

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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4 *****
5 THE HERTZ RAC EXPANSION
6 851 - 859 OLD ALBANY SHAKER ROAD
7 REVIEW AND ACTION ON CONCEPT SUBMISSION
8 *****

9 THE TAPED AND TRANSCRIBED MINUTES of the above
10 entitled proceeding BY NANCY STRANG-VANDEBOGART
11 commencing on June 8, 2010 at 8:10 p.m. at the
12 Public Operations Center
13 347 Old Niskayuna Road, Latham, New York 12110

10

11 BOARD MEMBERS:

12 CHARLES J. O'ROURKE, ACTING CHAIRMAN
13 MICHAEL SULLIVAN
14 ELENA VAIDA
15 TIMOTHY LANE
16 PAUL ROSANO
17 TOM NARDACCI
18 PETER STUTO, Jr. Esq., Attorney for the Planning
19 Board

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18 Also present:

19 Joe LaCivita, Director, Planning and Economic
20 Development

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21 Skip Francis, C.T. Male

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22 Brad Grant, Barton and Loguidice

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1 CHAIRMAN O'ROURKE: Next on the agenda is
2 the Hertz expansion, 859 Old Albany Shaker
3 Road. It's a redevelopment of two parcels for
4 expanded car rental. This is an 11,500 square
5 foot office and carwash facility. They are
6 looking for a review and action on their final
7 submission.

8 Joe?

9 MR. LACIVITA: I'll turn it over to Skip
10 and he can summarize everything.

11 MR. FRANCIS: Good evening. My name is
12 Skip Frances with C.T. Male. We represent the
13 site engineering for this project. The
14 architect is Burns and McDonnell from Kansas
15 City, Missouri.

16 With me tonight are two representatives
17 from Hertz. One local operations manager and
18 also a representative from the Corporate
19 Office in Park Ridge New Jersey.

20 In summary, the last time that this
21 project was viewed by this board was last
22 summer where we closed SEQRA and were granted
23 concept acceptance on July 14th. Since that
24 time I just want to summarize that we have
25 made two submissions and have had three TDE

1 comment letters to address the plans. We have
2 advanced since the concept plan. We've
3 advanced this project through the detailed
4 engineering phase.

5 With regard to the water connections
6 dealing with Latham Water District, we have
7 coordinated with them and the TDE. We have
8 developed a stormwater management program.

9 We have developed site lighting with cut
10 off lighting and those details are in the
11 plans, as well as the lighting plan itself.

12 We have increased the landscaping from
13 our initial concept plan. We've also added
14 pedestrian and other amenities like a bike
15 rack as well. A sidewalk has been added up
16 front near the bike rack.

17 Over this time frame, the site layout
18 itself has not changed since the last time
19 that this Planning Board has reviewed the
20 project. Through this period, we've worked
21 closely with the TDE and the town departments
22 to address each of their reviews. At this
23 time, we feel that the project is fully
24 engineered and the TDE and town departments
25 have concurred with this design with regard to

1 their comments that they have given us so far.

2 The town has received the applicant's
3 payment for funding the TDE escrow account. We
4 also understand the GEIS mitigation fees have
5 been assessed. I believe that they were
6 assessed in March. CDTC released those to the
7 PEDD. It's my understanding that at this time
8 the DPW commissioner needs to yet approve
9 that. So, it's been done and as soon as we get
10 final approval on that assessment, our
11 applicant will be willing to fund.

12 CHAIRMAN O'ROURKE: Joe, what was the
13 traffic -?

14 MR. LACIVITA: I was looking for that
15 myself, C.J. I didn't see it in here.

16 CHAIRMAN O'ROURKE: Do you have the
17 breakdown, sir?

18 MR. FRANCIS: I don't know what the
19 breakdown is. I know that the total was about
20 \$8,000 roughly; water, sewer and traffic.
21 Actually, the breakdown with respect to
22 traffic is zero because the traffic impacts
23 were documented in the narrative. The proposed
24 traffic impacts are less than it would have
25 been as two separate parcel operations for

1 rent a car facilities.

