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PLANNING BOARD COUNTY OF ALBANY
TOWN OF COLONIE

THE SHOPPES AT LATHAM CIRCLE
790 & 800 LOUDON ROAD AND
39, 45 & 47 KUNKER AVENUE AND
532 TROY-SCHENECTADY ROAD
APPLICATION FOR CONCEPT ACCEPTANCE

THE STENOGRAPHIC MINUTES of the above entitled
matter BY NANCY STRANG VANDEBOGART, a Shorthand
Reporter, commencing on October 23, 2012 at
9:33 p.m. at the Public Operations Center, 347
Old Niskayuna Road, Latham, New York 12110.

BOARD MEMBERS:

- PETER STUTO, CHAIRMAN
- LOU MION
- TIMOTHY LANE
- KATHY DALTON
- BRIAN AUSTIN
- MICHAEL SULLIVAN

Also present:

- Elena Vaida, Esq., Counsel to the Planning
- Joe LaCivita, Director, Planning and Economic
Development
- Chuck Voss, PE, Barton and Loguidice
- Andy Brick, Esq., Donald Zee and Associates
- Donald Zee, Esq., Donald Zee and Associates
- Michael C. Magguilli, Esq., Town Attorney
- Mark Hebert, VP, Grossman Development
- Martin Zanghi, CT Male
- Joe Kramer
- Janette Terrell
- Ritchie Eriksen
- Peter Wayner
- Susan Wayner
- Helen Duncan
- Mike Kalinchak
- John Fahey

1 CHAIRMAN STUTO: Next on the agenda is The
2 Shoppes at Latham Circle. This issue is here
3 tonight to raze the existing mall and replace
4 with 372,646 square feet of new retail space,
5 and two out-parcels totalling 16,000 square
6 feet.

7 Joe LaCivita, can you give us an introduction
8 on this one?

9 MR. LACIVITA: Sure. I think that we all
10 know the history of this mall that has been at
11 least a 10 to 15 year define. Currently the
12 mall does sit vacant as we know it today. It's
13 in an HCOR zone, which is
14 Highway/Commerical/Office Residential.

15 Since we took the application, there have been
16 several working meetings with the various Town
17 departments, the Department of Transportation,
18 our Town Designated Engineer and the design
19 professionals. We went through a number of
20 complexities of the project, so what we have is
21 the concept acceptance form here tonight.

22 We had a DCC meeting on August 8th. We had a
23 sketch plan review meeting shortly thereafter
24 on October 9th, where this Board got to see for
25 the first time what it looked like. Again, we

1 went through additional meetings of the
2 complexities of the stormwater design. We're
3 here again tonight to offer concept acceptance
4 on the redevelopment of the Shoppes at Latham
5 Circle. I'll turn it over to Andy Brick who
6 will introduce the design team.

7 MR. BRICK: Good evening. I'm Andy Brick
8 from Donald Zee, PC. With me this evening,
9 very briefly is my law partner, Donald Zee, my
10 associate Adam Roberts from CT Male, the
11 project engineers and we have Marty Zanghi and
12 Melissa Courier. Our traffic engineer, Wendy
13 Holzberger from Creighton Manning is here as
14 well. We also have the project applicant
15 represented from Grossman Realty Development
16 Group, Mark Hebert who is the Vice President of
17 Development for Grossman.

18 Thank you for having us this evening. First,
19 I would like to start off having the Board and
20 the public know that there has been a major
21 change to the scope of our proposal. As of
22 today, our clients have made a determination to
23 withdraw their application for any type of
24 changes through the site plan review process to
25 the Lowe's parcel. On behalf of our clients, I

1 would apologize that you're here this late in
2 the evening if you're here for any issues
3 relating to Lowe's. Any of those proposed
4 changes that you saw in the previous plans have
5 been withdrawn as of today in correspondence to
6 the Town.

7 CHAIRMAN STUTO: Can you outline that
8 parcel?

9 MR. BRICK: Sure. And just so the public
10 is aware, it looks like it's one big piece of
11 property, but it's really two separate
12 properties. Lowe's is on a separate property
13 and the mall is next to it -- they abut each
14 other, but it's two separate properties. We
15 had proposed very briefly to raze two existing
16 single family homes on Kunker Avenue and
17 replace them with parking areas and storage
18 areas. That application has been withdrawn.
19 Those parking lots are no longer proposed and
20 any of the other changes to the Lowe's parcel
21 have been withdrawn.

22 One of the bigger aspects of that was that we
23 had proposed a 10,000 square foot pad site for
24 a new building at the corner of Kunker Avenue
25 and Route 9. That's been withdrawn as well.

1 All aspects of that parcel - any changes that
2 have been proposed have been withdrawn. The
3 reason for that, quite simply, is timing. We
4 have reviewed the comments from the various
5 Town departments and some of them - Mike Lyons
6 for example raised some significant concerns
7 about what was being proposed on that parcel.
8 We've also spoke with a number of residents.
9 Mark and I spoke with residents at the last
10 meeting. However, tonight we've had the
11 opportunity to speak with even more of the
12 residents of the neighborhood. In addition,
13 those conversations reveled to us that some of
14 the major issues that could bog down this
15 review process tended to be on that particular
16 parcel. Specifically, the idea of increasing
17 the parking on some things that are proposed
18 that were discussed when Lowe's was originally
19 applied for and they weren't allowed then.
20 Some of the neighbors were concerned that they
21 had to fight it once and now they're coming
22 back. So, rather than bog down the whole
23 process - what was decided was that we're just
24 going to eliminate any --

25 CHAIRMAN STUTO: Can you outline that

1 parcel that you're eliminating from the
2 application?

3 MR. BRICK: Sure. It's in the lighter
4 color brown on this side, which is the existing
5 Lowe's building and the front parking lot.
6 These are single family homes. It's shown on
7 here. The parking lots are going to remain,
8 the single family residences and the proposed
9 10,000 square foot pad site is being removed as
10 well.

11 CHAIRMAN STUTO: Can you trace the
12 perimeter on that?

13 MR. BRICK: Sure. It runs right up along
14 the corner of the Lowe's building, it goes over
15 and runs along the perimeter road, down around
16 here and around to Kunker and out to Route 9.
17 It's the left side of the site plan.

18 CHAIRMAN STUTO: So, we can forget about
19 that for the purposes of reviewing the site
20 plan application.

21 MR. BRICK: Correct. Bob Cordell in the
22 Building Department said because it's two
23 separate lots, you have to file two separate
24 zoning verifications. So, we're withdrawing
25 that site plan and that request for zoning

1 verification and we'd like to speak with you
2 tonight about the remaining parcel and what
3 we'd like to see here. Again, the main reason
4 that we made that decision is because of
5 timing. We are actively negotiating with
6 tenants for the mall property, but timing is an
7 issue for national tenants. They want a level
8 of assurance that things are going to happen
9 quickly during the review process. We don't
10 want to bog down that review process.

