

1 PLANNING BOARD  
2 TOWN OF COLONIE

COUNTY OF ALBANY

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4 \*\*\*\*\*  
5 CAPITAL COMMUNICATIONS FEDERAL CREDIT UNION  
6 175 TROY-SCHENECTADY ROAD  
7 EXTENSION OF PRIOR APPROVAL  
8 \*\*\*\*\*

9 THE STENOGRAPHIC MINUTES of the above entitled  
10 public hearing BY NANCY STRANG-VANDEBOGART, a  
11 Shorthand Reporter, commencing on  
12 November 15, 2011 at 7:48 p.m. at the Public  
13 Operations Center 347 Old Niskayuna Road,  
14 Latham, New York 12110

15 BOARD MEMBERS:

16 PETER STUTO, Chairman  
17 MICHAEL SULLIVAN  
18 LOUIS MION  
19 BRIAN AUSTIN  
20 KATHLEEN DALTON  
21 TIM LANE  
22 PAUL ROSANO  
23 ELENA VAIDA, ESQ., Counsel to the Planning Board

24 Also present:

25 Daniel Hershberg, PE, Hershberg and Hershberg  
Robert Roemer, VP/IS Capital Communications Federal  
Credit Union  
Don Lonergan, DRL Associates  
C.J. O'Rourke

1 CHAIRMAN STUTO: Next on the agenda is  
2 Capital Communications Sketch Plan, 80,000  
3 square foot office, 976 Loudon Road.

4 If Joe LaCivita can give us an  
5 introduction?

6 MR. LACIVITA: Sure. The site is about  
7 5.8 acres of land that was formally Smith  
8 Pontiac. Then it became under the Fucillo  
9 Pontiac, I believe, a few years back. They've  
10 been vacant for a number of years. It is a  
11 redevelopment of the area.

12 There is potential for future  
13 connectivity to the current bank, which I'm  
14 sure Mr. Hershberg will talk about where they  
15 have their location currently on the corner of  
16 Route 9 and Century Hill. Again, it's here for  
17 sketch plan review. No vote or action is being  
18 asked for this evening. This is just  
19 assistance so that they can move forward  
20 towards concept acceptance.

21 CHAIRMAN STUTO: Joe Grasso?

22 MR. GRASSO: We haven't done a formal  
23 letter yet. We'll just respond after the  
24 presentation.

25 CHAIRMAN STUTO: Okay, Mr. Hershberg, if

1           you could identify yourself?

2           MR. HERSHBERG: Good evening,

3           Mr. Chairman. My name is Daniel Hershberg. I'm  
4           from Hershberg and Hershberg. With me today is  
5           Rob Roemer from Cap Com, Greg Rosen From NES  
6           Group. They are the quarterbacks of this  
7           project. Also with me is Terrace White from  
8           BBL. So, I have a support staff here. If you  
9           have questions that are going to stump me, I'm  
10          going to look over there.

11          CHAIRMAN STUTO: Good evening, gentlemen.

12          MR. HERSHBERG: Actually, since we've  
13          made the application, we've been working  
14          diligently to try to right-size the building.  
15          We're certain that it's exactly what Cap Com  
16          is looking for. It turned out 80,000 square  
17          feet on four floors and we've reduced it down  
18          to 74,360 square feet. There is a full  
19          basement underneath this building, and that is  
20          primarily support space. It will have  
21          mechanical rooms and the normal type storage  
22          space and also a break room. There won't be  
23          any office space at all in the basement area.

24          There are three waivers that we're  
25          looking for here today. One has to do with a

1 total parking count. Now that we've reduced it  
2 down to 74,360 square feet, the required  
3 parking is 330. What we show on the plan here  
4 is 225 spots on these gray areas and we show  
5 where we can bank the rest of the parking to  
6 bring it up to 320.

7 Let me tell you how that number was  
8 derived at. Cap Com has done both the space  
9 need study as well as the staffing study that  
10 looks ahead to between 7 and 10 years. During  
11 that time they think that they may require up  
12 to 225 parking spaces. They do not think that  
13 they'll have to go above that. However, if  
14 they do, we will provide through the bank's  
15 space, enough parking space to do it. I might  
16 point out that this sort of parking reduction  
17 is a look that you're supposed to take under  
18 the new DEC regulations. You're supposed to  
19 take a look to build what parking is really  
20 required and not exceed it, and just do the  
21 zoning issues. I think that there is a good  
22 opportunity here for the Board and the  
23 applicant to do it correctly. The 225 parking  
24 spots are needed for staff and potential  
25 visitors that come to the building.

1           CHAIRMAN STUTO: If it turned out that  
2           you had to fully build out the parking, what  
3           does that do to your greenspace requirement?  
4           Will you have met the greenspace requirement?

5           MR. HERSHBERG: Even if we build out all  
6           of the parking space, we're at 37.9 percent.  
7           We will not violate the 35 percent green, even  
8           if we build out all the parking. So, the goal  
9           here would be not to request any variance from  
10          the greenspace requirement. Ww think that  
11          essentially the site works quite well with  
12          regard to those numbers.

