

1 PLANNING BOARD COUNTY OF ALBANY
TOWN OF COLONIE

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4 MACY'S RESERVE PARCEL
5 OPEN DEVELOPMENT AREA
6 19 WOLF RAOD (AKA 39 WOLF ROAD)
7 OPEN DEVELOPMENT AREA RECOMMENDATION
8 AND SKETCH PLAN UPDATE
9 *****

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8 THE STENOGRAPHIC MINUTES of the above entitled
9 matter BY NANCY STRANG VANDEBOGART, a Shorthand
10 Reporter, commencing on November 27, 2012 at 9:05
11 p.m. at the Public Operations Center, 347 Old
12 Niskayuna Road, Latham, New York 12110.

11 BOARD MEMBERS:

- 12 PETER STUTO, CHAIRMAN
- 13 LOU MION
- 14 KAREN GOMEZ
- 15 KATHY DALTON
- 16 MICHAEL SULLIVAN

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- 17 Also present:
- 18 Elena Vaida, Esq., Counsel to the Planning Board
- 19 Michael Tengeler, Planning and Economic Development
- 20 Joe LaCivita, Director, Planning and Economic
Development
- 21 Joe Grasso, PE, Clough Harbour and Associates
- 22 Bill Ryan, Esq., Turf Hotels
- 23 David Wyler, Turf Hotels
- 24 Michael Hoffman, Turf Hotels
- 25 Paul Rosano, Town Board

1 CHAIRMAN STUTO: The final project is Macy's
2 Reserve Parcel Open Development Area, 19 Wolf Road
3 and also known as 39 Wolf Road, open development
4 area recommendation and sketch plan update.

5 Joe Lacivita, would you like to give an
6 introduction?

7 MR. LACIVITA: I think that the Board remembers
8 the project was here. It was actually before DCC in
9 September of 2012 and then we had a couple of
10 representatives here for the original sketch plan
11 review. We actually motioned to table it until this
12 evening because Mr. Hoffman was here at our last
13 meeting and there weren't sufficient enough members.
14 This project has many integral parts to it --
15 several parts to it. We've talked about incentive
16 zoning. We've talked about the ODA which we're here
17 to talk about tonight and possibly make
18 recommendation. There is also subdivision and also
19 the site plan review process in the entire project.
20 So, again, I think that there are more members here
21 tonight that we could hear about the entire parcel
22 and the entire design of the project. Mr. Hoffman
23 is here to articulate some of the intricacies of it
24 and hopefully move towards some type of favorable
25 recommendation on the ODA. Then we'll go into the

1 sketch plan component of the entire project.

2 CHAIRMAN STUTO: Okay, thank you.

3 Please, Mr. Ryan?

4 MR. RYAN: Good evening, folks. My name is
5 Bill Ryan and I'm representing Turf Hotels here in
6 connection with this presentation.

7 As Joe just eluded to, this project has a lot of
8 moving parts and I'm going to try to put them all
9 together for you this evening. I'm going to talk
10 about where we are, the incentive zoning fees and
11 then Mr. Hoffman is going to speak about the open
12 development application.

13 We are the contract vendees to purchase 3.7 acres
14 of undeveloped vacant land located to the north of
15 the Macy's store at Colonie Center. It's part of a
16 93 acre parcel.

17 When we first entered into the contract, we had to
18 deal with the incentive zoning issue. The reason
19 that arose was because presently at Colonie Center,
20 the greenspace is 23 percent. With our project, it
21 is going to be reduced to 21 percent. If we do
22 obtain approval, there will be 35 percent greenspace
23 on the area that we are developing.

24 CHAIRMAN STUTO: I just want you to go over
25 that one number. For the overall Colonie Center

1 it's going from 23 to 21?

2 MR. RYAN: Yes, sir.

3 CHAIRMAN STUTO: Where is the rest of the
4 greenspace?

5 MR. RYAN: Dave can show you.

6 MR. WYLER: My name is Dave Wyler. Here is a
7 drawing of the entire 92 acres. Sears is at this
8 end and Wolf Road at the top (Indicating). Sand
9 Creek is over here. There is certainly greenspace
10 scattered throughout, and there are islands and
11 small pieces everywhere. There is a large piece
12 over here (Indicating). These are flagged wetlands
13 and greenspace over here. There is greenspace that
14 wraps around here (Indicating). There is this
15 retention pond here. This is the property that
16 we're talking about that is going to reduce from 23
17 to 21 when we purchase and develop it.

18 CHAIRMAN STUTO: Okay, so that's like a 10
19 percent reduction. You can look at it that way.
20 It's either 8 percent or 10 percent.

21 MR. RYAN: Between 8 percent and 10 percent;
22 that's correct.

23 After we entered into the contract and we
24 discovered this reduction in the greenspace from the
25 23 to the 21 percent, we reviewed Town Law Section

1 197 on the incentive zoning. As you all know there
2 is a provision in there where if you're reducing the
3 greenspace area with a particular site, there has to
4 be some type of consideration given for
5 recommendation with that reduction. It was
6 important for us to get our arms around the project
7 and determine the cost. So, we started conversations
8 with the Town Board, had meetings with Mrs. Mahan
9 and the Town Attorney and we appeared at least two
10 or three times at agenda sessions for the Town
11 Board. This has been accepted by the Town Board
12 subject to your ultimate approval. This is the way
13 that I read the regulation under Section 197.

14 The Hoffman family owns 118 acres of real property
15 located on Sand Creek Road. It's presently
16 undeveloped. It's all green forested near Stump
17 Pond. Across the street from it is Christian
18 Brothers Academy. You'll note that all of the
19 perimeter is bounded by residential development;
20 Furlong, Wiltshire, Westchester and Devonshire.
21 What we proposed to do is to give the Town of
22 Colonie a permanent conservation easement. We will
23 agree never to develop that particular site.

24 CHAIRMAN STUTO: Do you have maps of that?

25 MR. RYAN: We do.

1 MR. GRASSO: I do. I have a similar air photo.

2 CHAIRMAN STUTO: Do you have enough for us to
3 look at?

4 MR. GRASSO: I do.

5 CHAIRMAN STUTO: Is this appropriate now?

6 MR. GRASSO: Yes. Just so the Board knows,
7 I've identified certain things on this map that I
8 can refer to after. The property in question that
9 Bill is referring to is circled in red.

10 CHAIRMAN STUTO: The Funeral Directors is right
11 across the street. We reviewed that recently.

12 MR. RYAN: Peter, if I may continue?

13 CHAIRMAN STUTO: Sure.

14 MR. RYAN: This area that we're going to agree
15 to keep the permanent conservation easement on is
16 near Stump Pond and also near the Ann Lee Pond.
17 There is a lot of vacant tracks in this area in
18 addition to the abutting residential development. I
19 think that Saddlewood Elementary School from South
20 Colonie also borders part of it.

21 So, we feel that this is a significant part of the
22 incentive zoning.

23 The other thing that came up during our discussions
24 with the Town was the fact that a path is going to
25 be dedicated in May. We had discussions about

1 building a men's and ladies' room and contributing
2 10 picnic tables to the area where the bike path is
3 going to be dedicated. That is in the western part
4 of the Town. You'll note from the handout that Dave
5 has given you that it's up near the Mohawk River,
6 River Road and it's near the Hewitt's Garden Center.
7 Route 7 is down here towards the bottom
8 (Indicating).

