he asked Joe Patricke who was notified.

Joe Patricke replied, everyone within 500 feet of the project, by mail.

Attorney O'Connor added that this wasn't required by ordinance.

Councilman Kusnierz replied that he realizes that, but it was the right thing to do.

Councilman Kusnierz said he wanted to point out that when they were notified the project that was summarized is not the project that is being presented here tonight and another notice was never sent out.

Attorney O'Connor then gave a description of what the original project entailed.

Councilman Kusnierz started to read the letter that he thought was mailed out to the adjacent property owners. Attorney Auffredou stopped Councilman Kusnierz and advised him that he and the Town Clerk worked on a subsequent notice for this public hearing that was mailed out to everyone within 500 feet of the project and it included the notice of public hearing that was published in the Post Star.

Councilman Kusnierz asked Attorney Auffredou if another notice was mailed then and Attorney Auffredou replied yes.

Councilman Kusnierz asked if it included the updated project and Attorney Auffredou replied yes.

Councilman Kusnierz said he asked, because this was the only notice he had.

Supervisor Jenkins said that now that they know there is a density issue he would like to open the public hearing up to the public.

Vince Sporrer asked if the whole project was not-for-profit.

Supervisor Jenkins replied not necessarily. The first building will be. If the rest of the project is market based, subsidized housing, then it may end up not-for-profit also.

Vince Sporrer stated this means they won't pay any town tax, county tax, school tax, library tax, or fire tax.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Vince Sporrer stated that the Home of the Good Shepherd in Wilton is assessed at \$3.8 million and they don't pay any taxes.

Lee Rosen stated that the Home of the Good Shepherd is a 501C3 not-for-profit and is entitled to tax exemption. In other municipalities they have entered into service agreements whereby they have agreed to pay their fair share of services, i.e., fire protection.

Vince Sporrer asked Lee Rosen if this means that this project will or won't pay taxes.

Lee Rosen stated that the Home of the Good Shepherd could pay taxes and they could enter into an agreement with the town and he fully expected they would.

Councilman Kusnierz asked if shouldn't that be part of this local law and the answer was no.

Attorney O'Connor stated that the subsidized housing in the Town of Queensbury pays taxes on their full assessment. The market driven apartments in this project will pay taxes.

Vince Sporrer asked how many employees would be hired for the first phase and what would be the pay scale.

Lee Rosen replied about 30 full-time employees. Registered nurses would earn between \$30,000.00 to \$40,000.00 a year. Aides, cooks, wait staff, would earn between \$20,000.00 to \$25,000.00 per year.

Michael Kelly from 123 Bluebird Road stated that he didn't live within 500 feet of the project, but it does impact him since it is in his neighborhood. He understands that this type of project would be a good thing for the Town of Moreau and that there is a belief that there are exceptional reasons to approve this PUD for Moreau. He hasn't heard those exceptional reasons and some of them may be weakened due to the fact that they won't be paying a lot of taxes. He thinks Councilman Kusnierz has done an excellent job laying out what the law says and where their limitations are. He asked why the project had to go in on Bluebird Road. He said the town has already approved the Schermerhorn Apartments at the corner of Bluebird Road and Fort Edward Road, another development at the corner of Bluebird Road and Route 32, and another one is planned for the opposite corner of Bluebird Road and Fort Edward Road. The board hasn't even seen a traffic study. Since the Schermerhorn Apartments have gone in the pedestrian traffic on Bluebird Road has increased fivefold. People are out there constantly walking up and down the road and they are walking on the power and gas line easements. There are no sidewalks and no street lights. He sees a lot of improvements on Bluebird Road that change property values and not necessarily for the better. He is concerned about his property values when he sees all the apartment buildings going up on the corner of Bluebird Road and Fort Edward Road. He went to a Planning Board Meeting and saw how the development that is proposed for across the road is for low income houses. It is a big town, why is all this development going in on Bluebird Road. He is not in favor of the project on Bluebird Road. He would like to see it for the community if there are more benefits in taxes. He would like the board to tell him what the benefit is to the community.

Adele Kurtz stated that the units would require at least one 55 year old person to reside in them and today a lot of 55 + people are taking care of their grandchildren or have family members living with them. If a person who is 55 + living in the facility becomes disabled or dies and no longer resides there will the other family member(s) who have been residing there as well be allowed to remain in the facility?

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Supervisor Jenkins stated that they probably would, but he has two grandchildren and he wouldn't live in a 700 square foot apartment with them. He doesn't think it would ever happen, but it is a good point.

Adele Kurtz asked if they could redraft the law so this wouldn't happen so there won't be young families living there just because they were living there with a grandparent.

Supervisor Jenkins stated that it would be an issue when it came to subsidized housing, because there may be a provision that comes along with subsidized housing in that we can't force people out under those circumstances.

