

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3 *****
4 CAPITAL COMMUNICATIONS FEDERAL CREDIT UNION
5 976 LOUDON ROAD
6 APPLICATION FOR CONCEPT ACCEPTANCE
7 *****

8 THE STENOGRAPHIC MINUTES of the above entitled
9 public hearing BY NANCY STRANG-VANDEBOGART, a
10 Shorthand Reporter, commencing on
11 February 7, 2012 at 7:02 p.m. at
12 the Public Operations Center
13 347 Old Niskayuna Road,
14 Latham, New York 12110

15 BOARD MEMBERS:

- 16 PETER STUTO, Chairman
- 17 MICHAEL SULLIVAN
- 18 LOUIS MION
- 19 BRIAN AUSTIN
- 20 TIM LANE
- 21 BRIAN HAAK
- 22 REBEKAH KENNEDY, Esq., Town Attorney's Office

23 Also present:

- 24 Daniel Hershberg, PE, Hershberg and Hershberg
- 25 Robert Roemer, VP/IS Capital Communications Federal
Credit Union
- Don Lonergan, DRL Associates
- David J. Jurczynski, Executive VP & CFO, Capital
Communications FCU
- Wendy Holsberger, PE, PTOE, Creighton Manning
- Joe Grasso, PE, Clough Harbour and Associates
- Peter Lynch, Esq., on behalf of First Columbia
- John Fahey

1 CHAIRMAN STUTO: The first project we'll
2 call right up. Capital Communications FCU, 975
3 Loudon Road, application for concept
4 acceptance.

5 If the applicant would like to set up
6 their presentation and we'll get an intro from
7 Joe.

8 MR. LACIVITA: This project is entitled
9 Capital Communication FCU, 976 Loudon Road.
10 It's an application tonight before the Board
11 for concept acceptance. The project was before
12 the DCC, Development Coordination Committee,
13 on September 28, 2012 and shortly thereafter
14 it was before this Board for sketch plan
15 review.

16 It is a redevelopment site and the site
17 is actually going to be a demolition of the
18 existing building on site, as well as an
19 addition of a 9,200 square foot four story
20 office building. It is presented tonight by
21 Hershberg and Hershberg with Clough Harbour as
22 our TDE.

23 CHAIRMAN STUTO: Mr. Hershberg, welcome.

24 MR. HERSHBERG: Thank you, Mr. Chairman.
25 I just want to point out some people that are

1 with me that might be able to answer questions
2 which I do not have an answer to.

3 With me is Wendy Holsberger from
4 Creighton Manning; Don Lonergan from DRL
5 Architects; Greg Rosen who is the quarterback
6 for this team. We also have three gentlemen
7 from Cap Com; Rob Roemer, Dave Jurczynski and
8 Jim Thompson. These are all individuals that
9 are all involved with the project that could
10 answer any operational questions which may
11 arise.

12 CHAIRMAN STUTO: You were in here before
13 for sketch plan.

14 MR. HERSHBERG: We were, and at that time
15 we talked about requesting some waivers and
16 the waivers had to do with the building
17 setback. The building setback is greater than
18 required in the COR zone. We used as a
19 justification in relation to the other
20 buildings -- this is Kimberly's (Indicating)
21 which is approximately 145 feet back. The
22 building next door is 147 feet back and we
23 proposed the line pretty much in the same line
24 of about 144 feet back.

25 We also requested a waiver to allow some

1 parking in the front yard. We require a small
2 amount of parking in the front yard because
3 the bulk of this parking is for employees of
4 Cap Com and there will be a small amount of
5 visitors that come to this site; primarily to
6 do mortgage business or insurance business
7 that Cap Com offers.

8 Because we have an entrance at the front
9 and a couple of employee entrances at the
10 rear, we requested a waiver to allow that
11 parking in the front yard. The other waiver we
12 requested was to allow Cap Com to bank
13 significant parking. If you use the figure of
14 the entire building including the basement
15 area, the required parking would have been
16 320. We proposed to build 266 and bank 147. We
17 note that the TDE's letter recommends that we
18 build out the 320. We'll leave it to the
19 Board's determination of whether that is
20 required for approval or whether or not
21 they'll allow us to build less with the idea
22 that we would demonstrate how we would bank
23 and build out to the 320 parking spots.

24 CHAIRMAN STUTO: Say we tried it out at
25 the lower number or a lower number; what would

1 trigger a build out in the future?