13          We're also asking for a variance because  
14          in the COR zone we're supposed to be on the  
15          front lawn 25 feet back from the road. The  
16          building is set further back. It's very  
17          similar to buildings on both sides of us and  
18          both are actually -- it's closer to the  
19          roadway than Kimberly's, which is the building  
20          in here (Indicating). We're closer to Route 9  
21          than both those buildings. Both buildings that  
22          adjoin us do have parking in front of the  
23          building.

24          CHAIRMAN STUTO: Kimberly's is pretty far  
25          set back. What's on the other side?

1           MR. HERSHBERG: We're actually further  
2 back. Kimberly's is about 120 feet or 142 feet  
3 back from Route 9. I have forgotten who is on  
4 the other side. That has a large parking lot  
5 in front. I know I looked at the aerial photo.

6           MR. GRASSO: To the south is the Nemith  
7 Dealership and the building is set back.

8           MR. HERSHBERG: The building is way set  
9 back and they have large parking spaces.

10           The third waiver that we're asking for is  
11 to allow this small area at the front of the  
12 building (Indicating). In order to comply with  
13 the COR design standards, the building does  
14 have an entrance that faces towards Route 9  
15 and I think makes the front of the building  
16 and the elevation view that Don passed out  
17 shows that it does appear to be a front to the  
18 building. In order to provide some parking to  
19 that, we believe that this one bullet of  
20 parking here would certainly provide for the  
21 needs of the people that would come to this  
22 front entrance. Employees would obviously use  
23 this area here (Indicating) and probably enter  
24 through either this entrance or a side  
25 entrance.

1           We think that these three waivers  
2           are consistent with the area development;  
3           although, they do require a waiver under the  
4           COR requirements.

5           What Joe mentioned is that we've taken a  
6           look at traffic. Creighton Manning did a  
7           traffic analysis for us. One issue here is  
8           that we are reducing the number of curb cuts.  
9           Currently, there are two curb cuts on the  
10          site; one at this point here and one at this  
11          point here (Indicating). We're determined to  
12          leave this one exactly where it is because it  
13          lines up with the driveway on the other side  
14          of Route 9. This one stays where it is  
15          (Indicating) and this one here gets closed so  
16          that we are eliminating one of the two curb  
17          cuts which is consistent with the access  
18          control policy of New York State DOT.

19          The applicant has approached Kimberly's  
20          and we think that we're pretty close to  
21          getting a commitment from them to allow us to  
22          connect through their property into the Cap  
23          Com branch, which is the Century Hill Drive  
24          property, and have access to the traffic  
25          signal. That would provide access driveway for

1 Kimberly's to use that, too. That would be  
2 consistent with a lot of the goals set forward  
3 in the Route 9 study. People have said all the  
4 time that we should try to combine access into  
5 single entrance points, if possible. If  
6 somebody determines that they want to go  
7 north, rather than pull out of this  
8 full-service driveway and having to cross two  
9 lanes of traffic, they could go this way and  
10 go to Century Hill Drive (Indicating).

11 We took a look at the queuing space at  
12 the Century Hill Drive traffic light. That was  
13 another thing that we had Creighton Manning  
14 take a look at. That was the first go-through  
15 regarding all the data that we have there and  
16 that's without any further traffic to that.

17 We're not certain what else we could do  
18 there. There are current traffic counts to  
19 this area because they were involved in the  
20 recent update of the Boght study.

21 They believe that the queuing space will  
22 not interfere with the proper operations of  
23 this driveway. We believe that the geometry of  
24 that driveway will be in leaving the single  
25 curb cut where it is, and organizing this so



1           this traffic stops before it crosses this  
2           driveway, and stops again at Century Hill  
3           Drive. It's a little awkward, but people that  
4           go in that direction are saving themselves the  
5           trouble of pulling out and crossing two lanes  
6           of traffic.

7                     We intend to use this only for egress. We  
8           do not want this used for ingress. We don't  
9           want people turning left and coming through  
10          the Cap Com branch to come here. The primary  
11          purpose is to allow people to egress this way  
12          and use the Century Hill Drive exit  
13          (Indicating). That would be our goal here.

14                    Some of this is still waiting for final  
15          papers to be worked out with Kimberly's, but  
16          we think that they're going to go along with  
17          it. We need to do some final design drawings  
18          for that access driveway and run it by  
19          Creighton Manning to be certain that they're  
20          okay.

21                    We also propose to provide a decorative  
22          fence and landscaping area in here  
23          (Indicating) which we think will certainly  
24          improve the viewscape from Route 9. I think  
25          that you see that building is an attractive

1 building. If you folks would like a further  
2 explanation, or if you want me to talk through  
3 the building elevation, that would be  
4 wonderful.

5 CHAIRMAN STUTO: That would be wonderful.

6 MR. ROSANO: Dan, before you go there,  
7 how many people are going to actually be at  
8 full staff in that building?

9 MR. ROEMER: When we move in - in a year  
10 or two it will be 60. The plan allows it to go  
11 up to 210.

12 MR. ROSANO: Is that 160 people for one  
13 shift, or are there multiple shifts? Is  
14 everybody going to be coming at once and  
15 leaving at once?

16 MR. ROEMER: Typically it doesn't start  
17 until 8:30.

18 MR. ROSANO: Would you consider shifting  
19 that out 8:30, 8:45, 9:00 in putting 160 cars  
20 in that parking lot? Everybody leaves for work  
21 with no time to spare. Was that ever a  
22 consideration? I'm not trying to hold you to  
23 it. I think that you should at least consider  
24 it. That seems to be a lot of people at one  
25 time in one driveway trying to get into one

1 building.