2 I did get a verbal from Mike Lyons on
3 those amounts and I do know that he has
4 forwarded those to the commissioner.

5 Tonight we're here to ask for
6 consideration of final acceptance so that this
7 project can advance for further permitting and
8 preparation of contract for bid documents.

9 A couple of the permits that are
10 remaining are at the Albany County DPW - a
11 non-utility driving work permit. We have
12 initiated correspondence and review with
13 Albany County DPW. They require a final action
14 from this Planning Board before they can issue
15 a permit.

16 Other than that, we ask for your
17 consideration for final acceptance and we're
18 happy to answer any questions that you may
19 have on the documents before you.

20 Brad Grant from Barton and Loguidice can
21 also weigh in as well.

22 CHAIRMAN O'ROURKE: Thank you.

23 Brad?

24 MR. GRANT: It seems as though it was
25 last summer when we got together. One of the

1 first things that we met with Skip on -- it
2 was a good idea to go over the conceptual
3 stormwater management plan for this project.
4 It is a redevelopment in project. It was
5 originally looking at redevelopment for
6 essentially the two parcels. The redevelopment
7 chapter can apply. Essentially there is less
8 strenuous requirements for water quality
9 treatment if it can be proven that you can't
10 do what the permit would require for a
11 non redevelopment project. That was true on
12 the southerly portion of the project. There
13 was some impervious area there, but there was
14 also room to the east for what I would call
15 the full treatment for stormwater management.
16 There were no underlying limitations from soil
17 or wetlands or other obstacles that could not
18 be overcome. One should do the full treatment
19 which C.T. Male has engineered to our
20 satisfaction.

21 We have issued a comment letter dated
22 May 19th of the various documents for review. I
23 believe that comments from town staff were the
24 second round. They were the most meaningful
25 from the Planning Department. The town

1 comments at this stage are basically down to
2 process and procedures that would be needed to
3 look toward the construction stage. In
4 general, I'll call this a housekeeping item.
5 We wanted some additional labeling for
6 proposed contours on the north side of the
7 site. It was a little difficult to read. There
8 were some standard town notes that we would
9 want to get on the sheet for the site plan.
10 The applicant will bear the sole
11 responsibility for insuring that all
12 improvements are completed and maintained in
13 accordance with approved plans, specifications
14 and standards. I know that the CO will not be
15 issued until all requirements are
16 satisfactorily completed and the Planning
17 Department has issued a written authorization
18 to the Building Department. There is another
19 on the site lighting which they have carried
20 through on their lighting plan. There is a
21 note that reiterates that.

22 Comments three and four are again
23 procedural items that the applicant will have
24 to do to progress to construction. Four has to
25 do with the RPZ reduced structural zone on the

1 back-flow preventers and the process that they
2 will have to go through with the town and with
3 the New York State Health Department.

4 Planning's comments talk about the
5 mitigation fees, but don't put that dollar
6 value to it. I don't think that at this stage
7 that was a known amount.

8 MR. LACIVITA: We have something here
9 although it's not signed or dated here. We're
10 looking at about an \$8,248. I can't confirm
11 that amount because it hasn't been signed off.

12 CHAIRMAN O'ROURKE: I am a little
13 bothered because here it is final and if the
14 board acts and moves forward and it's \$8,000
15 and it should be \$88,000 -- don't look at me
16 like that, Skip. It has happened; trust me. It
17 hasn't happened to the good to the taxpayers.
18 I'm very leery any time I go through my packet
19 and I ask the question of what are the
20 mitigating fees and everybody says, I don't
21 know, but we'll take final though.

22 As I look at it, I just found that credit
23 will be given for the existing uses, in terms
24 of the GEIS mitigating fees. It's in the
25 March 19, 2009 C.T. Male document. It says

1 that the site within the airport area GEIS
2 study area - mitigation cumulative impacts
3 will be required in accordance with the GEIS
4 statement of findings. The credit will be
5 given for the existing uses.