2 MR. HERSHBERG: What Cap Com did was a 10
3 year look ahead and that's what generated the
4 320 figure. Only after 10 years of occupying
5 this building and with substantial grown
6 continuing with Cap Com's demands would there
7 ever be the 320 parking spots. The 260 plus or
8 minus parking spots is enough for employees,
9 plus allows 70 for transit uses or people
10 coming in from other branches or for patrons.
11 They believe that the lower figure is adequate
12 in the interim, and only at the end of 10
13 years there is a demand that reaches 320. They
14 would come back in at that time and apply to
15 build the balance of the 320 parking spots.

16 CHAIRMAN STUTO: What if you just
17 miscalculated in the beginning? Would there be
18 a way to trigger it?

19 MR. HERSHBERG: Sure. Obviously there is
20 no place to allow on-street parking in this
21 area, so if they're short of parking that
22 would be a problem. They would be back in here
23 in a jiffy to go ahead and build out the
24 balance of the parking. However, these figures
25 are based upon actual employee counts that are

1 based on a fairly significant space study for
2 the new building. They are relocating some
3 employees from the branch to this building and
4 they know the employees that they are moving
5 from their existing site on New Karner Road.

6 They have a pretty good handle on what
7 the build out level would be after 10 years. I
8 don't think that there is a chance of us
9 running out of parking, initially, as a
10 problem. Whether or not it's 10 years, or nine
11 years, or eight years or 15 years before they
12 need the 320 parking spots, we wish them good
13 luck that they would need that many parking
14 spots with a growth of an employee base.
15 That's the story with the parking.

16 The other issues that were raised had to
17 do with egress and ingress to the site. There
18 currently are two driveways to the old Fucillo
19 auto area; one here and one here (Indicating).
20 We've proposed to close this one (Indicating)
21 and just leave this driveway where it is now.
22 That is an ideal place because it's across the
23 street from the driveway on the opposite side
24 of the roadway. The one entrance works fine
25 for us, but during discussion we determined

1 that it might be beneficial using access
2 management ideas that DOT promotes. The DGEIS
3 talked about building back entrances to sites
4 to allow people to come out to traffic lights.
5 Because Cap Com already owned the branch the
6 applicant approached Smith Pontiac, which
7 owned the property that Kimberly's is on, and
8 has requested an easement. That process is
9 ongoing. A draft of the easement has been
10 submitted to their attorney. Their attorney
11 had a couple of comments. We responded to
12 them. We think that there is a high
13 probability that that easement will be granted
14 and therefore this can be developed.
15 Kimberly's would lose three parking spots as a
16 result of this, which we think is sustainable
17 amount for them. The branch will lose a
18 significant amount of parking spots but
19 they'll also lose employees. The employees
20 will also be relocated to this building. Just
21 in case that there is a demand in there, we
22 propose to have a sidewalk down through here
23 (Indicating) so that any excess employee
24 parking can be used as a portion of this
25 parking lot.

Legal Transcription

1 The TDE report also recommended that we
2 provide a pedestrian accessibility from the
3 site and we concur with that. The two
4 potential locations are to run a sidewalk down
5 this side, or to widen one of these islands,
6 widen the island and put a sidewalk in it and
7 have crossings down to here (Indicating). We
8 think that a pedestrian accessibility for the
9 entire area is a good idea and we will do
10 that.

11 Another issue raised by the TDE letter
12 said that there should be consideration on
13 some public area with regard to the site, some
14 sitting areas, bike racks and some amenities
15 like that. The applicant is obviously willing
16 to do that. They think it's a good idea and we
17 concur with the TDE's finding of that.

18 The other issue had to do with some
19 technical issues - there was a review of the
20 traffic issue and the question was: Should we
21 calculate the traffic generation figures by
22 just the office, or to include the basement
23 which includes areas that don't increase the
24 population? We don't object to the calculation
25 that Clough Harbour recommends that we

1 calculate it on a gross square footage of the
2 building and include the basement area. It
3 does increase the levels, but it does not
4 impact the final analysis.

5 If the Board has any significant traffic
6 questions, Wendy Holsberger is here from
7 Creighton Manning and she can answer them.