2 CHAIRMAN STUTO: Any other question  
3 before we look at the building?

4 *(There was no response.)*

5 MR. LONERGAN: My name is Don Lonergan  
6 and I'm with DRL Associates. I believe that  
7 we've handed out a smaller version of the  
8 rendering that I'm showing you here. It's a  
9 four-story building above grade with a full  
10 basement totally 93,000 square feet of space.  
11 This entrance here, we just went through.

12 The building, because of the site  
13 constraints, has a major entrance in the back  
14 and it comes down to here (Indicating). So, we  
15 have a double entrance; one here and one in  
16 the back. As I mentioned, it's a four-story  
17 building. It's a masonry building. There is  
18 aluminum windows and insulated glass. The  
19 interior of the building - as we said it's  
20 going to occupy 160 people; 50 offices had 100  
21 work stations.

22 MR. LANE: We had the original plans -

23 MR. LONERGAN: I should explain that.  
24 That was in the earlier concept that we had.  
25 We had some budget reworking. We have

1 redesigned the exterior. The budget was  
2 controlling this.

3 MR. LANE: This is very common place for  
4 around here.

5 MR. LONERGAN: Like I said, it went  
6 through some budget reworking and this has  
7 been revised.

8 CHAIRMAN STUTO: Is there more  
9 presentation at this stage?

10 MR. HERSHBERG: No, Mr. Chairman. I'm  
11 prepared to answer any questions that the  
12 board may have.

13 MR. ROSANO: Dan, on the egress going  
14 through Cap Com's parking lot - what is that  
15 going to do to their customers that are trying  
16 to use that parking lot?

17 MR. HERSHBERG: We worked very diligently  
18 on this. It doesn't affect the queuing or the  
19 line to go through the drive-thru. All their  
20 surface parking stays the same. The drive-thru  
21 stays the same.

22 There is a great difference between this  
23 building and the building along side of it. We  
24 believe that we can resolve some of that grade  
25 because the grade of this road will actually

1 be lower than the original one area along side  
2 of the driveway. So, we'll be able to solve  
3 some of that steep grade.

4 MR. ROSANO: Is that drainage ditch going  
5 to come into play?

6 MR. HERSHBERG: We're actually going to  
7 cross that with a culvert. At this point, it's  
8 not used for the stormwater management  
9 service. We cross at an area where there is  
10 currently a culvert so we won't have to affect  
11 it. My guess is that with that final design,  
12 we'll probably have to put a short piece of  
13 retaining wall at that point to control it.

14 By the way, stormwater management -- we  
15 have looked at the site. A lot of the site is  
16 not our typical very porous soil. We have done  
17 tests. We did an analysis down here  
18 (Indicating). This area down here has a  
19 percolation rate of approximately one inch to  
20 one and a half inches per hour. So we're  
21 assuming that we'll put in a detention basin.  
22 We anticipate a full infiltration basin that  
23 will be compliant. We are going to propose to  
24 take a hard look at taking at least a portion  
25 of this parking lot and using porous pavement

1 on it. That will be dependant on the soil  
2 conditions underneath it. As you know, I'm a  
3 big fan of porous pavement and I'll use it  
4 wherever I can. That's for everybody's sake,  
5 budget wise and everything. It's a great  
6 product.

7 MR. MION: Since we're talking ingress  
8 and egress, has any thought been given to  
9 maybe not allowing a left turn there so you  
10 don't have to cross and force people to go up  
11 to the light?

12 MR. HERSHBERG: We think that the left  
13 turn lane - especially with the gap that  
14 occurs with the traffic light up there is  
15 doable for many hours of the day. Not  
16 necessarily to try to do it between 4:30 and  
17 5:30 in the afternoon. At many hours during  
18 the day a left hand turn lane is a relatively  
19 easy movement to make. We had Creighton  
20 Manning look at it and actually this driveway  
21 functions for all the turns that are a very  
22 high service level with the exception of the  
23 4:30 to 5:30 peak. At that point, making a  
24 left hand turn would be problematic.

25 MR. MION: Is it a solution to say that

1           you prohibit the left hand turn?

2           MR. HERSHBERG: By having this a free  
3           turn; it's a selection that the people make.  
4           If everybody at 4:30 and 5:30 has to go in  
5           this direction, from a selection standpoint,  
6           some may say I don't have any problem pulling  
7           out. Being so close to a traffic light, it  
8           creates an actual gap when the light changes  
9           even though there are free right hand turns  
10          taking place all the time. It does create some  
11          sort of gap in the traffic. If we did a gap  
12          analysis here, it would show that there would  
13          be plenty of time frames during the day for a  
14          left hand turn. If we're talking about  
15          restricting between 4:30 and 5:30 and  
16          everybody went to Century Hill Drive, we  
17          wouldn't necessarily be against it but I think  
18          that it begs some further traffic review. We  
19          certainly have Creighton Manning on board and  
20          they have been working pretty diligently on  
21          this project.

22          MR. MION: I know that there have been  
23          some horrendous accidents up there when people  
24          are pulling out.