9 The next point that came up was there was a need at
10 the town golf course for men's and ladies rooms. If
11 you look at the picture that Dave is handing out
12 right now, you'll notice there aren't facilities in
13 some areas. I'm not a golfer. What we're going to
14 do is build a men's and ladies' room here and men's
15 and ladies room down here (Indicating). That is the
16 extent of what we agreed to contribute under the
17 incentive zoning, when we learned that the project
18 was going to reduce greenspace from 23 to 21
19 percent. I understand that according to Section
20 197, you, in part, have a say about the quality of
21 the incentive zoning proposal. We think that it
22 merits serious consideration by the Board.

23 CHAIRMAN STUTO: Did you do a calculation on
24 what the fee would have been?

25 MR. RYAN: My recollection, Peter, is about

1 \$1.6 million.

2 CHAIRMAN STUTO: Did you do a calculation, Joe?

3 I don't mean an accurate one.

4 MR. GRASSO: It's difficult for us to
5 understand the site plan considers some possible
6 parking for Trader Joe's. I don't know exactly how
7 that should be taken into consideration. I was
8 going out between \$1.5 and \$1.9 million.

9 MR. HOFFMAN: If I could just add a little bit
10 to that? We figured out that the 8,000 pound
11 gorilla is called incentive zoning. Unless we could
12 figure out a way to get around the incentive zoning
13 problem or issue, it couldn't go anywhere. It's not
14 an inexpensive piece of property. With \$1.5 or \$1.6
15 million - whatever the number happens to be that you
16 pay, it stops the deal dead in its tracks. So, for
17 that reason we talked to the town and they said that
18 you can talk to the Town Board and we had some very
19 good dialogue.

20 Just a couple of things to tell you about this
21 piece of property that we talked about first: My
22 uncle and my dad bought this piece of property in
23 1968. They paid \$250,000 for it in 1968. They were
24 going to develop it and it just never got to where
25 it got developed.

1 I'm a hotel guy. I've been in the hotel business
2 since 1975. Last week, Dave and I walked this
3 property. I'd never been on it. It's not far away.
4 I knew where it was. We walked pretty much every
5 inch of this property and it's a pretty spectacular
6 piece of property. It has some wetlands and some
7 streams with some issues, but when you walk it, this
8 is really a nice piece of property. I sort of sit
9 here and say, if I was 20 years younger, maybe we
10 would try to develop it. We kind of got into the
11 mix of things. We drove around and found 66 homes
12 that touch it. What a wonderful gift to those
13 people that happen to live there and they're going
14 to know that there is not a neighbor or anything
15 coming into their back yard. For the school that's
16 there, it's a great thing that it's kind of
17 protected. It's just a beautiful piece of property.
18 It's 119 acres. That's huge. That's a lot of
19 walking. It just keeps going. What a great thing
20 in the center of the Town to have this forever
21 conservation easement and this forever wild piece of
22 property that you know is going to be there. It has
23 Stump Pond, and I know that's kind of important. It
24 really makes quite a connected corridor and a great
25 piece of property.

1 I've lived and worked in the Town of Colonie, as
2 well as my family, our whole lives. When we got
3 talking about the bike path, which i haven't been
4 on, if you go down to the bike path in the
5 summertime, there are people all day long going down
6 that path. Building some quality restrooms there
7 and getting the park that you're talking about doing
8 is actually an awesome thing. We're proud to be a
9 part of it. It's very, very nice thing.

10 Bill was nice when he was talking about the golf
11 course. I play golf. When you're starting by the
12 clubhouse and when you're out about six holes, there
13 is no place go to the bathroom. It's easy for a
14 guy. We run into the woods and do our thing. It's
15 not so easy for the ladies. This is a big deal.
16 Golf is supposed to be fun. You'll get more rounds
17 of golf. People will be happier playing golf and
18 it's going to raise the level of your golf course.
19 You'll have men's and ladies' rooms in two different
20 spots on that golf course. It's actually a big
21 deal. It's a huge deal. We love the incentive
22 zoning. We thought that it was pretty fair. It's
23 not inexpensive on our end. I won't say that it
24 totals \$1.5 or \$1.6 million. We thought that there
25 was some flexibility in the Incentive Zoning Law

1 because you can either pay or do some employee
2 benefit. We just thought that the combination of
3 things - you can take some land and trade it within
4 the Town for greenspace, which is kind of how we got
5 to this 118 acre parcel. I can tell you that we've
6 been paying taxes on this since 1968. So, you can
7 pay, create land, do a public benefit, or a
8 combination. We thought it was a great combination.
9 We're proud of where we think that this is, hoping
10 that you will all like it. It's a big deal for us,
11 we think, on our side.

12 CHAIRMAN STUTO: I'm going to ask Joe to
13 continue with the value of the large piece of
14 property, because I know that you've done a lot of
15 thinking and studying on it and how it fits in with
16 the overall project.

17 MR. GRASSO: I have. Just to expand on this
18 118 acre piece - the air photo that I passed out
19 shows the parcel outlined in red, it's all in the
20 Town of Colonie. To this side of the map
21 (Indicating), it's all the Village of Coloni,e, but
22 the entire 118 acre piece is in the Town of Colonie.
23 Along the north side of the property is a National
24 Grid right of way with over head utility lines. I
25 have identified the 40-acre Stump Pond parcel. That

1 parcel has one single family residential house on
2 it. It's owned by [SIC] Zack Passaretti. It's not
3 associated with this project, but the reason why I
4 bring it up is because that parcel also has a lot of
5 ecological significance regarding Stump Pond and its
6 adjacent wetlands and adjacent deciduous forest
7 areas.

8 Also on this exhibit map I have crosshatched in
9 blue some of the other protected open space that
10 lies immediately adjacent on the other side of Sand
11 Creek Road. You may be aware that CBA is developed
12 here.

13 When CBA was developed about 10 years ago there was
14 106 acres of open space that was established around
15 it -- basically private open space, and then this
16 area right in here is 140,000 square foot office
17 building (Indicating). It's the United Healthcare
18 office building. When that property was developed,
19 there was an extension of that private open space
20 through that property. In this area right in here,
21 along Sand Creek Road, is an 8-acre parcel that came
22 under Planning Board review a few years back.
23 That's a proposed wetland mitigation area, as part
24 of the office park up on Albany Shaker Road.

25 Down in this corner of the property (Indicating),

1 this is a piece of private open space that was
2 protected when the Shaker Run apartments were
3 developed in the Village of Colonie. The reason why
4 I bring these things up is because when you start to
5 link these open space areas together, it provides
6 more of a regional wildlife habitat.

7 Kathy, I know that you're always keen on wildlife
8 corridors.

9 In furthering our research, I looked at some of the
10 constraints on the property that's proposed for the
11 conservation easement. As Mike said, the property
12 has some DEC wetlands. It's got a DEC designated
13 spring through it. One of the things is when you're
14 dealing with DEC wetlands is that it does have a 100
15 foot buffer and by the time you consider these
16 finger's of wetlands, that buffer could encompass a
17 large portion of the 118 acres. You could look at
18 it as already being constrained, but it's not to say
19 that the area couldn't be developed in some way,
20 delineate the upland areas, and propose some type of
21 development in those areas.