6 Again, I'm not saying that it doesn't
7 make sense. We want the redevelopment of the
8 sites, but if the cumulative impact is in fact
9 less on those two lots being combined into
10 one, it doesn't make sense to me that the
11 traffic portion of the mitigating fees are
12 being waived. We can't blame that one on Bob
13 Mitchell.

14 MR. GRANT: I have not been involved in
15 that mitigation fee process, to be quite
16 honest with you. I would have thought that it
17 would have settled itself out by now.

18 MR. FRANCIS: In looking at the narrative
19 under traffic on page four. Let me just
20 explain the way that we evaluated traffic on
21 this site. .

22 The north lot was a National Car Rental
23 operational facility. The existing Hertz,
24 operates on the south lot. The existing Hertz
25 operation has about 340 vehicle trips per day.

1 This is based upon Hertz being right next door
2 with a slightly smaller operation for
3 National. We assumed a conservative estimated
4 amount of 220 vehicles per day. Add those two
5 together and it came up with our existing
6 condition of 560 vehicle trips. Now, under
7 this project, Hertz is going to occupy both
8 parcels. They are going to expand their
9 facilities from what used to be 340 trips a
10 day up to 450 with both lots. The 450 is still
11 lower than the previous existing uses of both
12 Hertz and National. Hertz is expanding, but
13 not expanding enough to supersede or go above
14 what was there at one time. That's where CDTC
15 is giving some consideration. It's not
16 necessarily a credit, but it is less of an
17 overall impact such that they are not going to
18 assess any traffic itemization number to zero
19 for this. This is my verbal account of it but
20 again, it's not approved and signed but it's
21 up to the Commissioner to approve -

22 CHAIRMAN O'ROURKE: See, Skip, I have no
23 reason not to believe what you're saying. In
24 my packet, I should have had something from
25 CDTC. You know what I'm saying? Is that

1 reasonable?

2 MR. FRANCIS: That is certainly
3 reasonable. If it's possible to stipulate that
4 as a condition upon final acceptance tonight
5 that CDTC fees are assessed and approved by
6 the Commissioner, those fees would be paid by
7 our applicant.

8 MR. NARDACCI: The problem with that is
9 that we conditioned the concept acceptance
10 based on the mitigation fees. It's not like it
11 wasn't an issue. It's something that we
12 actively talked about and we thought enough of
13 it because we didn't have the information at
14 that time to condition concept on this. I just
15 haven't seen this where we don't have the
16 numbers and we don't have the accounting on
17 it.

18 CHAIRMAN O'ROURKE: Skip, we have
19 developers in here and trust me, they are more
20 concerned about what their mitigating fees are
21 because that's part of their budget. They have
22 to know.

23 MR. NARDACCI: And it's \$8,000 and you're
24 saying - like C.J. said, how are we to know if
25 it's \$8,000? It's just a verbal. It could be

1 \$80,000.

2 CHAIRMAN O'ROURKE: I'm going to let the
3 board speak on it, but for me personally, I'm
4 not comfortable giving a final on a condition
5 that we gave you at concept. There were a
6 couple of conditions on concept. One was
7 confirming with the Army Corp about the ditch;
8 if my memory serves me right.

9 MR. GRANT: Correct.

10 CHAIRMAN O'ROURKE: What was on the
11 mitigating fee impact because of the
12 redevelopment? I know that the Supervisor had
13 been working on some redevelopment and
14 reducing greenspace and mitigating fees and
15 those things across the board to encourage
16 redevelopment. But then when we get to this
17 point where we're at final, it's final. If we
18 tell you it's \$20, then you pull your wallet
19 out and give us \$20. If it's \$20,000 the
20 people sitting in the audience pay. So, I just
21 think that we have to be careful. I'm just not
22 comfortable that the board has all the
23 information that we need to do this tonight.