Attorney O'Connor stated that he has seen other projects of this type, but he has never seen where the survivor or other party is made to vacate the premises. The idea is to have people live in place and it would be harsh to tell a surviving spouse that they have to move.

Adele Kurtz said she was talking about grandchildren.

Adele Kurtz asked if anyone had contacted the school district to find out what the impacts would be on the school system.

Supervisor Jenkins replied that the population count for the school district is anticipated to be down by 69 students for next year. Also, the Capital District Regional Planning Board Study indicates that our student population will remain relatively flat and actually there will be a slight decrease for the next 25 years and then it will go the other way again.

Adele Kurtz asked what the completion date will be.

Lee Rosen replied the first building will take about one year to build.

Adele Kurtz asked what about the other buildings.

Attorney O'Connor replied they will be market driven. They don't have a contractor for those at this time.

Adele Kurtz stated that Route 9 allows for this type of development.

Supervisor Jenkins stated our commercial zone would not allow apartments.

Adele Kurtz stated it would allow for assisted living or nursing facility. Our town code needs to be adjusted to move with the times.

Supervisor Jenkins did say that a PUD could be allowed in a commercial zone in town. He stated that people have asked to put in a PUD with residential units along Route, but he didn't see it as a very good use of the property, because that is the only commercial property we have left in our community.

Adele Kurtz asked what the net acreage is for the site.

Attorney O'Connor stated that the gross acreage is 26.45. They set aside for open space 3.96 acres and for wetlands one acre and 1/2 acre for what is called public access or roadways.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Adele Kurtz asked if it is going to be a private road and will it always be a private road and the answer was yes. Attorney O'Connor added that there won't be any through traffic.

Adele Kurtz asked if there would be speed bumps. The answer was that they hadn't given any thought to speed bumps.

Jeff Nicolson of 202 Bluebird Road stated he has been to every meeting on this project. He asked about the water table, ground water and what will happen with it and what will be done about it if something happens. He has asked about the water pipe that runs by his property and if it backs up who will be responsible for it and he never received any answers. He said that at every meeting of the Town Board, the Town Board doesn't have any of the paperwork they are supposed to have.

Supervisor Jenkins stated that he thinks a groundwater study has been done. The answer was that a storm water management report for the whole site has been submitted to the town and reviewed by Garry Robinson the engineer for the town. The report included soils and groundwater. He concluded that what they have is reasonable. However, it is not the final report.

Councilman Kusnierz asked who he reported to and the answer was that he reported to the Planning Board.

Councilman Kusnierz stated that this project is before the Town Board now and he asked if the board members could receive all this documentation. The answer was yes and Attorney Auffredou noted that it was summarized in the Planning Board's initial report.

Adele Kurtz asked, what is the maximum potential development of the site if developed, if permitted, by the proposed zoning?

Attorney O'Connor replied they could do 40,000 square foot buildings for enhanced assisted senior citizen buildings and one 94 unit subsidized apartment building and two 50 unit market driven apartment buildings for seniors.

Adele Kurtz stated that if she understands correctly then the maximum is exactly what the applicant is proposing.

Attorney O'Connor replied no. They have not analyzed whether or not they can build four story or larger buildings. These are the buildings they are proposing. The whole purpose of a PUD is to set standards and include minimums for setbacks and maximums for density. The Planning Board then looks to see if what they are proposing on any portion of the site will fit and how they plan to address storm water and ground water and typical site plan issues.

Adele Kurtz asked if when they fill out the EAF and they enter "as proposed" for the question "What is the maximum potential of the development of the site" if that would not be accurate and that it could actually be more.

Attorney O'Connor replied no. The maximum is as proposed, because that is what the law is going to say they can do. Whether or not mechanically and from an engineering standpoint they can do more on the site hasn't been determined, but according to the PUD they cannot.

Adele Kurtz asked if this is the maximum they can put on the site according to the PUD and the answer was yes and she said thank you that was her question.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Michael Kelly stated that board doesn't know what the sewer needs are or what the infrastructure needs are or what the traffic will be and whether or not taxes will be paid. He asked what the benefits are to the Town of Moreau then.

Attorney O'Connor stated they will have a pumping station on site that they will be responsible for and they will be responsible for delivering sewer to the street. Two of the buildings will pay full taxes. The other building may or may not pay taxes.

Supervisor Jenkins stated that he would like to answer the question about what the benefits to the community are. About two years ago there was a proposal to put an apartment complex on the property and yes they would have paid taxes, but they would have put a lot of kids in school and that wouldn't have helped us any. There isn't any place in Moreau where seniors can go that is an assisted or enhanced living facility. They have to leave our community. He visits one person in an assisted living facility off Meadowbrook Road in Queensbury. It is a place where she isn't alone and there are people her age that she can talk to. It is a benefit we want to bring to the seniors in our community. It is an important issue. When you stick a person in a nursing home, after a while they don't even know who they are. They don't have anyone to talk to. It is a tough life. We owe it to our seniors to bring this to our community to provide this tremendous benefit. The Department of Health approached the Home of the Good Shepherd and said they wanted an assisted living facility in northern Saratoga County and Moreau is about as far north in the eastern portion of Saratoga County that you can get and we have a population base that has a need and that is the reason they want to build here.