11 When we were here last during the summer, we
12 had mentioned that we were speaking actively
13 with a national restaurant chain. We were very
14 excited about them coming up to the area. They
15 would have been the first ones in the area. We
16 lost them. They decided to go to another
17 location, due to the fact of the timing and the
18 concern of the approval process. Other
19 reputable national tenants that we are speaking
20 with are very concerned about timing and are
21 watching very closely to see if the approval
22 process would work on a timeline that they
23 could work with. That's why we're here
24 tonight. We've dropped off what we think are
25 the problematic aspects and we're seeking

1 concept approval for the mall site.

2 What we are proposing for the mall property is
3 the demolition of the front portion of the
4 building along Lowe's, as well as down towards
5 the movie theater. JC Penny, an existing
6 tenant, will remain. The movie theater
7 building, an existing tenant, will remain. The
8 rest of the building will be razed and rebuilt.
9 A portion of it will not be rebuilt as
10 structure, but instead will become a parking
11 lot.

12 CHAIRMAN STUTO: I think that the Board
13 understands that. I am not 100 percent sure if
14 all the residents to. That's a proposed
15 condition and it's not existing.

16 MR. BRICK: Correct. In existing
17 conditions, this brown is the mall. This is
18 Penny's and this is the Theater, this is dead
19 mall.com (Indicating). I don't know how else
20 to put it. This right here what we're showing
21 is parking lot and is proposed in front of the
22 building. Those of you who are familiar with
23 the building know that this is structure here
24 (Indicating). So, envision this all in here in
25 brown. This portion here is proposed to be

1 replace,d, but it won't be replaced as building
2 structure. It will be replaced as parking lot.
3 The net result of that is that we are reducing
4 the building square footage by just under
5 78,000 square feet.

6 CHAIRMAN STUTO: You're razing the rest of
7 it too. You're knocking down the rest, but
8 then you're rebuilding it.

9 MR. BRICK: Correct. It's going back up
10 from the movie theater to the Lowe's side; just
11 not in the front parking area.

12 CHAIRMAN STUTO: So, that will be all
13 brand new building.

14 MR. BRICK: Correct. It will smell much
15 better.

16 MS. DALTON: We're looking forward to
17 that.

18 MR. BRICK: In addition, we're proposing a
19 smaller 6,000 square foot pad site - a new
20 building out on the corner towards the circle
21 for some type of retail use that is compatible
22 with that corner. The existing bank is there
23 and this would be to the north of the bank
24 (Indicating).

25 In terms of greenspace, you have greenspace

1 calculations that the PEDD put together, but
2 those have now changed due to the fact that it
3 incorporated both parcels. We've actually
4 reduced the greenspace reduction as a result of
5 casting off the Lowe's site part of the
6 application. We are now only proposing that
7 with this design, it will result in reduction
8 of existing greenspace by only one percent. We
9 went from 22.4 to 21.4. So, again, we have
10 decreased that reduction. What we are
11 proposing to do to make up for the reduction in
12 greenspace is we have been speaking with the
13 New York State Department of Transportation.
14 We've been talking to Don Roberts of the right
15 of way division. What we are going to seek
16 from DOT is a licence to maintain the state
17 right of way beginning at Kunker and running
18 all the way around the property to Herbert.
19 It's generally about a 15 to 20 foot strip of
20 grass that goes around 50 percent of the
21 property. We are going to seek DOT approval to
22 maintain that as greenspace and landscaped area
23 and attempt to utilize that to offset the
24 greenspace reduction that would result from our
25 proposed design.

1 In terms of parking, the addition of the front
2 parking area in front of the new building will
3 result in an increase from an existing 1,568
4 parking spaces to 1,858. So, we have a small
5 increase in parking spaces as a result of this
6 design.

7 In terms of stormwater management, which I
8 know these days is a very important issue to
9 people. We have met on a number of occasions
10 with Town staff as well as the Town's
11 Designated Engineer and I think that it's fair
12 to say that the Town has really held our feet
13 to the fire on stormwater management. What
14 they want to see an improvement in the
15 stormwater management system as it exists.
16 They're not going to just let us keep the
17 status quo and do no further harm. They want
18 to see improvement to the site. We have
19 committed to providing a design to them for
20 review that will actually improve the
21 stormwater management conditions on the site
22 rather than just keep them as a status quo.

23 In terms of your State Environmental Quality
24 Review Act - your SEQRA review - as a lead
25 agency, we believe that the elimination of the

1 Lowe's parcel greatly reduces the potential for
2 impacts and lessens the amount of potential
3 adverse impacts resulting from that. We think
4 that it helps the SEQRA review.

5 As you go through that process, we had
6 previously at our last meeting provided to the
7 Board and Town staff a list of the waivers that
8 we were seeking. We are seeking those waivers
9 to maintain as much of the existing conditions
10 - especially the existing greenspace - as we
11 possibly can. You should have received a
12 letter from your Town Designated Engineer,
13 Barton and Loguidice, dated October 4th wherein
14 they stated that they found each of our waiver
15 requests to be reasonable in light of the
16 circumstances and the existing conditions.

17 We also received a comment letter from your
18 Town Planner, Mike Lyons. He put together 20
19 points that he wanted to raise. I'm prepared
20 to discuss each one of those with the Board or
21 any individual that the Board would like. In
22 light of the hour, we don't have to do that.
23 If you have that letter - we would gladly take
24 questions from the Board or the public. We've
25 had a number of very productive discussions

1 with members of the public while we have been
2 waiting to appear tonight. So, that actually
3 was a helpful process to us.

4 CHAIRMAN STUTO: I'll ask for comments
5 from our Town Designated Engineer and then
6 we'll hear from the Board and the public.

7 Chuck Voss?

8 MR. VOSS: Thank you, Peter.

9 As you know we issued a concept review letter
10 dated October 11, 2012. I think that the Board
11 has a copy of that. In addition to that was an
12 earlier letter regarding the waiver request
13 dated October 4th.

14 Let me just go through our concept acceptance
15 review letter right now.

16 Basically, with the changes proposed by the
17 applicant, some of these will apply and some of
18 these may not apply. I'll just go through them
19 quickly.

20 As Andy mentioned the SEQRA - the Town has
21 deemed this project a Type I action, as per the
22 SEQRA code. The Board will need to discuss and
23 basically declare the lead agency process that
24 can be done, certainly as we move forward.

25 As was mentioned earlier, the project sits in

1 the HCOR district which is the
2 Highway/Commercial/Office/Residential
3 district, and the design standards do apply to
4 this project. I'm going to walk through
5 several of those quickly.

6 The first HCOR design standard that we're
7 talking about was building placement. The
8 project proposed appears to conform with the
9 requirements with the design standards,
10 overall. The 80 percent of frontage build-out
11 due to the presence of existing mature
12 landscaping and mature trees on the site - the
13 application proposes to incorporate this mature
14 landscaping in their frontage. As we've seen
15 with other applications, often times the Board
16 will require additional fencing to satisfy
17 that. They may be seeking a waiver from that
18 depending on how they have reconfigured their
19 project. The most recent letter that we
20 received today -- that's still yet to be seen.