24 Elena?

25 MS. VAIDA: I was just looking at it. In

1 April of this year from Planning and Economic
2 Development it's talking about what would be
3 needed before issuance of final Planning Board
4 approval. The first item is contribution of
5 proportionate share of funds for mitigation of
6 cumulative impacts. It's like the first thing
7 there. The merger deed - I assume that's been
8 done.

9 MR. FRANCIS: That's in the process of
10 being completed.

11 MS. VAIDA: A copy of the Albany County
12 DPW Highway work permit?

13 MR. FRANCIS: We have initiated review
14 with the Albany County DPW. In fact, as stated
15 in my letter dated May 28th for this
16 submission, the Albany County DPW has provided
17 correspondence dated April 19th in their letter
18 to us. Proof of Planning Board acceptance of
19 project due to the requirement for ACPD will
20 issue a highway permit.

21 So we need action from this board before
22 they will issue a permit. But it is a permit
23 that we need to get; yes.

24 With respect to GEIS fees and payment of
25 that, I understand that we pay those in

1 thirds.

2 CHAIRMAN O'ROURKE: That's correct.

3 MR. FRANCIS: So we have to have final
4 action by this board first and one-third will
5 be due upon final acceptance, one-third at
6 building permit and one-third at CO.

7 CHAIRMAN O'ROURKE: You're right in that,
8 but once this board grants this final,
9 one-third of those funds are due. We don't
10 know what that number is.

11 MR. LACIVITA: I've got to believe that
12 the number is \$8,248. I looked through the
13 file here and January 4, 2010 a letter from
14 the Capital District Transportation Committee
15 came to Mike Lyons and was CC'd to Bob
16 Mitchell.

17 In response to your request of
18 May 13, 2009, CDTC staff has reviewed the
19 traffic impact of the proposed business
20 expansion from the perspective of Albany
21 County Airport FGEIS statement of findings.
22 The Town of Colonie Comprehensive Plan and
23 CDTC's regional transportation plan vision
24 2030. The traffic impact was determined by the
25 information provided by the applicant, which

1 Skip just read.

2 CDTC's understanding is that the proposed
3 project involves the construction of a new
4 administrative vehicle maintenance building, a
5 new car wash facility and a guard house. The
6 project proposed is the redevelopment of two
7 parcels at 851 and 850 Old Shaker Road into a
8 single Hertz facility. The parcel at
9 859 Old Albany Shaker Road was formerly used
10 by National Car Rental and is currently
11 vacant. The narrative explained that the new
12 trips generated by the Hertz expansion would
13 be less than the trip generation from the
14 former National Car Rental operation. For
15 these reasons there will be no transportation
16 mitigation required for this project.

17 That coincides for why we are seeing only
18 \$8,248 because there is no transportation
19 component. It looks to be strictly water based
20 on the use of the vehicle. We are waiting, in
21 fact, on signed approval from the Commissioner
22 of DPW.

23 CHAIRMAN O'ROURKE: This is at final. Has
24 Jack Cunningham been out of the country?

25 MR. NARDACCI: That letter dated May 9th?

1 MR. LACIVITA: No, this is actually from
2 January 4, 2010 and it's in response to Mike's
3 letter dated May 13, 2009.

4 CHAIRMAN O'ROURKE: Brad, you didn't look
5 at traffic, so we're taking the applicant's
6 word.

7 Again, Skip, it's not that I don't trust
8 you, but I have a responsibility to the
9 taxpayers.

10 Just so that I'm understanding this
11 problem, the applicant goes in and says I'm
12 redeveloping these two parcels. Oh, by the
13 way, my traffic is less than what used to be
14 here. He sends it in and then nobody at the
15 town level looks at it. So, if those numbers
16 are off

17 MR. GRANT: We looked at the narrative
18 which had those numbers on it.

19 CHAIRMAN O'ROURKE: Is that reasonable to
20 you?

21 MR. GRANT: Yes.

22 MR. LACIVITA: That's also the role of
23 CDTC to take that narrative - they are under
24 contract by the Town of Colonie as the MPO.
25 They do that. They make all the assessments on

1 our mitigation fees.