25          MR. HERSHBERG: That's why we worked so

1 hard to get the access thorough Kimberly's and  
2 the Cap Com branch out to the Century Hill  
3 Drive. When we first started the project and  
4 we eliminated the second driveway - first of  
5 all we eliminated this driveway because it's  
6 closer to Century Hill Drive - we moved it  
7 further away and we thought that this was the  
8 best place to put this. Yes, there are always  
9 safety concerns with people making a left hand  
10 turn on two lanes worth of traffic, especially  
11 in an area where speeding zones don't mean an  
12 awful lot to people who are rushing to work.

13 MR. AUSTIN: Are the people that are  
14 working in the Cap Com building going to be  
15 aware that there is an egress out the back? It  
16 looks like it's somewhat hidden -- out behind  
17 Kimberly's and out into the Cap Com parking  
18 lot and to the rear of the Cap Com parking lot  
19 as well. It seems like it's almost a true  
20 option rather than a preferred option. It  
21 seems like it's almost not a commonly used  
22 exit; let's put it that way. I think that most  
23 people would pick the main exit.

24 MR. HERSHBERG: That may be true, but  
25 these are employees. These are not people



1 coming for one time. People leaving at 4:30  
2 and 5:30 in the afternoon from this building  
3 are employees. Most of the retail work that  
4 the bank does can be done at the branch and  
5 nothing changes there. There might be some  
6 what we call retail-type banking because there  
7 are mortgage closings or insurance sales and  
8 they might take place in the new main  
9 headquarters. Those are a relatively small  
10 number of people. We think that all the  
11 employees that want to make a left hand turn  
12 will be aware of this and can certainly use  
13 it. The 225 is needed primarily because there  
14 might be people coming in from other branches  
15 for meetings and management. They're not there  
16 every day, but if we don't have those 225  
17 parking spots, we might run out of parking. We  
18 set the parking number based on the maximum  
19 demands that Cap Com seems to site. With 160  
20 employees, they'll all know this. Our traffic  
21 people tell us that something in the range of  
22 30 percent might be heading north. If you've  
23 got 48 employees heading north, very few  
24 people are going together, but it might be 42  
25 cars. If 35 decide to go that way and use the

1 main entrance, there is not much of a  
2 different impact if all 42 decide to go. I  
3 think those sort of numbers are reasonably  
4 close to what our traffic study will show.

5 MR. AUSTIN: That's not going to impact  
6 the traffic flow out of the Cap Com branch. I  
7 would assume that the Cap Com branch is closed  
8 by that time?

9 MR. HERSHBERG: No, the drive-thru would  
10 still be open. I think that you have one day  
11 that banking hours are open until 5:00. Again,  
12 there is some conflict with Cap Com. We tried  
13 to minimize it by giving preference to the Cap  
14 Com branch people for ingress and egress. We  
15 do have the volume counts from existing Cap  
16 Com - our existing studies. Cap Com doesn't  
17 want to intrude on a retail business for the  
18 sake of their employees' convenience. So, they  
19 are well aware of the needs to make certain  
20 transactions smoothly toward the branch.

21 MS. DALTON: With that in mind, one of  
22 the things that you might want to consider is  
23 making the branch stay open until 6:00 so that  
24 people aren't speeding through to get there by  
25 5:00 when everybody else is trying to come

1 out.

2 MR. HERSHBERG: From a business plan, I'm  
3 sure that Cap Com will take a hard look at  
4 hours for the branch regarding any traffic  
5 issues getting in and out here. This is a  
6 major move for Cap Com. It will be their brand  
7 new major headquarters facility and they  
8 certainly don't want to do anything wrong that  
9 impacts a very favorably functioning branch.  
10 It's clear that they are going to work hard to  
11 make things work here.

12 We recognize that this Board is trying to  
13 take a look at the public benefits.

14 CHAIRMAN STUTO: Joe Grasso, would you  
15 like to offer comment?

16 MR. GRASSO: Sure. Like Joe had mentioned  
17 at the start, this is just before the Planning  
18 Board for sketch plan review so there is no  
19 binding decisions being made tonight by the  
20 Planning Board. I think that it's a good  
21 opportunity for the Planning Board to provide  
22 a lot of good feedback for the applicant.  
23 Obviously, as you have already started, there  
24 are a lot of planning considerations for the  
25 project. I think that the earlier that we can

1           get those thoughts out there for the applicant  
2           to consider them, the better chance the  
3           project is going to move forward in a positive  
4           manner.

5           We appreciate the fact that the applicant  
6           has brought a redevelopment project before the  
7           Planning Board for this use when there are  
8           obviously other green field sites in the  
9           immediate vicinity that could have obviously  
10          had a greater environmental impact.

11          Dan has done a good job presenting the  
12          project. There are a few things that I think  
13          that we can provide some additional dialogue  
14          on regarding the access.

15          We feel strongly that the connection to  
16          Century Hill Drive, whether it be through the  
17          existing Cap Com branch or some other means,  
18          is a really important part of the project. As  
19          we all know, left hand turns on that section  
20          of Route 9 are extremely problematic. It's a  
21          concern expressed by us, the Town's Planning  
22          Department, by DOT and other departments  
23          within the Town. We think that when the  
24          project comes back for formal concept review,  
25          that access to Century Hill Drive be part of

1 the project and not just for the possible  
2 future. It should be made part of the project  
3 so that we can count on that being built if  
4 the project goes in the ground. Obviously, if  
5 that access arrangement doesn't work out, then  
6 the applicant should look at other alternative  
7 access arrangements to get out to Route 9.  
8 Obviously, that connection to Century Hill  
9 Drive, as currently contemplated, not only  
10 benefits the current use, it also would  
11 dramatically benefit Kimberly's Day Spa, which  
12 does not have access to Century Hill Drive  
13 where there is a signal there and is in the  
14 same precarious left hand turn out situation.

