

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

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HEARING REGARDING THE PROPOSED  
BRITISH AMERICAN PLAZA LOCATED AT  
798 ALBANY-SHAKER ROAD REVIEW AND ACTION ON  
RENEWAL OF CONCEPT ACCEPTANCE

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THE TAPED AND TRANSCRIBED MINUTES of the above  
entitled proceeding BY NANCY STRANG-VANDEBOGART  
commencing on August 25, 2009 at 7:35 p.m. at the  
Public Operations Center 347 Old Niskayuna Road,  
Latham, New York 12110

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BOARD MEMBERS:

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- TOM NARDACCI, ACTING CHAIRMAN
  - MICHAEL SULLIVAN
  - ELENA VAIDA
  - GEORGE B. HOLLAND, JR.
  - CHARLES J. O'ROURKE
  - TIMOTHY LANE
  - PETER STUTO, Jr. Esq., Attorney for the Planning Board
- Also present:
- Joseph LaCivita, Director, Planning and Economic Development
  - Mike Lyons, Planning and Economic Development
  - Brad Grant, Barton & Loguidice
  - Joe Grasso, Clough Harbour
  - Kathleen A. Simmonds, Clough Harbour & Associates
  - Spencer Jones, British American

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ACTING CHAIRMAN NARDACCI: Okay moving on to our second item on the agenda. We have submission by British American Plaza, 798 Albany-Shaker Road; a 294,000 square foot four building office plaza. They're here today for review and action on the renewal of concept acceptance.

We have the applicant as represented by Clough Harbour and Associates. Just for clarification, Clough Harbour is one of the town's designated engineers. Under the law approved by this Town Board, our TDEs are still allowed to make recommendations on projects that they had prior to the town bringing them on as TDEs. This project is one of those projects. So, that's just a point of clarification.

Mike, do you want to set us up for this? Can you give us some background history?

MR. LYONS: Sure, I'll give you a quick background.

This project predated the DCC, which is the Development Coordination Committee review. It also preceded the Town Land Use Law with regard to initial zoning verification. This project received concept acceptance on November 27, 2007 and they are before the board tonight to basically renew the existing concept that they have. This is not to extend it but to renew it.

If they were to extend the concept acceptance, this concept acceptance would be valid up until November 27, 2008. By renewing the concept acceptance with the new zoning verification they have obtained through our Building Department - which we just received today, by the way - the project would now basically have a one year lifeline concept and then could be extended for one additional year on concept acceptance. That would allow the applicant two years to develop the concept through the preliminary final plan design stages. The plans that are before the board tonight as well as the comments are the identical plans and comments that were before the board back in 2007 that the board acted

1 on. They're basically asking that we reissue  
2 the concept with the same conditions, which  
3 include the installation of a traffic signal  
4 at the intersection of the driveway and  
5 Albany-Shaker Road.

6 Once the square foot of the floor area of  
7 the development exceeds 100,000 square feet,  
8 the second issue was providing a second means  
9 of access into the site as requested by the  
10 Bureau of Fire Services.

11 The negative declaration that was adopted  
12 by the Planning Board on November 22, 2007 is  
13 still valid. It does not have an expiration  
14 date. There is no action of SEQRA that is  
15 required this evening.

16 MR. O'ROURKE: Mike, that zoning  
17 referendum that we received today - did people  
18 have to look at that?

19 MR. LYONS: Yes. That was approved by the  
20 Building Department.

21 MR. O'ROURKE: And they just got it today  
22 but were able to -

23 MR. LYONS: No, they received it last  
24 week and they approved it today.

25 MR. O'ROURKE: Okay, so they received it  
from the applicant a week ago.

MR. LYONS: Yes.

The last thing is that this project is  
located in the commercial office or CO zoning  
district. The CO zoning district is not a  
design standard so you don't have worry about  
parking in the front yard, the 80% frontage  
build-outs and the various types of design  
elements that you see along the project site  
of the Lia Toyota sites on Central Avenue and  
Route 9 and Troy-Schenectady Road. The zone  
that is there now is virtually identical to  
the zone that was in existence. I believe that  
it was called airport business area. It's E4,  
which are a like to uses around the airport.  
Those in the E4 zone are virtually identical  
with no change in the density of use or  
anything else like that which would cause the  
concept to change.

With that, I think I'll turn it over to  
Kathy Simmonds.

1 MS. SIMMONDS: Mike did a great job,  
2 actually. He pretty well summarized everything  
3 that I was going to say.

4 My name is Kathy Simmonds and I'm a  
5 Senior Landscape Architect with CHA. I'm here  
6 tonight representing British American and  
7 Spencer Jones, one of the Vice Presidents of  
8 British American and I'd like for him to step  
9 forward and just say a few words about British  
10 American and their history in the Town of  
11 Colonie.