22 MR. RYAN: Just a foot note on that: Joe is
23 right because when Mike and Dave walked it, the
24 areas around the residential development are dry.
25 It's upland, like Joe said. We will never develop

1 that -- any part of that parcel.

2 MR. GRASSO: That area was also in an the
3 airport area GEIS and that study that was done in
4 1991 looked at the environmental characteristics of
5 many of the undeveloped properties in the Town.
6 Even going back to that study, it identified the
7 importance of the DEC wetlands on the property.
8 There is a DEC designated stream that bisects the
9 property.

10 CHAIRMAN STUTO: Can you show where the runways
11 are?

12 MR. GRASSO: The airport is here (Indicating)
13 and this shows the whole airport area GIS study
14 area. Sand Creek Road is here (Indicating). What I
15 have highlighted is this 118 acre parcel. It's
16 identified a Wild Lupine site on this property, as
17 well as a separate potential Karner Blue Butterfly
18 site on the property. We don't know if they still
19 exist. As succession takes over and the vegetation
20 changes sometimes, those habitats can come and go,
21 like we heard from the last project. Nonetheless,
22 it points to some of the ecological importance of
23 the project.

24 There was also a map included in the GIS that
25 identified the potential wildlife habitats and it

1 ranked the area as low potential, medium potential
2 or high potential. This whole 188 acre parcel was
3 identified as having high potential for wildlife
4 habitat.

5 CHAIRMAN STUTO: How does the stump pond parcel
6 fit in, ecologically or in whatever other context?

7 MR. GRASSO: Well, another exhibit map included
8 in the airport area was the establishment of a
9 possible green belt or connected greenspace area
10 through the Town. One of the few green belts
11 shown -- and I think that this came out of the
12 Town's land use management study done back in the
13 80's was the establishment of a green belt that
14 would extend from the Ann Lee preserve area through
15 the CBA parcel, like I showed on that other air
16 photo. It picks up this 118 acre piece and then
17 includes the stump pond piece and even jumps over on
18 the north side of Watervliet-Shaker Road to go
19 through the Most Holy Redeemer Cemetery and further.
20 The importance, like I spoke to before, is when you
21 start to link up all of these greenspace or open
22 space areas, it makes for a more viable
23 ecological --

24 CHAIRMAN STUTO: The Stump Pond parcel is for
25 sale?

1 MR. GRASSO: It's my understanding that the
2 Stump Pond parcel is for sale.

3 CHAIRMAN STUTO: Do you know what the price is?

4 MR. RYAN: I have no idea.

5 MR. GRASSO: It's not proposed as part of this
6 project. Like I said, it has one single family home
7 on it. I do know that even though the site is
8 constrained by having Stump Pond, which is a DEC
9 wetland, it's got some wetland around the perimeter
10 of it. There are some undeveloped areas on that
11 Stump Pond parcel that would likely see development
12 pressure. That's primarily if you look at the
13 adjacent roads off Darren's Way and Wiltshire Drive.
14 There are some upland areas there that could likely
15 see development. I know that there are upland areas
16 along Watervliet-Shaker Road and along Sand Creek
17 Road; although I don't know how frontage lots would
18 be considered by the Planning Board.

19 In terms of zoning, this 118 acre property is zoned
20 single family residential as is the Stump Pond
21 parcel. Everything on the east side of Sand Creek
22 road is zoned commercial.

23 CHAIRMAN STUTO: Thank you. It would be nice
24 if it linked up two parcels, I guess -- if it's
25 possible.

1 MR. MION: That conservation easement goes to
2 the Town?

3 CHAIRMAN STUTO: They would probably be the
4 recipient of the conservation easement.

5 MR. RYAN: That's a correct statement.

6 MS. DALTON: So, then you wouldn't pay tax on
7 it. It would come off the tax rolls?

8 MR. RYAN: That, I don't know, ma'am. I will
9 tell you, having defended a lot of municipalities
10 and tax certiorari litigation, a conservation
11 easement will diminish the fair market value of the
12 property. To what degree, I don't know. There is
13 a trade-off.

14 CHAIRMAN STUTO: How much do you pay in taxes a
15 year?

16 MR. HOFFMAN: Just under \$10,000 a year.

17 CHAIRMAN STUTO: How much would your taxes be
18 on your hotel? Have you done your calculation on
19 that?

20 MR. RYAN: A lot more than \$10,000 a year.

21 MR. HOFFMAN: I would guess \$250,000.

22 CHAIRMAN STUTO: Annual?

23 MR. HOFFMAN: Yes. It's way too high, by the
24 way.

25 MR. MION: Actually, the land will belong to

1 the Town; there is just a conservation easement over
2 the top of it.

3 CHAIRMAN STUTO: Right; it's an easement like
4 you have an easement to travel on somebody's
5 property.

6 MR. MION: So, we don't assume liability?

7 CHAIRMAN STUTO: Evidently, the Town Attorney
8 feels thinks that we would be in a much better
9 position not to take full title. I believe that's a
10 fair statement.

11 MR. RYAN: That is a fair statement and that
12 was the subject of our many discussions about this
13 issue. The Town didn't want to take title to it for
14 that very reason. Title would remain with the
15 current owner and a permanent conservation easement
16 would be conveyed from the Hoffman's to the Town of
17 Colonie.

18 CHAIRMAN STUTO: Thank you for that aspect of
19 the presentation.

20 MR. RYAN: Now, Mr. Hoffman is going to talk to
21 you about the open development area application.

22 MR. WYLER: You were asking about how much that
23 property was listed for. According to the Caldwell
24 Banker listing, it's 40 acres so it's smaller than
25 118. It's for sale for \$795,000.

1 CHAIRMAN STUTO: I think that they reduced it.

2 MR. MION: Yes, they did.

3 CHAIRMAN STUTO: I wonder if they'd sell a
4 conservation easement to you.

5 MR. HOFFMAN: If I could shift this over to the
6 ODA, the open development area, which is one of the
7 reasons that we're here tonight. When we were
8 looking at this piece of property, we figured out
9 the first hurdle was the incentive zoning issue that
10 we just talked about. Clearly, the second hurdle
11 that we learned about was ODA. An open development
12 area comes into play in this particular case. To be
13 honest, I don't know how often it comes up but I sat
14 back and I heard a lot about open development areas.
15 I don't think that it's something that never got
16 talked about and it seemed to enhance the
17 presentation today. I really don't know how common
18 they are.

19 The reason that we're requesting an open
20 development area is because this parcel is not
21 adjacent to a public road. To solve the open
22 development issue, from what I have learned and from
23 what we think that we know, is two things that you
24 really have to convince the Planning Board of. We
25 have to have access. So, we have this drawing right

1 here and this is the entire Colonie Center Mall
2 (Indicating). There is plenty of access to Colonie
3 Center. We have no issue. There are two entrances
4 to Central Avenue and two main entrances on Wolf
5 Road. The rotary over here on Sand Creek Road comes
6 in. (Indicating). The Town wants to make sure that
7 there is access because what do you do if there is
8 an emergency? You need to make sure that the fire
9 trucks and the Police Department and the ambulance
10 have full access to the site.