15 There was a comment by DOT regarding the  
16 possible connection to properties to the  
17 south. There is a National Grid right of way  
18 there which I think the Goldstein dealership  
19 had some parking there with that.

20 Further south is the Nemith dealership.  
21 There is also some great changes there. We  
22 didn't think that that was that important to  
23 force this applicant to develop some sort of  
24 connection to the south of Autopark Drive.  
25 That was a comment and I'll just throw it out

1           there by DOT. We want to bring that to the  
2           Board's attention.

3           CHAIRMAN STUTO: What was their idea? Was  
4           it to go down the easement?

5           MR. GRASSO: They didn't really  
6           stipulate. Obviously, along this section of  
7           Route 9 cross connection between properties is  
8           very important. I'm not sure that a lot of  
9           analysis was done regarding are the other  
10          properties to the south

11          CHAIRMAN STUTO: I thought they said it  
12          would ultimately hit Century Hill.

13          MR. GRASSO: They did, but there was also  
14          a comment about going to the south toward  
15          Autopark Drive. The Nemith dealership has  
16          access both on Route 9 as well as Autopark  
17          Drive. The property in between is a National  
18          Grid right of way. I would expect that a  
19          crossing of that National Grid right of way,  
20          if it hasn't already been contemplated or  
21          approved, may be problematic. It's a similar  
22          issue that First Columbia has had to deal with  
23          in the past about the connection of Plaza  
24          Drive across the National Grid right of way,  
25          which kind of serves the same cross connection

1 purpose further to the west. I at least want  
2 to throw out the comment. I wasn't sure if the  
3 Planning Board was aware of it.

4 In terms of the waivers, this is a good  
5 opportunity for the Planning Board to provide  
6 some feedback regarding the acceptability of  
7 the waivers and if they're not acceptable,  
8 what changes can be made. So, I'm just going  
9 to touch on the three that Dan mentioned that  
10 are required as part of the project.

11 The first one being the front yard  
12 setback being further back than 25 feet, which  
13 is the maximum allowed in the Code. I think  
14 that it's important to understand that what  
15 they've proposed is a building that generally  
16 aligns with other development. There are  
17 buildings on either side. We also have to look  
18 at the context of Route 9 there. Is the  
19 scenario that we would really want to push  
20 buildings right up close to the road, or is  
21 this more of an arterial type highway where it  
22 lends itself to buildings being more setback?  
23 We feel that it does, but it's something that  
24 the Planning Board should consider.

25 The other thing is that in terms of

1           trying to establish this as a build out of the  
2           frontage, they are proposing the fence, which  
3           is talked about in the design standards as a  
4           mitigating measure when you can't build a  
5           building right up to that maximum  
6           setback - that you can do other landscaped  
7           treatments to try to create that similar  
8           façade treatment which they have already tried  
9           to start building into the project. You can  
10          certainly see that design starts to evolve as  
11          the plans get more advanced. If there is any  
12          feedback regarding the type of fencing or  
13          landscaped treatment, obviously the Planning  
14          Board can have additional comment there.

15                 Before I go on to the other waivers, is  
16          there any other comment regarding that first  
17          front yard setback waiver?

18                 CHAIRMAN STUTO: In my personal opinion,  
19          I'm not opposed to it. I think that the  
20          landscaping and the façade will be important  
21          to how it looks, and so forth. As long as it  
22          lines up with the properties around it, that's  
23          what's important.

24                 MR. GRASSO: Okay. Any other comment  
25          regarding the front setback waiver?



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

2                                   MR. GRASSO:   Going On to the next waiver.  
3                                   It's about the number of parking spaces. We  
4                                   commend the applicant for only wanting to  
5                                   build the number of parking that they need to  
6                                   support their use. Fortunately, with this  
7                                   tenant, they know pretty specifically what  
8                                   their parking demands are and that's what  
9                                   they're trying to build. It provides a lot of  
10                                  benefits. Not only having to spend the capital  
11                                  on the parking, but also the stormwater  
12                                  impacts the greenspace impacts. The Code  
13                                  allows a waiver of parking. The Code is rather  
14                                  specific, though. All the requirements for  
15                                  parking, which is one space for 225 square,  
16                                  feet is supposed to be based on the gross  
17                                  square footage of the building. The 74,360  
18                                  square feet does not include the basement. The  
19                                  basement would be additional approximately  
20                                  18,600 or so square feet which would require  
21                                  an additional -- I forgot how many additional  
22                                  parking spaces.

23                                 MR. HERSHBERG:   It's one per 225 square  
24                                 feet. It's about 70 or 80.

25                                 MR. GRASSO:   So, that's a substantial

1           increase.