12 MR. JONES: Good evening. Thank you for  
13 the opportunity to present tonight. I'm  
14 Spencer Jones with British American. We are an  
15 owner/developer/manager of commercial real  
16 estate throughout the capital region. We are  
17 headquartered in Latham. Our focal and  
18 headquarters is Airport Park, located at the  
19 intersection of Troy-Schenectady Road and  
20 Albany-Shaker Road. We've been in that park  
21 for the past 30-some years we have developed  
22 32 buildings over 350 acres.

23 The particular site in question tonight  
24 we've controlled for just over 10 years and  
25 we've been working towards concept approval on  
this project, I would say, for five to seven  
years. The only reason that we didn't advance  
the process past the neg dec and the concept  
approval received in November 2007 is because  
we needed a neg dec to advance our process  
with the Army Corp of Engineers. That process  
took us longer than the 12 month period. We  
have with the concept approval and so our goal  
is to get re-issuance of concept approval so  
that we can move towards final with this  
board.

MS. SIMMONDS: The project is located on  
Albany-Shaker Road. The airport is immediately  
over here to my right (Indicating). Shaker  
Country Club is right here on the portion of  
this site. The Albany County portion of land  
is right here (Indicating) and then there is  
residential development along the southern  
ends of the site. Along the western boundary  
we have the Memory Gardens cemetery.

The site itself is 42 acres in size and  
on that 42 acres we're proposing the

1 development of four office buildings. Two of  
2 them will be 73,000 square feet in size. They  
3 will be three stories tall. One of them will  
4 be two stories at 49,000 square feet and a  
5 fourth one being four stories at 98,000 square  
6 feet. So the project density is 294,000 square  
7 feet.

8 We have accommodated town parking  
9 standards with one space per 225 square feet  
10 for a total of 1,370 spaces on the site. In

11 each one of these buildings we're proposing  
12 60 cars underneath each building so some will  
13 include parking. There will be 240 spaces  
14 indoors and the rest of the parking will be  
15 surface parking.

16 As you can see our development is pretty  
17 much towards the eastern end of the site. Our  
18 total greenspace is in excess of 71%. The site  
19 will be served by Latham Water and Pure Waters  
20 and our stormwater management will be onsite  
21 stormwater management.

22 As Mike mentioned, the plan is exactly  
23 the same one that was approved in November of  
24 2007. The plan went through much iteration for  
25 our initial application in 2006 and from the  
time that we finally got to our concept  
approval in 2007, but it hasn't changed since  
that point in time.

We also went through a number of reviews  
and studies prior to our conceptual approval  
in 2007. We received our approval from the  
Albany County Planning Board. We conducted an  
archeological study and received our approval  
from SHPPO and there was no effect on the  
site.

We formed a traffic study and then a  
supplemental traffic study in addition to  
meetings with the town, DPW, DOT and CDTC  
regarding the impacts of the intersection here  
on Albany-Shaker Road (Indicating). We looked  
at two scenarios. One was a roundabout and one  
was a signalized intersection. The end result  
was that we will install a signal at the  
intersection when the development of the  
project gets to 100,000 square feet.

1 We also have comments from the  
2 departments, as Mike acknowledged, that we  
3 know that we need to address for preliminary.  
4 The site is within the historic site. It's in  
5 proximity to the Shaker site.

6 The building elevations underwent several  
7 renditions too. We met with Shaker Heritage  
8 Society several times and this is the building  
9 elevation that they approved on the site which  
10 picks up on the themes from the Shaker  
11 architecture. The canopy roof and the doors  
12 are similar to the Shaker architecture. This  
13 is one elevation (Indicating). This is a  
14 corner elevation. We received the sign-off  
15 from the Shaker Heritage Society.

16 Once we received the neg dec, as Spencer  
17 said, we needed to submit that to the Army  
18 Corp of Engineers. We are pursuing a joint  
19 application with DEC and the Corp of Engineers  
20 and we needed the neg dec to complete the  
21 puzzle.

22 We first made our application to the Corp  
23 of Engineers in February of 2006. The complete  
24 application went to them in December of 2007  
25 and we got our final permit in April of this  
year. So, during that time frame, obviously  
our concept approval lapsed but we were trying  
to get everything else squared away with the  
Corp of Engineers.

The reason that we needed the permit from  
the corp is that when Hilton Gardens was built  
and that was in 1998, they disturbed one acre  
of wetlands on their site. This project is  
going to disturb an additional 1.08 acres.