21 We talked about setbacks briefly. The current
22 building does sit back quite significantly -
23 the new building. The maximum setback right
24 now for this area is defined in the code as 25
25 feet. I believe, Andy, by looking at the new

1 site plan, it's a couple hundred feet from the
2 front property line, as proposed?

3 MR. BRICK: Yes.

4 MR. VOSS: So, there may be a waiver
5 request for that as well.

6 Certainly on-street parking in the HCOR
7 district is encouraged. However, for obvious
8 reasons in this area, on-street parking along
9 Route 9 or Route 2 is certainly not encouraged
10 by DOT and would not be allowed.

11 As the applicant mentioned, they will be
12 adding 301 new parking spaces to the site -
13 give or take.

14 MR. BRICK: I went to law school because I
15 was bad in math, but my math was 290.

16 MR. VOSS: We'll double check that.
17 Again, it's some additional parking that's
18 basically on the site of the location of the
19 existing building that will be razed.

20 Off-street parking requirements for the HCOR
21 requires landscaped buffering, certainly in the
22 front. I believe as the applicant just
23 mentioned, they may be able to resolve that
24 issue with negotiations with DOT. We'd like to
25 see some more information on that as that

1 matures.

2 We talked about interior parking standards for
3 landscaped islands. There exist now several
4 landscaped islands within the parking lot.
5 This design standard was created certainly long
6 after the initial parking lot was configured
7 for the site. So, they may be seeing some
8 waivers for that to kind of reduce the overall
9 landscaping interior of the parking. However,
10 that has yet to be seen as designs move forward
11 and mature.

12 I was glad to see that they brought up
13 greenspace. Our letter was written prior to
14 today's recent developments with modifications
15 to the plans. It certainly appears to be that
16 the applicants are making efforts to further
17 reduce the impacts of the lots of greenspace.
18 It appears now that you're just decreasing it
19 by one percent. So, we'll wait and see how
20 that matures as well.

21 We did talk about utilities. We've met
22 several times with the applicant and I'd just
23 like to touch on the stormwater. Certainly the
24 site currently has existing power, sewer,
25 water, sufficient capacity and would allow the

1 project to move forward.

2 With stormwater, we have met several times.
3 We've been progressing through it and I think
4 that there have been some very positive
5 discussions with the applicant on their
6 proposed stormwater designs. There are several
7 existing conditions on and around the site to
8 further contribute to their stormwater impacts.
9 We're negotiating actively with that and we
10 feel that we can certainly resolve that as we
11 move forward. I think that certainly the
12 addition of removing the Lowe's parcel will
13 certainly help move much quicker towards a
14 resolution with that issue.

15 The rest is a relatively straight forward. I
16 don't think that I need to go into those.

17 We talked about stormwater. Certainly that
18 will mature as their final site plans move
19 forward.

20 The only other question that we had was an
21 issue that we brought up with traffic
22 circulation and trip generation. Based on
23 information provided by the applicant so far,
24 it appears that circulation issues seem to be
25 adequate within the site. There were some

1 additional concerns about some of the access
2 points, but the applicants aren't proposing to
3 change the curb cuts. The only thing that we
4 would ask is that they appear to rely on an
5 older traffic study that's about 12 years old.
6 We'd like to see that revised and brought into
7 conformance with what we have out there on the
8 site.

9 Having said that, I think that it's
10 encouraging certainly to see the change in the
11 site plan. I think that it streamlines the
12 process a little bit and makes a little bit
13 less completed.

14 CHAIRMAN STUTO: Does this Board have
15 anything before we go to the public?

16 MS. DALTON: I don't.

17 CHAIRMAN STUTO: I did have just one more
18 question before we go.

19 If you drive in there now, internal traffic
20 circulation is not user friendly. In what
21 sense to you think that it looks acceptable or
22 it's leaning in that direction?

23 MR. VOSS: I think that they have removed
24 some of the islands. Andy correct me if I'm
25 wrong, but they have reconfigured some of the

1 internal islands so that the travel lanes seem
2 to be slightly different. Again, we were
3 looking at the prior site plan that was
4 submitted. This one has changed a little bit
5 and it will change again once we see the
6 revised plans.

7 CHAIRMAN STUTO: It's all flowing in one
8 direction.

9 MR. VOSS: Exactly, yes. It looks like
10 it's much more organized now. With a formal
11 entryway and some formal definition of some of
12 those curb cuts, it appears that traffic will
13 flow smoothly. We'll certainly have our
14 traffic folks take another look at it.

15 CHAIRMAN STUTO: Is your traffic engineer
16 prepared to talk about traffic flow tonight;
17 egress, ingress? Is anything changing? It's
18 not easy to use right now.

19 MR. BRICK: And it's funny that you
20 mention that because some people have commented
21 that they don't like the fact that we are
22 changing because as it's been explained to me,
23 everybody knows how to get around Latham Circle
24 Mall. I said, the problem is that everybody
25 does it differently. They agreed. They said,

1 everybody knows how to do it. You have to know
2 how to do it. It's not something that you can
3 learn just by showing the site. All of the
4 ingress and egress points are going to remain
5 the same. That's a deal breaker with our
6 tenants. The perspective tenants have said we
7 need the number that are there now. We can't
8 seek to eliminate any of those. We have
9 improved the lanes. This ingress and egress I
10 believe actually had something that buffered it
11 when we came in. So, now it's more of a
12 straight shot up the center of the property.
13 If you'd like, we can provide a memo about all
14 the changes and why we believe that it would
15 improve the circulation on the site.

16 CHAIRMAN STUTO: Do you want to let your
17 traffic engineer take a crack at it?

18 MR. BRICK: Sure.

19 CHAIRMAN STUTO: I think that an overall
20 description of traffic would be helpful at this
21 point.

22 MS. HOLZBERGER: I'm Wendy Holzberger with
23 Creighton Manning Engineering.

24 What I can say is that we're in the process of
25 completing a more detailed study. We did

1 receive the comments from both the Town and New
2 York State DOT. We have had a meeting with DOT
3 since that time. We keep talking about how we
4 want to keep all the access points. One of the
5 neat things about this site is that some of the
6 ramps and one-ways -- it's not a typical big
7 entrance into this mall. That's why from a
8 tenant's standpoint, all the access points that
9 are there are critical for their success. It's
10 a little bit non-typical as far as access goes.

11 What we are looking at is that we did hear
12 some of the concerns about the slip ramp on
13 Route 2 and we're looking at that in more
14 detail. We're taking a look at some of the
15 potential accident patterns and things to make
16 sure that they can keep those access points and
17 that they're safe. There were concerns that
18 were expressed.

19 CHAIRMAN STUTO: Can you start on the
20 Route 7 side and show all the ingress and
21 egress? I've never systematically looked at
22 it.