2                   CHAIRMAN STUTO:   So that affects the  
3           greenspace analysis?

4                   MR. GRASSO:   It would also affect the  
5           greenspace analysis where if that is what the  
6           Board felt was required to park for the whole  
7           building. Now, there is some language in the  
8           Code when you've got a combination of uses,  
9           you can look at the parking for the variety of  
10          uses and then sum up the total for the  
11          parking. But there is not a lot of information  
12          provided regarding exactly what is in the  
13          basement. Is that storage space that would  
14          otherwise be spread throughout the general  
15          office building? Therefore, it would be  
16          factored into the one space for 225 square  
17          feet. I think, Dan, you probably have some  
18          storage and some other uses down there.

19                  MR. HERSHBERG:   With Don's help, I'll try  
20          to address it. We're talking about that being  
21          support space and that's how we worded it in  
22          our application. That's storage space and an  
23          employee break room, which essentially when  
24          they're on break, they go down there and there  
25          is vending machines etcetera.

1                   What else is going on, Don?

2                   MR. LONERGAN: We have mechanical space  
3                   and we have a cafeteria and some space for the  
4                   staff up above. We also have a fitness center  
5                   for our employees.

6                   MR. HERSHBERG: And there is an area when  
7                   people come in from branches for training.  
8                   There is an area for that.

9                   CHAIRMAN STUTO: We'll ask our TDE and  
10                  our attorney to look closer into that as we  
11                  get closer.

12                  MR. LONERGAN: It's all support space.  
13                  We're not occupying there. We have no offices  
14                  or cubicles and things there.

15                  MR. GRASSO: I think that it's going to  
16                  be important for the Planning Board to  
17                  ultimately decide what is the square footage  
18                  and what is that parking.

19                  CHAIRMAN STUTO: This is redevelopment. I  
20                  know that there is a special provision for  
21                  redevelopment. Is someone conversant with  
22                  that?

23                  MR. LACIVITA: The redevelopment regs  
24                  don't speak specifically to parking.

25                  CHAIRMAN STUTO: Just the greenspace.

1           MR. GRASSO: Right, it's just the  
2           greenspace and it dovetails into the parking  
3           calculation and I'll try to explain how.

4           Normally, if an application is going to  
5           land bank parking and not build what is  
6           required by the Code, what we generally ask  
7           them to do is show us the plan by building the  
8           parking that is required by Code and see if  
9           you meet the greenspace that is required by  
10          Code; 35 percent in this case. If you don't,  
11          then there is incentive zoning provisions  
12          within the Code that then kick in. If they had  
13          to provide parking, let's say, for the full  
14          basement area an additional 80 spots, I think  
15          that would get them less than the 25 percent  
16          and therefore the Planning Board would make  
17          the determination whether or not the incentive  
18          zoning provisions actually should kick in,  
19          even though that's not what they're looking to  
20          build. The rationale for that is that well, if  
21          there is another use or if for some reason  
22          they feel like the site gets over parked and  
23          they have to build what was land banked, they  
24          would then be coming back and driving the  
25          greenspace less than required by the Code with

1 no apparent mitigation on the table. That's  
2 why it's important for this issue to be worked  
3 out at this stage so that it doesn't become an  
4 enforcement issue for the Planning Department  
5 or the Building Department later on down the  
6 road. We can provide additional comment based  
7 on the information that gets submitted.

8 Obviously, the square footage is different  
9 than what we had originally evaluated and like  
10 I said, we don't have a lot of information for  
11 the basement and we can provide additional  
12 feedback to the Planning Board in the future.  
13 We'll need to make a determination next time.  
14 If it comes back for concept, that's an issue  
15 that you really want to look closely and at  
16 the application materials and have some  
17 thoughts for discussion.

18 CHAIRMAN STUTO: Anybody want to make a  
19 comment on the parking waiver?

20 MS. DALTON: With regard to the  
21 greenspace, if you have greenspace, you're  
22 going to have people coming in who are not  
23 employees - that you are planning your regular  
24 space for. I don't know how you're going to  
25 construct the parking bank and if you might

1           need to make that something that is more  
2           usable up front.

3           MR. HERSHBERG: Like was said here, the  
4           full build out plan is for 160 employees.  
5           Theoretically, that would generate in the  
6           range of 140 cars per day; people on vacation,  
7           people on sick-leave, people that come by  
8           other means like getting dropped off by  
9           spouses. So, if you have 140 to 160 parking  
10          spots for employees. The other 65 are meant  
11          for these people that are in for training or  
12          the few number of retail customers that are  
13          visiting the site. We think that 225 is  
14          adequate and for as long as Cap Com is going  
15          to occupy this building - and I know that this  
16          Board sometimes has to take a longer look or  
17          what happens if this building gets sold and  
18          somebody in there needs the full parking  
19          capacity -- that's why we went through the  
20          exercise. I'm showing the full build out  
21          parking. We know that this Board has the right  
22          to grant waivers for parking spaces, and we  
23          would hope that would be granted here because  
24          that doesn't make sense to go full build out.  
25          The full build out level is the question that

1 is raised now regarding the interpretation of  
2 the plan.

3 MR. LONERGAN: The 2.5 would be  
4 substantial.

5 CHAIRMAN STUTO: I think personally what  
6 you're presenting is quite reasonable. I'd  
7 rather see grass than pavement in the get-go.  
8 Why pave it if you don't need it? We're also  
9 going to have to tinker with the  
10 interpretation of the basement.