The Corp of Engineers required us to find  
a mitigation site which in this case we were  
able to find something that's in the same  
watershed as the British American site. It's  
located at 625 Sand Creek Road. It's pretty  
much due south of our site. This is the acre  
parcel that actually has concept approval on  
it from the Town Planning Board and we have  
purchased that as part of the criteria of a  
mitigation site for the Corp of Engineers.

There will be no further wetland  
disturbance on the site. Again, I'd like to  
touch on the conditions of approval.

1           We have contributed funds to the airport  
2 area GEIS. We have addressed the department  
3 comments. The conditions were to have downward  
4 lighting to eliminate light trespass on the  
5 adjoining properties, which is fine with us.  
6 We need to provide a second means of emergency  
7 access. We can show you two alternatives at  
8 this point.

9           The conditions say that we can't use  
10 Albany-Shaker as one of our secondary  
11 emergency access points. So at this point  
12 we're proposing either a connection down here  
13 (Indicating) of a connection at this end of  
14 the site (Indicating) near one of the private  
15 residential properties. The actual  
16 determination has not been made at this point.  
17 That something that needs to be taken care of  
18 before the seal is issued on the first

19 building of the project.

20           The final condition of approval was to  
21 work with the town to establish a walk along  
22 Sand Creek Road. The plans that we have  
23 submitted to the Corp of Engineers during the  
24 approval phase was we had indicated that we  
25 have adequate space on our site to install a  
sidewalk along Sand Creek Road extending to  
the south. So, we will be able to meet that  
condition as well.

I guess, in closing this is the same plan  
that we had approval on before.

ACTING CHAIRMAN NARDACCI: Before we get  
to questions, this project is going to now be  
reviewed by our other town designated  
engineer, is that correct?

Brad, have you gotten this proposal yet?

MR. CLARK: Yes, this is probably not as  
thick as Kathy's file, but we did get the  
previous board's minutes. We have the letter  
of August 4, 2009 and it's essentially a  
revised narrative. We have gotten the traffic  
study. It's quite voluminous and have gone  
through it. We continue, however, to review  
it. We have also gone through a fairly

vigorous review with Albany County.

1           ACTING CHAIRMAN NARDACCI: Okay, thank  
2 you.

3           Just for a point of clarification, could  
4 you just explain in a little more detail the  
5 interplay between the wetlands and the parcel  
6 to the south? What was that approved for?

7           MS. SIMMONDS: It was approved, I  
8 believe, for office buildings.

9           MR. JONES: The goal was always to find  
10 another piece within the same marsh area. The  
11 only piece that we could find in the same  
12 watershed is one that had already been issued  
13 concept approval on a project. We were in a  
14 position where we pretty much had to do that  
15 to satiate the need for the corp That will be  
16 turned entirely into a mitigation site. We've  
17 been through this with the Army Corp of  
18 Engineers and New York State Department of  
19 Environmental Conservation and they both  
20 signed off on it.

21           ACTING CHAIRMAN NARDACCI: Okay, it's  
22 just something that I haven't seen here. Is  
23 there a direct correlation between what's wet  
24 on the British American parcel here to this  
25 one or is it just to recreate a wetland in the  
same watershed?

          MS. SIMMONDS: We had to recreate a  
wetland in the same watershed. The balance of  
this site pretty much from where we're  
stopping to the west is already a wetland. The  
corp required that they be compensated for the  
water of the wetlands on the site so they  
recommended that the site be located in the  
watershed. This is where we were able to find  
the piece of land that fit the corp criteria.

          MR. O'ROURKE: I'm not very smart so I  
have to ask these questions. In terms of  
reasonableness we're going to take a wetland  
and we're going to fill it in and make it dry.  
Then we're going to take dry land and make it  
a wetland and then put a sidewalk on it.

          MS. SIMMONDS: No, not necessarily. The  
area here (Indicating) has already been  
disturbed.

          MR. O'ROURKE: So what did the Army Corp  
make you do for that one acre that you  
disturbed for that project?

1 MS. SIMMONDS: We had to combine that one  
2 acre with the 1.08 acres on this parcel  
3 because they were both owned by British  
4 American. The Corp of Engineers looked at that  
5 as a 1.08 disturbance.

6 MR. O'ROURKE: You build that project in  
7 1998; Hilton Gardens. This one you said was  
8 held up because the Army Corp -

9 MS. SIMMONDS: We didn't get the permit  
10 back in 1998. There was always an  
11 understanding that when this came in for  
12 future development on the balance of the site  
13 that they would get everything at that point.

