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PLANNING BOARD COUNTY OF ALBANY
TOWN OF COLONIE

GIOVANONE OFFICE BUILDING
37 OLD SPARROWBUSH ROAD
REVIEW AND ACTION ON CONCEPT ACCEPTANCE
AND FINAL PLAN

THE TAPED AND TRANSCRIBED MINUTES of the above
entitled proceeding BY NANCY STRANG-VANDEBOGART
commencing on December 15, 2009 at 10:05 p.m. at
the Public Operations Center 347 Old Niskayuna
Road, Latham, New York 12110

BOARD MEMBERS:

JEAN DONOVAN, CHAIRPERSON
THOMAS NARDACCI
CHARLES J. O'ROURKE
TIMOTHY LANE
PETER STUTO, Jr. Esq., Attorney for the Planning
Board

Also present:

Joe LaCivita, Director, Planning and Economic
Development
Brad Grant, Barton & Loguidice
Mike Lyons, Planning and Economic Development
Sang Kim, S.Y. Kim Land Surveyor, PC
Michael Giovanone, Applicant

1 CHAIRPERSON DONOVAN: Also on the agenda
2 this evening we have Giovanone Office
3 Building; review and action on concept
4 acceptance and final plan.

5 We're doing this all together tonight
6 Joe? Can you explain that?

7 MR. LACIVITA: I'm sorry. What was the
8 question?

9 CHAIRPERSON DONOVAN: It says review and
10 action on concept acceptance and final plans.
11 I thought that we already did that.

12 MR. LACIVITA: They already got concept,
13 but they have to reissue because it was more
14 than a year.

15 MR. LANE: So it would be an extension?

16 CHAIRPERSON DONOVAN: Yes, this would be
17 an extension on the concept.

18 We do have our TDE on this?

19 MR. LACIVITA: Yes, Brad.

20 CHAIRPERSON DONOVAN: Mr. Kim?

21 MR. KIM: Good evening board members and
22 Madam Chairman. My name is Sang Kim. I'm a
23 land surveyor in Latham.

24 This is kind of a small property close to
25 three acres. It's 2.8 acres. It aligns along

1 Old Sparrowbush Road. Old Sparrowbush Road
2 runs from Route 9 all the way to the top over
3 here (Indicating).

4 Since then, New York State created I87
5 and the road stops at this spot (Indicating).
6 Also, the Route 9 improvement has begun and
7 because of that the access to Route 9 has been
8 blocked off.

9 Consequently, New York State DOT
10 purchased that strip of land and also New York
11 State created Old Sparrowbush Road and
12 rerouted from Route 9 to over here
13 (Indicating). Because there is a dead-end
14 street right here, the state purchased this
15 strip of land for access onto Sparrowbush
16 Road. That's how this section of Sparrowbush
17 Road has been created.

18 Since the state purchased this strip of
19 land as an access to Old Sparrowbush Road,
20 they conveyed the jurisdiction to the town and
21 now the town has this strip of land instead of
22 New York State. The TDE suggested that we make
23 contact with New York State DOT. So I sent a
24 letter to DOT and DOT responded to the letter.

25 The town is maintaining this here

1 (Indicating) and we don't need an easement
2 approval for that.

3 Actually this piece of property which is
4 one parcel is 8.4 acres. This was divided into
5 two parcels because there is a ditch running
6 right in the middle. There is no way that we
7 can develop this parcel as one. So, we
8 proposed creating the culvert, extending the
9 existing pipe and connecting this site right
10 here (Indicating).

11 The building is approximately 40,000
12 square feet.

13 This gully is about a 20 feet deep and
14 there is no water in the dry season. When the
15 heavy rain comes down there is a small weir in
16 this gully area.

17 The wetland map clearly indicates that
18 the wetland is only a very small section, as
19 you can see on the map.

20 What we have proposed is that the piping
21 right here (Indicating) connect the driveway
22 on each side to minimize the impact on the
23 wetland area. We have proposed a culvert
24 pedestrian bridge.

