

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3

4 *****
5 STEWART'S SHOP
6 605 LOUDON ROAD
7 APPLICATION FOR CONCEPT ACCEPTANCE
8 *****

9 THE TAPED AND TRANSCRIBED MINUTES of the above
10 entitled proceeding
11 BY NANCY STRANG-VANDEBOGART commencing on
12 March 15, 2011 at 7:16 p.m. at
13 the Public Operations Center
14 347 Old Niskayuna Road, Latham, New York 12110

15 BOARD MEMBERS:

- 16 PETER STUTO, CHAIRMAN
- 17 THOMAS NARDACCI
- 18 MICHAEL SULLIVAN
- 19 LOUIS MION
- 20 KATHY DALTON
- 21 ELENA VAIDA, Esq., Attorney to the Planning Board

22 Also present:

- 23 Joe LaCivita, Director, Planning and Economic
24 Development
- 25 Joe Grasso, PE, Clough Harbour & Associates
- Tom Lewis, Stewart's
- Chris Potter, PE
- Sal Clemente, Mesa Realty

25

1 CHAIRMAN STUTO: Good evening.

2 Joe, do you want to give us an
3 introduction on the Stewarts project? I know
4 that they've been in a couple of times for
5 sketch plan and we're somewhat familiar with
6 it.

7 MR. LACIVITA: Yes, they have. This is
8 probably their third time in. It's
9 605 Loudon Road. The project is actually
10 demolition of the current structure that is
11 there and a replacement of about a
12 3,000 square foot new convenient store and
13 about 1,800 square feet of new fuel tanks.

14 Mr. Lewis has been back a couple of times
15 to change the façade and look at the building.
16 He's really trying to improve that area and
17 it's a redevelopment of that site.

18 Clough Harbor is the Town Designated
19 Engineer on this one.

20 CHAIRMAN STUTO: Can you say your name
21 for the record and then you can make your
22 presentation?

23 MR. LEWIS: I'm Tom Lewis. I'm the real
24 estate representative of Stewarts and we love
25 our management.

1 We met here first in February and then on
2 April 20th and there were a number of issues.

3 We had the Zoning Board on August 19th and
4 we're back here hoping to get conceptual.
5 We're hoping to redevelop the site. We really
6 want to have new locations in the Capital
7 District. Our business is good and we're
8 looking to invest and make those sites that
9 don't work well, hopefully work well.

10 Existing, we have a 1,900 square foot
11 building with gas pumps. We can serve about
12 four cars at one time and there are 10 parking
13 spaces. The land size is four-tenths of an
14 acre. We're hoping to almost double the size
15 by .388 acres from Goldstein. That would
16 almost double our lot. It is relevant to
17 discuss that it was a long negotiation. It was
18 six months. In the car business, the more
19 parking of cars, the more clients you get. So,
20 we were hoping to get more land because it
21 would be better if we had more.

22 We're hoping to improve a very
23 undesirable situation. If anyone has ever been
24 to this lot - which I won't go there - it's
25 hard getting in and out of the existing lot.

1 It just isn't wide enough to adequately handle
2 the business that we're doing. There is almost
3 20,000 cars a day and you are in a growing
4 market. There are a lot of markets now that
5 are in decline.

6 The distance between the pumps and the
7 building are way too close. The curb cuts are
8 too close and it would be something that if
9 this were a new development, it would never
10 get approved.

11 We're hoping to make almost a one and a
12 half million dollar investment. If we were to
13 improve this, we would be eliminating one of
14 the curb cuts and use the second one which is
15 south. We hope to build a 2,990 square foot
16 building and a gas island with three pumps.

17 We're hoping to get 24 parking spaces.
18 The concrete and the pavement area remains the
19 same, existing at 68 percent. The building
20 coverage will go from nine to six. The
21 building height will be from 21 to 14.5. I've
22 got our designer with me. Chris Potter.

23 Is that height the same?

24 MR. POTTER: I believe that it's gone
25 down.

1 MR. LEWIS: The greenspace will be
2 reduced as proposed from 26 down to 23. Under
3 the zoning amenity fund, that would cost us
4 \$15,500 for the loss of the greenspace. The
5 number of employees remains the same; a dozen.
6 The hours of operation will be the same; 5:00
7 a.m. until midnight and we will be replacing
8 the underground tanks that were installed in
9 1993. We didn't mention that last time we were
10 here back in April. We're also doing new
11 tanks. Those tanks are supposed to last
12 30 years and we find that it's really safest
13 to replace them every 20 years.

14 We certainly feel that this will have a
15 positive impact on the adjoining neighbors and
16 the whole neighborhood. The drainage will
17 improve. We're offering something
18 architectural. We will be eliminating one curb
19 cut and this will have a very, very positive
20 impact on the internal traffic flow of both
21 those entering in and those leaving. We're
22 also adding a second bathroom.

23 If approved, the sequencing will be that
24 will build the new building first behind the
25 old building. Then on Tuesday night, we're

1 going to shut the old building and open up the
2 new buildings so there will be no loss in
3 service. Then we're going to demolish the
4 building.

5 Just to review what happened last
6 February and April, because it has been a long
7 time - we're asking for waivers on the
8 building setback, the parking, the driveway,
9 the front setback area, the pavement setback,
10 the front lot line and six parking spaces
11 because we need 30 by the Code. We've got the
12 fuel. In the front yard and the 10-foot strip
13 in the back - that's called for on Goldstein's
14 lot.

15 At the February meeting we were asked a
16 lot of questions and I just would like to hand
17 out to the Board what we showed you in April
18 so we hopefully won't have to go over that
19 again.

20 This is the actual packet that was handed
21 out.

22 CHAIRMAN STUTO: Is there a picture of
23 the current land somewhere?

24 MR. LEWIS: The first sheet has that. You
25 can see the red overlay. What's in the dark is

1 what is existing.

2 The things that the board had asked for
3 in February was to document how many parking
4 spaces that we really need, to show cause for
5 the pump island with a door open to make sure
6 that there was enough room for cars to go
7 through. Additionally, to show cause on the
8 plan to find a back-up space between the
9 building and the gas island. This lot is tight
10 and we wouldn't do it if we didn't think that
11 it would work. We don't want things if they
12 don't work. We were asked to show how far the
13 pumps are from the road and from the canopy
14 and compare it to what is being proposed. We
15 showed the radiuses of all the vehicles, the
16 tanker, the delivery truck, how long it takes
17 for the tanker to unload and a diagram of
18 where that will be on the lot. The Board asked
19 for alternatives.

20 The reason that we didn't go to the
21 Zoning Board first, if the Board will recall,
22 was you thought that you might want the
23 building in a different area. In fact the new
24 design that we've showed you caused all those
25 things to move, so that's why the Zoning Board

1 got put off. So, my sense certainly was at the
2 end of the April meeting that this Board
3 seemed comfortable in a non-binding way that
4 the waivers made sense. So here we are today.

5 I would like to address the comments of
6 the Town Engineer, unless he wants to talk
7 about it first.

8 CHAIRMAN STUTO: Joe, what do you
9 suggest?

10 MR. GRASSO: I'd like to go through our
11 comments first.

12 I'm Joe Grasso from CHA. Along with me
13 tonight is Heather Wyld. She is also a
14 Professional Engineer with CHA. She's here
15 tonight so that you could get a chance to meet
16 her. Heather has been actively involved in a
17 review of this project. She'll be with you on
18 other projects in the future. We thought that
19 this would be a good opportunity for her to
20 come and meet the Board tonight.

21 CHAIRMAN STUTO: Hi Heather. Welcome.

22 MR. GRASSO: Our last letter on this was
23 just issued on March 4th. Tom did a good job
24 describing the history of the project up to
25 this point, so I'm not going to go through it.