14 MR. GRASSO: I can clarify that. When the  
15 Hilton Garden was built in 1998, the corp's  
16 wetland regulations authorized one acre of  
17 disturbance. So the Hilton Garden was under  
18 those previous conditions. One acre could be  
19 impacted without having to be mitigated. Since  
20 that time, as this project was advanced, the  
21 wetland regulation changed and there were no  
22 thresholds. Any additional wetland impacts on  
23 the current project site would trigger  
24 mitigation and the corp requires British  
25 American to mitigate not only the new acre of  
impacts but the former acre of impacts. So,  
there are two acres of impacts because they're  
deciduous forests that were being impacted.  
They require two to one compensation so  
basically British American has to create four  
acres of wetlands within the watershed. That's  
what is proposed on that eight acre parcel.

MR. O'ROURKE: And then we're going to  
put a sidewalk in front of it?

MR. GRASSO: The sidewalk is only because  
the mitigation site has frontage along  
Sand Creek Road and the town has a plan to  
provide sidewalks along Sand Creek Road. The  
town position has been if an applicant  
develops a piece of property along Sand Creek  
Road, they are required to build a sidewalk  
along the frontage. This is the only proposal  
that will ever be brought before the town for  
the mitigation site because it's going to be  
created in the wetlands and forever maintained  
in perpetuity. That's why the town requested a

1 sidewalk be provided there and it was made a  
2 condition of the approval.

3 MR. LACIVITA: Joe, if I'm reading this  
4 right from the Army Corp - where C.J.  
5 mentioned that was all dry land, that is, in  
6 fact, not. There are currently existing  
7 wetlands on that acreage.

8 MR. GRASSO: That's correct. The third  
9 form acceptable mitigation site for this  
10 project review started in 1999. It took eight  
11 years to find an acceptable mitigation site.  
12 We looked at thousands of properties  
13 throughout the town and throughout the  
14 watershed that would meet the corp's criteria.

15 MR. O'ROURKE: Who is going to maintain  
16 the sidewalk?

17 MR. GRASSO: The sidewalk would be  
18 maintained by the town.

19 MR. O'ROURKE: Is that in the Land Use  
20 Law?

21 MR. LYONS: That is in the draft of the  
22 sidewalk plan. That was one of the  
23 recommendations of the town. There is actually  
24 already an existing sidewalk from down from  
25 Albany all the way up to Shaker Run Apartments  
which is just before the National Grid right  
of way substation. There are also sidewalks  
along the Watervliet-Shaker Road portion. Then  
the sidewalks come down off of  
Watervliet-Shaker Road and they come down  
Sand Creek Road along the frontage of the  
Reformed Church. So, there is just a small  
section of sidewalk that's missing; basically  
from the village line almost to  
Watervliet-Shaker Road.

When those sections of sidewalk are  
completed, they will then take the sidewalk  
system of Central Avenue, Wolf Road, The  
Crossings, Sand Creek Road and  
Albany-Shaker Road and tie them into the  
sidewalk system of Watervliet-Shaker Road  
which is also a shared bike and pedestrian  
sidewalk that runs up through British American  
and down British American Boulevard to

1 Troy-Schenectady Road and that sidewalk  
2 system. Then from there is a very short  
3 segment of how to get from  
4 Troy-Schenectady Road down to the bike path  
5 and make this major connection of this  
6 sidewalk and multi purpose path throughout  
7 kind of the east and the west of the town.

8 ACTING CHAIRMAN NARDACCI: Tim, do you  
9 want to start? Do you have any questions?

10 MR. LANE: Your traffic study indicates  
11 that you chose to go with the signalized  
12 intersection at Albany-Shaker Road rather than  
13 the roundabout which your traffic study showed  
14 would have a higher capacity and a better  
15 reserve capacity for full build-out. I was  
16 just curious to know why you went with that.

17 MR. GRASSO: Although the roundabout  
18 would work better for that intersection, if a  
19 roundabout was installed at that intersection,  
20 a roundabout would also be installed at the  
21 Watervliet-Shaker Road/Albany-Shaker Road  
22 intersection, which has just gone through a  
23 14 million dollar improvement. There are no  
24 funds available for that improvement.

25 MR. LANE: Why is that? Not being a  
traffic engineer, you need to explain to me  
why one would require another.

MR. GRASSO: Well, the town just spent  
14 million dollars rebuilding  
Watervliet-Shaker Road and Albany-Shaker Road.

MR. O'ROURKE: The town, county and the  
state.

MR. GRASSO: So, basically what you're  
saying is that you need to redo all of the  
improvements and the town has -

MR. LANE: I'm not talking about the  
cost; I'm just talking if they put on there -

MR. GRASSO: One would have to be done -

MR. LANE: But why?