23 MS. HOLZBERGER: You're not a shopper.

24 CHAIRMAN STUTO: I haven't figured it out
25 yet, even though I live in the community.

1 MS. HOLZBERGER: Understood.

2 Off of Herbert there is a signalized
3 intersection at Route 2. I believe it's Route
4 2 at this point. I know that there is a
5 transition between Route 7 and Route 2. Off of
6 the signalized intersection off of the state
7 roadway there is an unsignalized access point
8 that comes along side right into JC Penny.
9 There is also the back access point that goes
10 up onto the second level for the movie theaters
11 and then another access along Herbert for
12 trucks.

13 Another access off of Route 2 is currently the
14 one-way entrance. That is one of the ones that
15 we're looking at a little further. There were
16 some concerns expressed about people going the
17 wrong way and is that a factor of the fact that
18 the mall is no so active so people feel
19 uncomfortable making that move? Those are the
20 things that we are looking into.

21 On the ramp there is a couple of driveways
22 into this bank parcel. There is more of a main
23 access off of this ramp which is a right in and
24 you can also cut across the ramp to go
25 northbound as well. There is another on this

1 southbound one way ramp. There is another
2 access here (Indicating). Then, once you join
3 back into Route 9, there is another access by
4 that Lowe's and access off of Kunker that you
5 can get to off the signalized intersection.

6 CHAIRMAN STUTO: There is another access
7 before you get to Kunker?

8 MS. HOLZBERGER: Yes. You can't take a
9 left turn out of there. So, it's a right in
10 and right out. It's not configured -- you
11 can't tell from that configuration that it is
12 limited.

13 CHAIRMAN STUTO: Now, internally how has
14 it changed? It looks more cohesive now.

15 MS. HOLZBERGER: I don't know. Marty
16 Zanghi is into the on-site circulation. You
17 still have the ring road. As was stated, there
18 is more break up with the islands right now.
19 It's a sea of pavement. So, some of it is
20 adding some of the islands. I think that right
21 now even if there was some break up, it's hard
22 to see because the site hasn't been active for
23 so long. So, some of the main travel paths are
24 still similar to what they are today, to some
25 degree. But with some of the green islands and

1 the curbing, it helps to define more space and
2 travel paths.

3 MR. ZANGHI: So, what we're doing there is
4 channelling off of Route 9 here to get the
5 traffic in. The shoppers can break off to the
6 south here and to the lots, as they see fit.
7 Emergency vehicles can come straight up to the
8 front and come along the facade of the two
9 buildings. They have access around here and
10 back out through either one of the exits there
11 (Indicating). So, we do have the ring, as
12 Wendy described, and you can still continue
13 through. The shoppers can come through here
14 and get right into the parking lot in here
15 (Indicating). These are all set up with the
16 standard sizes that we need. The landscaping
17 you can see we have here it here. If we get
18 good circulation around and drop offs and pick
19 ups - whatever it may be, then the people that
20 are going to park and sit there or shop in the
21 stores, they have access to all of the roads
22 all through the parking lot.

23 MR. LANE: It looks like if you come in,
24 you'll have to go all the way up a row -- I was
25 thinking of the holiday season -- to get back

1 up and down the row because there is no central
2 driveway to cut across. It looks like it's all
3 perpendicular to the store.

4 MR. ZANGHI: Essentially, a road this way?

5 MR. LANE: Exactly.

6 MR. ZANGHI: Right, we don't have that in
7 this configuration. You come in here off of
8 Route 9 and like I said you come straight --

9 MR. LANE: You don't think that would be
10 useful or handy in some respect, if you came in
11 at that access point on Route 9?

12 CHAIRMAN STUTO: I guess if you came in
13 there and you wanted to go to Lowe's.

14 MR. LANE: Right, because you can
15 apparently take that right to JC Penny up that
16 side, but it just seems like you have to go all
17 the way up to the main road from the store and
18 maybe end up clogging that area during the
19 holiday season. You'd have to come all the way
20 back down the rows. Those are long rows to
21 have to travel up and down each one of them.

22 MR. ZANGHI: I understand and appreciate
23 the comment. The configuration that we have
24 now was essentially to maximize the amount of
25 parking available for these tenants in keeping

1 a 25 foot wide or a 34 foot wide corridor road
2 through here (Indicating) just to eliminate
3 some of the parking. We're trying to keep the
4 ratios favorable for the tenants that we're
5 looking to attract to the Latham site.

6 MR. LANE: At the same time, I think that
7 in most malls you have some kind of cross road.

8 MS. DALTON: I recognize what you're
9 saying. The first time that you appeared here,
10 we actually asked about the parking, as well.
11 There was, I thought, a very good explanation
12 in the fact that there is kind of nationally
13 accepted standard for how many spots you want
14 per additional square feet. I get all that,
15 but I still think that Tim is absolutely right.
16 Those are really going to be long rows. People
17 are going to get really annoyed if it is as
18 busy as you hope that it is, that they have to
19 sit there while people are pulling in and out
20 and there is no way to get around. I really
21 think that it would be worth your while to
22 consider adding some kind of access road in
23 between. You don't see as much parking in the
24 back. While I understand that might not be
25 part of your original concept, you seem to have

1 a little bit of space back there.

2 MR. LANE: Only for the parking garage.

3 MR. ZANGHI: Correct; loading dock areas
4 and maintenance type --

5 MS. DALTON: I forgot you don't have the
6 space behind Lowe's.

7 MR. LACIVITA: Marty, the access plan that
8 you're currently showing on it right now, there
9 are two entry points on it that you have right
10 now that you have parallel right to the
11 building frontages. It seems like that's going
12 to maximize the cars coming in and then
13 allowing it to go -- if you want that direct
14 access to Lowe's like Tim was talking about,
15 you're not going to come through this one.
16 You're going to go to your secondary one that's
17 going to be southern in the parking lot and
18 you're going to have direct access to that
19 component. That's going to allow entry points
20 into the mall area.

21 MR. LANE: It's not just that. Just to
22 travel -- if you're it's a busy holiday and the
23 lot is full, you're going to travel up and down
24 each long row. It's all a matter of
25 perception.

1 MS. DALTON: Well, you can't just leave.
2 You can't be in the middle and say, okay, I'm
3 going now. You kind of have to navigate the
4 whole thing.

5 MR. ZEE: It's something that we'll speak
6 with our perspective tenants and will consider.
7 At the same time we want to point out that I do
8 a little bit of shopping. My wife does more of
9 it. If you go to Northway Mall, you have the
10 long rows there. I don't have a problem with
11 it. It's all a matter of perception.

12 MS. DALTON: Northway Mall is an excellent
13 example.

14 CHAIRMAN STUTO: They have a lot more
15 entrance points to get it. It's a two way
16 street.

17 MS. DALTON: On the side by the Eddie
18 Baue,r, which is where I usually come in, there
19 is an Eddie Bauer there -- when you come in and
20 out that entrance, which I frequently do, the
21 natural inclination is to want to go through
22 there and you really can't. What happens is
23 that if there aren't enough cars there, people
24 just drive through anywhere, which I think is
25 far more dangerous.