8 The other issues had to do with our
9 stormwater management. We had proposed to have
10 a portion of the parking lot be porous
11 pavement. In looking at the area here, we
12 don't object to making the entire pavement a
13 porous pavement. However, if the soil below it
14 does not support an infiltration rate - we
15 would like two inches per hour or .5 inches
16 per hour. That is the EPA minimum to use
17 porous pavement. If that can't be maintained,
18 the applicant would put an underdrain in it,
19 which means it doesn't qualify as a green
20 pavement. It does keep the consistency of old
21 pavement being porous.

22 Joe Grasso's concern was that in fact if
23 there was a portion of porous pavement and a
24 portion of regular pavement, how would they
25 know how to maintain it differently?

1 The difference of porous pavement - and I
2 tell people this all the time - there is not a
3 significant amount of maintenance. You just
4 don't want to use sand on porous pavement
5 during the winter. You use normal de-icers on
6 it and you do have to sweep it in the spring,
7 or a couple of times a year with one of those
8 sweepers that you normally see running around
9 a shopping center. We don't have any problem
10 with the recommendation to use porous pavement
11 throughout the site. That's something that we
12 can do. How much of it qualifies as the
13 grading structure will determine how much is
14 truly going to act as a true porous pavement.
15 True porous pavement allows the water to
16 infiltrate into the ground below it.

17 Let me talk briefly about stormwater
18 management; my favorite topic. This site is
19 ideal because we did two infiltration tests
20 here and are reasonably certain that all of
21 this area will have an infiltration rate that
22 well exceed two inches per hour. Ideally, with
23 green infrastructure, the ideal is to use
24 porous pavement. The Town of Colonie has, I
25 think, adopted porous pavement wherever it

1 can. We worked closely with the stormwater
2 management office and we do attempt to use
3 porous pavement anytime that we have soil that
4 will accept the stormwater. The Town is the
5 first municipality in this area that has built
6 a Town road with porous pavement. The road to
7 Antoinette Estates is actually a Town road and
8 built on porous pavement.

9 CHAIRMAN STUTO: Where is that road?

10 MR. HERSHBERG: Off of Consaul Road. A
11 new development, Antoinette Estates - this
12 group approved a 13-lot subdivision on it
13 about a year and a half ago. It's under
14 construction and it's going through winter
15 quite well. We're satisfied that it might be
16 the thing to do to allow more Town roads to be
17 built out of porous pavement. The Albany
18 Stormwater Coalition is pushing for that and
19 as a part of your local stormwater ordinance,
20 they're drafting a model ordinance for
21 consideration by the Town Board.

22 The stormwater management issue here is
23 that we do intend to use porous pavement.
24 Right now the site is about 39 percent green.
25 All of the stormwater from the site, including

1 this site here, all drains down, goes through
2 a pipe and goes through a drainage ditch that
3 runs down towards the Northway. This site has
4 absolutely no stormwater controls on it. It's
5 strictly straight run-off. It comes from the
6 rooftop. It comes from the pavement. Our plan
7 is to reduce the impervious area.

8 The greenspace under our plan with the
9 banked parking spots is over 51 percent green.
10 And in addition to that by using porous
11 pavement, essentially, the only impervious
12 area will be this building and a little bit of
13 sidewalks. These sidewalk areas probably would
14 be good to use as standard concrete rather
15 than the pervious concrete. We intend to take
16 that and run it down to what's called a
17 standard practice. That's a surface sand
18 filter, which is a very fine method of getting
19 rid of stormwater. We would have liked to put
20 an infiltration basin down there, but our
21 stormwater feasibility study that we submitted
22 on December 15th showed the shallowness to
23 groundwater in this area did not allow us to
24 use an infiltration basin. There is no reason
25 why we can't build a filter basin because

1 filter basins can be built. So, our situation
2 is that we will have a collection system
3 primarily to collect the roof drainage and
4 drainage from the sidewalk. All of this
5 pavement will be porous and if we need it
6 underground, we'll take care of it at that
7 point.

8 The traffic study that Creighton Manning
9 did evaluated the tendency for the queue to
10 back up on Century Hill Drive - and if it
11 does, back up beyond this driveway certain
12 times. It depends on what is called courtesy
13 gaps. It may be an oxymoron, but some drivers
14 are courteous enough to allow someone to make
15 a right hand turn in from the queue lane. So,
16 the courtesy gaps are what is depended upon
17 now to get out of that driveway at certain
18 hours of the day. The same situation will
19 essentially occur here. The only inconvenience
20 will be the people that are trying to get out
21 in that direction. If people leaving
22 Kimberly's find that there is an inordinate
23 wait to get out, they certainly have the
24 option to go out the same way that they do now
25 onto Route 9, as would the employees from Cap

1 Com. They could always go out this way rather
2 than going out the rear. We would hope those
3 would be short enough delays getting out of
4 that driveway to encourage people to go out
5 the driveway to Route 9.