1 He covered it well. I am going to go through
2 most of our comments, however, not verbatim.
3 I'll also touch on some of the other comments
4 that were brought up by various Town
5 Departments and other agencies that I think
6 are worthy of discussion and consideration by
7 the Board for the Board to perhaps take
8 further action.

9 We can start out with our first comment
10 in our March 4th letter. This plan that
11 Stewarts is proposing addresses most of the
12 comments that were brought by the DCC, as well
13 as in line with the comments raised during the
14 review that the project went through. It's
15 important to note that because of the land
16 acquisition from the Goldstein property, a
17 minor site plan application is required of the
18 Goldstein parcel. They have not provided that
19 for review. We understand what's proposed and
20 we talk a little bit about that -

21 CHAIRMAN STUTO: Would that be a minor
22 site plan or a subdivision?

23 MR. GRASSO: It's going to be a minor
24 site plan application. That's the way that we
25 look at it. So there is an application from

1 that that Stewarts needs to do so that we have
2 a formal application on file and that the
3 Board can act on. It's something that we can
4 defer to later on in the process, but it is a
5 required step and we'll ask Stewarts to
6 provide that application materials for the
7 Board's consideration.

8 One application can't move all the way
9 through the process without the other. So, at
10 some point we have to be looking at both
11 applications at one time.

12 Another comment that we brought up
13 earlier on at one point in the project is an
14 air photo to see their current and proposed
15 layout. Any time that you're dealing with
16 these developed sites, there is a lot of
17 information that you can gather from an air
18 photo that you can't get from the plan that
19 the Board has tonight. They haven't provided
20 that. We can still go through the review
21 process, but it's something that we've asked
22 for in the past and they haven't been
23 provided. We still see the merits of that even
24 if the project doesn't come back for concept
25 review. It's something that we would like

1 Stewart's to provide one for final.

2 Tom touched on all the waivers that are
3 required, so I'm not going to go through
4 those.

5 Just in terms of the process, the waivers
6 need to be acted on prior to or at the time of
7 final site plan determination. I think that
8 it's important that the Board continues to
9 review the merits of the application so that
10 we can work with the applicant and make sure
11 that the justifications that are being
12 provided for each of the waivers can get
13 rolled into the Planning Board's final
14 decision making.

15 CHAIRMAN STUTO: I know you're not going
16 through it now. Mr. Lewis went through them
17 once already. I think that there is going to
18 be questions about it. At least, I'm going to
19 have them - each and every one of the waivers.

20 MR. GRASSO: Okay, well as questions come
21 up we can delve into it a bit more.

22 I know that they've been talked about a
23 lot in the past, but as we go through the
24 process, we need to memorialize the
25 justification for each and every one so that

1 it's all wrapped up into the final decision.

2 As you know there is a design requirement
3 in the COR zoning that says, "provides a
4 certain amount of interior landscaped islands
5 based on the number of parking spaces in the
6 parking lot." Based on the 24 proposed parking
7 spaces, there has got to be a certain amount
8 of landscaped islands which is 480 feet. This
9 plan that is currently before us does not meet
10 the requirement. We make a suggestion about
11 adding a couple of landscaped islands within
12 the parking lot. One is where parking spaces 7
13 and 8 are located at one corner of the
14 building. That could pick up about a
15 320 square feet of area and then there is
16 additional landscaped islands along space
17 number 14. That would get us up to the minimum
18 requirement. The loss of parking spaces number
19 7 and 8 would require the construction of two
20 additional parking spaces. They actually
21 showed those two parking spaces. We think that
22 would be worthwhile to construct those at this
23 time. So, we do two things. We meet the
24 interior landscaped island requirement, and we
25 meet the parking requirement.

1 MR. NARDACCI: Joe, where are those
2 spaces?

3 MR. GRASSO: It's on the site plan
4 towards the back of the site on the side of
5 the building. It's basically just an extension
6 to the rear of the site of the parking.

7 I thought that the plans did a good job
8 of accommodating a sidewalk along the frontage
9 of the site. It also tries to meet the design
10 requirement of an ornamental fence with brick
11 columns. I think that they're about 10 feet
12 that they're proposing.

13 One of the design requirements is that
14 they have to provide a certain number of
15 street trees across the project's frontage.
16 This site has existing overhead transmission
17 lines that cut across the front. In order to
18 not put the street trees underneath the
19 overhead utilities, we think that the street
20 trees should actually be in line with this
21 ornamental fence. There is only so much
22 greenspace to work with and we think that the
23 best way to meet all the design requirements
24 is to actually break the ornamental fence in
25 it's mid-span with a four-foot gap and put the

1 street trees in-line with the fencing. We've
2 thrown that out for the Board's consideration.

3 Then we have provided some
4 recommendations regarding the types of trees.
5 We've picked out a couple of varieties that
6 would have higher branching patterns so we
7 don't have conflicts between the low hanging
8 branches for people that are trying to use the
9 sidewalk that will be built across the front
10 of the site.

11 Our next comment is comment five. We've
12 touched on the architecture of the building.
13 There are specific design guidelines regarding
14 the architecture of the building and this was
15 also touched on during the second sketch plan
16 review. When we looked at the elevations for
17 the building, we think that it's relatively
18 consistent with the architectural design
19 guidelines. We do think that there are some
20 features that are lacking so we threw out some
21 recommendations for the Board's consideration
22 such as a top of the roof cupola as well as
23 some muntins in the buildings and some
24 differences in signing materials.

25 If the Board remembers, during the second

1 sketch plan review there was some talk about
2 the type of roofing material. That hasn't been
3 articulated on the plans before tonight, so we
4 threw these out in addition to those things
5 for the Board's consideration. We hope that
6 Tom will speak more about what he can do to
7 the building architecture and why he can't do
8 certain things.

9 The other thing that we touched on here
10 is the architecture of the island. There
11 wasn't a lot of direction there or affirmative
12 direction that was supposed to come back
13 regarding the architecture of the fueling
14 island and what we've got before us now is the
15 classic fascia with the Sunoco racing stripe.
16 As we discussed in our letter, it's clearly
17 not in conformance with the design guidelines
18 and we recommended some different articulation
19 of the architecture of the canopy. Again, I
20 hope that Tom will provide us with different
21 options for the Board to weigh in on.

22 Number six is a minor detail regarding
23 how a sidewalk crosses the curb cuts. I'm sure
24 that they will address that as the design
25 progresses.

1 Number seven talks about the method of
2 bringing in a new electric service. They are
3 currently proposing a new overhead service
4 which will actually go over the new building.
5 We would recommend that they investigate and
6 go with a new underground service.

7 Number eight speaks about the
8 interconnection to the adjacent property to
9 the south, Mesa Realty. They were shown in
10 their reconfiguration of the interconnect
11 there. We went out and visited the site and
12 looked at how that curb cut aligned with
13 Mesa -

14 CHAIRMAN STUTO: Can you point that out
15 on your drawing up there so that we can all be
16 clear?

17 MR. LEWIS: Sure.

18 MR. GRASSO: This is where an air photo
19 would have helped us.

20 MR. LEWIS: We have an air photo here. We
21 have a handout.

22 MR. GRASSO: Could you put the air photo
23 up?

24 CHAIRMAN STUTO: Can you hand those out,
25 as well?

1 MR. LEWIS: The air photo shows a lot of
2 the things that are being discussed now.

3 CHAIRMAN STUTO: We like visuals.

4 MR. GRASSO: I just want to point out
5 the interconnection point of Mesa Realty.

6 What we found when we looked at the air
7 photo and went out to the site was that
8 proposed interconnection would have resulted
9 in a loss of some parking on the adjoining
10 property. Again, it should go through a site
11 plan review process. Assuming that all those
12 parking spaces are needed to support the
13 property's use, we would recommend that that
14 little interconnect that currently exists just
15 be left out of this.