11 MR. GRASSO: You should expect to see  
12 more applications that are looking to get a  
13 waiver from the parking permits and build what  
14 they feel they need. You'll have to determine  
15 whether or not they need to look at what the  
16 Code requirement is.

17 MR. LANE: So, we should be looking at  
18 whether or not we should be making a  
19 recommendation to the Town Board to make a  
20 change to that?

21 MR. GRASSO: It could be a Town Board  
22 decision or it could be something where the  
23 Planning Board makes a determination. It's  
24 just something that you may want to look at  
25 consistent from application to application. I

1 think that you're going to see more of this in  
2 the future and what it would allow is more  
3 development on the site - more building square  
4 footage than what would otherwise be provided  
5 by the Code. It may not necessarily be a bad  
6 thing; just something that I think the  
7 Planning Board should be consistent with its  
8 review of these types of applications.

9 MR. LANE: There are certainly restrained  
10 sites that tend to have odd shapes and the  
11 like.

12 MR. GRASSO: Another avenue would be if  
13 the site ever felt like it had to come back  
14 and build more parking, which would then drive  
15 the greenspace less than required by Code, the  
16 incentive zoning provision or other form of  
17 mitigation could be kicked in at that time  
18 too. Like I said, anything that they decide to  
19 do on the site in the future, it's going to  
20 come back before the Planning Board for  
21 additional review.

22 The last waiver is the location of the  
23 parking within the front yard setback. I think  
24 that they've done a really good job of putting  
25 the majority of the parking to the back. I



1 understand that it's important to have a front  
2 door entrance facing a public road and they  
3 have a minimal amount of parking up there  
4 which can lead to that entrance to the  
5 building from Route 9, so we feel that it's  
6 appropriate. Obviously, it's something that we  
7 would need a waiver by the Planning Board.

8 Any comment on that?

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

10 Any comment from the applicant?

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

12 CHAIRMAN STUTO: The landscaping and the  
13 façade and so forth - I'm not opposed to it.

14 MR. GRASSO: There is only one other  
15 thing that I wanted to mention regarding the  
16 pedestrian accommodations. They haven't gotten  
17 into a lot of the detail of where the  
18 sidewalks are proposed. There was a  
19 recommendation by the Planning Staff to extend  
20 a sidewalk out to Route 9. Obviously, we think  
21 that this section of Route 9 is important to  
22 have sidewalks built along Route 9 and both  
23 sides of the road. There are no sidewalk  
24 accommodations currently out on Route 9. So,  
25 if this project just built a sidewalk across

1 its frontage, it would terminate on both the  
2 north and the south. I think the long-term  
3 plans is to have sidewalks along Latham  
4 Autopark Drive as well as Century Hill Drive  
5 and hopefully a sidewalk could be extended  
6 along the frontage to one or both of those  
7 roads at some point in the future. The  
8 Planning Board is going to have to ultimately  
9 make a decision whether or not the applicant  
10 should be building their section of sidewalk  
11 right now. Maybe contribute to a funding  
12 mechanism to a sidewalk that would be built at  
13 some point in the future -- similarly to what  
14 was considered by the Hess car wash, which is  
15 an application across the street and down a  
16 little bit which the Planning Board is  
17 currently reviewing.

18 From a SEQRA standpoint, the  
19 recommendation was the Town Attorney's office  
20 determined that it was a Type I action, so the  
21 applicant is going to have to provide a full  
22 EAF review and we'll review that beginning at  
23 concept and then we'll have to complete the  
24 SEQRA review prior to final site plan  
25 determination.

1                   CHAIRMAN STUTO: That's plenty for a  
2 sketch plan. That's great.

3                   MR. HERSHBERG: What created the Type I?  
4 It's less than 100,000 - unless it was within  
5 500 feet of a municipal boundary or state or  
6 federally owned property.

7                   MR. GRASSO: I don't know.

8                   MR. HERSHBERG: We don't mind treating it  
9 like a Type I action, but I don't see what  
10 triggered that.

11                  CHAIRMAN STUTO: You're free to  
12 communicate with the Town Attorney's office.

13                  I think that it's a great project. If you  
14 get your materials in on time, Joe is the TDE  
15 and with the Planning Department - we'll react  
16 in a similar fashion. I think that it's a  
17 great project.

18                  MR. HERSHBERG: We know that we can't ask  
19 for any formal action. We did hear the  
20 comments of the Chairman with regard to the  
21 waivers; I would hope that if anybody on this  
22 Board had a real problem in granting the  
23 waivers, that we'd hear it now. If I don't  
24 hear any, I'll assume that we're in pretty  
25 good shape with regard to our waiver request.

1           CHAIRMAN STUTO: Joe, do we normally hear  
2 from the public on sketch plan?

3           MR. LACIVITA: Typically, we don't. We  
4 don't post it or anything like that. Certainly  
5 if there are issues that you want to hear, you  
6 can.