25 CHAIRPERSON DONOVAN: Mr. Kim, is this

1 the same proposal that you presented before or
2 are there changes in it?

3 MR. KIM: It is exactly the same
4 proposal. There was a technical comment from
5 the town TDE concerning the water main
6 extension from this spot into Sparrowbush Road
7 (Indicating). We need to correct those minor
8 technical things.

9 We had an engineer prepare the drainage
10 system and prepared the SWPPPs based upon the
11 irrigation. There was a small minor comment.
12 There was a technical matter and we're going
13 to address that. Basically everything is the
14 same.

15 CHAIRPERSON DONOVAN: So you have to come
16 for concept renewal again. That's why I'd like
17 to hear Brad because prior to this the TDE was
18 not involved in this project.

19 Brad, it seems to me that you have more
20 comments than just a few technical comments.

21 MR. GRANT: I would be happy to discuss
22 those.

23 We came on board early in the spring of
24 this year on this project.

25 Sang is correct, conceptually this is the

1 same plan. We have been tweaking more or less
2 technical comments throughout the process
3 here. We have a letter in your packets dated
4 December 10th and I'm just going to go through
5 these. I won't point out every single comment,
6 but I'll give you an idea of what we reviewed.

7 The engineers reviews and reports review
8 letter was submitted by Sang in response to
9 our previous comment letter in August. There
10 was an engineer report of the water
11 distribution system.

12 There was a highway work permit letter
13 prepared by Mark Kennedy. One of the things in
14 our original comment says that we wanted to
15 know more because it wasn't on the map. It was
16 owned by DOT. The town is the permitting agent
17 for whatever happens on this road as well as
18 taking care of utilities. We didn't know about
19 that at the time and the applicants have since
20 gotten a correspondence from Mark Kennedy on
21 that satisfaction.

22 There was an archeological study based on
23 the lands dated December 13, 2007. The
24 retaining wall details sent by e-mail was
25 prepared by Eric Holt, Professional Engineer.

1 Lastly, the stormwater pollution prevention
2 plan prepared by Crescent Environmental
3 Engineering which we received by e-mail.

4 CHAIRPERSON DONOVAN: They have reviewed
5 the SWPP plan?

6 MR. GRANT: Yes.

7 CHAIRPERSON DONOVAN: What are your
8 thoughts on that?

9 MR. GRANT: Well with all of the specs,
10 we're down to the natty gritty details. On
11 page two, as we jump into SWPPP, there is a
12 storage detention system under both of these
13 parking lots. There is a water quality
14 device - a proprietary vortex separator that
15 will treat the stormwater before discharge.
16 There has been some calculation assistance by
17 the manufacturer in sizing those units. We
18 just want confirmation as to whether that is
19 based on qualifying or online application.
20 What they have submitted in appendix K is
21 virtually all that we needed. We just need
22 that verified.

23 CHAIRPERSON DONOVAN: Brad, I remember
24 when we first granted concept on this there
25 was a question of bringing the water main down

1 Wade Road, I think it was.

2 MR. GRANT: Old Sparrowbush.

3 CHAIRPERSON DONOVAN: That's being done
4 in these plans?

5 MR. GRANT: Yes.

6 CHAIRPERSON DONOVAN: It's a 24-inch
7 water main.

8 MR. GRANT: They're connecting to a
9 24-inch water main.

10 CHAIRPERSON DONOVAN: How big is that
11 water main? I know that there was a question
12 before.

13 MR. GRANT: That's 8-inch.

14 CHAIRPERSON DONOVAN: I don't recall
15 that's what was requested before.

16 MR. GRANT: Latham Water Department
17 comments were received and cover that.

18 The overflow control structure
19 weirs - they want to be water tight because
20 there has been a recent experience where they
21 need a little extra help with either clogging
22 such that they maintain the water levels, or
23 are not bypassing the treatment.

24 Also under SWPPP - please submit any and
25 all Army Corp of Engineers correspondence that

1 has been made with the design team regarding
2 the federal wetlands.

3 It's our understanding that the applicant
4 has hired another consultant to do that.
5 They're in the middle of that process or
6 toward the end of that process. At this point
7 that's pending.