2 CHAIRMAN O'ROURKE: Right, on the traffic
3 portion.

4 MR. LACIVITA: Right, and that's why they
5 did review it, according to this letter that
6 is dated. They agreed that the numbers and the
7 review of the traffic - that no transportation
8 mitigation is required for the project.

9 MR. FRANCIS: That's been our
10 understanding, too. It's CDTC's decision to
11 make a recommendation and their review of our
12 information as well as the TD that had
13 reviewed it. Based upon their written
14 recommendation to the DPW of this town, it
15 just needs to be signed off. It's an
16 administrative step at this point. We know
17 what the counts are.

18 Thank you, Joe, for reading that into the
19 minutes. I was not aware of the January date.
20 I thought that it was March.

21 CDTC has reviewed those and concurred
22 with those as did the TDE. At this point I
23 would ask you to consider that this be just an
24 administrative effort. I will go on the record
25 that we will pay them and the documentation

1 has been made. We're just waiting for the
2 administrative sign-off by the current
3 commissioner, at this point. Once that is
4 done, we'll get the first one-third check in
5 for the payment as the first third is due on
6 final acceptance. If that gives the board any
7 comfort in rendering a final action, you can
8 put it in as a condition, if you like. I think
9 that there is ample documentation.

10 MR. LANE: This isn't a real question on
11 this, but I have a concern. I just wouldn't
12 want to set a precedent on this. I do have a
13 concern. I do appreciate what you're saying
14 though. It is a procedural thing, but that's
15 the purpose. Otherwise, I don't have any
16 questions.

17 CHAIRMAN O'ROURKE: Brad, you did get
18 this April 6th memo from Planning?

19 MR. GRANT: Yes.

20 CHAIRMAN O'ROURKE: Contribution of
21 proportionate share of mitigating funds,
22 merger deed in accordance with the town's
23 assessor's office memo.

24 MR. GRANT: I haven't seen the CDTC's
25 January 4th letter or the \$8,248.

1 CHAIRMAN O'ROURKE: The biggest thing
2 that I'm trying to do now is to figure out how
3 the town has set up a TDE review process. He's
4 missing some. There are things that he should
5 have seen because this is from a department
6 saying that these items are required prior to
7 issuance of final Planning Board approval.
8 That's in our packets, but yet there is no
9 letter from CDTC. Again, I'm sure what Joe
10 read into the record -- Brad, in terms of the
11 overall project - it's mainly housekeeping?

12 MR. GRANT: Yes.

13 CHAIRMAN O'ROURKE: Mike, what are your
14 thoughts?

15 MR. SULLIVAN: I had no questions on the
16 project. I'd like to commend the applicant for
17 working so well with the TDE. As far as the
18 other items, I understand that we don't want
19 to set a precedent. I would agree with that.
20 If it's required prior to issuance of the
21 final Planning Board approval, we should have
22 that in front of us. That's all I had. I had
23 no other questions on the project itself.

24 MS. VAIDA: I also had a question on the
25 short environmental assessment form that was

1 filed back last summer, I guess.

2 Have there been any changes or
3 developments that would change any of your
4 answers that you gave last summer on this
5 form? Can you sort of recertify that this is
6 as accurate today as it was last year?

7 MR. FRANCIS: Yes, we can. Nothing has
8 changed.

9 CHAIRMAN O'ROURKE: Actually, Brad, I did
10 have one question. The sewer laterals from the
11 other building - was there a determination of
12 what they're doing with those?