11 CHAIRMAN STUTO: Can I ask who owns those
12 internal roads? They're private roads; correct?

13 MR. RYAN: They are private roads, Peter, and
14 they are part of a reciprocal easement agreement
15 between Sears, Macy's and Colonie 191, which owns
16 the mall stores.

17 CHAIRMAN STUTO: So, there are three titled
18 owners within there and they all have a reciprocal
19 easement?

20 MR. RYAN: That's correct and the easement is
21 designed in such a way that the parcels that are
22 adjacent to your particular roadway that is adjacent
23 to your particular parcel that you own - you make a
24 financial contribution for snow plowing and salting
25 and other amenities.

1 CHAIRMAN STUTO: Macy's owns the parcel in
2 question here, right?

3 MR. RYAN: That is correct.

4 CHAIRMAN STUTO: Does that mutual easement
5 automatically extend, or does it have to be some
6 other kind of sign-off from the other two owners;
7 because you're splitting it off to a fourth owner?

8 MR. RYAN: In our purchase agreement, we are
9 responsible for that portion of the ring road that
10 abuts our property.

11 CHAIRMAN STUTO: Do the other two owners have
12 to approve?

13 MR. RYAN: Macy's owns that ring road.

14 CHAIRMAN STUTO: Understood.

15 MR. RYAN: So, part of our deal is that we
16 maintain it and pay for it now.

17 CHAIRMAN STUTO: Do the other two owners,
18 Colonie Center and the other one, have to approve a
19 fourth owner?

20 MR. RYAN: They do not, but Colonie Center and
21 Sears, just as a corollary, have to consent to the
22 development of the 3.97 acre parcel for a hotel, and
23 we have the consent of both of them.

24 CHAIRMAN STUTO: It's your legal opinion that
25 the reciprocal agreement for access will apply to

1 this new parcel?

2 MR. RYAN: That is correct, sir.

3 MR. GRASSO: Pete, can I ask a question
4 relevant to this?

5 CHAIRMAN STUTO: Sure.

6 MR. GRASSO: Is that easement tied to any
7 existing site plan approvals that gives the Town
8 control over any changes to that easement or
9 extinguishing the easement? Does the Town currently
10 control those easement provisions?

11 MR. RYAN: I think not because that reciprocle
12 easement agreement has been in existence since
13 Colonie Center was first developed in the 1960s.

14 MR. GRASSO: Are you proposing the Town to have
15 that type of control to require that easement to be
16 kept in place in the future as part of this ODA
17 application?

18 MR. RYAN: No, we have to maintain it. The
19 answer to that is no.

20 MS. VAIDA: But as part of the application, one
21 concern is who is going to be required to maintain
22 that road that encircles the property that your
23 subdividing now. What you're saying is that Macy's
24 is the one who is going to be responsible for that?

25 MR. RYAN: My understanding now, the way that

1 reciprocal easement operates, is that Macy's,
2 Colonie and Sears are responsible for maintaining
3 that internal ring road. With our agreement, we are
4 responsible for maintaining that portion of the ring
5 road.

6 MR. HOFFMAN: So, the same deal that's been in
7 play for the last 42 years stays in play. The part
8 that we are adjacent to, we have to maintain to the
9 current standards.

10 MS. VAIDA: Who is going to actually own the
11 subdivided lot? The new one where the hotel is
12 going?

13 MR. RYAN: Turf Hotels or a limited liability
14 company; the members of which are Mr. Hoffman and
15 his son.

16 MS. VAIDA: Do you see any problem with having
17 a condition to the approval be that the owner of
18 that subdivided lot be responsible for maintaining
19 that ring road that surrounds the property so that
20 the Town is assured that there will always be
21 adequate access - the road will be maintained,
22 etcetera?

23 MR. HOFFMAN: Yes, because I don't think that
24 there is any issue. Because as it exists today,
25 Sears, Colonie Center and Macy's has to maintain

1 that ring road in a quality condition and we're just
2 going to have to do our piece. In the negotiation
3 of our contract, that was one of the points; no,
4 absolutely. We prefer to take care of our own
5 because we need it to be perfect. I can't speak for
6 anybody else, Colonie Center, Sears and Macy's, but
7 our piece is going to be perfect.

8 MR. RYAN: So, to answer your question, we
9 don't have a problem with that because we're
10 obligated to do it now anyway.

11 MS. VAIDA: Thank you. That reciprocal
12 agreement actually has terms in it that require the
13 owners there to maintain the road and plow it and
14 keep it in a certain condition?

15 MR. RYAN: That's a correct statement and that
16 reciprocal easement was filed many years ago in the
17 Albany County Clerk's office. A copy of that was
18 furnished to the Planning Department.

19 CHAIRMAN STUTO: We have a piece of it in here.

20 MR. RYAN: Peter, it's about eight-inches
21 thick. We gave you the pertinent sections of it.

22 CHAIRMAN STUTO: Eight-inches is too much.

23 MR. RYAN: Yes, it really helps you to go to
24 sleep at night.

25 MR. HOFFMAN: My point again is that there are

1 two things that we're doing when we're asking for an
2 open development area to be granted that become
3 important. One is access.

4 Clearly, we have access for emergency vehicles in
5 multiple ways and these emergency vehicles have had
6 no problem getting into Colonie Center in the past
7 and they certainly won't in the future. Access is
8 not an issue.

9 The next concern related to an open development
10 application is easements. It's all about access and
11 easements. The Town wants to make sure that we can
12 have our utilities brought to the site. Because
13 there is not a public road - adjacent to a public
14 road, you don't always know where the utilities are.
15 This map - the orange is the existing easements that
16 are in play and the gray is new easements. Our
17 National Grid Electric is going to come in right
18 through here (Indicating). Over here we have
19 National Grid gas and water (Indicating). Verizon
20 is right here. Time Warner also comes in at this
21 point. So, all of our easements are on Colonie
22 Center property. They're currently there - all the
23 ones that we need. We've got a letter from Colonie
24 center saying that they will allow us to bring it to
25 our site.

1 The two issues that really make open development
2 concerning -- and concerning might be the wrong
3 word, but you need to feel comfortable with our
4 access and the fact that we can get utilities. In
5 my opinion, both of these are clearly resolved and
6 absolutely not a problem.

7 Just another comment - as you sit here and you see
8 where this hotel sits - I've said this to our gang
9 and I've lived in the Town off and on, and certainly
10 worked in the Town most of my adult life. I've
11 watched Colonie Center from the day it was there. I
12 watched Colonie Center when it was the greatest mall
13 in the world. I watched Colonie Center get a little
14 old and beat up. I watched the competition come in
15 and take the Colonie Center customer and they went
16 to other malls. I've watched it a couple years ago
17 when PF Chang's, the Cheesecake Factory, the movie
18 theater, LL Bean and the Christmas Tree shop came
19 back and it's just a great mall. But what I like
20 about our project is that malls are like hotels.
21 You need to keep them fresh. You need to keep
22 refurbishing them. You need to keep making them
23 better. I'm prejudice in this kind of way, but it
24 doesn't mean that I'm wrong. Bringing 115 suites
25 that do not compete with any stores in the mall mean

1 that every mall owner is excited about this because
2 we're going to bring a flow of customers to their
3 parking lot. If there was ever a win/win, I see
4 this being it. So, we've picked this site and said,
5 wow, what a great site for a hotel.