6 Another issue is that there had been a
7 spill on this site once before. That site has
8 been remediated to a level that -- let me just
9 read a sentence from a letter dated October 26
10 from the New York State DEC.

11 "Therefore this office is not requiring
12 further action at this time. Future review may
13 be performed in an attempt to meet New York
14 State standards."

15 What's happened here is that there are
16 some soils underneath this area here which
17 exceed New York State standards. But as long
18 as we don't intend to excavate those or
19 disturb them, the New York State agency says
20 that no action is required. You don't have to
21 further mitigate them. What happened is that
22 we had an environmental site assessment done,
23 which is this manual here, which I will be
24 transmitting as requested by the TDE. In
25 addition to doing a typical Phase I

1 environmental site assessment, they expanded
2 it and did an extended sub server's assessment
3 and site. There were a whole bunch of wells
4 that were established in there for testing
5 purposes. It showed that most of the
6 contaminates were now at a non-detectable
7 limit. Some are at a limit that would raise
8 concerns normally but because looking back
9 historically, they are at a lesser level than
10 have existed in the past. These wells have
11 been monitored over a period of about 12
12 years. During that time, there have been no
13 findings of any contamination increases. As a
14 matter of fact, the contaminate level
15 continues to go down. We do not believe that
16 there is any potential for contamination. We
17 don't intend to disturb any of these soils.

18 CHAIRMAN STUTO: Was the DEC letter in
19 the context of this application? In other
20 words, they know what you're proposing here?

21 MR. HERSHBERG: Yes. The precision group
22 that did our analysis had a copy of the
23 proposed site plan in their reports.

24 This Board received a letter from an
25 attorney, Peter Lynch. My guess is that might

1 be an issue tonight. If the Board would permit
2 me, I'd like to run through some verbal
3 responses to that.

4 CHAIRMAN STUTO: I'm just trying to think
5 of the most efficient way to do it. He's going
6 to have his turn to do his thing.

7 MR. HERSHBERG: I can wait.

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

10 MR. GRASSO: Let's wait. Let us go
11 through our comments, and then we'll let the
12 public speak and then we can circle back to
13 any outstanding issues that need further
14 discussion.

15 MR. HERSHBERG: I would just like to say
16 that we think that this project is suitable
17 for concept acceptance. There are issues that
18 still have to be worked out; obviously always
19 between concept and preliminary final. SEQRA
20 also has to be worked out, but we don't
21 anticipate that SEQRA determination be made at
22 tonight's meeting. Normally, this Board makes
23 it coincidentally or prior to making
24 preliminary final.

25 CHAIRMAN STUTO: Can you give some

1 comments on the architecture of the building?
2 I think that would be helpful.

3 MR. HERSHBERG: I can have Don Lonergan
4 make some comments on that.

5 MR. LONERGAN: Thank you. My name is Don
6 Lonergan from DRL Architects. As you can see,
7 we're proposing a four-story masonry structure
8 of two types of red brick which are light
9 tones and buff colored brick. There are
10 aluminum entrances and aluminum windows. The
11 building is a two-entrance structure. The main
12 entrance is in through here which picks up the
13 guest parking in through here (Indicating) and
14 there is a sidewalk down the front of it.

15 CHAIRMAN STUTO: Where is Route 9 in
16 relation to that?

17 MR. LONERGAN: Right here. The rear of
18 the building is actually the main entrance to
19 the building where the majority of our parking
20 is. We come in not only from the front, but we
21 come out a central corridor, go up the
22 stairway and also feed off of the first floor.

23 The building is energy efficient, of
24 course. It's going to be a certifiable
25 building. It gets its 50 points from a LEEDS

1 certification. The majority of the circulation
2 has already been gone in through here - the
3 main entrance and the main façade off of
4 Route 9.

5 CHAIRMAN STUTO: We may have questions on
6 that later. Thank you.

7 Mr. Grasso, you're our Town Designated
8 Engineer. You've reviewed this project on
9 behalf of the Town with an eye towards looking
10 for things that may be righted and to offer
11 criticism.