13 MR. GRANT: Yes.

14 CHAIRMAN O'ROURKE: So they're all good?

15 MR. GRANT: Yes.

16 CHAIRMAN O'ROURKE: I guess that it
17 depends on how the board feels about the
18 mitigating funds. I feel a little bit better
19 that Joe read into the record that traffic
20 portion from CDTC.

21 MR. NARDACCI: C.J., can we ask for the
22 breakdown of the 8,000 number? What does that
23 mean and where does that come from?

24 MR. LACIVITA: It's only the commercial
25 water use. It's 1.92 as the cost per unit and

1 the units estimated by Latham Water is \$4,296.
2 Therefore, we come up with a cost of \$8,238.

3 MR. NARDACCI: And there would be no
4 other components to that?

5 MR. LACIVITA: There is no recreational
6 component, no water, the GEIS preparation is
7 zero.

8 MR. NARDACCI: Just having Joe read that
9 whole piece from CDTC that fully says that
10 they agree with the applicant and that the
11 number is in fact zero for the traffic -- if
12 that's the only other component, it's
13 reasonable that's the number. There is an
14 administrative process where it has to be
15 signed off by the department head. I've been
16 very pleased with the whole project, as a
17 whole. It's a redevelopment project.

18 As C.J. said, we've really spent a lot of
19 time really trying to push redevelopment
20 projects and really working with the
21 applicants and it's a high quality project.
22 It's a high quality company.

23 I think that said, my personal feeling is
24 that based on CDTC's letter, I would find that
25 we could move forward with a condition on this

1 final. Even though I'm not happy that the
2 condition was already on this and that we
3 should already have this information. Overall,
4 I'm okay and I don't want to hold this up,
5 myself.

6 CHAIRMAN O'ROURKE: No, and I don't want
7 to hold the applicant up for \$9,000.

8 MR. NARDACCI: I think that precedent is
9 precedent, but I think that reasonable is
10 reasonable.

11 CHAIRMAN O'ROURKE: I agree that there
12 has to be reasonableness. Again, I'm just a
13 little dismayed again that within our
14 departments -- if it was their 401K money,
15 that paper would be in my packet; trust me.
16 Sometimes when it's the applicant's money, it
17 doesn't seem to be earth shattering. I will go
18 forward.

19 How do you feel, Mike?

20 I'm going to just poll everyone.

21 MR. SULLIVAN: I'm not opposed provided
22 that all TDE and PEDD comments are addressed
23 and this would be one of them. I would not be
24 opposed to that being a condition. I can't
25 speak for the rest of the board.

1 CHAIRMAN O'ROURKE: Tim?

2 MR. LANE: What is counsel's view?

3 MR. STUTO: I think that it would be
4 fine.

5 MR. LANE: Then I'm okay with it.

6 CHAIRMAN O'ROURKE: Elena?

7 MS. VAIDA: I agree with Mike that as
8 long as the conditions are satisfied that were
9 listed in the memos, I'm not opposed.

10 MR. GRANT: The TDE comment letter, PEDD,
11 and essentially all the other departments need
12 to sign off on it. There was a Latham Water
13 comment procedurally on the PRZ and I kind of
14 reiterated it in my letter.

15 CHAIRMAN O'ROURKE: That's not a huge
16 thing, though.

17 I would like for Joe to make a note that
18 says if the list says that these items must be
19 met prior to final, it shouldn't even hit the
20 agenda unless those items have in fact been in
21 the package for the board to review. I think
22 that's reasonable as well.

23 That said, I will make the motion with
24 the conditions proposed that the TDE comment
25 and the PEDD comments are addressed.

1 Do I have a second?

2 MR. NARDACCI: I'll second.

3 CHAIRMAN O'ROURKE: All those in favor?

4 ***(Ayes were recited.)***

5 CHAIRMAN O'ROURKE: All those opposed?

6 ***(None were opposed.)***

7 CHAIRMAN O'ROURKE: Good luck, gentlemen.

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9 ***(Whereas the above entitled matter was***

10 ***concluded at 8:41 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 July 7, 2010