16 CHAIRMAN STUTO: What's existing? I'm not
17 sure that I'm clear on that.

18 MR. GRASSO: I think it's like a 12 or
19 15-foot connection.

20 CHAIRMAN STUTO: So your rationale for
21 not doing it is what?

22 MR. GRASSO: We think that by blowing out
23 a wider curb cut area and relocating the
24 location of it, you're going to result in a
25 loss of a few parking spaces on the adjoining

1 property. We don't have enough information to
2 know whether or not the adjoining owner is
3 okay with that.

4 CHAIRMAN STUTO: Have you been
5 communicating?

6 MR. LEWIS: We haven't.

7 CHAIRMAN STUTO: We normally don't take
8 the public right yet, but do you want to speak
9 to that, Mr. Clemente?

10 MR. CLEMENTE: I'm Sal Clemente. I own
11 Mesa.

12 MR. LEWIS: We were really waiting to see
13 what this Board wanted. If the Board had no
14 objection and said go talk to the neighbors
15 then we'd have a conversation and see what
16 happened then.

17 CHAIRMAN STUTO: My philosophy is that if
18 it's before concept approval, it's good to
19 talk to the neighbors. That's my personal
20 opinion.

21 MR. CLEMENTE: That cut-out that we're
22 talking about - that's not supposed to be
23 there. That's on my side. That cut-out came
24 from Goldstein's workers cutting through there
25 to get to the light out front. I think that

1 they've been doing it for so long, Goldstein
2 ended up paving that road and the pavers put
3 some blacktop there. That's how that happened.

4 CHAIRMAN STUTO: That's before you owned
5 the property?

6 MR. CLEMENTE: No, that's when I owned
7 it.

8 CHAIRMAN STUTO: You weren't there that
9 day?

10 MR. CLEMENTE: I wasn't there when they
11 were paving it. Somebody just put some
12 blacktop there. There was supposed to be
13 greenery there. After awhile they just started
14 cutting through and then they'd just go to the
15 light. That is not a legal road or
16 cut-through.

17 CHAIRMAN STUTO: Do you have any
18 particular objection to the way that it went
19 in?

20 MR. CLEMENTE: This is the first time
21 I've heard about this. I don't know what
22 they're proposing.

23 CHAIRMAN STUTO: No, what you currently
24 have - do you have any objection to what you
25 currently have - meaning the pavement where

1 there is supposed to be greenery?

2 MR. CLEMENTE: It never bothered me. I've
3 allowed it to happen until now when I see what
4 this proposal is on a separate plan to come
5 through there with egress and ingress with a
6 proposal. Now I have an objection to it.

7 CHAIRMAN STUTO: No one is going to
8 impose that on you. That's your private
9 property.

10 MR. CLEMENTE: I know, but it's on a
11 separate set of plans. I do have some other
12 concerns with some things here.

13 CHAIRMAN STUTO: We'll give you a shot
14 later.

15 MR. GRASSO: To kind of wrap that issue
16 up - we don't support changing it unless it
17 went through a full review and obviously
18 involving the owner.

19 CHAIRMAN STUTO: In an ideal world
20 though?

21 MR. GRASSO: If the site did not need the
22 parking -

23 CHAIRMAN STUTO: Okay, so that's the key
24 variable.

25 MR. GRASSO: Then, yeah, I think that it

1 provides a better cross connection that widens
2 the curb cut to a typical minimum width of
3 20 or 24 feet. Like you said, right now it
4 only serves as one lane. It could be a little
5 bit more pronounced. So, if you're in front of
6 his building, patrons would understand that
7 it's there and could access that curb cut. It
8 would have to be a coordinated review effort.

9 Our comment nine is a very important
10 comment because it talks about the amount of
11 greenspace that's left, either within the
12 Stewart's property or the parcel that they're
13 obtaining from Goldstein and the element of
14 improvements on the Goldstein parcel. I think
15 that Tom can clarify what the greenspace
16 amounts will be. I think that it's going to be
17 about 10 feet. We need more information about
18 what will be done with the 10 foot strip and
19 how it's landscaped or screened is an
20 important aesthetic impact on the various
21 properties. We need more information about
22 that.

23 Comment 10 - there is currently water and
24 sewer service that serves the site. This
25 project is not going to have a significant

1 impact on those. They provided limited
2 information on the concept plan, which
3 wouldn't be considered consistent with the
4 Town's standard construction practices. We
5 don't think that it's something that needs to
6 hold up concept. We did raise the issue that
7 when the project moves forward during the
8 design process that we think that we need to
9 have coordination meetings with the various
10 Town Departments to make sure that any future
11 plan submittals do show both water and sewer
12 services.

13 Comment 11 speaks to the type of
14 stormwater management system that's going to
15 be required to support the project. Because
16 the project is less than an acre, a lot of the
17 projects that come in with very comprehensive
18 stormwater management faculties are not going
19 to be applicable to this project. There are
20 certain requirements that they still have to
21 comply with that would include a temporary
22 erosion control as well as some flood control
23 for certain design year storms. Other than
24 that, the infrastructure techniques that
25 you've heard us talk about for the last six

1 months or so is not applicable to this
2 project, as well as some of the other water
3 quality improvement measures that you might
4 see.

5 The last one is about the SEQRA. Because
6 the building is less than 4,000 square feet,
7 it's classified as a Type II action and no
8 formal SEQRA determination will be needed. So,
9 although they have provided it through the
10 supported application, the Board will not need
11 to make any SEQRA determination at any point
12 in the process. So, SEQRA is effectively done
13 as of now.

14 CHAIRMAN STUTO: Okay, do you want to
15 respond?

16 MR. LEWIS: Let's just review what I've
17 handed out. On sheet one, it shows what we
18 submitted. The next sheet - Mr. Grasso
19 suggested another kind of design. We'll talk
20 about that when we get to it. That's what
21 sheet two is.

22 Sheet three shows what is existing.

23 Sheet four shows a site plan with some
24 modifications and I'll go over those as I go
25 over the 11 items.

1 The next sheet is landscaping, and the
2 last sheet is an aerial that has in yellow
3 what we are proposing.

4 Number one - when we have to do the minor
5 site plan application, we'll submit the waiver
6 requests in writing as to the reasoning.

7 Item three - I know that it says that if
8 you're more than 28 parking spaces, then you
9 have to have more greenspace with number seven
10 and number eight. We have 18 around the
11 building. Let's assume that Mr. Grasso is
12 right again.

13 MR. GRASSO: That could be an
14 interpretation of the Board - in counting the
15 spaces around the pumps.

16 MR. LEWIS: We'll get to that. In my
17 opinion, there really isn't as much parking as
18 I'd like. We can live with it the way that it
19 is. If it has to be less, it's not a
20 deal-breaker. I would suggest that one of the
21 waivers I'm asking for is for six parking
22 spaces less. This way we're taking away two,
23 but then we could use the future parking and
24 that's less area than taking away here
25 (Indicating). So now there is a little less

1 greenspace. It's not the end of the world.

2 CHAIRMAN STUTO: Let me just summarize so
3 that everybody is clear. It's somewhat
4 confusing. You're already asking for a waiver
5 of six spaces?

6 MR. LEWIS: That's right.

7 CHAIRMAN STUTO: And if you wanted to
8 increase the interior greenspace or the
9 islands, you could reduce your parking even
10 further. Is that what I understood you to say?