6 Then we got into it a little bit further and we
7 learned about incentive zoning that I didn't know
8 anything about. I thought to myself, gee that could
9 stop us dead in our tracks. I've been through the
10 Town and through a cumulative effort, we felt like
11 we got past incentive zoning. Now, we learned about
12 open development. So, here we are today asking you
13 to vote on open development. We need a positive
14 recommendation from the Planning Board on open
15 development. If we get that, then we can go to the
16 Town Board who makes the final decision and they'll
17 vote on it, yes or no - but your recommendation is
18 crucial to us. Then, we can come back to you and
19 talk about it like we're at square one of a hotel
20 property. We can talk about building height,
21 facade, lighting and all of those issues that may
22 concern it, but we need a positive recommendation
23 from the Planning Board to even get into that
24 process. If we could get that, I'd love to talk to
25 you a little bit about it. I know that it's late.

1 I'd like to talk to you a little bit about where we
2 are because our gang presented to you - five or six
3 weeks ago -- I was out of town that day and I'd like
4 that the project continues to move forward. I would
5 love to have a few minutes to try to tell you where
6 the project is, but I need you to kind of vote on
7 the open development or give us a positive
8 recommendation.

9 CHAIRMAN STUTO: I do believe that staff has
10 prepared a Resolution for us to consider. We're
11 prepared to do that, but you're also on for sketch
12 plan which is the second phase. I think that we'd
13 like to hear about the project a little bit.

14 MR. HOFFMAN: So, here is our site
15 (Indicating). We've been working and these projects
16 just keep evolving and we keep trying to move them
17 forward. From when we were here before, there have
18 been a few changes. At one point we were proposing
19 a entrance into the hotel off of Colonie Center Road
20 before you got to Macy's big parking lot. Colonie
21 Center has asked us not to do that. They don't like
22 an exit there and they were a little bit afraid of
23 traffic.

24 I would tell you that these extended stay hotels
25 are almost like apartments than they are full

1 service hotels. We own and operate the Homewood
2 Suites on Wolf Road and they're super hotels because
3 they just don't generate much traffic. People come
4 at night and they leave in the morning and that's
5 the extent of it. There is no meeting room and
6 there is no restaurant and no bar. We have a little
7 meeting room, but it's only for in-house meetings.
8 If we have 20 rooms for GE and they say, hey, we
9 need some space to get together, we try to provide
10 them with that.

11 We eliminated this entrance/exit over here on the
12 side (Indicating). We still have our main one right
13 here. When we spoke to the Town and Fire Safety,
14 they always like to have two entrances into a hotel.
15 Every time I've ever done a hotel, they want two
16 entrances. They always say to me, what happens if a
17 truck tips over right here and your hotel is on
18 fire? How does the fire truck get into the building
19 They come in this way (Indicating). This would be a
20 curb cut or gated somehow so normal traffic would
21 not go in at all, only emergency vehicles. Maybe it
22 would be a Knox Box situation that they'll have the
23 key and we'll work that out through you guys, and
24 figure out how that works.

25 So, we have the main entrance here, and a secondary

1 entrance here (Indicating). That really takes about
2 three of the four acres. That's still the same as
3 we said before.

4 We have a meeting tomorrow with our engineers on
5 stormwater management and that's moved a long way
6 since we were here before. Of the four options,
7 we're going to hear the pros and cons and which ones
8 they recommend. I don't know really where that's
9 going, but we have that meeting tomorrow.

10 We have learned that we've had the environmental
11 Phase I study done on it, and there are no
12 enviromental issues. We have checked it for
13 endangered species and there are no endangered
14 species. We have had it checked for wetland and
15 there are no wetlands. We've had SHPPO and talked
16 to them and there is no need for an archeological
17 study. To be honest, we had photographs and we
18 showed them photographs of this area tipped over,
19 moved over, plowed and the dirt moved, that they
20 said that there is absolutely no need and they gave
21 us a letter that there is no need for an
22 archeological survey.

23 So, we've come a long way. I think that we still
24 have a ways to go. We still think that possibly
25 Trader Joe's has a parking problem. We think that

1 this could be a solution. I haven't talked to
2 Trader Joe's because I really don't know what to say
3 to them. There are so many steps that I need to
4 take before I talk to Trader Joe's and make a
5 proposal to them. We just earmarked 40 or 50 spots
6 here, and I think it's 55 on this particular one,
7 but it could change in size depending on the size of
8 the stormwater management area.

9 CHAIRMAN STUTO: Can I ask why you're doing
10 that for them? Why are you proposing parking?

11 MR. HOFFMAN: Well, because if I went over
12 there at 10:00 tomorrow morning, they have 14 of
13 their cars parked on this piece of property
14 (Indicating). Usually when I snoop over there, they
15 got cars parked over here (Indicating).

16 CHAIRMAN STUTO: Were you going to sell it to
17 them, or rent it to them?

18 MR. HOFFMAN: To be honest, it's a very
19 expensive piece of property. I can't give it to
20 them, but I can treat them fairly and make a deal
21 with them. Maybe they don't want to make a deal. I
22 can't speak for them at all. There is some
23 encroachment, certainly, on parking.

24 CHAIRMAN STUTO: Is there any greenspace left
25 on this? I don't know if I've seen it.

1 MR. HOFFMAN: Well, this whole parcel is about
2 36 percent greenspace right this second.

3 CHAIRMAN STUTO: As designed, you mean?

4 MR. HOFFMAN: As it is right now.

5 CHAIRMAN STUTO: Show me where it is.

6 MR. HOFFMAN: It's all in here. There is
7 actually a lot. It's a hotel and that's what I am
8 through and through. We need to make hotels have to
9 look great on the outside, so that we can entice you
10 to come on the inside. We have a landscape area,
11 but we needed to really make it look great on the
12 outside to get our customer to come on the inside.
13 They're driving down the road and there is a lot of
14 choices. We're all about curb appeal and we're all
15 about greenspace. Frankly, yes, this could be
16 anything.

17 MR. GRASSO: Mike, do you know what the
18 greenspace would be on the parcel if you didn't
19 build any parking for Trader Joe's?

20 MR. HOFFMAN: This, as it shows right now, has
21 63,000 square feet of greenspace. It's just under 4
22 acres. It's 43,560 feet, so it's 176,000 square
23 feet of total space; 63,000 is green.

24 MR. WYLER: And if I remember correctly, this
25 may have been 18,000 or 22,000. So, it could change

1 or tweaked, or be anything.

2 CHAIRMAN STUTO: So, it's one-eighth of a
3 parcel.

4 MR. HOFFMAN: It's a half acre, which would
5 make sense because we're on about three and there is
6 about one left.

7 CHAIRMAN STUTO: That's significant. This is
8 only sketch plan.

9 Kathy, do you have anything?

10 MS. DALTON: My only question is: If we were to
11 say that we were enthusiastic about the project, but
12 not so much about the excess parking, is that
13 important to you? If we wanted that to continue to
14 be green, would that be a deal problem?

15 MR. HOFFMAN: No.

16 MS. DALTON: I think that whether or not that's
17 the right solution is a different matter.

18 MR. HOFFMAN: I need three-plus acres to build
19 a hotel. If that's all it gets on this parcel,
20 you're not going to hurt my feelings. On the flip
21 side, I see that it could be an option and a win/win
22 for everybody.