1 MR. ZEE: We'll look at it. As I said,
2 this is a plan that we're laying out for
3 approval --

4 MR. LANE: We're just trying to give
5 our -- you can see that we're very familiar
6 with it.

7 MR. ZEE: As Ms. Dalton has stated before
8 at our initial presentation, most retailers
9 like around 5 parking spaces per 1,000 square
10 feet. We're below that level. For tenants,
11 they are looking for more parking and they
12 understand safely because obviously they want
13 their customers to be safe and they will review
14 this and at the end of the day, they dictate to
15 us how many parking spaces they need and what
16 configuration of the traffic patterns they are
17 willing to accept. I understand that you have
18 the ultimate say, but it's their experience
19 that tells us that they want.

20 MR. SULLIVAN: You could also reduce the
21 footprint of the building though and reduce
22 your square footage. It's not like that is the
23 only solution to the problem.

24 MR. ZEE: At the same time, we have had
25 situations from an economic standpoint.

1 Obviously, the previous owner was not able to
2 make the financials. We have a new party that
3 is coming in. As Andy has indicated, we've
4 talked about and people have said in the past
5 how unsuccessful this mall is currently. We
6 are in a precarious situation in that we want
7 to deal with national tenants. I don't think
8 you want mom and pop operation coming in there
9 and our lenders, our clients, will not be able
10 to work with mom and pop operations because
11 they are not financable. You can't borrow
12 money and build and make the renovations
13 necessary that everybody I think in this room
14 believes are necessary for the site. At the
15 same time, there has to be a certain amount of
16 square footage that we need to generate the
17 return on the investments that are going to
18 take place.

19 MR. LANE: Any suggestion that we make, we
20 certainly wouldn't want it to be a deal killer.
21 That's not my point.

22 MR. ZEE: But as Mr. Sullivan was saying,
23 we could make it smaller. Yes, we could do
24 that, but at that point in time, we can't make
25 the economics work for this project. Just to

1 understand, the demolition is a very costly
2 process because there are, we believe,
3 potential problems because of the asbestos in
4 the floor. That requires a certain level of
5 work that has to be done. We can't just come
6 in and bulldoze it down. We have to hire
7 experts to take care of it. That's an
8 expensive proposition.

9 Also with regard to the initial improvements
10 that are necessary: Members of the Board and of
11 the public have talked in the past about the
12 parking garage and that improvements are
13 necessary. I think that we have gotten some
14 cost estimates for those improvements. I think
15 that they are somewhere in the neighborhood of
16 \$2 million dollars to improve the parking.
17 We've looked into those things and as a result
18 we have a general idea what the economics of
19 this project, as we are proposing, are going to
20 cost. As Andy said, the Town has asked us to
21 make certain commitments with regard to
22 improving stormwater management systems. We
23 are willing to do that. We understand how that
24 benefits not only the Town and the neighbors
25 and the DOT right of ways. We understand by

1 our proposing to improve the DOT right of ways
2 in landscaping -- everybody knows that the
3 state of New York has economic problems. How
4 good would the site look if we improve our
5 landscaping and the DOT is charged with
6 maintaining their greenspace? It's going to
7 detract from our property. So, that's why
8 we're willing to make those commitments because
9 we think that it's going to improve the look of
10 this even further after we make our
11 improvements on our parcel. There are a lot of
12 economic factors, but with regard to what
13 you're saying, we will look at that when we
14 meet with our proposed tenants after they hear
15 what happens with this meeting. Thank you.

16 CHAIRMAN STUTO: Okay, we're looking
17 forward to hearing from the neighbors. Sorry
18 about the late hour. We'll give you every
19 opportunity to speak and I'll go back down this
20 list.

21 FROM THE FLOOR: You have to realize that
22 you have an older generation around that
23 shopping center. You have to give them a
24 fighting chance to be here at a hearing.

25 CHAIRMAN STUTO: Joe Kramer.

1 MR. KRAMER: I'm not a resident. Actually
2 I run the Lowe's. I wanted to hear what
3 everybody had to say as well.

4 That was a good point because we do have a lot
5 of traffic in there. I've been running the
6 building and smelling the mall for seven years.
7 I'm glad that something is getting done. We do
8 have a flow right here that comes all the way
9 around. That was a good point because I
10 noticed the same thing.

11 The other part is if we're taking that space
12 out is that existing parking now?

13 MR. ZANGHI: That's existing parking now.

14 MR. KRAMER: Right, it's existing now but
15 not in the new plan?

16 CHAIRMAN STUTO: They're not touching it
17 right now.

18 MR. ZANGHI: So, is the flow going to be
19 improved through there?

20 CHAIRMAN STUTO: Well, you make the
21 argument there with them and us, but nothing is
22 going to physically change over there.

23 MR. KRAMER: I understand that. Did we
24 count that as far as the spaces go - the 1,800
25 spaces? That's what I was asking.

1 CHAIRMAN STUTO: I don't know the answer
2 to that. Our engineer or our applicant can
3 answer that. We've established that issue so
4 we're going to look at the issue real close.

5 CHAIRMAN STUTO: John Fahey?

6 MR. FAHEY: Just a quick question. What's
7 that green blob in the left hand corner?

8 MR. BRICK: The parcel has an outlined
9 portion of the parcel which is behind the car
10 dealership. This is a connection from that
11 because we couldn't fit it on this side of the
12 plan. So, you can see here where it comes down
13 in a green triangle, after the parking area,
14 that's the triangle right here (Indicating).
15 It's just that the remaining greenspace goes up
16 past off of the site. It's actually part of
17 the applicant's property and there is no
18 proposed changes to that parcel whatsoever. We
19 want to keep that greenspace to add to our
20 greenspace calculations.

21 MR. FAHEY: That's right. That's the
22 parcel that Nemer uses now to store cars on.

23 MR. BRICK: Correct. It's owned by our
24 client.

25 MR. FAHEY: So, you're going to keep that

1 green and keep the parcel up and the dirt road
2 that's in there will be all fixed?

3 MR. BRICK: There is no proposal to make
4 any changes to what is taking place on that
5 parcel right now.

6 MR. FAHEY: There is a curbed road that
7 runs through it. It's green space, so let's
8 make it green and put some trees on it and some
9 landscaping and whatever.

10 MR. BRICK: Are you talking the road into
11 the woods area past the parking area?

12 MR. FAHEY: Behind Nemer's. If you're
13 going to call it greenspace, let's not use it
14 as a shared lot. Nemer has been doing it for
15 years. Weiss let him do it.

16 The Board isn't going to vote on waivers
17 tonight, are you?

18 CHAIRMAN STUTO: No.

19 MR. BRICK: You brought up a good point.
20 A number of people have inquired whether or not
21 the former owner is any way involved in this
22 particular application. The answer is no. Our
23 clients are new owners who have no relationship
24 with the prior owner.