11 MR. LEWIS: We can and it's not a
12 deal-killer for us. It's not desirable because
13 we think that we have a pretty good hold on
14 just how much business that site will do.

15 MR. NARDACCI: Tom, just on that point,
16 it's preferable, I think, to see the
17 greenspace and the interior than on the back
18 of the property. It makes a lot of sense as to
19 what Clough is suggesting to put those two
20 spaces in. I don't know how much of a
21 percentage change it would be, but it would
22 probably still be around that 26 percent,
23 overall.

24 MR. LEWIS: At this point that's a
25 detail. Other than having the interior, it

1 just makes it harder to snowplow. I understand
2 that there is a trade-off. There is a lot of
3 trade-offs on this application.

4 The Board will decide and we would just
5 as soon not give up seven and eight. If that's
6 important for the Board, so be it. The site
7 plan that you have now does show where there
8 is room for five four-inch caliper high branch
9 trees between the fences. On the site plan you
10 can see where the spaces are, if you have a
11 magnifying glass.

12 As to the architecture, I was lulled into
13 a false confidence because at our February
14 meeting the Board wanted something different.
15 So at the April meeting we showed what was the
16 new design and the status was also that the
17 Board liked that.

18 MR. NARDACCI: I didn't see slate and
19 copper though.

20 MR. LEWIS: That's going to be difficult.
21 One of the things that Joe did say was that he
22 wanted those muntins. We've got that on the
23 top. He also mentioned about a horizontal
24 fiber cement clapboard. One of our guys up at
25 the office said the Berkshire Bank just did

1 it. It's sort of what's being described here.
2 On sheet two, we've altered the design to
3 match the bank. So, if the Board would rather
4 have that -- we certainly want to be flexible
5 on the design. If this thing ever happens, we
6 want you to be happy with the look.

7 On the canopy we do have a detailed
8 molding and we obviously have the racing
9 stripe.

10 The next is the uninterrupted sidewalk.
11 The electrical service - I think that's
12 appeasing. We're neutral on the interconnect.

13 CHAIRMAN STUTO: I'm going to ask a dumb
14 question. You said that there is electrical
15 along the frontage. Is that going to be
16 expensive to bury?

17 MR. GRASSO: Yes. The transition
18 lines - they would never allow them to be
19 buried.

20 CHAIRMAN STUTO: He mentioned that the
21 development of the trees - the overhead lines
22 were in the way of the trees. That's why I was
23 asking the question about that.

24 MR. LEWIS: With regard to the
25 interconnect, we try hard not to anger our

1 neighbors. It sounds like I've already got one
2 who's justifiably unhappy. My apologies for
3 that.

4 We don't even know if the project is
5 going to happen. We're optimistic.

6 The next comment - we added another
7 waiver at this meeting. I don't know whether
8 the Board heard that or not. There are just a
9 few deal-killers here. There aren't many.

10 One of them is that if I have to go to
11 Mr. Goldstein and say I need another 10-feet
12 of land, I can tell you that's just not going
13 to happen. We do have adequate greenspace
14 behind our building and it shows on the site
15 plan that you have in the landscaping plan.
16 You'll see that on the north you've got seven
17 feet and then it tapers up to 15 feet. So,
18 even though one could ask the question that
19 only an applicant would ask - nobody is going
20 to see that back there. The rules say that we
21 want landscaping and we want greenspace. We're
22 happy to add landscaping to that, or whatever
23 you want. Someone buying a car will see the
24 back of our building.

25 CHAIRMAN STUTO: Let me stop you here. I

1 don't know if everybody understands. I had the
2 benefit of having a discussion with Joe
3 Grasso.

4 In addition to the landscaping on your
5 property, this would require Goldstein to
6 landscape a 10-foot strip.

7 MR. LEWIS: That's what the engineer
8 said.

9 CHAIRMAN STUTO: Does everyone understand
10 that? That's what they're asking a waiver
11 from.

12 I want to get the second part of this
13 out.

14 The calculation for the landscape
15 waiver - and that includes the waiver and the
16 fee that's paid - that includes the
17 landscaping that will not be required if the
18 waiver is granted from Goldstein? Is that too
19 long of a question?

20 MR. GRASSO: Yes.

21 CHAIRMAN STUTO: Are we calculating in
22 the Goldstein greenspace that's not going to
23 be there when we charge the landscape waiver?

24 MR. LEWIS: We calculated what we are now
25 and what we will be. I looked at only my part.

1 MR. GRASSO: The deficiency of that
2 landscaped strip - within the Goldstein parcel
3 is not factored into the incentive zoning.

4 CHAIRMAN STUTO: I thought that we came
5 to the opposite conclusion. How do you suggest
6 that we deal with that?

7 MR. GRASSO: I would say that we really
8 focus on good landscaping within the 10 to
9 15 feet that we have available.

10 CHAIRMAN STUTO: Well, they have to do
11 their minor site plan review - Goldstein.

12 MR. GRASSO: Yes.

13 CHAIRMAN STUTO: Is that going to be
14 dealt with on the minor site plan review?

15 MR. GRASSO: No, because what the plan
16 currently proposes is that Goldstein's
17 pavement will end at Goldstein's property
18 line. There will be no landscaped strip for us
19 to even consider there. The only greenspace
20 strip that we have to work with is within the
21 Stewart's proposed property. I think that's
22 where we should focus.

23 MR. LEWIS: I think that we got that
24 right.

25 CHAIRMAN STUTO: Okay. I just wanted to

1 get that out for the Board. I don't
2 necessarily have any objection to that.

3 MR. LEWIS: Number 10 and 11 - with the
4 stormwater, we'll do whatever it is that we're
5 asked to do.

6 Also, there is a sewer easement in the
7 front where the fence and the brick and the
8 trees are going. That's proposed to be
9 directly over the sewer.

10 MR. POTTER: That's going directly over
11 the sewer line.

12 MR. GRASSO: That's going to be a
13 problem.

14 MR. LEWIS: Okay, I don't know what to do
15 about that. We can put the fence somewhere
16 else.

17 CHAIRMAN STUTO: Can you restate that
18 issue? We've got a lot of things going here
19 and we want to make sure that we understand.

20 MR. LEWIS: Where we're showing this
21 fence - and the break on the side and the five
22 extra things that we just added -

23 CHAIRMAN STUTO: It's in the Town's sewer
24 easement?

25 MR. LEWIS: It's over the Town sewer and

1 in the Town sewer easement.

2 CHAIRMAN STUTO: Joe, what did you say?
3 That's a problem?

4 MR. GRASSO: Yes.

5 CHAIRMAN STUTO: What about for trees?

6 MR. GRASSO: That's a problem.

7 MR. LACIVITA: I know that from a
8 property that we approved - and it was a
9 residential property - we asked for a buffer
10 which was actually spruce trees. The fact was
11 that they were a different root system. When
12 it came through review for Pure Waters, they
13 asked that those spruce trees were pulled. I'm
14 assuming that Pure Waters will have an issue
15 with this.

16 CHAIRMAN STUTO: Is the fence a problem?

17 MR. LACIVITA: Yes, with a concrete
18 structure and with a base and everything else.
19 I think that we'll have a problem with that,
20 too.

21 CHAIRMAN STUTO: How close is it to the
22 actual line? Don't they have a 30-foot
23 easement there?

24 MR. POTTER: There is a 20-foot easement.

25 MR. LACIVITA: There is no way that you

1 can fit that in there.

2 MR. GRASSO: I would say that the best
3 alternative is to look at a relocation of the
4 sewer across the front of the property.