23 CHAIRMAN STUTO: Anybody else want to jump in
24 on this sketch plan?

25 (There was no response.)

1 CHAIRMAN STUTO: Joe, do you want to make any
2 comments on the sketch?

3 MR. GRASSO: Yes.

4 CHAIRMAN STUTO: You want to do it at the end?

5 MR. GRASSO: Yes.

6 CHAIRMAN STUTO: Okay. I don't have any
7 questions.

8 MR. GRASSO: Maybe I should just do it now.
9 I'll try to be quick, but I think that it's
10 important that we look at the project collectively
11 with all of its parts. Even though tonight we have
12 to understand that the only thing being asked of the
13 Planning Board is the recommendation to the Town
14 Board on the ODA application.

15 CHAIRMAN STUTO: Is the ODA noticed? Is that
16 supposed to be noticed for the neighbors?

17 MR. LACIVITA: It was noticed last time and we
18 actually tabled it by motion to tonight. So, it was
19 noticed appropriately.

20 CHAIRMAN STUTO: Did any neighbors show up last
21 time?

22 MR. LACIVITA: One did; someone from the Court
23 Club.

24 MR. HOFFMAN: Yes, one from the Court Club did.
25 He was all for it. He wants the people down there

1 working out, Peter.

2 CHAIRMAN STUTO: Smart businessman.

3 MS. DALTON: Will you have a relationship with
4 the Court Club so that if your residents want to
5 go - or are you going to have something on-site?

6 MR. HOFFMAN: Standards will dictate that we
7 need a fitness center on-site. The fitness center
8 in a hotel is never what you get when you go to a
9 full health club.

10 At our Homewood we have a customer who has been
11 there for 610 days. We have five or six that are
12 there for 200-plus days. We have 20 there for 100.
13 It's much more like an apartment than it is like a
14 regular hotel.

15 MS. DALTON: I'm a former consultant. I used
16 to live in a hotel. I know exactly what you're
17 talking about.

18 CHAIRMAN STUTO: How many square feet are the
19 units?

20 MR. HOFFMAN: I'll say that they're about 450
21 to 500 square feet. We have a studio style and we
22 have a one-bedroom and we have like four
23 two-bedrooms.

24 CHAIRMAN STUTO: Do they all have kitchenettes?

25 MR. HOFFMAN: Yes, they all have a

1 kitchenette. They don't use them much. We provide
2 a full breakfast and then we provide heavy orderes*
3 Monday through Thursday and beer and wine. The
4 heavy Hors d'oeuvres really become dinner. They
5 love it.

6 I did have a question that I forgot to ask. One of
7 the questions are if we had our choice and it was
8 totally up to us - and I certainly realize that it's
9 not - we would want to propose a seven-story hotel
10 with a pitched roof. We think that our Homewood has
11 a pitched roof. Pitched roofs are just more
12 residential than a flat roof. It's a commercial
13 area, so it could be a flat roof and have been
14 commercial. If we were a seven-story hotel with a
15 pitched roof, I think that you measure the height in
16 the center of the pitch. We would be 78 feet tall
17 and some of the letters that I've seen, I see a
18 75-foot limit. If that's cast in stone, then we
19 would say we can't be where we'd like to be and
20 we'll be six stories with a pitched roof. Our
21 preference is the seven stories with a pitched roof.
22 I guess that's just a question for you to think
23 about. I don't know if you can answer tha,t, but
24 depending on where we go tonight, I want to be able
25 to tell our architect the best information that I

1 can to turn him loose. It takes time to get these
2 drawings done. It's a process for him. We can be
3 crazy the way that we change things around, but we
4 have a good track record. Our system works.

5 I would ask if it's a deal breaker on your end if
6 there were 78 feet versus 75 feet.

7 CHAIRMAN STUTO: I will ask Joe to comment on
8 that in a moment, plus his other comments.

9 MR. LACIVITA: Mike, let me ask one question.
10 The configuration as the rooms and the floors get
11 built - the first floor is higher than normal? All
12 of our zoning districts have a 75 maximum.

13 MR. RYAN: This building here to the top of the
14 seventh floor guest room is 70 feet and one and a
15 quarter inches. So, the rest of the height that
16 we're asking for is in this roof. We can certainly
17 take away the residential look and just put a flat
18 roof across here (Indicating). We're there without
19 doing anything, but it certainly wrecks the
20 appearance.

21 CHAIRMAN STUTO: Would we have to do a waiver?

22 MR. GRASSO: No, that would be subject to a
23 variance.

24 MR. RYAN: Even in an open development project?

25 MR. GRASSO: Yes.

1 CHAIRMAN STUTO: Open development has nothing
2 to do with that.

3 MR. GRASSO: Regarding the open development
4 area, our recommendation would be that it would be
5 limited to the issue of access and not get into
6 trying to change any of the other zoning
7 requirements. That's subject to a different
8 process.

9 My understanding is that here is a 75 foot max
10 height limitation in the zone or across all the
11 zones in the Town. My understanding is that here
12 are certain exclusions regarding the height and
13 regarding penthouses and chimneys and spires. I'm
14 not familiar with measuring half way up the pitched
15 roof. I think that it's to the ridge line. Those
16 are questions that you should really post to the
17 Building Department, but I recommend that you try to
18 design the building meeting the Town's requirements.

19 So, we have the ODA application and we've got the
20 site plan --

21 CHAIRMAN STUTO: That's only in sketch plan.

22 MR. GRASSO: That's right. It's only in sketch
23 plan. And then this incentive zoning is really
24 comes into play as part of the site plan review
25 because it's dealing with the loss of greenspace.

1 Regarding the site plan, I think that they did a
2 good job. They've already made some modifications
3 based on some Town comments. There might be some
4 other minor tweaks regarding the access arrangement,
5 but I think that we can deal with those as they go
6 through the site plan review process. I do think
7 that we do need more information.

8 By the time that they come back for concept, I
9 think that we should have more information regarding
10 the viability of the shared parking arrangement at
11 Trader Joe's. We're supportive of it -- their
12 pursuit of it, understanding that there is a need
13 there and it could be a win/win situation. We need
14 information in order for the Planning Board to
15 understand how it effects the greenspace and what
16 the amenity zoning fee would rightfully be, based on
17 the Town's amenity zoning fee schedule. It's going
18 to have a significant impact on that. We need to
19 understand whether or not we're penalizing this
20 project or penalizing another project for that fee.

21 Regarding the incentive zoning - again this only
22 comes in under the site plan review - we think that
23 the Planning Board should evaluate the type of
24 benefits that this greenspace provides. We're
25 losing not entirely four acres, but maybe three

1 acres. Is it providing aesthetic enhancement of the
2 Colonie Center parcel? Does it provide buffering or
3 a visual screening from residential areas. Those
4 are the things that I think are important for the
5 Planning Board to understand what the true value of
6 this is so that they can compare it to the value of
7 the other things that the Town is getting.

8 We talked about the calculation of the incentive
9 zoning fee. I think that it's important for us to
10 understand exactly what that number is, based on the
11 Town's schedule. Let's figure out what it is based
12 on either with the Trader Joe's parking or without
13 the Trader Joe's parking, so we can factor that into
14 the deliberation.