12 MR. GRASSO: We issued a comment letter
13 dated January 27th and I'm going to read many
14 of the comments verbatim. Some of them I may
15 paraphrase and skip through just for the sake
16 of time.

17 You all should have this our letter in
18 your packets.

19 "Comments were raised during the DCC
20 meeting and sketch plan review regarding the
21 need for the cross access connection from this
22 site to the adjacent Cap Com branch bank,
23 Kimberly's and Century Hill Drive. The
24 significance of the connection is that it
25 would provide access to the signal at Century

1 Hill and Route 9 thereby facilitating left
2 hand turn movements onto Route 9 from exiting
3 northbound traffic. The plan depicts the
4 connection as suggested. Implementation of the
5 connection would require cross access
6 arrangements as well as temporary construction
7 easements with the adjacent land owners. The
8 response letter indicates that the applicant
9 is pursuing the easements with the adjacent
10 owners. If the concept acceptance is granted,
11 we recommend that it be conditioned on
12 obtaining the referred easements and showing
13 all the required work on the final plans.

14 In addition, the required work on
15 adjoining properties expected to result in a
16 loss of parking on the adjacent sites
17 including at least 10 spaces on the branch
18 bank and three on the Kimberly's site.
19 Conceptually we are agreeable to the reduced
20 parking, but the applicant should evaluate the
21 parking impacts on these sites more fully and
22 provide documentation from the effected
23 property owners if the loss of parking is
24 acceptable.

25 The applicant is seeking several waivers

1 from the Planning Board including waivers to
2 allow parking within the front yard - to allow
3 the front yard setback to exceed the maximum
4 of 25 feet and to allow for reduced parking. A
5 list of the waivers requested and/or approved
6 should be included on future plan submittals."

7 Regarding the waiver to allow parking in
8 the front yard and having the building setback
9 from the road 143 feet - the plan proposes the
10 majority of the parking behind the building to
11 the west and to the north of the building. Due
12 to the unique configuration of the lot, having
13 some of the parking in front of the building
14 greatly reduces the length of pedestrian
15 travel from the parking spaces to the closest
16 building entrance. In addition, a setback to
17 the building and extent of parking in the
18 front yard is consistent with that along the
19 corridor and on the adjacent properties. As
20 such, we believe that the requested waivers
21 for parking in the front yard and building
22 setback are appropriate.

23 Regarding the waiver to provide reduced
24 amount of parking, the plan proposes to build
25 266 spaces and bank 147 which would be built

1 if demand dictates. Strict application of the
2 requirements in the Zoning Code would require
3 413 spaces to be provided now. The application
4 materials indicate that 320 spaces are
5 required to meet the applicant's needs for the
6 next 10 years. Due to this relatively short
7 time frame, we recommend 320 spaces be
8 constructed at this time and the remaining 93
9 spaces be banked.

10 CHAIRMAN STUTO: Can I ask why there is a
11 difference of opinion? Does that have to do
12 with the basement?

13 MR. GRASSO: Yes. We calculate the
14 basement space as we applied the parking
15 requirements per Code. Based on the total
16 building square footage, it doesn't
17 differentiate between different uses within a
18 building. So, I think that Dan in his
19 presentation had said that 320 were required,
20 but I don't think that he was referring to
21 what was required by the strict application of
22 the Code. He was referring to what was
23 required by his applicant 10 years down the
24 road and we clarified that in our comments.

25 CHAIRMAN STUTO: I'm going to let him

1 address that now because I think that it would
2 be easier for the Board to hear.

3 MR. HERSHBERG: Mr. Grasso is correct. We
4 did show the capability of building the 413
5 spots on the site. When I say required, we
6 referred to Cap Com's parking requirements
7 based on their current projection. The Town
8 requires 413 and if we ever had to build all
9 of this, dotted spaces would be constructed
10 for parking.

11 MR. GRASSO: That is our current
12 recommendation based on the review of the
13 application materials. It's not a hard and
14 fast number that we don't think that the
15 project could move forward with less than 320
16 spaces.