MR. GRASSO: Because the way that a  
roundabout works is all the traffic is going  
to flow through the intersection and it's  
going to hit the intersection of  
Albany-Shaker Road/Watervliet-Shaker Road and  
back up through the intersection. You need to  
install another signal that you can time on to

1 keep traffic going through both intersections.  
2 It was closely considered but that was one of  
3 the tipping points as to why the signal was  
4 the preferred alternative.

5 The other issue is that in order for the  
6 roundabout scenario, the roundabout would need  
7 to be a double entry lane as opposed to a  
8 single. The roundabout would be getting so big  
9 that there is going to be wetland impacts with  
10 the roundabout construction that would have to  
11 be mitigated as well.

12 MR. LANE: That's a great answer because  
13 that was well thought out and I thought it was  
14 pretty confusing why they wouldn't go with a  
15 higher capacity.

16 I lost my train of thought. Can you come  
17 back to me in a second? I had something else  
18 and I forgot it.

19 ACTING CHAIRMAN NARDACCI: Okay, George?

20 MR. HOLLAND: No questions.

21 ACTING CHAIRMAN NARDACCI: Elena?

22 MS. VAIDA: I want to say that I don't  
23 have any problems with this project. I would  
24 really like some clarification on if our  
25 engineers are going to do a review of this  
project, wouldn't it make sense to have that  
done prior to their discussion about concept  
approval?

I'm not saying that I agree with this  
provision but the Land Use Law says that  
concept plan acceptance shall be valid one  
year from the day of issuance and then it  
says, but it can be extended for an additional  
year upon written request, after due  
consideration by the board.

You're past that deadline. You said the  
reason is that you were working with the Corp  
of Engineers, but that doesn't really explain  
why you couldn't write a letter saying that  
you were still working with the Corp of  
Engineers and we need a year's extension. So,  
I'm assuming that maybe this has something to  
do with if you got the one year extension that  
it would terminate November of this year. I  
guess that would not be enough time.

1 MS. SIMMONDS: We need to do the  
2 preliminary plans which we wouldn't be able to  
do that in the next three months.

3 MS. VAIDA: So there is nothing called a  
4 renewal that I see in the Land Use Law. Just  
5 for the future I would like some clarification  
6 from counsel because this has happened before.  
7 When you're past the deadline and you're not  
8 complying with the Land Use Law. There doesn't  
9 seem to be a provision to make exceptions and  
10 to come up with a term called the renewal of  
11 concept approval which doesn't really exist.  
12 It seems like a way to circumvent the  
13 requirements that are in place right now.  
14 Maybe this section actually needs to be  
15 amended to provide for extenuating  
16 circumstances to vary from it. So, I'm a  
17 little troubled by that.

18 MR. GRASSO: I think that it's being  
19 treated as a concept approval.

20 MS. VAIDA: Like a brand new application?

21 MR. GRASSO: Yes.

22 MR. LYONS: I guess we could have called  
23 it perhaps a re-issuance of concept  
24 acceptance.

25 MS. VAIDA: But then why would you have  
this provision - then the one year term with  
the one year extension really has absolutely  
no -

MR. GRASSO: I can tell you why. We knew  
that it took us so long to get through a corp  
process and we knew that we weren't going to  
fall within that window and we were going to  
have to come back for an extension. So, we  
knew that we were going to have to come back  
for that concept approval again. There was no  
need to go for that one year extension because  
we knew that wasn't going to give us a large  
enough window to get our plans done and bring  
them here.

MS. VAIDA: So in a sense, this is a  
brand new application for concept approval.

MR. LYONS: That's correct.

MR. GRASSO: That's right.

MR. O'ROURKE: I'd almost like to leave  
some wording in there though. It's just my

1 opinion but if we don't, we might not get the  
2 old meeting minutes. We might be missing  
stuff.

3 MR. LYONS: You always get the full  
package.

4 MS. VAIDA: So then just my other  
5 question is whether or not we should be  
6 waiting for the review from our engineers on  
this before decide.

7 MR. LACIVITA: If this came under the old  
8 process, it would not come before a TDE  
because it's a prior project anyway. The  
department takes it through concept and the  
TDE takes it after that.

9 Brad commented briefly on review of the  
10 old process. The next phase of this will be  
continually reviewed by the TDE and they will  
be the one coordinating the process moving  
forward.