5 I incurred a lot of arguments about why
6 things on the site have to be located where
7 they are. Why can't they push back another
8 30 feet? Why the building can't go back
9 another 20 feet? I know what the Town's design
10 standards are at with regard to where the
11 sidewalks should be, where the fence should be
12 and where the trees should be. I think that
13 the easiest thing that is movable is the sewer
14 line. If that's not the case, then there might
15 be a lot of additional waivers - even if
16 they're not formal waivers. They're going to
17 be waivers from the intent of the design
18 guidelines regarding where things are supposed
19 to be located, and we would have to come back
20 to the Board for those things. What I would
21 say is let us take this issue up with the
22 applicant and Pure Waters. They're the ones
23 that own the sewer line and when we talk about
24 separation from that utility or where that
25 utility can get relocated to - a lot of it is

1 going to be driven by what Pure Waters says.
2 I'd rather have a separate meeting with them.

3 CHAIRMAN STUTO: I like this project
4 personally, as one member of this Board. I
5 think that it's an improvement of what's
6 there. I do want to hear what the neighbors
7 have to say. There is an awful lot of moving
8 parts on this. That makes me a little
9 trepidacious about concept approval. I'm going
10 to ask the other Board Members and you whether
11 you think we should resolve more of these
12 issues before we go to concept approval, or
13 whether it should ultimately vote positively
14 on concept approval and let them get resolved
15 before final. I don't know if you want to
16 answer now or wait.

17 MR. GRASSO: I can answer now. I think
18 that we should withhold on a concept
19 determination until we get more answers. I do
20 think that we should not just defer to another
21 meeting. Let's continue to see what we can
22 work through tonight so that the laundry list
23 is down to one page.

24 MR. LEWIS: And if the Board does go that
25 way, we understand it. My answer would have

1 been if this Board is comfortable with what
2 we're looking to do and there was concept
3 approval, it doesn't mean a lot really. I've
4 gotten concept before and not gotten final.

5 Maybe now is the time to say what I was
6 going to say before this meeting is over. Just
7 as this Board is recognizing how many moving
8 parts there is, our side of the table has
9 moving parts, too. Cost is one of them. We
10 understand pretty well how much business that
11 we're going to do. That's the key part. Based
12 on that, we are willing to invest a million or
13 a million and a half or two million or
14 whatever the number is, if there is a return.

15 One of the reasons why we haven't been
16 here since April was that there was a while
17 that we were getting ready to pull this
18 because the cost was getting high due to the
19 slates and the copper roof and what have you.
20 So a sewer easement and moving the
21 sewer - Chris understands all this stuff
22 better than I do - knows how expensive that
23 is. If I have to move that money over here, I
24 don't mind investing and I'll be very pleased
25 to see all of this because we have a good

1 attitude. If this Board were to say, no, Tom,
2 we want XYZ, we'll be very gracious if it
3 doesn't work out.

4 MS. DALTON: Tom, a little earlier you
5 said that there were a couple of deal-killers.
6 One of them was needing land from Goldstein.
7 But you didn't elaborate on what the other
8 ones are.

9 MR. LEWIS: If they don't come up, then I
10 just want to have a positive attitude.

11 MS. DALTON: So you don't have a laundry
12 list right now.

13 MR. LEWIS: It's a very short one. It
14 seems like if the Board says - I don't think
15 you were at the first meeting.

16 MS. DALTON: I'm new.

17 MR. LEWIS: The first and the second
18 meeting - as I say more and more now, we very
19 graciously accept no. If the Board says that
20 you have to have the building in the front and
21 the gas island behind, that's an easy, you
22 know, sorry, we can't do that.

23 MS. DALTON: Why is that?

24 MR. LEWIS: When you're a destination
25 like a doctor's office, nobody drives by

1 Dr. Jones' and says, oh, I think that I'll get
2 a check-up. It's a destination. It really
3 doesn't matter where the parking lot is. When
4 you feed 80 percent off of the product that is
5 on the road, no matter how well they know you,
6 if they don't see the gas and parking in
7 front, they will not go around the building.

8 MS. DALTON: I go to that Stewarts all
9 the time.

10 MR. LEWIS: You're a braver person than
11 I.

12 MS. DALTON: Yeah, it's scary in there
13 right now. For that purpose alone I think that
14 this really is a great concept and a good
15 thing to do as long as we can come together on
16 what the design standards are.

17 MR. LEWIS: I understand and we're hoping
18 to work with the Board.

19 CHAIRMAN STUTO: Okay. Let's keep going.
20 We haven't made a final decision yet.

21 MR. LEWIS: I think that I'm done.

22 CHAIRMAN STUTO: We're going to hear from
23 the public, but we're going to give the Board
24 an opportunity to ask questions. We'll start
25 on this side.

1 Mike?

2 MR. SULLIVAN: I had a few questions. One
3 just came up.

4 I'm wondering if the other alternative
5 would work. Instead of moving the sewer line,
6 you had presented one where the gas was on the
7 side. You called it number 12. It was back at
8 one of the other sketch plan meetings.

9 MR. LEWIS: That's the one that we
10 originally proposed. When the Board wanted the
11 other building, we showed you the design that
12 we have now because that building wouldn't fit
13 on that.

14 MR. SULLIVAN: There were two
15 alternatives presented, I think, in the first
16 sketch plan where the one that we have now
17 with the layout with the pumps in the front
18 and the other one had the pumps off to the
19 side -- this was before any discussions with
20 the aesthetics of the building itself. This
21 was just the location of the building. In
22 looking at it, it seems as though the
23 greenspace is now in the front and you could
24 move your fence behind the sewer line. I don't
25 know if that would be more cost effective than

1 moving a sewer line. I'm just throwing it out
2 there as an alternative. That just popped in
3 my head as we were discussing this problem
4 with the sewer line. I did have other
5 questions. Perhaps you could look into that
6 for future consideration.

7 I did have other questions on the
8 existing plan as proposed.

9 Specifically with item 3, putting the
10 interior parking island where spots seven and
11 eight are. Will that affect the turning
12 movements of the delivery trucks and the fuel
13 tanker? It looks like it's fairly tight and
14 currently you utilize the pavement, if needed.

15 MR. POTTER: It would be close.

16 MR. SULLIVAN: Okay. That's something
17 moving forward, I'd like to see a revised plan
18 showing -

19 MR. POTTER: You're talking about the
20 fuel pumps.

21 MR. SULLIVAN: Right. It looks tight in
22 that area.

23 The other comment I had was with the
24 architecture of the building. I agree with the
25 TDE that the cement board siding should be

1 used.

2 I did have a question on the canopy for
3 the fascia for the canopy. Will that have a
4 logo on it?

5 MR. LEWIS: No.

6 MR. SULLIVAN: It will just be white?

7 MR. LEWIS: It will just be a sign that
8 says Stewarts and a small design on it.

9 MR. SULLIVAN: But nothing on the canopy,
10 no Sunoco or anything on there?

11 MR. LEWIS: No.

12 MR. SULLIVAN: The other question that I
13 had deals with the cut-through. Is there
14 currently a cut-through farther behind the
15 property such that if someone needed to
16 get - there is one that we know is made
17 informally, I should say. The paved over
18 cut-through.

19 Mr. Clemente, is there way in the back
20 the ability to access the two properties?

21 MR. CLEMENTE: There is not supposed to
22 be. Goldstein's tractor trailers sometimes
23 can't turn around in there. They sometimes
24 can't make that cut in there.

25 MR. SULLIVAN: Do they cut through all

1 the buildings behind your property or do they
2 come down along the side?

3 MR. CLEMENTE: No, they come down behind
4 our store and get out to the traffic light. I
5 don't know about that entranceway out front.
6 That might be more than an entranceway.