8 CHAIRPERSON DONOVAN: Would you say that
9 is enough reason not to grant final approval
10 tonight? Should we wait for that?

11 MR. GRANT: At best, it has to be a
12 condition of any approval. Not necessarily
13 concept, but for final approval you'd want
14 that to be a condition.

15 CHAIRPERSON DONOVAN: Concept would be a
16 renewal and then we're asked for final plans
17 tonight.

18 MR. GRANT: The concept approval I think
19 is definitely appropriate because this is
20 essentially the same plan. The board has to
21 determine if final approval is appropriate.
22 Those would be the conditions of that
23 approval.

24 CHAIRPERSON DONOVAN: You would determine
25 that, right? It would be you that would

1 determine that?

2 MR. GRANT: Well that's up to the board.
3 We were sending these comments out but
4 normally you would want to see a shorter
5 letter for conditions. I will say that these
6 are nitty gritty down to the end. In some
7 cases, as I told Mike, they are repeated
8 because one is dealing with the SWPPP and
9 another is on a plan sheet or whatever. We are
10 down to the nitty gritty on that. The biggest
11 item is getting the Corp letter. The rest is
12 just confirming the height and detail.

13 We've had some comments -- there is an
14 existing 30-foot wide sanitary sewer easement
15 in the back of the property and that is a good
16 size sewer for the town.

17 There are surface improvements within
18 that easement. There are necessary parking
19 spaces.

20 There are technical comments as far as
21 the sewer. There is a proposed light pole
22 almost directly over the pipe. This pipe is
23 like 15 feet into the ground. It won't put a
24 hole in the pipe but for future maintenance of
25 the pipe, that ought not to be there. It

1 probably will end up still in the easement but
2 it could be offset with the parking.

3 CHAIRPERSON DONOVAN: Brad, are there any
4 major issues other than the federal wetlands?

5 MR. GRANT: We received the letter from
6 DOT basically they're saying that Old
7 Sparrowbush Road - but there are determining
8 issues when it comes to maintenance there.
9 There are a few sheets on the plan. The plans
10 were prepared by Crescent Environmental that
11 need to be stamped.

12 The retaining walls - there will be
13 retaining walls and then there is a head wall
14 for this 48-inch pipe. They is a consultant on
15 that. There are prepared sketches of what
16 those walls will look like - our initial and
17 most significant interest is what that looks
18 like over the sanitary sewer pipe. It's well
19 above it.

20 With the construction details, we
21 couldn't go out and build it now because I
22 wouldn't call it final design. The designer
23 has to do a couple of soil tests to verify its
24 conclusions. And basically there needs to be
25 reinforcing for these walls.

1 There was a comment at least a round or
2 two ago. I think the initial thought that one
3 time there was discussion of a segmental block
4 wall which is great for landscaping walls. In
5 an active parking lot, environmentally, snow
6 is going to be pushed up against them. That's
7 probably not the best choice. Aesthetics are
8 important and you can achieve a good looking
9 retaining wall with concrete. You can have
10 concrete that you can make look like a rock
11 wall. It's almost limitless what you can do
12 with this. Being a sight line it would be nice
13 to have a nice looking wall there. Segmental
14 block probably wouldn't fair well. The design
15 details as developed are based on a concrete
16 wall. It may not be a final design. It could
17 be a condition of the approval.

18 You still have to come in for
19 architectural plans and plumbing plans and the
20 sewer department, the water department would
21 be interested in that as well as fire
22 prevention. That's part of the building permit
23 process.

24 As I understand it, it probably would be
25 another design professional on this pedestrian

1 bridge. This was looked at in so far as sight
2 planning but that could come at a later phase.

3 CHAIRPERSON DONOVAN: Well, a later
4 phase - you're asking us to give final
5 approval this evening.

6 MR. GRANT: Well that later phase is the
7 Building Department issue.

8 CHAIRPERSON DONOVAN: Brad, do you feel
9 that everything that needs to be addressed is
10 addressed in your letter?

11 MR. GRANT: Some are a work in progress.

12 CHAIRPERSON DONOVAN: What's that mean?

13 MR. GRANT: For example, e-mail details
14 of the retaining walls are schematic in
15 nature.

16 Design engineer recommendations for
17 additional soils testing to confirm design
18 assumptions have not occurred to our
19 knowledge.