Michael Kelly stated that he read in the newspaper that Schermerhorn is building assisted living facilities in Hudson Falls and someone else is building one in Glens Falls and he asked if isn't that our community also.

Supervisor Jenkins stated that there are people who have lived here all their lives and they like South Glens Falls and Moreau. He has lived here all his life and he has no plans to leave. He likes living here. It is a great community to live in.

Michael Kelly asked if just because we owe it to our seniors who may not want to move over to the Boulevard or to Glens Falls if that is a greater need for the Town of Moreau.

Councilwoman LeClair stated it is not just seniors, it is families. She stated that if a person has a parent who can no longer live in their home, they don't have to look for a facility someplace in the region. If you live in South Glens Falls or Moreau and so does your mother or father then you can place them in a facility whereby on your way home from work you stop in to visit and not have to drive across town a half hour to visit for a half hour. It makes it nicer for families and enables more frequent connection with family members. That is a big plus that the Good Shepherd offers by putting these in the communities and not one huge facility somewhere in the region. It allows someone to stay where they lived all of their lives. You could pick up your child after a soccer game and bring him/her to visit their grandparents or pick up the grandparents and take them to a soccer game. It is a lot more convenient for families to stay intact and not have to drive to a facility across town.

Michael Kelly said that with all due respect, neither the Boulevard nor Glens Falls is a half hour away.

Attorney Auffredou said he thought he heard it said that the facility on the Boulevard was an enhanced senior living and that is not correct. That project is essentially the same type of project proposed for lot 4 in this project.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Councilman Kusnierz asked what type of living that was and Attorney Auffredou replied, senior apartments. There are no enhanced independent living facilities on the Boulevard proposed.

Councilman Kusnierz asked how many seniors from the Town of Moreau would take advantage of residency here.

Betty Wimette replied she would.

Councilman Kusnierz said he wanted a number, one was a good start.

Betty Wimette said if he wanted a number she would go to the dump and start getting signatures.

Vince Sporrer asked if Moreau seniors would have a priority and Councilman Kusnierz replied not under this law.

Michael Kelly stated his concern was over the benefits. He heard it said that it could go in a C zone and in his opinion it might be more suited. The statement that we owe it to our seniors is not a benefit or justification rather it is a noble cause. It would put a burden on the community and impact property values.

Supervisor Jenkins stated that it would create about 38 jobs according to the director of the Home of the Good Shepherd at a previous meeting. Creating 38 jobs in the Town of Moreau is a significant impact on our community.

Michael Kelly asked if that justified 60% extra density.

Supervisor Jenkins said that everyone talks about density, but when it comes to senior housing, go anyplace and look at senior housing and see what density is. Our code doesn't really account for it. That is one reason we allow PUD's so we can take a look at circumstances and other issues. That is why it is in the zoning law. Is density an issue? He said if you look at the first map submitted he wouldn't have approved it. It was a lot greater density than this proposal. It was too crowded. They have moved the boundary of one building 200 feet from the Nicholson border. The alternative is that they could build a one story house 15 feet from his property line.

Jeff Nicholson stated that he does like this proposal a little bit better, because he doesn't want Schermerhorn to come in and build 15 feet from his property line. His property is the only one that this borders and the only person that it really bothers other than people driving up and down the road. He suggested they remove one building from the proposal or move one back and make the density what it should be. He said they are the ones paying the taxes. He said to keep it away from the residents. He said it will affect his property value.

Councilman Kusnierz said he wanted to comment on a statement made by Supervisor Jenkins. Go to Albany, Schenectady or regions down south where they have these really tight densities. That is why people come to the Town of Moreau to live. It is a quality of life; they want to get away from that density. As a board we have to take into consideration people who have purchased property down there, that have an expectation for the investments they made in their homes and with the intent that they wouldn't have to worry about this kind of project, because they took a look at the zoning. It is R-2. Now we are not only being asked to not just put in a PUD that has a specific limit for density and a PUD is a lot more dense in an R-2 zone, but this applicant is asking us to go 60% beyond what is allowed under a PUD. That is an

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

incredible amount of density. He asked the applicant, other than the financial benefit to them, why does it have to be greater than what is allowed under the PUD law?

Attorney O'Connor replied that what they have asked for is provided for under the PUD law and he told Councilman Kusnierz that what he was ignoring was that the board has discretion to allow a bonus of density.....Attorney O'Connor was interrupted by Councilman Kusnierz who said he wasn't ignoring that and he was well aware that the board has the authority to do that.