7           CHAIRMAN STUTO: Is there anyone here on  
8 this project?

9           MR. O'ROURKE: I'm here for Matheson Gas,  
10 but I would like to speak on this.

11          CHAIRMAN STUTO: Okay, we're running  
12 overtime, but go ahead.

13          MR. O'ROURKE: C.J. O'Rourke,  
14 Loudonville, New York.

15                 The GEIS wasn't mentioned at all. I think  
16 that there may be a slight conflict of  
17 interest between the TDE that was appointed to  
18 this project, who is deeply involved in the  
19 updated GEIS. This square footage of this  
20 project was not included in neither the '89  
21 GEIS, supplemental GEIS, the updated GEIS nor  
22 any of the traffic updates of the GEIS. So, I  
23 was a little surprised that I didn't hear  
24 anything from the Board in regard to the GEIS  
25 which, actually it attempted to pass on

1 June 29, 2010.

2 MS. DALTON: Earlier this evening before  
3 you came in with the first applicant, we spoke  
4 about the GEIS.

5 MR. O'ROURKE: I just feel bad. I don't  
6 know if Cap Com was in here because the  
7 gentleman talked about one to two years and I  
8 just want him to understand that the GEIS has  
9 been going on for five years, Joe?

10 MR. GRASSO: I said a few years earlier  
11 tonight and I think that I'm accurate.

12 MR. O'ROURKE: Okay, so if he thinks that  
13 he's going to be in his building in one to two  
14 years, I highly doubt that. There are other  
15 issues with this property in terms of -- and  
16 I'm not privy to the DOT memorandums that I'm  
17 sure that the Board has, but there is access  
18 point issues.

19 Century Hill Drive, upon full build out  
20 of what's going in there -- the update  
21 projected traffic volumes which I'm sure that  
22 everyone on the Board has copies of Creighton  
23 Manning's study - Century Hill is almost at  
24 full volume now. So, add into that with zero  
25 queuing - roughly 100 feet of queuing I think

1 is an issue as well, in regard to that. There  
2 is no signalized access to this, so it's over  
3 80 feet of pavement to try to get out and make  
4 a left hand turn. The stormwater - which Mr.  
5 Hershberg has always done a great job  
6 with - I'm sure that he could satisfy it on  
7 this property, but I also think that there are  
8 some issues there.

9 I was glad to hear that the Town  
10 Attorney's office, did, in my opinion, term  
11 this as a Type I action which again, in terms  
12 of that, I think that Cap Com should seriously  
13 look at what that Type I action will be in  
14 terms of time.

15 And in terms of the waivers, certainly  
16 the Code either needs to be adjusted or  
17 changed because of the amount of waivers that  
18 are required. The front yard parking becomes  
19 precedent, in this corridor especially. So,  
20 when you look at parcel 28 and whatever may  
21 happen with the Nemith property on Route 9,  
22 understand that any action that the Board  
23 takes certainly will have direct impact on the  
24 development in this area.

25 Again, most people on the Board today are

1           aware of the traffic issues, the Bergmann  
2           Study and all those types things that I know  
3           are highly debatable, but it's a highly  
4           difficult area and to put a building like this  
5           on Route 9 in this area when there are other  
6           sites -- British American has sites and in  
7           terms of economic development, Cap Com is  
8           looking to build a building. We'd love to have  
9           them in the Town of Colonie, but in terms of  
10          economic development, somebody should be  
11          helping Cap Com find a location that suits  
12          them that they can be in within a period of  
13          two years. This, in my opinion, has no chance  
14          before five years.

15                 MR. LACIVITA: I wouldn't listen to that  
16                 last comment at all.

17                 CHAIRMAN STUTO: I didn't give the Board  
18                 a chance to speak.

19                 Is there anyone on the Board that would  
20                 like to speak?

21                 MR. SULLIVAN: Mr. Hershberg, I had a  
22                 comment on traffic. Will you be able to  
23                 provide trip generation numbers? You said that  
24                 you were working with Creighton Manning.

25                 MR. HERSHBERG: We already have the trip

1 generation numbers. We already have that done.  
2 We have what I call a traffic analysis letter  
3 now during our due diligence. We can provide  
4 whatever extensions are needed to that traffic  
5 study for intersections or whatever.

6 MR. SULLIVAN: I would like to see that  
7 added into the updated traffic plan because it  
8 will have much more trips generated than any  
9 car dealership. That was a concern of mine.

10 MR. HERSHBERG: We actually got a trip  
11 generation from what used to be Fucillo's, the  
12 last time. They were the last occupant there.  
13 We just made a minor reduction due to that.  
14 You're correct; the office does generate much  
15 more peak hour traffic.

16 CHAIRMAN STUTO: Thank you. Anyone else?

17 MS. DALTON: I just want to point out  
18 that given the aerial photo that we have, in  
19 regard to the front parking space - what they  
20 are proposing is almost exactly what is  
21 currently in that area.

22 MR. O'ROURKE: There is a difference,  
23 though. I didn't set up the Zoning. Someone in  
24 the Town way smarter than me did. So, if they  
25 deem this to be office residential, those are



1 the stipulations and they should be -

2 MS. DALTON: According to the waiver, it  
3 is to be able to waive those things.

4 MR. O'ROURKE: But understand that the  
5 Board sets precedent when they make waivers.

6 MS. DALTON: Right.

7 CHAIRMAN STUTO: Okay, thank you.

8

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10

11 ***(Whereas the proceeding concerning the above***  
12 ***entitled matter was concluded at***  
13 ***8:35 p.m.)***

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**CERTIFICATION**

*I, NANCY STRANG-VANDEBOGART, Shorthand  
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**NANCY STRANG-VANDEBOGART**

**Dated December 1, 2011**

**Legal Transcription**

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