11 ACTING CHAIRMAN NARDACCI: Joe, to  
12 Elena's point though, the Lia project was  
review and action on a concept submission and  
13 we had written comments from Clough Harbour,  
our TDE on a concept submission. While I  
14 understand that this project has been here  
before prior boards, I don't understand why it  
15 wouldn't have had a TD review.

16 MR. LACIVITA: It did have a TD review on  
it but I asked that it not be a full depth  
17 review because it was a prior approved  
project. So, maybe I erred in giving direction  
18 to Barton Loguidice but again, this was a  
prior approved project so I asked them to give  
19 a cursory review and to look at taking the  
lead coordination after that process.

20 ACTING CHAIRMAN NARDACCI: I understand  
the issue of overkill but we've also seen  
21 projects come here that have received approval  
an X number of years ago.

22 MR. LACIVITA: Again, I think that the  
reason that I looked at it this way is that  
23 this isn't coming back there has been no  
changes to the design or anything. So, I  
24 didn't really see the developer to have to  
spend any additional funds to do a full depth  
25 review of something that was done prior, based  
on the fact that they were coming in exactly

1 the way that they had received its prior  
2 approval.

3 MR. O'ROURKE: Well, there has been some  
4 changes; the architectural changes.

5 MR. LACIVITA: No, there hasn't been any  
6 changes at all.

7 MR. GRASSO: With that said, if I could  
8 state for the applicant that it's a large  
9 project. It's a first time that everybody but  
10 George has seen the project. It's a lot of  
11 information for Barton & Loguidice to review,  
12 if you're asking them to do it. It's the same  
13 that received the concept approval prior. If  
14 they need more time to go through the  
15 information, that's fine. The Chair is not  
16 here either and she could have questions or  
17 whatever. The applicant is willing to come  
18 back.

19 This project is exactly the same as the  
20 concept approval that was granted to it in  
21 2007. It's been through a lot of phases  
22 through the years and the applicant is not  
23 trying to say, well, I'm starting fresh with  
24 this project. They're just trying to pick up  
25 where they left off and then move to the next  
step.

ACTING CHAIRMAN NARDACCI: Joe, to your  
point, in looking through the packet, it's a  
dense packet. Obviously there are a lot of  
discussions and I read through all of the  
information and all the past meetings. There  
is a lot of good things that have happened in  
the meetings with the Heritage Society,  
changes in the architectural designs, meetings  
with Albany County and a lot of work has gone  
into this. I guess it's a point of  
clarification that it's important for us to  
understand that there was a lot of time spent  
last year talking about the process. What  
happens is that we get a project and the  
project leads to discussion about the process  
and sometimes things get jammed up here, but I  
think that we need to have a clear process.

MR. GRASSO: This should follow the  
process.

1 MR. CLARK: I guess I pretty much  
2 received the same packet that you had with the  
3 subsequent reports. In looking at the  
4 narrative and the concept planning it's  
5 obvious with all the work that was put into it  
6 and the number of agencies that have reviewed  
7 this, there still is a long road to haul  
8 through the preliminary findings.

9 ACTING CHAIRMAN NARDACCI: Any other  
10 questions?

11 MR. O'ROURKE: Yes, I have a couple.

12 One thing that bothered me was the  
13 signal. Everybody wanted to signal to go in  
14 but nobody wants to take care of it. It's a  
15 county road, why isn't the county taking care  
16 of it?

17 MR. GRASSO: The county does not maintain  
18 any signals that serve an office building.  
19 They adamantly refuse to maintain this signal,  
20 even though it's warranted.

21 MR. O'ROURKE: It also serves Hilton  
22 Garden and Shaker Ridge.

23 MR. GRASSO: That's correct. There is  
24 currently a town road into the site. So, it's  
25 an intersection of a town road and a county  
26 road. Understand that the county won't  
27 maintain that signal.

28 MR. O'ROURKE: That's what bothered me  
29 when I read through it.

30 Mike, who from the county -

31 MR. LYONS: Mike Franchini is the  
32 Commissioner of Public Works for Albany  
33 County.

34 MR. O'ROURKE: So who from the town  
35 should fight with him?

36 MR. LYONS: Our Commissioner of Public  
37 Works.

38 MR. O'ROURKE: I'd like to put something  
39 in the record that Bob Mitchell meet with him  
40 and get this thing done for the town. The  
41 taxpayers shouldn't be paying for this.

42 The only thing that bothered me was that  
43 again, we go back to the egress point. This is  
44 only 500 feet to the cul-de-sac, right? Am I  
45 reading this correctly?

46 MS. SIMMONDS: Yes.

1 MR. O'ROURKE: And EMS is adamant about  
2 having a second means of egress. Does that  
3 bother anybody else? That bothers me. We're  
4 treating British American different that we're  
5 treating another developer.