20 No reinforcing patterns have been
21 detailed on sketches e-mailed to our office.

22 CHAIRPERSON DONOVAN: Here is my question
23 to you Brad: If we could put a stamp on the
24 final approval tonight, based on the
25 requirements in your letter, suppose he can't?

1 Then what happens?

2 MR. GRANT: He isn't going to get a CO.
3 He's got a site with a parking lot.

4 MR. LYONS: If the board grants approval
5 tonight to the project and acceptance, Mike
6 has to modify his project based on the federal
7 wetlands. At that point in time before we
8 could issue site plan approval, if the site
9 plan was modified, that modified site plan
10 would have to come back to the board.

11 CHAIRPERSON DONOVAN: Which would be
12 easier for the applicant? Would it be for us
13 to give a conditional approval tonight, or for
14 us to wait until he got this all ironed out
15 and then come back to us for the plan? Which
16 is going to be less costly to him and serve
17 his needs better?

18 MR. LYONS: That might be a question for
19 Mike. Only because I'm not sure where he
20 stands in the financing portion of his site
21 for the building. If the site plan that we
22 have here is accepted, it could be granted
23 final approval to this project, but at that
24 point in time it's up to the departments to
25 issue their approval. With that issuance of

1 approval, it goes forward and they post a
2 building permit.

3 MR. STUTO: Can I read you the language?

4 CHAIRPERSON DONOVAN: Yes, please.

5 MR. STUTO: In the event that an approval
6 with a modification is made, the applicant
7 shall submit the modified plan to the PEDD and
8 upon completion of such further technical
9 review and consultation with the Planning
10 Board has made being necessitated by a
11 modification, the PEDD shall verify that the
12 submittal is in accordance with the board's
13 decision. In the event that a modified plan is
14 not submitted to the PEDD within six months
15 from the date of the Planning Board's decision
16 to approve the modification, the approval
17 shall become invalid.

18 That's consistent with what you're
19 saying, right?

20 MR. LYONS: Exactly.

21 CHAIRPERSON DONOVAN: It's would be the
22 TDE and the PEDD, right?

23 MR. LACIVITA: Of the five page letter
24 that we see here, the real one is on page
25 three, number five.

1 MR. KIM: A part of the approval
2 process - the wetland mitigation impact should
3 get approved on a joint application; the Corp
4 of Engineers and the DEC. As a part of that
5 comment, there was a comment from the Parks
6 and Recreation Department. We have received
7 that information lately. That's a part of the
8 comment. That's why it was delayed. It's all
9 in the process.

10 MR. LACIVITA: Sang, is this our copy or
11 yours?

12 MR. KIM: I have extra copies so you can
13 keep that.

14 CHAIRPERSON DONOVAN: So I guess what
15 we're looking for tonight is renewal of the
16 concept and probably conditional approval
17 based on the comments made by Brad.

18 MR. LYONS: Not a renewal on concept; a
19 reissuance.

20 CHAIRPERSON DONOVAN: Reissuance on
21 concept and conditional final approval.

22 MR. GRANT: With the Corp the technical
23 issues that I have on here I think that the
24 applicant's design team can tackle those.

25 MR. GIOVANONE: We've taken this as far

1 as we can without in some cases wasting money.
2 We have taken great pains over the last four
3 years with this project to do everything. I
4 think that Joe would attest to this. I know
5 Brad would, too. We've taken this as far as we
6 can. We'll do anything to make this happen.