Attorney O'Connor continued on by saying that he ignored the fact....Attorney O'Connor was interrupted by Councilman Kusnierz when he said that he didn't ignore it. Attorney O'Connor continued on saying that he ignored the fact of the impact of the density or use should dictate and influence.

Councilman Kusnierz said he wasn't ignoring that at all. He said he asked a very pointed question. What is the benefit, other than the financial benefit, for having increased density that is over and beyond what is provided for under a PUD?

Attorney O'Connor stated it is for seniors.

Councilman Kusnierz asked him what the benefit is to the developer.

Attorney O'Connor said it allows the project to move forward.

Councilman Kusnierz said he didn't answer the question.

Supervisor Jenkins stated he could answer it, it is very simple. They won't build senior housing if they can't afford to build it and it won't create any payback to meet the expenses.

Councilman Kusnierz asked Supervisor Jenkins if he was representing the developer. He wanted to hear what the developer had to say.

Scott Varley stated that it doesn't make any sense for them to move forward if they can't get this density. It doesn't financially make any sense. This is done to provide benefit to the town and to make a profit for the developer. It is called quantities of scale. Why would they spend millions of dollars if it wasn't profitable for them?

Michael Kelly stated that the zoning law was being changed then so the developer could make a buck.

Scott Varley replied no. They are here, because there is a need in the community for this type project.

Betty Wimette stated that when she read about it in the paper she was going to come to the meetings, but didn't. There is a great need for this in the community. She stated that when people get older they cannot maintain their homes the way they would like to. She has been to the Cedars and she loves it. They have a huge fellowship hall where you can have the whole family in and have a get together like you have a big home. The property is beautiful. As for speed bumps she said they are seniors they don't drive that fast. The only complaint she had was that pets aren't allowed at the Cedars and pets should be allowed.

Councilwoman LeClair read the following letter received just before the meeting from Patricia L. Frederick Bondzinski who owns property at 49-53 Sisson Road and who could not stay for the meeting:

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

"Please be advised that although I have, in the past, expressed concerns regarding the proposed "The Nest Senior Community PUD" as it relates to the high water table and environment, I am in favor of the Town Board adopting and passing Local Law No. 3 of 2011. It is my opinion that adoption of this law as presented would allow closer oversight of the project and, the proposed construction as presented at the last public workshop would be less invasive than another project might be in the future if this plan was not adopted."

Councilwoman LeClair received two e-mails immediately after the last meeting. She summarized the e-mails rather than reading them in full. One e-mail was from Jim Dorsey and it read in part "As I consider all the information shared tonight and realizing that development of some form is going to happen, it is my thought that a senior housing project may very well meet the needs of our community. While supporting such a project I do have a few concerns that I hope the board will consider while moving forward with this project."

Councilwoman LeClair stated that Jim Dorsey's concerns were over the things already discussed one being the distance from the property lines. Jim Dorsey hopes that they will stay with the plan as proposed. The concerns are basically the same in both e-mails.

The second e-mail was from Walt Mykins. It read in part: "There was quite a bit of change in this latest proposal and it took some time to review all the new information. I have to say I am very pleased with the changes I've seen. Here's what I like about it: 1. The current locations of the buildings are reasonable to buffer from the existing residences. 2. The density is a bit reduced. 3. The retail/professional space is out. 4. In general, I like the idea of senior housing in the area. It is more needed and desirable than another general apartment complex, with Schermerhorn and Leonelli in progress with two of those projects within a stone's throw."

Councilwoman LeClair stated that in the e-mail from Walt Mykins he talks about concerns he has over the setbacks and the water. He said he spoke to the developer about the water and was told the water would be diverted away from the residences. He hoped that was the case and asked if there could be agreements. He asked the board if they could pursue water and sewer for residences on Sisson Road.

Councilwoman LeClair stated she has been a resident on Sisson Road for 30 years and she is a resident who will look out her window and see this PUD. One of the things she liked about her property when she bought it was all the woods around it. She told the developer that they own the property, not her, so she can't tell them not to build on it, because she wants to see trees. She stated that she visited two of the Home of the Good Shepherd facilities and she feels that the noise and traffic from this project and possible future projects will have a lot less impact on the neighbors than another apartment complex with children and people coming and going to and from work. The town owns the property on the opposite side of Sisson Road opposite this lot and the town is planning to put up a water tower on that property so there won't ever be the situation where the town sells the property and another developer comes in and builds on it. She had serious concerns when the retail complex was proposed. She would like it to stay wooded, but she supports the project. It is a good use of the property. The noise and impact is going to be a lot less than another apartment complex or housing complex. Again she said she supports the project.