6 My number one thing since I've sat on  
7 this board is that if I die doing it, we're  
8 going to treat one developer the same as the  
9 other.

10 I looked through my packet and I don't  
11 have one thing in writing from EMS, Fire  
12 Safety, the safety guy with the police,  
13 nothing about why there should be - or the  
14 need for the second means of egress. So, I  
15 would also like that answer.

16 Again, I'm with these guys in terms of  
17 the process. I think that we've made great  
18 progress in treating each developer fairly and  
19 I understand that you guys have fought with  
20 the Army Corp. It's difficult. But to follow  
21 those processes, I would be averse to voting  
22 tonight without having the TDE look at it like  
23 we have on three other projects. I think that  
24 it's fair to everyone. It's unfair probably  
25 most to you guys trying to develop it. With  
that said, in terms of fairness across the  
board, we've gone to the town designated  
engineer. Since we have, I think that the  
scope of the project lends itself to say  
Barton & Loguidice look at it before we make a  
determination. I would also be against voting  
on the concept.

That said, I love the building. I love  
the project. I wish that it was being treated  
more fair in terms of egress and those types  
of things. Again, I can't have it all in my  
world.

MR. LACIVITA: To speak to the secondary  
means of egress. We've had the conversations  
before with Peter Lattanzio. That is a wish  
list on his end. Unfortunately our Land Use  
Law doesn't speak to having that as a  
requirement. That's one of the things that the  
Land Use Law Committee is looking at now as to  
some of the changes. If we incorporate that,  
we also need to incorporate the safety law

1 that Peter has followed with the codes that I  
2 have given you guys.

3 MR. O'ROURKE: I agree, Joe. That's what  
4 I'm saying. This developer is looking at two  
5 separate sites which I'm sure is going to cost  
6 him money thinking that he needs a second form  
7 of egress into the site to develop it. I'm  
8 sitting here saying that shouldn't be because  
9 we've let other people do it and if that's  
10 what it's going to be, 1,500 feet, then we  
11 need to ensure that's in our Land Use Law and  
12 we need to make sure that these things are  
13 doled out equally across the board. This is  
14 only a 500 foot cul-de-sac. How many people  
15 are going to be employed here?

16 MS. SIMMONDS: About 500. We're providing  
17 1,300 spaces.

18 ACTING CHAIRMAN NARDACCI: Mike?

19 MR. SULLIVAN: I had a few questions.  
20 Actually, my first one was on the secondary  
21 access. You had mentioned that there were two  
22 options being reviewed. I'd like to see a more  
23 definitive plan. Do you know how that process  
24 would proceed? Do you favor one over the  
25 other?

MS. SIMMONDS: The second access is at  
this end of the site and the other one would  
have to access the private property and the  
access here down on Shaker Road way down here  
(Indicating).

MR. GRASSO: Mike, it's important that  
you have to understand the situation that the  
applicant is in. The town is forcing them to  
develop a second means of access across  
properties that they don't own and they lose  
the leverage to negotiate with those property  
owners. That's something that they agreed to  
the commission but maybe they can work out  
other means by the time they come in for the  
preliminary application. You have to  
understand the situation that they're in.

MR. SULLIVAN: I was under the impression  
that was being developed already - the  
residential area; that's not the case?

MR. GRASSO: No.

1 MR. SULLIVAN: Okay, I thought that you  
2 might be able to get access to that.

3 MR. LYONS: That residential area is more  
4 of a farm. It's the Coleman farm and then the  
5 one next to it is the Shaker Shed Farm.

6 MR. SULLIVAN: The other question that I  
7 had was with the intersection. I also had a  
8 question like C.J. said about maintaining it.  
9 It appears that it will be working at a level  
10 of service D or better and that it had a lot  
11 of reserve capacity. However, I was concerned  
12 over what effect that would have on the  
13 Albany-Shaker/Watervliet-Shaker intersection  
14 to the south. It was mentioned that the  
15 roundabout would overwhelm that but will this  
16 also degrade the level of service at that  
17 intersection? I don't know how many are going  
18 to go south at peak hour but do we have level  
19 of service figures for that intersection? I'm  
20 assuming a signalized intersection with full  
21 build-out. Do we know what that is or can we  
22 get that?

23 MS. SIMMONDS: I can get that to you. It  
24 was studied extensively.

25 MR. GRASSO: You have to understand that  
the intersection of Albany-Shaker and  
Watervliet-Shaker Road was built to  
accommodate full build-out of the airport area  
GEIS. I don't know what percentage of  
build-out it is but it's easily less than full  
build-out. Traffic impacts of this project had  
been built into that improvement which just  
got completed in the past few years.