7 CHAIRPERSON DONOVAN: So you're telling
8 me that you would prefer to have the
9 conditional approval. I understand.

10 Do any board members have any questions?

11 MR. NARDACCI: Jean, just a quick
12 comment.

13 We saw this project when we first got
14 here. It's one of those projects that we heard
15 a lot of horror stories when it first started
16 about 7, 8, or 15 years. From the time that
17 we've looked at this until now, you're moving
18 into final approval. This is a comment on how
19 the process has worked. I think that this is
20 an example of something that is positively
21 moving forward. I know that when it first came
22 here, there were stormwater issues but we
23 liked the design. We liked the architectural
24 elements, too. We don't see enough projects
25 with the architectural detail. I just want to

1 make a positive comment on that.

2 CHAIRPERSON DONOVAN: Yes, that was a
3 good job in doing that.

4 MR. O'ROURKE: It was a tough site.

5 CHAIRPERSON DONOVAN: Yes, it was a tough
6 site to develop. You said that you've been
7 working on these six years now?

8 MR. KIM: Quite a while, yes.

9 CHAIRPERSON DONOVAN: Jack?

10 MR. FAHEY: Does concept survive a change
11 in ownership on the property? What if I get
12 concept approval for my project but I sell my
13 land? Does the next owner get it?

14 CHAIRPERSON DONOVAN: I wouldn't see why
15 not. It's like a variance. It goes with the
16 land.

17 MR. FAHEY: This property has been on the
18 market for most of the year. They settled for
19 1.2 million. I can't figure out why they're
20 doing all the work. Right after springtime,
21 the for sale sign went up. I just can't figure
22 it out.

23 MR. KIM: They have already constructed
24 at the traffic signal already.

25 CHAIRPERSON DONOVAN: Yes, I know the

1 traffic signal is there.

2 MR. FAHEY: It's listed as of today,
3 1.2 million, vacant land, 30,000 square foot
4 building and concept approval. I can't figure
5 out why they're doing all this work if they're
6 trying to sell it.

7 CHAIRPERSON DONOVAN: He's probably
8 trying to sell the whole building.

9 MR. FAHEY: It says, build to suit or
10 lease.

11 MR. LYONS: Here is an applicant with a
12 shovel ready project. He could sell to a
13 perspective buyer as a shovel ready project.

14 MR. FAHEY: For vacant land?

15 MR. LACIVITA: It's got the approval of a
16 potential project.

17 MR. FAHEY: I'm just curious why you want
18 to sell the project after going through all
19 this work.

20 MR. NARDACCI: It's some people's
21 business that they just develop it up to a
22 point and then they sell it off to someone
23 else.

24 MR. FAHEY: We have a couple of those in
25 town. That's all I had.

1 CHAIRPERSON DONOVAN: He can't deviate
2 from what we're giving final approval on,
3 including the architecture of the building.
4 That's it. If he's got to sell it, that's what
5 he's selling.

6 MR. LYONS: The final approval took them
7 two years. At the board's discretion, that
8 approval can be extended out on a year's
9 basis; unless the concept changes.

10 CHAIRPERSON DONOVAN: Anybody else?

11 ***(There was no response.)***

12 CHAIRPERSON DONOVAN: Do I have a motion
13 on the reissuance of concept?

14 MR. LANE: I'll make that motion.

15 CHAIRPERSON DONOVAN: Do I have a second?

16 MR. NARDACCI: I'll second that.

17 CHAIRPERSON DONOVAN: All those in favor?

18 ***(Ayes were recited.)***

19 CHAIRPERSON DONOVAN: Do I have a motion
20 on a conditional approval based on Brad's
21 comments, suggestions and recommendations?

22 MR. O'ROURKE: I'll make that motion,
23 contingent upon Brad's statements and the Army
24 Corp issue.

25 MR. NARDACCI: I'll second.

1 CHAIRPERSON DONOVAN: All those in favor?

2 *(Ayes were recited.)*

3 CHAIRPERSON DONOVAN: Opposed?

4 *(There were none opposed.)*

5 CHAIRPERSON DONOVAN: There you go.

6 MR. GIOVANONE: Thank you.

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10 *(Whereas the proceeding concerning the*
11 *above entitled matter was adjourned*
12 *at 10:33 p.m.)*

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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.*

NANCY STRANG-VANDEBOGART

Dated January 18, 2010

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