7 The corner near my property actually goes
8 out much farther than that.

9 MS. DALTON: What I hear are two issues.
10 I just want to confirm that I've got it right.
11 The first thing that I hear is that the space
12 is not big enough for where the trucks have to
13 go.

14 MR. LEWIS: In the back with Goldstein?

15 MS. DALTON: Yes.

16 Secondly, I hear that perhaps they're
17 coming through there because they want to go
18 out by the light as opposed to coming out on
19 one of those cut-outs.

20 MR. CLEMENTE: That's correct.

21 MS. DALTON: It's not really just a
22 matter of whether or not they keep a road
23 there because the trucks are uncomfortable
24 coming out without some kind of traffic light.

25 MR. CLEMENTE: It's just easier for them

1 to come out behind my building.

2 MS. DALTON: Well that makes sense to me.
3 The point then is that if we just do something
4 about this area, that's not going to solve
5 their problem.

6 MR. CLEMENTE: No.

7 MR. SULLIVAN: That's all I had, but for
8 the record I would just like to list the
9 topics that I mentioned.

10 First, possibly revisiting the other
11 option.

12 Second, to have a plan of the interior
13 islands that would work with the existing
14 layout, if it will.

15 I think that the TDE's comments on the
16 architectural details like you have just
17 proposed. Also, to discuss with the neighbor
18 issues with interconnections.

19 I also agree with the TDE that we should
20 address these topics before moving forward.
21 That's just my opinion. I'm sure that other
22 Board Members will comment on that as well.

23 MR. LEWIS: Just so we're being straight,
24 I've already had three extensions on this
25 contract. This one expires June 30th.

1 MR. SULLIVAN: Right. It is a tough site
2 though, as you are well aware.

3 MR. LEWIS: I understand.

4 MR. SULLIVAN: Thank you.

5 CHAIRMAN STUTO: Tom?

6 MR. NARDACCI: I'd just like to say first
7 how much I really like this project. This is
8 my fourth year on the Board and I know that we
9 spent a lot of time over the last four years
10 encouraging and working closely with
11 applicants that want to redevelop parcels in
12 the Town. Fresh Market is a great example,
13 right down the road. There are some other
14 parcels on Central Avenue that are tough sites
15 similarly. We've done a good job, working
16 together to move it forward. I just wanted to
17 make the statement that this is very good.

18 I think that the architecture has come a
19 very long way from the first discussion that
20 we had. I think that getting rid of the racing
21 stripes and doing the molding on the canopy
22 and the really nice sign with the brick
23 features - I think that's really nice and it
24 fits the strip of Route 9 nicely.

25 Just to reiterate comments that I made

1 from the past two weeks - now the meetings
2 that we had before were sketch plan reviews so
3 there was never any agreements. They were just
4 discussions. Really, I spent a lot of time
5 talking about greenspace because I think that
6 in this strip and section of Town -- we have
7 across the street Newton Plaza and they do a
8 good job balancing green with a high intensity
9 use. I think that what you are proposing here
10 does so similarly. The percentage is down, but
11 I think that seeing the landscaping plan and
12 seeing all the trees - if we can resolve this
13 issue up front, having the trees with the
14 fencing, I think that would look really nice
15 compared to what the site it right now.

16 These are primarily comments.

17 I guess there were really no questions,
18 just a variety of comments. We'll have to see
19 what happens up at the front of the property.
20 That's the most important issue with regards
21 to a sewer. I guess the question is if it
22 becomes cost prohibitive to not be able to
23 move the sewer, is that something that the
24 ornamental fencing, the trees - they're all
25 pretty integral to this project. What's the

1 alternative there that's not there?

2 MR. LEWIS: What could we do with the
3 trees?

4 MR. GRASSO: Pure Waters typically says
5 that they don't want any trees within 10 feet
6 of the sewer.

7 MR. NARDACCI: Then have a separate
8 meeting. It's one of the things that we're
9 going to need to know, obviously.

10 MR. GRASSO: One of the things that
11 they're proposing at our request and to be
12 consistent with the design guidelines is to
13 build a sidewalk across the front. Where the
14 sidewalk is, it restricts the ability to do
15 fencing and landscaping. The sidewalk could be
16 shifted so that it was either up along the
17 curb line -- or like they've done for other
18 projects and after the sidewalk is done, have
19 it be done along the curb line when additional
20 sidewalks are done. Along with that, provide
21 some additional real estate to do landscaping
22 or fencing.

23 MR. LEWIS: I think that you just said
24 that the sidewalk is not in that sewer
25 easement area.

1 MR. POTTER: The sidewalk is in the right
2 of way.

3 MR. GRASSO: Yes, it's in the right of
4 way, but it's not in the sewer easement.

5 MR. LEWIS: So is that a Town or a state
6 issue?

7 MR. GRASSO: A state.

8 MR. LEWIS: I don't mind asking if we can
9 do a fence with trees. I don't think that
10 they'll let us. I can ask them.

11 MR. GRASSO: You want the sidewalk closer
12 to the street than the fence. You don't want
13 the sidewalk going inside the fence.

14 MR. NARDACCI: Right, that doesn't make
15 sense.

16 MR. GRASSO: That's why I said that's one
17 thing that we would consider if the sewer
18 can't be relocated and we're stuck with that
19 there. We're trying to accommodate a sidewalk
20 and a landscaping and fencing and that might
21 be a possible solution.

22 MR. NARDACCI: That said, I really don't
23 think that it makes a lot of sense to move
24 forward with concept until that's resolved. It
25 is a big part of this project. We've spent a

1 lot of time talking about that during sketch
2 plan.

3 Finally, I'd like to see more interior
4 landscaping. We'll have to see what the truck
5 turn around information is and if you can't
6 turn around, if it limits your mobility,
7 perhaps come up with an alternative; something
8 interior. I hate to see all the green being
9 located in the rear of the building.

10 MS. VAIDA: If I could point something
11 out to the Board on this - we seem to be
12 getting very hung up on the fence and I'm not
13 sure how important it is to have a fence. In
14 the design standards, there are certain
15 standards that are mandatory and some are
16 suggested. When you look at the language, the
17 minimum frontage build-out of 80 percent.
18 That's recommended as opposed to a lot of the
19 other design standards that say "shall be".
20 It's just recommended. It doesn't have to be
21 made of an actual fence. It could be
22 landscaping. There are also other sections in
23 the design standards that talk about having a
24 view of the building not being blocked from
25 the road. I'm just pointing that out.

1 MR. NARDACCI: I think that there is room
2 for maneuvering, it seems to me. The biggest
3 concern is that because it's a constrained
4 property, the percentage of greenspace is so
5 low at 26 percent, that was a feature that
6 really enhanced and helped us overcome that
7 lack of green. It's consistent. Fresh Market
8 is a great example for the epitome of how the
9 front of a lot should look.

10 CHAIRMAN STUTO: Okay, Lou?

11 MR. MION: This is the first time that
12 I've seen this project and I like it. I have
13 to agree with what's already been said. There
14 are a lot of things that we need to have
15 answered before we can move forward. That's
16 all I have.

17 CHAIRMAN STUTO: Kathy?

18 MS. DALTON: Same here. I think that it's
19 absolutely necessary there. I do think that
20 the current structure is kind of hazardous. I
21 agree that it's a growing area. I think that's
22 part of a gateway to the community and it
23 makes us do a nice job to put a building
24 there. I'd like to see it look consistently
25 nice with greenspace and a really nice

1 building placed there. I guess I'm not ready
2 to say that we're there yet.

3 MR. LEWIS: I would ask Joe what's the
4 timeframe for us to come back?

5 MR. LACIVITA: Quick.

6 MR. LEWIS: We all go as fast as we can.

7 CHAIRMAN STUTO: Let's do that at the
8 end. Let's hear from the public and then I'll
9 save my comments to the end. I don't have
10 many. I like the project and I want to work
11 together and make it happen.