Councilman Kusnierz said he wanted to follow up on the exceptional standards list that he was reciting from earlier in the meeting, before he was interrupted, because there are six more that need to be taken into consideration, and since nobody on the board was able to name them he would like to read them into the record so the y are in fact aware of them when they review the minutes.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

5. Pedestrian circulation and open space in relation to the structure.
6. The character of the neighborhood in which the PUD is being proposed including the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.

Councilman Kusnierz asked the developer how he would address the issue in #6.

Attorney O'Connor stated that he thought they addressed it by the separation they have allowed for from the residences on Bluebird Road. They will limit the clearing to the areas of construction, what is there will remain there. If they looked at the brochure handed out at the public hearing the site is attractively set up by landscapers. This is not a barracks type building. It is a well designed building. The larger buildings will be farther back in on the property and will not be as noticeable to the surrounding residences.

7. The height and bulk of buildings and their relation to other structures in the vicinity.
8. Potential impacts on local government services.

Councilman Kusnierz stated the issue was brought up earlier about taxes. This project does have an impact on local government services. Some of this property would be taken off the tax rolls as far as the town tax and school tax is concerned and it does impact local government services.

9. Potential impacts on environmental resources, including wetlands, surface water, floodplains and plant and wildlife communities.

Councilman Kusnierz stated that we know this issue about surface water has been brought up by members of that neighborhood who are concerned about the high water table.

10. The general ability of the land to support the development, including such factors as slope, depth to bedrock, depth to water table and soil type.
11. Other factors as may be deemed appropriate by the Town Board.

Councilman Kusnierz said there are eleven items under exception standards that this board has to take a look at.

Attorney O'Connor stated that if he went back and looked at the Planning Board recommendation to the board he will find that the Planning Board went through these exceptional standards one by one and considered those and included them in their report to the board, which was favorable to the project and that project was even bigger than this one.

Councilman Kusnierz replied that the project changed, this wasn't included in that, and he hasn't received that report.

Attorney O'Connor stated that the Planning Board would consider it on June 20th and affirm the changes.

Attorney Auffredou stated there was a supplemental report prepared and awaiting signature.

Attorney O'Connor stated the supplemental report is favorable.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Councilman Kusnierz stated that he wanted to make one more comment, because there were Town Board comments about other projects outside the area and one was in Malta. He asked if the open space in this project in Moreau was at the bare minimum of 15%.

Attorney O'Connor replied no. 72% of the project would be open space other than buildings and pavement.

Councilman Kusnierz asked what the acreage was.

Attorney O'Connor replied close to 20 acres.

Adele Kurtz asked what the maximum height allowed under our current code is for the proposed buildings and the answer was 38 feet.

Adele Kurtz asked if the 38 feet was from the first floor and Joe Patricke replied from the grade.

Adele Kurtz asked what the difference was between grade and first floor.

Joe Patricke replied that the state code requires 8 inches separation from any wood and the grade. So the first floor would be a minimum of 8 inches from the grade.

Adele Kurtz stated that the building height then as proposed is really "46 inches".

Attorney O'Connor replied no it would be an additional 8 inches.

Adele Kurtz stated 8" plus 38" and Attorney O'Connor replied no 8" plus 38 feet so it would be 38 feet 8 inches.

Adele Kurtz asked if there are any other three story buildings in the area and the answer was no.

Adele Kurtz asked for an example of what a three story building looks like.

Joe Patricke said Palmerton Heights. He then said most buildings in town are 35 feet or 37 feet high.

Adele Kurtz asked why they needed three story buildings and why not two story.

Supervisor Jenkins replied that the developer makes that decision. In an R-2 zone you are allowed to build a house with a height of 38 feet 8 inches, 15 feet from the property line.

Adele Kurtz said no the developer doesn't make that decision. She then said that in her opinion a three story rectangular building is an eyesore.

Attorney O'Connor stated that it is a matter of balancing the economics of construction, the idea of having elevators and not having buildings spread out too far and keeping a good portion of the site green. The buildings will have pitched roofs and architectural features to them. It helps to preserve the open space on the site.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Terri-Jo Nicholson stated that she understands the need for this, but her problem is with the setbacks and she is afraid that they will shift the location of the buildings closer to her property line.

Attorney O'Connor stated that the Planning Board will have significant impact on that. He would not make a presentation to the Planning Board different than what they proposed for building one. He made the representation that building one will sit where they show it to be and it will not be any closer to the property line than what is shown on the plans and if they have to shift it, they will shift it in the other direction and he showed them on the map what he was talking about.

Adele Kurtz asked if the developers here are going to develop any of the other lots other than lot one.

Attorney O'Connor replied that he doesn't know at this time. He hopes that the developer of the Home of the Good Shepherd will be interested in building the second building, which would be an enhanced assisted senior living facility. It is pure speculation at this time.

Adele Kurtz asked if the developer will pay recreation fees.

Supervisor Jenkins replied that hasn't been decided yet. They will pay recreation fees on subsequent units and maybe not on the first unit, but he doesn't know yet. The other option is to allow them to create recreation areas.