15 Regarding the 118 acre conservation easement
16 parcel: We do believe that it's relatively
17 constrained to development, due to the wetlands and
18 the buffer and the steep slopes. We do acknowledge
19 that the parcel has high ecological importance
20 because of the wetlands and the location within the
21 watershed, the green belt, the Karner Blue Butterfly
22 habitat and those other important wildlife habitat
23 areas. So, we do think that has a lot of merit. We
24 also think that the property has relatively little
25 taxable value, once the conservation easement gets

1 established on it. I think that we have to keep
2 that in context with the increase in taxable value
3 of the project, as proposed.

4 Our initial application is based on our initial
5 screening of the properties and that the parcel
6 proposed for hotel development really has limited
7 value as greenspace. It's relatively free of
8 environmental constraints to develop. So, we think
9 that it's appropriate for development. We think
10 that the ODA development, as proposed, as long as
11 the Town has control, that those easements have to
12 be kept in perpetuity and nobody can either stop
13 maintaining the access road or put up blockades. As
14 long as we can maintain that control some way, we
15 have no concerns with the ODA arrangement. We feel
16 that it's a moot point regarding the application.

17 In terms of the development that's proposed on the
18 site, we think that the scale of it is appropriate
19 as proposed. I think that we need to understand the
20 visibility of the hotel from adjacent residential
21 areas; primarily on the other side of Sand Creek
22 Road or down Sand Creek Road. We should look at
23 whether the building height should be limited based
24 on visibility from those residential areas.

25 CHAIRMAN STUTO: What could the applicant bring

1 us?

2 MR. GRASSO: Maybe cross-sections that show a
3 building height of 75 feet and how far away those
4 residential structures are.

5 CHAIRMAN STUTO: One of those balloon things?

6 MR. GRASSO: Yes, or what lies in between. Is
7 there other vegetation that is going to be retained
8 that's going to provide visual screening? Or if the
9 building is going to be visible, what kind of visual
10 impact are we expecting? It is going to be a lit
11 facade? Is there going to be signage on the
12 building? Just because the building is going to be
13 visible, doesn't mean that it's going to have
14 significant visual impact. I think those are the
15 things that we could look at as we get into the
16 detailed site plan review.

17 What we like about the project is that it's really
18 consistent with smart growth principals. It's
19 trying to concentrate on commercial development
20 within the existing commercial development areas of
21 the Town. It really provides, like Mike said, a
22 mixture of land uses. When you look at the land
23 uses around the site, there are really good
24 adjacencies. It's not like we're putting a hotel 50
25 feet away from residential structures. Then when

1 you look at the open space amenities, we think that
2 the 118 acre piece has a lot of ecological value.
3 So, we like that.

4 Those other amenities; the bathrooms and the picnic
5 tables we think are important public benefits of the
6 Town. So, all in all, we think that it's a viable
7 development proposal and worthy of consideration by
8 the Planning Board.

9 CHAIRMAN STUTO: Okay, any of the Board Members
10 want to make comments?

11 (There was no response.)

12 CHAIRMAN STUTO: Actually, I will make a
13 comment and that is that I do think that there is a
14 value for the greenspace that's there and I don't
15 want to say that it's minimal. I forgot how you
16 phrased it, but I think that there is a value of it.
17 It's sort of a common space, if you transition from
18 the back of Macy's to Sand Creek. That's my
19 personal opinion. I think that we do have to look
20 at moving it -- and this is just sketch plan
21 feedback because we're not voting on it at this
22 point. We would like to give feedback to the
23 applicant.

24 I think that we have to look hard at what's being
25 proposed as the incentive zoning. That's what I've

1 been grappling with tonight. If nobody has any
2 comments on that, we can talk about the ODA.

3 Do you have a resolution?

4 MR. GRASSO: Our office has worked with the
5 Planning Department on drafting a possible
6 Resolution. I didn't get a chance to incorporate
7 Elena's comments, so she has some verbiage revisions
8 which I'll pass out our draft and then Elena can
9 speak to what her comments entail. I don't think
10 that it substantively changes the Resolutio,n, but
11 no doubt there is a lot of text changes that she
12 could speak to.

13 MS. VAIDA: If I could just make this go maybe
14 a little bit more smoothly: When you're reading it,
15 maybe i can interject myself because there are some
16 paragraphs that I think should come out and be
17 completely rewritten. So, if I could just read
18 those as we go along.

19 MR. GRASSO: Would it be easier for you to just
20 read through it?

21 MS. VAIDA: I could do that.

22 CHAIRMAN STUTO: Mr. Ryan, do you have a
23 comment before we do that?

24 MR. GRASSO: Bill, that's the draft that CHA
25 and the Planning Department worked on. It has not

1 incorporated Elena's comment.

2 MR. RYAN: I understand. I just want to read
3 it as it goes.

4 MS. VAIDA: One of the things that I wanted to
5 point out to the Board also is we're not doing,
6 obviously, SEQRA. The reason for that, so that
7 everybody understands, is that this was referred to
8 us by the Town Board. They are the lead agency on
9 the open development and they will be making their
10 SEQRA findings on this. We're just making
11 recommendations to them and they are not going to be
12 bound by our report and recommendation. So, I think
13 that was important to point out.

14 Regarding the title of the document. I just
15 changed it to Report of Planning Board, instead of
16 Special Rule, since the Town has the option of
17 adopting it or not. I guess I'll just read through
18 it. The parts that are definitely the same, I'm
19 going to read very quickly.

20 CHAIRMAN STUTO: I do have a question on the
21 change of the title. On 280A - I'm going to read
22 the whole section.

23 "The Town Board may, by resolution, establish an
24 open development area or areas within the town
25 wherein permits may be issued for the erection of

1 structures which access is given by right of way or
2 easement. Upon such conditions and subject to such
3 limitations as may be prescribed by general rule or
4 special rule of the Planning Board, if one exists,
5 or the Town Board if a Planning Board does not
6 exist."

7 I don't know if report is the right word.

8 MS. VAIDA: We can leave it like that. I think
9 that it's self-evident what it is. Nobody is bound
10 by it. It doesn't matter really what the title is.

11 CHAIRMAN STUTO: Well it says subject to our
12 limitations that we put on it.

13 MS. VAIDA: Right, which is within the contents
14 of the document.

15 "Whereas Turf Hotels, Turf Colonie, LLC herein
16 after referred to as the applicant made a request
17 for an open development area to the Town Board and
18 whereas the Town Board referred this matter to the
19 Planning Board for advise and recommendation via
20 Town Board Resolution 339 for 2012. And, whereas
21 280A of the New York State Town Law advised that the
22 Town Board may establish an open development area
23 within the Town, wherein permits may be issued for
24 the erection of structures to which access may be
25 given by right of way or easement on such conditions

1 and subject to such limitations as may be prescribed
2 by special rule of the Planning Board and --"

3 The next paragraph I struck out in total and I'm
4 replacing that. Obviously it's open to discussion
5 with the paragraph that would read:

6 "Whereas the applicant has filed an application for
7 a minor subdivision and site plan approval to
8 construct an extended stay hotel known as Staybridge
9 Suites Hotel on a four-acre undeveloped parcel of
10 land which is part of the 92 acre Colonie Center
11 property and which abuts a ring road which encircles
12 the entire mall.