25 CHAIRMAN STUTO: Janette Terrell.

1 MS. TERRELL: When you come out of the
2 Lowe's towards Kunker -- I live right behind
3 CVS. As it is now, as the cars are coming out
4 of Lowe's onto Kunker, I see the lights from
5 Lowe's parking lot and then coming out onto
6 Kunker Avenue from where I sit on my couch. I
7 was wondering if there was any way to have any
8 kind of landscaping for that particular area.

9 CHAIRMAN STUTO: They've taken that whole
10 property out of their application. They may be
11 able to work something out.

12 MS. TERRELL: There are three pine trees,
13 I believe, as they come out of Lowe's but from
14 half of that fence, coming out of Kunker, there
15 is absolutely nothing.

16 CHAIRMAN STUTO: Can someone from the
17 applicant talk to this lady at some point? Do
18 you understand her issue?

19 MR. ZANGHI: The thought is that if we
20 were to buffer her from cars exiting on the
21 Lowe's side, the plantings would have to be on
22 the other side of the house. That's certainly
23 something that we can do, but it sounds like
24 her property is inbound, one home in from that
25 other side. I think that it's something that

1 we're just going to have to go up and visit and
2 take a look at it.

3 CHAIRMAN STUTO: Is that okay, ma'am?

4 MS. TERRELL: That's fine. Thank you.

5 CHAIRMAN STUTO: Richie Eriksen.

6 MR. ERIKSEN: Okay, 39 Kunker Avenue is an
7 eyesore. I'm at 42 Kunker.

8 CHAIRMAN STUTO: Can you point to it?

9 MR. ERIKSEN: I'm right here (Indicating).
10 This house at 39 is an eyesore. It's gross and
11 moldy. There are low-lives that come in there
12 and do whatever. The brick house - Joe Contois
13 used to live there, but he moved out of there
14 awhile back. The house should be knocked down
15 and replaced with something - with trees or
16 something other than knocking it out and
17 leaving a hole, or just grass. You have to
18 have pine trees because we get the lights from
19 the traffic at Lowe's. I get to Lowe's all the
20 time and I spend a lot of money there. With
21 this house and garage gone, even though there
22 is a wall that runs along here, the light come
23 out and they only go so far. The lights shine
24 right into the properties. Just get rid of
25 that house and plant some trees and make it

1 look nice. I don't think that moving a wall
2 further toward Kunker Avenue is going to make
3 it any better I feel as though the tenant might
4 want to do that for more parking area.
5 Something has to go there.

6 CHAIRMAN STUTO: We'll ask the applicant
7 to look at that. Have you talked to the
8 applicant?

9 MR. ERIKSEN: Yes, I have.

10 CHAIRMAN STUTO: How has that
11 communication been going?

12 MR. ERIKSEN: It's going pretty good.
13 Just get rid of that 39 house so the low-lives
14 are coming in there.

15 CHAIRMAN STUTO: Okay, thank you.
16 Who else wants to speak from the neighborhood?

17 MR. WAYNER: My name is Peter Wayner. I
18 live on Grandview Drive. I just wondered if
19 this footprint is getting bigger for the store?
20 I realize that they took this out, but is this
21 an additional --

22 CHAIRMAN STUTO: Toward the back?

23 MR. BRICK: Yes.

24 MR. WAYNER: So, that's additional because
25 the trucks come in here and there's nothing

1 right here, right (Indicating)?

2 MR. BRICK: Correct.

3 MR. WAYNER: So, that's an increase in
4 store space. I just wanted that for
5 information. The trucks would still come in.
6 They have enough room to go around?

7 MR. BRICK: Yes. It's tough to see but
8 the cross-hatched area is the existing building
9 footprint. This in the back, the bump out,
10 would be a new addition to the back
11 (Indicating). The truck access - there is
12 sufficient circulation to go in the back.

13 MR. LACIVITA: And Andy, it's still
14 compliant with all the setback conditions of
15 the building.

16 MR. BRICK: Correct. This is the zoning
17 setback and this is the 200 foot setback from
18 the residential area. There are certain
19 prohibited types of uses that could go in that
20 new area such as restaurant uses and the like.
21 This is going to be the back of the building
22 that we envision.

23 MR. WAYNER: So, all you're doing is
24 taking part of the - now that's concrete?

25 MR. WAYNER: Correct. There is a small

1 grass strip median somewhere halfway.

2 MS. DUNCAN: I'm Helen Duncan, and I live
3 at Grandview Drive. I have two questions. Why
4 wasn't everyone on Grandview Drive notified
5 about this?

6 MR. BRICK: There were signs everywhere.

7 MS. DUNCAN: It was only on the east side
8 of Grandview. It was not the west. I'm sure
9 that if there is traffic and problems, the
10 other side of the street is going to have the
11 same thing that we got.

12 CHAIRMAN STUTO: We have a formal
13 notification process. I don't know if Joe or
14 the applicant want to talk about it. It's set
15 forth in our Town Law.

16 MS. DUNCAN: I will thank whoever did it
17 because when you were doing this stuff with
18 Lowe's, we were never notified. Two streets
19 down were notified because they were closer.
20 We didn't know it until everyone started to
21 call.

22 MS. DALTON: The only thing that I want to
23 point out is that has nothing to do with the
24 applicant. That is a Town Code or Town Law.
25 We have heard in the past that it's not

1 adequate. I, myself, have not been noticed on
2 project in my neighborhood, which I found
3 really ironic. We do understand. We don't
4 have any power to change that. That's
5 something that you'd have to bring up to the
6 Town Board.

7 MS. DUNCAN: It would be appreciated.

8 CHAIRMAN STUTO: Joe will describe the
9 notice that we give you.

10 MR. LACIVITA: Ms. Dunkin at 16 Grandview?

11 MS. DUNCAN: Yes.

12 MR. LACIVITA: I have the notification
13 that was given on Grandview Drive. We did
14 notify 16, we notified 52, 46 --

15 MS. DUNCAN: You notified everybody on the
16 east side.

17 MR. LACIVITA: That is because anyone
18 within 200 feet of the parcel description, you
19 have to notify -- our law says a common
20 courtesy that anyone within a 200 feet of the
21 parcel. So, when you measure it out, we're 200
22 feet in, so that's where our notification is,
23 based on the way that our notification design
24 are.

25 MS. DUNCAN: It's measured out as to how

1 far?

2 MR. LACIVITA: Yes. That's a courtesy
3 based on the laws that have been put in place.

4 MS. DUNCAN: Somebody better change them
5 because we're all one street and it all goes
6 the same way.

7 The other question is about the fence that
8 goes along the property now.

9 CHAIRMAN STUTO: Along the backside?

10 MS. DUNCAN: Yes. Will it remain and will
11 it be repaired and cared for?

12 MR. BRICK: If you're referring to the
13 fence behind the Lowe's parcel --

14 MS. DUNCAN: All of it.

15 MR. BRICK: The Lowe's parcel is not in
16 this. There is no proposed changes to existing
17 fencing behind the Lowe's property. There is a
18 proposed retaining wall to retain the elevated
19 area there. Is there a specific maintenance
20 concern that you need to let us know about?