Councilman Kusnierz said that wouldn't be his position. It wasn't discussed with him.

Supervisor Jenkins said we are allowed to do that.

Councilman Kusnierz told Supervisor Jenkins that he knows that, but he just said we would be doing that.

Supervisor Jenkins said that he didn't say that. He said it hasn't been discussed yet. We haven't even discussed it. He was saying that those are the options.

Councilman Kusnierz asked if he heard that there is a potential that recreation fees will not be paid on part of this project.

Supervisor Jenkins said he didn't know the answer to that.

Attorney O'Connor stated that the senior enhanced assisted living building is considered a commercial building on which there are no recreation fees due. The apartments, even though they are going to be subsidized senior apartments, will be treated the same as any other apartment structure and recreation fees will be paid on those apartments.

Councilman Kusnierz told Attorney O'Connor that he was aware of a letter written by him asking for the property to be classified as commercial property, because it will cost them more if it isn't. He asked who made that decision.

Joe Patricke replied that he made that decision per the state building code.

Councilman Kusnierz asked why Attorney O'Connor would write that letter and request it then if it is already in the code.

Joe Patricke replied he didn't know why.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Adele Kurtz asked when the board would decide on the recreation fees. She has seen some of these PUD laws written and some of them are very detailed and include such things as setbacks, one building is entitled to a tax abatement and one building is not. She asked why they wouldn't include recreation fees in the law so there is no question.

Councilman Kusnierz asked the developer if they would have a problem paying recreation fees.

Attorney O'Connor replied that the property owner will do whatever any other property owner is required to do in the town.

Councilman Kusnierz asked if it was correct that they will not have to pay the same level of taxation that other property owners in the town have to pay and they will not have to pay recreation fees.

Attorney O'Connor replied that he didn't say that.

Betty Wimette stated that they have the STAR program, they are all seniors.

Councilman Kusnierz asked what the STAR program has to do with recreation fees.

Betty Wimette said it doesn't have anything to do with recreation fees, but if he wanted to get into technicalities.

Councilman Kusnierz said he wasn't getting into technicalities. He was asking a simple question, because he just heard that there won't be recreation fees, because this is deemed commercial and in lieu of the fact that they won't be paying real property taxes on part of the project, as part of the negotiations to the town.

Attorney O'Connor asked Councilman Kusnierz if recreation fees are required on any commercial building in the town.

Councilman Kusnierz said he doesn't know. He asked Joe Patricke what developers are required to pay recreation fees and Joe Patricke stated that recreation fees have to be paid on any dwelling unit.

Councilman Kusnierz asked if there weren't any dwelling units on here and Joe Patricke replied there are 194 dwelling units. Councilman Kusnierz replied there are a lot of dwelling units then.

The question was asked how much the recreation fees are and Joe Patricke replied \$700.00 per dwelling unit.

Councilman Prendergast asked Joe Patricke if he said that the code dictates whether it is a commercial building or not and not the board members and Joe Patricke replied yes, the building code.

Councilman Kusnierz said it was his understanding that everything was negotiable on this project.

Attorney O'Connor said he wouldn't agree to that.

Councilman Kusnierz asked if this project is take it as it is or not and Attorney O'Connor replied yes.

Councilman Kusnierz stated that he would not approve this PUD as drafted.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Attorney O'Connor stated that is not a surprise.

Councilman Kusnierz stated that all he sees is a huge benefit to the developer.

Councilman Prendergast stated that he has been here a long time and he thinks a public hearing is a chance for the public to talk and that is why he doesn't do a lot of talking, but he wanted to make a few quick comments.

Councilman Prendergast stated that one of the biggest issues here is density and where it is being placed. When you talk about density, impact derives how people feel about density. That is why you have density in these codes. If you have very little impact you are going to hear very little from people and if you have a lot of impact you are going to hear more and more. He can't sit here and say impact doesn't come into play with density, because impact drives density. He hasn't done a lot of studies, but he has driven by these facilities and he has been to a facility to visit someone. The impact to him doesn't seem to be anything that is disturbing. There won't be a lot of activity there and it will be relatively quiet. That is the nature of the business. There may be some traffic, but it won't be overpowering. You talk about needs, and the term exceptional need was used here tonight, and the first thing that came to his mind was that it depends on who you ask. If someone asked if he felt there was a need for a fire department, he would say absolutely there is a need for a fire department. If his house is on fire and you ask him, he will say there is an exceptional need for a fire department. If you are aging in place and you ask that person they are going to say, because they have told him, that they want to age in place. Their comment to him is that they don't want to leave town. They didn't want to leave town when they were younger and they don't want to leave town as they age. It is probably even stronger when they age. If you want to know if there is an exceptional need out there ask people who are aging or heading in that direction. He has heard from them for years. He said before, at previous meetings, they talked about how big the project is and whether there is an exceptional need for it. You will only find out if there is an exceptional need if the project actually happens, because a good portion of the project is market driven. If there is no exceptional need for it then a lot of the stuff discussed here tonight won't happen. If there is an exceptional need for it then we need to be very careful about how we proceed from this point right here. Every aspect of this project has been looked at and more so by the Planning Board. He knows this, because as the result of comments given by the Town Board and Planning Board there have been changes made to this project before it has been finalized and it will have to go back to the Planning Board for further review. Again he stated that if there is an exceptional need for it then it will be built out and if there isn't an exceptional need for it then it won't be. He said they do have to talk about the recreation fees. He heard a couple of really good comments here tonight. One of them, he really feels the same way, but he doesn't know if there is any fix for it and that comment was about a 55 year old person passes and they live with a 45 year old and that 45 year old brought their children with them. If he was a 55 year old person living next door to them he would have a concern, because he would have only moved there, because he wanted it to be 55 and older.