13 Whereas the ring road is well managed and
14 maintained under the mall's reciprocal easement
15 agreement duly recorded in the Albany County Clerk's
16 office at Liber 2444, page 187 and whereas the afore
17 described hotel proposed to be erected on the
18 four-acre parcel sought to be created by the
19 applicant will have suitable access in that it abuts
20 a roadway with sufficient frontage to allow the
21 ingress and egress of emergency vehicles as required
22 by the New York State Town Law Section 280 A,
23 subparagraph 5 and other applicable laws.

24 Now therefore be it resolved that the Planning
25 Board recommends that the open development area as

1 requested by the applicant be approved in all
2 respects based on the following conditions: that the
3 address of the parcel shall meet 911 communications
4 designations as required to any future changes to
5 the recommended open development area including but
6 not limited to addition, demolition, structural or
7 site changes, subdivision and change in use or
8 tenant must comply with all applicable Town of
9 Colonie processes and approvals. A hold harmless
10 and indemnity agreement shall be entered into with
11 the Town protecting the Town from liability in
12 connection with the access and maintenance of the
13 roadway to the subject property.

14 Satisfactory proof shall be demonstrated to the
15 Town that the proposed 3.97 acre subject parcel and
16 any future heirs, successors and assignees as a
17 legal right of way or perpetual easement providing
18 unrestricted ingress/egress and public utility
19 access. So, the remainder of the 22.42 acre Macy's
20 parent parcel and the approximately 92 acre Colonie
21 Center parent parcel. Such proof shall be provided
22 prior to final stamping of any such subdivision plan
23 for the Macy's parent parcel.

24 The granting of the open development area does not
25 delay the applicant from compliance with all other

1 zoning HCOR district requirements, environmental,
2 building and Land Use Law rules and regulations.

3 The owner of the proposed four acre separate lot
4 and the owner of the building to be constructed
5 thereon, its heirs, assigns and successors and
6 interest shall be fully responsible for all
7 maintenance, upkeep, required improvement, no
8 plowing etcetera of the roadway."

9 MR. RYAN: Not the entire ring road around the
10 mall - just in front of where we are building;
11 correct?

12 MS. VAIDA: I think that would work based upon
13 the next paragraph.

14 MR. RYAN: I didn't mean to interrupt.

15 MS. VAIDA: That's okay.

16 So, the roadway abutting the property; correct?

17 MR. RYAN: Correct.

18 MR. LACIVITA: How is that agreement
19 specifically written? Is this based on a fee that
20 goes in, or you guys physically maintaining that
21 portion in front of your building? I know that
22 there were conversations about that earlier and you
23 kept on saying that we're all involved in it. We're
24 all paying into the maintenance of it. How does
25 that specifically work and how is that maintained?

1 MR. HOFFMAN: Joe, we pay a fee and really it's
2 a financial contribution from all the owners. They
3 hire out Tom's Snow Removal to come and clear the
4 entire ring road and you pay based upon the
5 calculation which essentially consists of the square
6 footage of the ring road adjacent to the property
7 that you own.

8 MR. LACIVITA: That's why you keep on honing in
9 on that component that's right in front of you.
10 That's your specific responsibility.

11 MS. VAIDA: Does that reciprocal agreement --
12 is that referred to in your deeds to the property?

13 MR. HOFFMAN: Oh yes; absolutely.

14 MS. VAIDA: The last condition is that .

15 "The owner of the proposed four-acre separate lot
16 -- "

17 I'm not sure if I need to say the owner of the
18 buildings. I'm not sure how you have that set up.

19 "Their assigns and successors and interest shall be
20 bound by the afore described reciprocal easement
21 agreement."

22 That's all I had. This would also be subject to
23 review by the Town Attorney's office. They may not
24 like the language or have some other suggestions.

25 CHAIRMAN STUTO: How is it gong to be subject

1 to their review?

2 MR. GRASSO: I would condition the approval or
3 Resolution understanding that there may be some
4 minor text changes based on the final drafting of
5 the Resolution as long as it doesn't change --

6 MS. VAIDA: These are just recommendations to
7 the Town Board anyway.

8 CHAIRMAN STUTO: Did you want to say something,
9 Paul?

10 MR. ROSANO: Conditions can be separate from
11 the overall vote. You're just going to make a
12 recommendation for open development, subject to that
13 we may have to make adjustments to the verbiage or
14 something. It's not going to change the fact that
15 you're recommending it.

16 MS. VAIDA: I think that any conditions has to
17 be made by the Planning Board.

18 CHAIRMAN STUTO: You can probably add stuff to
19 it.

20 MR. ROSANO: Yes, you could add to it.

21 CHAIRMAN STUTO: Any discussion on the
22 resolution as proposed?

23 (There was no response.)

24 CHAIRMAN STUTO: Okay, do we have a motion?

25 MR. MION: I'll make a motion.

1 MS. DALTON: I'll second.

2 CHAIRMAN STUTO: All those in favor say aye.

3 (Ayes were recited.)

4 CHAIRMAN STUTO: All those opposed, nay?

5 (There were none opposed.)

6 CHAIRMAN STUTO: The ayes have it.

7 MR. GRASSO: There was one other thing. Mike
8 was able to look up some clarification on the
9 building height based on our interpretation. In the
10 COR zone it has a maximum building height of 75
11 feet, yet the footnote says a parapet wall may
12 extend not more than eight feet above the maximum
13 height. So, that would push you to 83 feet and it
14 says that the peak of a pitched roof may extend not
15 more than 15 feet above the maximum height. So, the
16 maximum height based on that would be 90 feet.

17 CHAIRMAN STUTO: Okay, we'll leave that to your
18 interpretation on your application.

19 Anything else?

20 MR. RYAN: Peter, can I just ask one question?
21 Now that you've adopted the Resolution, can you just
22 explain what you mean by number four?

23 MR. GRASSO: It's basically that the Town needs
24 something in our files to show that the parties
25 can't get together and abolish rights of access

1 across the various properties.

2 MR. RYAN: The parties being?

3 MR. GRASSO: Colonie Center, Sears, Turf Hotel.
4 We need something that shows that there is going to
5 be a perpetual easement that grants this property
6 rights of access.

7 MR. RYAN: To the other parts of the 92 acres?

8 CHAIRMAN STUTO: To the access road so.

9 MR. RYAN: The reciprocal easement agreement?

10 MR. GRASSO: You can have your private
11 reciprocal easement. We need to make sure that the
12 Town has their hooks into it. That's important to
13 this approval. Or else we can have a landlocked
14 parcel with no rights of access.

15 MR. ROSANO: You could end up like Nemith
16 again.

17 CHAIRMAN STUTO: I think that the reciprocal
18 easement agreement accomplishes that.

19 MR. RYAN: I understand what you're saying that
20 the reciprocal easement agreement is ingress and
21 egress for everybody that uses that entire 92 acres.

22 MR. GRASSO: Understood. We just care about
23 what's going on with this application.

24 CHAIRMAN STUTO: We haven't reviewed the whole
25 easement. It's for the Town. We're leaving it for

1 the Town to enforce this. That runs with the land.

2 MR. RYAN: Okay, just making sure. Thank you.

3 CHAIRMAN STUTO: Thank you.

4

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6 (Whereas the proceeding was concluded at 10:23

7 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 December 10, 2012