21 MS. DUNCAN: Yes, we had a storm a few
22 years ago and part of the fence is down and
23 it's still down, I understand. The fence that
24 I'm talking about is not up there behind the
25 mall. It's all around Lowe's.

1 MR. BRICK: We're not proposing any
2 changes to anything to do with Lowe's as it has
3 been withdrawn from the application. If there
4 is a problem with the existing fence, it can be
5 repaired or fixed, but we're not proposing any
6 changes.

7 CHAIRMAN STUTO: Thank you.
8 Who else would like to speak from the
9 neighborhood?

10 MR. KALINCHAK: My name is Mike Kalinchak
11 and I live at 65 Kunker Avenue. I've been
12 there 40 years. If you go all the way to the
13 top of Kunker, I'm on the corner of Kunker and
14 Grandview.

15 When Lowe's went in, they did a traffic study.
16 I don't want to offend anybody. It was like a
17 fixed traffic study. Somebody drove in, sat on
18 the street and said, oh, there's 10 cars; let's
19 go. That happened on both ends on Herbert and
20 on Kunker. The traffic from the mall theater
21 that night - when they get out at 10:30 or
22 11:00, it's like a drag strip. The cars come
23 down Grandview and they come down at 40 or 50
24 miles an hour or more. They don't make the
25 turn onto Kunker because they don't know where

1 they are. They go right down into the dead end
2 wooded area, turn around, come back up at 50
3 miles an hour to go back out the way that they
4 should have to start with. Coming out of the
5 theater, there is a no left turn sign. You
6 might take it down and hit somebody with it
7 because it's sure not doing the job.

8 A guy pulled out in front of me today, coming
9 out of my truck. He looked right at me and
10 pulled right in front of me and went left up
11 the hill, up Herbert.

12 You need to do a study that's honest. What is
13 there now certainly isn't filling the bill.
14 It's the same coming out of Lowe's. They make
15 right hand turns coming out of Lowe's. They
16 come out of Lowe's and come up Kunker. They
17 make a left hand turn coming out of CVS and
18 come up Kunker. The no left turn signs that
19 are put up shouldn't even be there. People
20 don't obey them. The speed limit in there is
21 30 miles an hour. It seems like nobody is
22 really concerned about the neighborhood with
23 the speed. I went to the police to try to get
24 stop signs up. We can't use them as a speed
25 control system. We'll make a three-way stop so

1 that at Kunker and Grandview, you'll have to
2 stop in every direction and they said, no, we
3 can't do that. Why? I don't know. I go to
4 other intersections and there are three and
5 four-way stops constantly. You need to do a
6 traffic study that is honest and has some
7 integrity to it to protect the neighborhood.
8 Thank you.

9 CHAIRMAN STUTO: You got that, Chuck?

10 MR. VOSS: Yes.

11 MR. KALINCHAK: Speaking of traffic, the
12 Fed Ex delivery truck, like the UPS trucks,
13 they come flying down Kunker. I don't know if
14 it's Fed Ex Express or Ground.

15 CHAIRMAN STUTO: Delivery to the
16 residential?

17 MR. KALINCHAK: Yes. This guy comes
18 flying down Kunker. I don't know for what
19 reason, but he's going 40 or 50 miles an hour.
20 I give him a salute, but who is going to stop
21 that?

22 MR. LANE: They have numbers on the back
23 of their trucks. Get their numbers and call
24 Fed Ex.

25 CHAIRMAN STUTO: Any other comments from

1 the neighbors?

2 MR. KALINCHAK: On the exit coming out of
3 the theater, is there any way that that exit
4 can be terminated and put a new exit down into
5 the parking lot area to avoid any of that
6 traffic system; that jam, and tie up and
7 illegal turns? I realize that it's an expense.

8 MR. BRICK: I don't have any answers to
9 that particular question this evening. It's
10 something that we can take a look at. I can't
11 make any promises. It would have to be
12 reviewed from an engineering perspective.

13 CHAIRMAN STUTO: Do you understand the
14 turn that he's talking about Chuck?

15 MR. VOSS: Yes.

16 CHAIRMAN STUTO: We'll take a close look
17 at that.

18 MR. MAGGUILLI: The traffic problems that
19 you're having with the speeders, you said that
20 it's happening at about 11:00 p.m. at night?

21 MR. KALINCHAK: Whenever the movie theater
22 closes. Sometimes it's at 9:30, 10:00, 10:30
23 or 11:00.

24 MR. MAGGUILLI: What we can do is this:
25 I'll talk to the Police Department tomorrow and

1 I will ask Traffic Safety to have an increased
2 police presence there. We're going to do a
3 sweep and see what we can do to get the word
4 around and have the police there to try to
5 catch them.

6 MR. KALINCHAK: The stop sign on Kunker
7 Avenue - the people don't stop. I live right
8 there. People have cut across my lawn to avoid
9 it.

10 MR. BRICK: I can just let the Board know
11 as well as Town Attorney Magguilli that at our
12 last meeting we spoke with Mr. Kalinchak and he
13 raised the issue about the illegal left. Since
14 that conversation, which was a few weeks ago,
15 the number one complaint that we have heard
16 from residents in the area is the movie traffic
17 making the illegal left and racing down through
18 their neighborhood. That's the number one
19 concern.

20 CHAIRMAN STUTO: And we'll ask our
21 engineer to look at that, as well.

22 MS. WAYNER: I have a question
23 specifically about the long-term plan. What is
24 the timing? When might this begin and in the
25 long run, what kind of shops might be there?

1 MR. HEBERT: Our intension would be to
2 start construction and demolition through the
3 winter this winter and construction in the
4 spring of 2013 and have tenants as soon as the
5 fall of 2013. Leasing is ongoing and ambitious
6 and obviously we're trying to send a signal to
7 the tenants that we can deliver in 2013.
8 That's what I can tell you. Hopefully, all
9 things fall into place -- there is a lot that
10 needs to fall into place.

11 I think that we described that tenants could
12 be a variety of tenant types. We're targeting
13 grocery stores, apparel stores, entertainment
14 and that type of venue that complements these
15 types of stores, fine dining restaurant, family
16 style restaurants; a really good healthy
17 combination of uses that make a shopping center
18 vibrant.

19 MR. LANE: Will there be anything like a
20 sidewalk type cafe?

21 MR. HEBERT: We were looking for outdoor
22 seating on either side of the movie theater and
23 restaurants on the lower levels. Ideally, that
24 would be part of the venue; yes.

25 MS. DALTON: We want a Brazilian steak

1 house. We have one but not in the Town of
2 Colonie.

3 CHAIRMAN STUTO: Anybody else, before we
4 go to the board?

5 (There was no response.)

6 CHAIRMAN STUTO: Mike, you want to start?

7 MR. SULLIVAN: Yes, Mr. Brick, my question
8 remains of the rehabilitation of the parking
9 garage and the existing parking that will
10 remain. Is that going to be repaved and
11 rehabilitated? The section of the parking lot
12 that is existing?