Attorney Auffredou said they tried to make it consistent with the definition of senior living.

Councilman Prendergast said he sees the need for it. It is hard to throw people out in the street even if you don't have 55 years old living there. It is tough to throw anybody out in the street, even if the person is 25 years old and physically able to get out there.

Attorney Auffredou stated that it could be modified.

Councilman Prendergast wondered if they could add a time frame. He also commented on the building height. We do have homes in the area that meet that height. He knows that this building is much larger

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

than a single family home. The ones he has been by are pleasing to look at. Setbacks are extremely important.

Councilman Kusnierz stated that this public hearing is on the local law as drafted. He just heard it said that it was going to be referred back to the Planning Board.

Attorney Auffredou replied no. He thinks what Councilman Prendergast meant is that any specific aspect of the development goes back to the Planning Board for site plan review. That is how this proposed local law is written. It is going back to the Planning Board on Monday night, but only for signature of the supplemental report. There won't be any further discussion on the review of this matter. This local law is not going back to the Planning Board. They will go back before the Planning Board if the PUD is approved and as per the PUD they need subdivision and site plan approval for each aspect of the project.

Councilman Prendergast said that he thought he said each part of the project had to go back to the Planning Board.

Attorney Auffredou stated that is what he heard and Councilman Prendergast added that if he said the other it was a mistake.

Councilman Kusnierz said that is fine, he just wanted to clarify it in his mind. So if the town doesn't make any changes or require anything further from this applicant, then for instance, there isn't any definition in this local law what assisted enhanced senior living is. Shouldn't they be looking at that and defining it.

Attorney Auffredou asked him if his question was can they make changes in the local law as they go through the public hearing process then the answer is yes. If he wants to recommend that there be a definition in this local law with respect to that, he happens to think it is already in there, but if he thinks it needs to be clarified or set apart the Town Board can consider it.

Councilman Kusnierz said the way he interprets it, and he asked Attorney Auffredou to correct him if he was wrong, but wouldn't this facility provide health care and food service.

Attorney Auffredou replied that it is a senior enhanced facility and he thought the record was clear to what it is designed to do.

Councilman Kusnierz asked the applicant if it was the intent to provide health care and food service.

Lee Rosen replied that it is licensed by the health department. He said they could add that.

Councilman Kusnierz said the way our law is written it doesn't provide for that.

Attorney Auffredou told Councilman Kusnierz that he disagreed with him. The law specifies that on those two lots senior enhanced facilities are allowed.

Councilman Kusnierz asked Attorney Auffredou if didn't he think that they should have a definition in the law that allows for that.

Attorney O'Connor said it is a particular specific state license and the health department actually has jurisdiction over it.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Councilman Kusnierz asked if the utilities would be underground and the applicant sort of acknowledged that they would be.

Councilman Kusnierz asked if shouldn't this be part of the local law. It is the applicant's option probably.

Attorney Auffredou and Attorney O'Connor said it would be a site plan issue and Councilman Kusnierz said the board has ultimate authority and the board could require it to be part of the local law.

Attorney O'Connor said it isn't required on any other development in the town and Councilman Kusnierz said that he just told him that this was a totally different type of development and Attorney O'Connor said it is a different zone.

Councilman Kusnierz stated that we don't have any other type of facility like this in the Town of Moreau.

Attorney O'Connor started to say he has a problem with.... and then said he had no comment.

Councilman Kusnierz stated that it does impact the neighborhood and one of the smallest ways to minimize that is to have utilities underground. These are the types of things that should be discussed at the Town Board level. He then asked who was going to be lead agency for SEQR on this.

Attorney Auffredou replied that only the Town Board can be lead agency on this. The site plan and subdivision review would be subject to separate SEQR determinations by the Planning Board. As the legislative body only the Town Board can be the lead agency here.