12 MR. CLEMENTE: I just would like it done
13 right. If we're looking at the front of your
14 property, how much greenspace is going to be
15 in the front?

16 MR. POTTER: There will be a fence and
17 trees that we're proposing.

18 MR. CLEMENTE: If you start just south of
19 me and go all the way down past my store, past
20 Goldstein, and you've got A-Frame right to
21 155, everybody has the lawn in front. You're
22 the only people that don't have any. I'd like
23 to see a lawn that may be consistent with the
24 rest of that corridor of that side of the
25 road.

1 CHAIRMAN STUTO: You want a strip of
2 grass between the curb and the parking lot.

3 MR. CLEMENTE: I have flowers and
4 shrubbery and trees. I mulch it and we go
5 through all this stuff. I'd like to see
6 something like that which would be consistent
7 with all the other places. If you go all the
8 way down to 155 on that side, you'll see every
9 site have trees and shrubbery. I would like to
10 see the same thing here. It's a pretty area
11 and now that we're making this change, I think
12 that it should be the same thing. The greenery
13 in the back doesn't do anything for me. Out
14 front, I think that it's necessary to help
15 keep the value of my property up if you would
16 do the same thing that would be consistent
17 with the rest of the neighbors.

18 MR. NARDACCI: Mr. Clemente, I would just
19 like to interject one thing.

20 My understanding was that it was all
21 grass underneath the fence. I'm reading the
22 minutes from the last meeting. This whole
23 island and not just this corner, but this
24 island under the fence. What is that?

25 MR. POTTER: It would be all grass. Then

1 we add the trees.

2 MR. NARDACCI: So that whole island is
3 grass except for the sidewalk.

4 MR. CLEMENTE: That's what I'm saying.
5 How deep does that grass go?

6 MR. POTTER: Eight feet.

7 MR. NARDACCI: Okay, so there is three
8 feet of sidewalk.

9 MR. CLEMENTE: That's not enough grass
10 for me.

11 MR. NARDACCI: How wide is the whole
12 island?

13 MR. POTTER: There are three or four feet
14 of snow storage, a five foot sidewalk and
15 about eight feet of grass.

16 MR. LEWIS: As we had mentioned back in
17 February and April, I cannot change the
18 distance from here to here (Indicting). I'm
19 not going to build something that's going to
20 cause us to hate each other. The only way to
21 make this larger than that 16 feet is to move
22 this (Indicating).

23 MR. LACIVITA: Tom, I think that the
24 difference that we're seeing here is that I
25 don't believe that you have sidewalks on your

1 component as compared to what they're putting
2 here. You have the green grassy berm knoll
3 effect.

4 MR. NARDACCI: Right. If they don't build
5 sidewalks and they put money in escrow, the
6 sidewalks are going to be grass. So, there
7 will be 11 feet of grass.

8 MR. CLEMENTE: But they're already
9 starting at a percentage that's lower than
10 what was required. You're going down in
11 greenspace.

12 MR. NARDACCI: They're maintaining the
13 percentage.

14 MR. CLEMENTE: It shows here going from
15 26 to 25 on this (Indicating). Would that
16 change again tonight?

17 MR. LEWIS: No, I think that this is the
18 margin. I think that I've lost a little bit
19 with the seven and eight spots.

20 MR. CLEMENTE: It starts low anyway. It
21 should be higher, as far as I'm concerned. It
22 should be 30 or 33.

23 MS. DALTON: Just based on the
24 conversation, we want to weigh in from this
25 side on the Planning Board. We think that it's

1 really important to have the sidewalk be
2 contiguous so that folks are starting to make
3 that area a really nice walking area so
4 somebody can go to Starbucks and all that kind
5 of stuff.

6 MR. LEWIS: We don't have a sidewalk.

7 MS. DALTON: I thought that you did.

8 MR. LEWIS: No.

9 MS. DALTON: Well, I think that you
10 should have one.

11 MR. CLEMENTE: They need a sidewalk down
12 to Siena College.

13 MS. DALTON: That's exactly what we're
14 saying over on this side. Obviously, we can't
15 speak for the whole Board, but I think that it
16 would be a really good idea to start to - even
17 if we have to give up a little green to have
18 that walkable space.

19 MR. CLEMENTE: Well, if they pulled all
20 that back with the building and bought more
21 property from Goldstein -

22 MS. DALTON: Not if Mr. Goldstein is not
23 going to sell it.

24 MR. NARDACCI: With regards to the
25 sidewalks, the Town does not have an adopted

1 sidewalk master plan at this point. There is a
2 draft document out there. One of the areas of
3 Town that they talked about encouraging
4 sidewalks is from Siena down to the circle,
5 which makes a lot of sense. We've come up
6 against this a couple of times on this Board.
7 It's not an adopted policy or plan. That's why
8 if they don't build a sidewalk, they're at
9 least going to put money in escrow. It makes a
10 lot more sense to build it.

11 MR. CLEMENTE: Why put it in escrow,
12 though?

13 MR. NARDACCI: Joe, can you explain
14 sidewalk escrow money?

15 MR. LACIVITA: What we do is calculate
16 how much it may be to install the sidewalks
17 and estimate what it's going to be. They put
18 it into a sidewalk escrow account that's held
19 by the Department of Public Works and then at
20 that time, if sidewalks should come through,
21 the escrow is released in order to fund the
22 improvement. I know that we're working with
23 Siena College and we're working with other
24 companies that are looking to build on that
25 Route 9 corridor to extend it, as you were

1 saying, right down to Siena College. So, it's
2 something that you have to start somewhere.
3 This is a perfect opportunity. We're doing
4 them at Berkshire Bank. We have connectivity
5 all the way over to Stewarts, the Village of
6 New Loudon which is on its way to Phase II
7 also has sidewalks in it. So, it's a corridor
8 that can really be improved with sidewalks in
9 it.

10 When you built your location, it was much
11 different as many of the zoning laws have
12 changed over time.

13 MR. CLEMENTE: Where did they come up
14 with 35 percent?

15 MR. NARDACCI: The 35 percent - if they
16 can't meet the requirements then they have to
17 pay money. They have to pay mitigation fees.

18 MR. CLEMENTE: That doesn't do anything
19 for that corridor. It doesn't make it look any
20 better in the back like that. Stewart's has
21 deep pockets. I'm sure that \$16,000 or \$20,000
22 won't be anything.

23 I would like to show you something on
24 this map. With Goldstein selling this
25 property, that is my retention pond. Those are

1 his cars. He parks in there because he doesn't
2 have enough room. This is where he piles his
3 snow into my retention pond because there is
4 no other place to put it. So, he plows it in
5 there and every spring I have to clean it up
6 so that it can drain there. So, now he's
7 getting rid of more property behind here so
8 there will be less space to put snow so more
9 of it is going to go into there. That's got to
10 be resolved and he can't be doing that. I told
11 him before and he says, yes, I'll take care of
12 it and he doesn't. You can see the pile of it
13 right here (Indicating). That's 30 feet high
14 and that's reduced because there has been some
15 melting.

16 This is the side of my building. You can
17 see the side coming around here. He pushes the
18 snow up into it. Now, he's getting rid of more
19 property there. Where is he going to put this
20 stuff? He's creating another hardship there
21 for me. He uses my property to put this stuff
22 on here. I'd like that resolved before he gets
23 to sell that land. What's he going to do with
24 the snow then? I'm a nice neighbor and I've
25 accepted it until now when I know he's going

1 to get rid of the property. He's going to sell
2 it. You should think twice about that.