13 MR. BRICK: I would defer to Mark on that,
14 but I can tell you that there are plans to
15 rehab the existing parking deck. Clearly that
16 will be repaved and resurfaced. The demolition
17 will result in new parking so that will be
18 repaved and resurfaced. I'm not sure of the
19 plans for the entire parcel. I would have to
20 defer to Mark.

21 MR. HEBERT: The parking deck is certainly
22 due for a major renovation in the millions of
23 dollars. The area below will have new
24 lighting, new striping, new surface. Most of
25 the parking lot if not all of the entire

1 parking lot will be resurfaced and restriped
2 and relighted. It will have a look and feel of
3 a brand new parking lot.

4 CHAIRMAN STUTO: Tim?

5 MR. LANE: I think that I had my
6 questions answered. I just want to say that
7 it's a great project. I think that it's a
8 great place for a lot of the local residents.
9 I'm really looking forward to it. I think that
10 as we move forward, we'll see what happens.

11 CHAIRMAN STUTO: Lou?

12 MR. MION: I don't have any questions.
13 I'm just looking forward to it.

14 MR. LANE: In the course of the demolition
15 - I think that I mentioned this - because of
16 the proximity to the local residents, the hours
17 and consideration, the noise, so on and so
18 forth - make sure that people are aware of
19 their proximity to the local residents. As the
20 process moves forward, it's important to keep
21 them in mind.

22 MR. BRICK: And we control who the
23 contractor is going to be, so we can control
24 the information that's provided.

25 CHAIRMAN STUTO: Kathy?

1 MS. DALTON: Actually, my only question
2 was for us is number six on the planning
3 document. It's regarding limits on pick-ups
4 and deliveries and it's 7:00 a.m. to 7:00 p.m.
5 My question is: shouldn't it go to 9:00 p.m.?
6 The mall is going to be open until 11:00 in
7 some cases. I can see where 9 to 11 could be
8 late, but I see no reason for them to reserve
9 themselves.

10 MR. BRICK: We agree with you completely.
11 We did identify that as a potential concern.

12 MS. DALTON: I think that 7:00 a.m. is
13 early enough but 7:00 p.m. I think is early.

14 MR. BRICK: I would also point out that
15 when the ZBA granted the variances to Lowe's,
16 when Lowe's was first built, they placed a
17 condition in the variance and the only time
18 restriction on deliveries were deliveries would
19 not occur before 9:00 a.m. on Sunday mornings.
20 I was the only one there. We could live with
21 that as well.

22 CHAIRMAN STUTO: Thank you. I think that
23 most of the Town is looking forward to the
24 rehabilitation of this currently failed site.
25 You're in applying for concept acceptance and I

1 think that we'll have a vote for that shortly.
2 The things that concern me and I think that
3 I'll ask our TDE to make sure that he monitors
4 as we go forward are the concerns raised by the
5 neighbors having to do with traffic flow. In
6 addition to that, the architectural features of
7 the building I think are going to be important
8 to this Board and also to the neighbors. All
9 you have to do is drive down Route 9 and see
10 Fresh Market and Stewart's and see the type of
11 development that we like in that corridor.
12 This is going to be a centerpiece at this end
13 of Town; no question about it. Our TDE is
14 aware of our other approved plans that are yet
15 to be built.

16 Also on the frontage and the landscaping,
17 that's critical to the look from a street
18 level. We do like the brick and the fencing
19 and again, if you look at those properties, I
20 think that you'll see that. That's the
21 conclusion of my comments and I thank the
22 public for coming out.

23 MR. BRICK: We would thank the Board and
24 the public for the constructive comments and we
25 would request that you would consider granting

1 us concept approval this evening as well as
2 declaring lead agency under the State
3 Environmental Quality Review Act, if you think
4 that it's appropriate at this time.

5 CHAIRMAN STUTO: Do you think that we're
6 okay on the lead agency?

7 MS. VAIDA: Yes.

8 CHAIRMAN STUTO: Do you want to do that as
9 one motion or two?

10 MR. LANE: I think that we should do it as
11 two.

12 CHAIRMAN STUTO: Chuck, do you want to
13 verbalize the motion on the lead agency - or
14 Elena?

15 MR. VOSS: What I would do is basically
16 say, based on the information that we received
17 to date, it appeared that the motion should
18 include the language to say something along the
19 lines of: The Planning Board, after careful
20 review and consideration of the application,
21 looking at the number of agencies involved,
22 it's logical for the Planning Board to be named
23 the lead agency and issue that statement and a
24 coordinated review letter.

25 MS. VAIDA: I believe that they are

1 talking with Rebekah, and she has already
2 started the review of the coordination of the
3 review.

4 MR. VOSS: For a Type I action; yes.

5 CHAIRMAN STUTO: Okay, based on the
6 rationale set forth by Chuck, do we have a
7 motion to make us the lead agent?

8 MR. LANE: Using Chuck's language, I'll
9 make that motion.

10 MS. DALTON: I'll second that.

11 CHAIRMAN STUTO: Any discussion?

12 (There was no discussion.)

13 CHAIRMAN STUTO: All those in favor, say
14 aye.

15 (Ayes were recited.)

16 CHAIRMAN STUTO: All those opposed?

17 (There were none opposed.)

18 CHAIRMAN STUTO: The ayes have it.

19 With respect to concept acceptance, I want the
20 applicant to understand on the record and
21 acknowledge that concept acceptance is not an
22 approval. It's not an action under SEQRA. It
23 does not bind the Town or the Board to any
24 commitment on the project. Do you understand
25 that?

1 MR. BRICK: The key word that we see is
2 Concept. It's the first step in the process.
3 We need to submit final plans and come back in
4 for preliminary final site plan and we
5 recognize that. We are going to seek an
6 aggressive schedule to return as soon as we
7 possibly can to seek that preliminary final
8 site plan approval.

9 CHAIRMAN STUTO: As long as your engineers
10 keep up with our engineers, this Board will
11 definitely cooperate.

12 MR. BRICK: I can guarantee that they
13 will.

14 MR. MION: I'll make the motion.

15 MS. DALTON: And I'll second it.

16 CHAIRMAN STUTO: Did we hear the motion?

17 MR. MION: To make a motion of acceptance.

18 CHAIRMAN STUTO: Any discussion on that
19 motion?

20 (There was no response.)

21 CHAIRMAN STUTO: All those in favor say
22 aye.

23 (Ayes were recited.)

24 CHAIRMAN STUTO: All those opposed?

25 {There were none opposed.}

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CHAIRMAN STUTO: The ayes have it.

{Whereas the proceeding was concluded at:
10:44 p.m.)

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CERTIFICATION

I, NANCY STRANG-VANDEBOGART, Shorthand Reporter and Notary Public in and for the State of New York, hereby CERTIFY that the record taken 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 November 12, 2012