Councilman Kusnierz asked if there would be fire alarms and sprinkler systems in this type of facility and the answer was yes. He asked if it was required under the state uniform code and the answer was yes.

Attorney Auffredou read from the law "all construction shall comply with the New York State Uniform Fire Prevention & Building Code".

Councilman Kusnierz said his question was is it required and the answer was yes.

Attorney O'Connor stated that they weren't trying to avoid any recreation fees that are due on residential units. When the building permits are applied for, for the subsidized apartments or the market driven apartments, and if the ordinance stays the same as it presently is they will be charged with recreation fees.

Joe Patricke advised that our code requires that when the mylar is approved the recreation fees are due.

Attorney Auffredou and Attorney O'Connor thought it was when the site plan was approved.

Councilman Kusnierz stated that it is when the Town Board approves it and Joe Patricke said that is what he thinks and Councilman Kusnierz said he could read it if they wanted him to.

Supervisor Jenkins thanked everyone for being here tonight and for all the comments. He said there are a lot of different concerns about this project. He said some of them think it is a little more important than others. He said some people are impacted by it and he understands that. He thinks they will be moving ahead. It was his position that they would not be acting on this at the June 14th meeting, because they wouldn't be totally prepared by then and more than likely it would be acted upon at the meeting of June 28th if everything is ready.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Adele Kurtz asked what the logistics are from now on out. Does it go to the county? Will they be adopting the law?

Supervisor Jenkins said that if they have everything they need by June 28th then they may take up the adoption of the law.

Adele Kurtz asked if it has been sent to the county and Attorney Auffredou replied yes.

Councilman Kusnierz asked who sent it to the county and was it at the direction of the board.

Attorney Auffredou said that he believes that at the workshop he discussed that the local law would be referred under 239m and your PUD code..... he was interrupted by Councilman Kusnierz when he said he understands that, but was there a resolution to send it down, because he didn't remember that.

Attorney Auffredou said that there is never a resolution to send it down. He usually just says he is going to do it and he just does it or Joe Patricke does it.

Councilman Kusnierz told Attorney Auffredou that he must need Town Board approval and Attorney Auffredou said he didn't think so.

Councilman Kusnierz asked Attorney Auffredou if he could just do whatever he wanted to do without Town Board approval.

Attorney Auffredou said come on Todd. He then told Councilman Kusnierz that he (meaning Councilman Kusnierz) relies on him to comply with the law. He made a determination that it is a 239m referral. He knew that there was a public hearing coming up. He said that he always refers the zoning local laws to the county under 239m (Councilman Kusnierz interrupted him by saying that this is a PUD) and you never asked me before whether or not there was resolution where he had the authority to send a local law to the county. At the same time Councilman Kusnierz said this is a PUD and Attorney Auffredou said whether it is a PUD law or not it is a zoning law and he always sends it to the county and he did so in this instance to protect you.

Councilman Kusnierz said that is fine, but you should be working for us at our direction.

Attorney Auffredou made some kind of sound that prompted Councilman Kusnierz to ask if he didn't agree with that.

Attorney Auffredou told Councilman Kusnierz that he works to protect the board.

Councilman Kusnierz told Attorney Auffredou that was fine, but they are the ones who are elected and not him.

Adele Kurtz asked if there has been a response from the county.

Attorney Auffredou advised her that the Saratoga County Planning Board will meet on June 16th and he expects their recommendation shortly thereafter.

Attorney Auffredou suggested they not close the public hearing.

Attorney O'Connor asked why they wouldn't close it.

A public hearing was held by the Town Board of the Town of Moreau on June 9, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD".

Attorney Auffredou explained that he doesn't like to close the public hearing until they received a recommendation from the county.

Councilman Kusnierz told Attorney O'Connor that he was the one who said there was incorrect information in the local law as written so he would think that he would want the public hearing to stay open until the changes were made.

Attorney O'Connor said the changes he suggested are not substantial. The board can adopt the law as it sits or the board can adopt the law with changes.

Councilman Kusnierz stated that he would think this board would want to accurately reflect the project.

Attorney Auffredou explained to Attorney O'Connor that historically when they have public hearings separate from regular board meetings they keep them open until the night they take action and that is his recommendation, to do nothing different.

Attorney O'Connor asked if the board had any issues with the changes he suggested, that they should discuss.

Supervisor Jenkins said he doesn't.

Councilman Prendergast stated he wanted to look at the suggested changes and consider them.

Attorney Auffredou said there wasn't anything that he considered substantive. He said he would take the draft law and prepare another draft of the law and highlight the suggested changes and whether or not the board wants to incorporate them or not is up to the board.

Councilman Kusnierz said he heard from the applicant that there was a paragraph that they wanted stricken, so there is a significant change.

The public hearing was concluded for the evening, but it was not closed.

Respectfully submitted,

Jeanne Fleury
Town Clerk