3 MR. NARDACCI: Snow storage should be
4 contained on the property and if not, it
5 should be removed. It's really an issue that
6 should be addressed with Code Enforcement.

7 CHAIRMAN STUTO: I understand what you're
8 saying. We're reviewing a situation. They have
9 to get minor site plan review in the back with
10 Goldstein and it's a serious question.

11 MR. CLEMENTE: It's an issue. There is no
12 easement in there. I cooperate and let them
13 cut through there, but if he's going to sell
14 property behind there and make matters worse,
15 then I might just block that off or make them
16 pay me to go behind my building and go out to
17 the light.

18 The other issue with Stewart's was years
19 ago they had come to me and talked about
20 joining Stewarts with my lot.

21 MR. LEWIS: A joint lot.

22 MR. CLEMENTE: Right, which made sense to
23 me at the time because it would have
24 eliminated all these cut outs. There are about
25 five ingress and egress. I wasn't opposed to

1 that, if they had come to me with a proposal.
2 They didn't do that. Now they're doing this.
3 This is like a hardship they're creating where
4 maybe they don't need the hardship if we work
5 together on something like that. That's doable
6 if they're interested in it. I've got the
7 property and I've got the traffic light there
8 and this is what the former administration
9 wanted to happen. They just never pursued it.
10 You know more about it than I do.

11 CHAIRMAN STUTO: I have to bring this
12 meeting to order. This is why I don't think
13 that this is ready for concept approval.

14 Any other members of the public want to
15 speak?

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

17 CHAIRMAN STUTO: More discussion from the
18 Board?

19 MS. DALTON: Seriously, because we're
20 putting it off, it does look like it solves a
21 lot of issues. After the meeting we can talk
22 to either of you about what we're talking
23 about on this end, the kinds of issues that we
24 might be able to resolve. We would encourage
25 you to take this time to solve some of the

1 other questions that have been raised, and to
2 really sit down with Mr. Clemente and see if
3 that might be a possibility.

4 MR. LEWIS: We don't care either way.
5 From our point, we can do it or not, assuming
6 that it works with our neighbor. Is that the
7 sense of the whole Board that I should pursue
8 that? If the engineers don't do it and someone
9 else does do it - I just want the direction of
10 where to go.

11 MR. NARDACCI: It makes a lot of sense
12 and it's in the spirit of the Comprehensive
13 Plan to make these interconnections. I would
14 suggest that you do pursue it, but that you
15 sit down with the adjoining property owner and
16 have a conversation about it.

17 MS. DALTON: If you did that, then you
18 could actually in this area right here - where
19 you currently have that easement, you could
20 move your fence over there.

21 MR. LEWIS: I'm fairly sure that we don't
22 have an easement. I'm sure that we own that
23 land.

24 MS. DALTON: Right, but currently it's
25 being used as a road. Instead of using that,

1 if you closed it and put your fence there and
2 used that space to adjoin your lot -

3 MR. POTTER: If we close that, Goldstein
4 would then not be able to deliver his cars.

5 MS. DALTON: He doesn't own that land
6 right now so he's going to also have to work
7 with Mr. Clemente if he wants to create an
8 easement for himself to go around the
9 building. So, I'm suggesting that three
10 neighbors work with each other, but if you did
11 that I think that it would benefit the
12 community. I think that it would make a better
13 working space for both of your clients. If you
14 can work out the easement with Mr. Goldstein,
15 it will solve his problem, as well. I think
16 that it's worth having all three parties sit
17 down and try to hammer out something.

18 MR. LEWIS: I would be willing to sit
19 down and try to solve something to improve it.

20 MS. DALTON: It's just a suggestion.

21 MS. VAIDA: Maybe we should ask for the
22 Town Designated Engineer, like you said
23 before, before you go off pursuing different
24 things - if that would work.

25 Would that be an alternative?

1 MR. GRASSO: Would that involve closing
2 this curb cut?

3 MR. LEWIS: Yes.

4 MR. GRASSO: And that would be
5 redirecting the traffic over to the signal.

6 MS. DALTON: Yes.

7 MR. GRASSO: Generally, we would be
8 supportive of that type of access.

9 MS. DALTON: It would also offer the
10 possibility of a sidewalk, in the event that
11 we get to a sidewalk policy.

12 MR. GRASSO: It changes the dynamics of
13 the current application. It's like the
14 Goldstein's where we really have to see the
15 implications on the adjoining property before
16 we can fully support it.

17 CHAIRMAN STUTO: We've gotten a lot of
18 issues out on the table. I guess our sense is
19 that there are just a few too many open issues
20 for us. That's my sense, but I want to hear
21 from the Board. To vote on concept today - I
22 think that there is a general support of the
23 project. I think that we want to whittle down
24 the issues a little bit. I think that we want
25 you to work with the neighbor.

1 Joe, I don't know if you have a calendar
2 slot. When we can get them back to discuss
3 that?

4 MR. LEWIS: We can file another set of
5 plans pretty quick.

6 MR. LACIVITA: The soonest that we could
7 look at is the latter part of April, which is
8 the 26th. The May 10th meeting has plenty of
9 openings, also. The 26th, we have one slot
10 available at this point.

11 Maybe I can start to monitor
12 conversations and say when we can squeeze them
13 in at one point in time.

14 CHAIRMAN STUTO: Can we guarantee them
15 the 26th right now?

16 MR. LACIVITA: I can pencil it in and
17 certainly see at that point where we're at.

18 MR. GRASSO: Before we close, I just want
19 to confirm that it was unanimous of the Board
20 was to support the island for spaces 7 and 8
21 and to construct the two additional parking
22 spaces -

23 MR. NARDACCI: Joe, I think the question
24 is that Mike raised a good issue with regards
25 to the turning ability of the delivery.

1 MR. GRASSO: Absent of that issue, I
2 think that the Board was supportive of an
3 interior landscaped island there. Add the two
4 additional spaces off the back, and whatever
5 the greenspace calculation is - to pay the
6 incentive zoning fee.

7 MR. NARDACCI: That works for me.

8 CHAIRMAN STUTO: That works for me.

9 MR. GRASSO: I just wanted to make sure
10 that we were clear.

11 MR. LEWIS: It's not the best, but we'll
12 live with it.

13 CHAIRMAN STUTO: I'll say for the record
14 that I supported all of Joe's comments. I like
15 the architectural improvements. I support
16 everything that's in Joe's letter.

17 I understand what you're saying about
18 cost benefit and I'll personally show some
19 flexibility, but I want to see the
20 improvements.

21 MR. LEWIS: So I heard that the Board
22 likes that siding.

23 MR. GRASSO: Fiber cement.

24 MR. LEWIS: Okay. Do you like what was
25 done at Berkshire with the stone at the

1 bottom? That's new. Would you poll the Board
2 for that so we can get some sense of that?

3 MR. NARDACCI: For me, personally, it's
4 something that, speaking for myself, it's in
5 the design standards. In looking at the
6 standards part of it, that does say
7 incorporating stone into the design for the
8 COR. I do support it because it's part of the
9 design standards. It works at Berkshire. We
10 have other projects in that corridor that we
11 have had the same conversations with.

12 CHAIRMAN STUTO: Motion to table?

13 MR. SULLIVAN: I'll make that motion.

14 MS. DALTON: Second.

15 CHAIRMAN STUTO: All in favor?

16 ***(Ayes were recited.)***

17 CHAIRMAN STUTO: All opposed?

18 ***(There were none opposed.)***

19 CHAIRMAN STUTO: Ayes have it.

20

21

22 ***(Whereas the proceeding concerning the above***

23 ***entitled matter was adjourned at***

24

8:47 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 March 28, 2010