MR. O'ROURKE: But isn't that new light  
going to change that?

MR. GRASSO: Yes, absolutely. And it was  
always planned that way.

MR. SULLIVAN: My concern is that if they  
have enough volume to overwhelm the  
roundabout, we may still have a problem with  
signalized intersections; whether they're  
timed or not. If the volume is there you could  
still have a problem. So, if those cars are  
coming south and they're not impeded with a  
roundabout and that creates a problem,  
couldn't that also occur with a signalized

1 intersection? You can time it the best you can  
2 and coordinate it the best that you can but it  
still seems like there is volume there.

3 MR. GRASSO: The unique thing about a  
4 roundabout is when Albany-Shaker Road and  
Watervliet-Shaker Road were reconstructed,  
5 they assumed that this access would be a  
6 signalized intersection. At the time there was  
no talk about roundabouts. So, what we had to  
7 look at was after the fact and that's where it  
fails because it doesn't receive the same  
amount of control as originally anticipated.  
We did look at it.

8 MR. SULLIVAN: I'd just like to know what  
predevelopment of service is as compared to  
9 post.

10 The last question was about the wetland  
mitigation and I think that it's just  
11 bookkeeping, but you need to provide four  
acres of wetland and there is already 1.9  
12 existing on that eight acre track. You're  
going to have a total of six acres of wetland?

13 MS. SIMMONDS: Yes.

14 MR. SULLIVAN: Okay, I just wanted to get  
that clear. You're providing like two to one?

15 MS. SIMMONDS: Yes.

16 ACTING CHAIRMAN NARDACCI: Just two brief  
comments from myself.

17 I just want to reiterate I don't  
understand why we need a second means of  
18 egress with this 500 feet. It's not consistent  
with what we have heard in the past two years.  
19 I understand that this discussion was 2007 and  
maybe that was the beginnings of two means of  
20 egress to property. Maybe that's something  
that makes it easier for the development.

21 Something positive is that I was very  
impressed with the back and forth with the  
22 Shaker Heritage Society. I read through the  
cultural report and with the architecture and  
23 I thought of it as Shaker Design 2.0. It's  
some of the elements, yet it's glass and I  
24 thought that was very impressive that they  
took the time to meet. I saw the  
25 correspondence of several meetings and I just  
wanted to reiterate that for the benefit of

1 the public that doesn't have all the documents  
2 that we have. I think that it's very important  
3 that we do what we can to promote the heritage  
4 of the town and in particular the Shaker  
5 Heritage. We have seen one other project that  
6 had Shaker designs in it and I hope we can see  
7 more of that. I think that it's something that  
8 Colonie would benefit from. That said, I agree  
9 with C.J. that I don't believe that we can  
10 move forward tonight on approval of this  
11 concept without some sort of review.

12 I know that Brad got some of the  
13 documents and looked through them. I  
14 understand that it's hard on the applicant but  
15 we need to do the review.

16 MR. GRASSO: We're okay with it.

17 One other point: If it's going to be  
18 under review by Brad, there has been a lot of  
19 discussion about the second means of access.  
20 That's an impact to the project. A second  
21 means of access may mean emergency access only  
22 may be warranted at some point regarding  
23 development of the project site. The smallest  
24 office building is 49,000 square feet, where  
25 one building may be 73,000 square feet.

We would like the board to consider  
granting concept approval or an issuance of  
the first CO. It's just something for the  
board to consider.

MR. O'ROURKE: I think what you should do  
through the review process, in my opinion, is  
to get from the developer those kinds of  
statements and get them into Brad's hands so  
that Brad can intelligently address the board  
and the board will make determinations on  
them.

ACTING CHAIRMAN NARDACCI: Are there any  
other questions from the board?

**(There was no response.)**

ACTING CHAIRMAN NARDACCI: At this time  
we'd like to invite members of the public who  
have an interest or question to please  
participate. Does anyone have any questions or  
comments?

**(There was no response.)**

ACTING CHAIRMAN NARDACCI: Okay, thank  
you very much.

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*(Whereas the proceeding concerning the  
above entitled matter was adjourned at  
8:27 p.m.)*

**CERTIFICATION**

*I, NANCY STRANG-VANDEBOGART, Notary  
Public in and for the State of New York,  
hereby CERTIFY that the record taped and  
transcribed by me at the time and place noted  
in the heading hereof is a true and accurate  
transcript of same, to the best of my ability  
and belief.*

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**NANCY STRANG-VANDEBOGART**

*Dated October 1, 2009*