17 CHAIRMAN STUTO: Let's talk about this
18 for a second now because we are at that point.

19 I remember when the Bette's were in
20 talking about their properties that there is a
21 sea of empty parking spaces back there. I
22 always wonder why there are sometimes that we
23 don't overbuild parking. Who should know
24 better than the builder what the requirements
25 are? The corporate headquarters, I think, is

1 going to own it. They know best how many
2 spaces they would need. I don't know what
3 you're thoughts are on that. I've read some
4 planning articles where they say that
5 generally they overbuild parking and it will
6 tend to mitigate itself and so on and so
7 forth. I don't know if you have a philosophy
8 or not.

9 MR. GRASSO: I think that the standard
10 code application would result in excess
11 parking on the site. I do believe that. I
12 think that a 25 percent reduction is pretty
13 significant. We look at things such as ability
14 to accommodate parking demands. We know that
15 there is going to be some parking impacts on
16 the Cap Com branch site which could result in
17 some of these parking spaces being needed for
18 that. The Kimberly's parking lot, which is
19 looking at a shared access arrangement, is
20 parked very heavily and also could possibly
21 utilize some of these spaces during peak
22 usage.

23 When we look at 10 years down the road
24 from a development standpoint - that's not
25 that far down the road, and rather than have

1 them come back in just a relatively short
2 period of time, we would rather have the site
3 designed accordingly now with what we think is
4 going to be needed for the next 10 or 20
5 years.

6 CHAIRMAN STUTO: I don't know. I thought
7 that Kimberly's was overbuilt. They used to be
8 in a smaller spot further south on Route 9 and
9 it always seemed overly crowded. Then they
10 built this mammoth building -- probably not
11 the right word, but it was a significantly
12 larger building. It doesn't seem to be filled
13 that often; maybe on Saturday morning. I may
14 or may not be right about that.

15 MR. GRASSO: If you look at an aerial
16 photo, I think that you'll see that lot is
17 relatively full. I was there today and it was
18 relatively full.

19 CHAIRMAN STUTO: Does the Board have any
20 questions or comments?

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

22 MR. AUSTIN: Taking into account the
23 potential use by Kimberly's and/or Cap Com, is
24 there going to be pedestrian access to
25 Kimberly's from the parking area?

1 MR. GRASSO: No direct pedestrian
2 connection is currently proposed. There is a
3 sidewalk at the present Cap Com branch, but
4 then the driveway shoot would cut off the
5 Kimberly's right where Dan's pointer is.

6 MR. HERSHBERG: Actually there would be a
7 sidewalk from here to here (Indicating) so
8 essentially to provide pedestrian access to
9 Kimberly's we would just have to turn the
10 corner and get down into that edge of the
11 parking lot.

12 MR. GRASSO: And it's only about 60 feet,
13 so you don't need a direct sidewalk connection
14 there.

15 "Through the design standards of the COR
16 Zoning District, parking areas greater than 20
17 spaces require a minimum of 20 square feet of
18 landscaped island be included in the interior
19 of the parking area. It does not appear that
20 this requirement is met and we see no
21 justification to support a waiver. Future plan
22 submission should include this calculation.

23 The design standards for the COR district
24 encourage construction of public spaces or
25 plazas. The Planning Board should determine if

1 these are appropriate for this project, given
2 the expected occupancy levels of the building,
3 outside sitting areas and bike racks,
4 etcetera, as those could be desirable assets.

5 The plan depicts the existing paving with
6 a National Grid right of way being removed and
7 replaced with lawn. In our response to our
8 inquiry, the applicant's response letter
9 indicates that the parking was never approved
10 and should be approved and should be removed
11 by National Grid. The responsibility of the
12 pavement removal should be determined between
13 the applicant and National Grid. It appears
14 that the paving within the right of way was to
15 support principal uses of the current project
16 site which no longer exists. Since the
17 pavement removal is depicted as part of the
18 site plan application, the work will be
19 required to be in conformance with the site
20 plan, regardless of who does the work.

21 Consideration should be given to
22 providing pedestrian access through the
23 northern parking lot, through the proposed
24 building. The current configuration requires
25 the pedestrian to cross a number of drive

Legal Transcription

1 aisles within the lot on the way to the
2 building.

3 Asphalt is proposed within certain
4 parking areas where the underlying soils
5 yielded suitable infiltration rates. While we
6 support the use of porous asphalt, we're
7 concerned with identifying and maintaining
8 those portions that are surrounded by standard
9 asphalt paving sections. Significant awareness
10 by the owner and various personnel would be
11 required to ensure proper maintenance of the
12 facilities. Consideration should be given to
13 constructing the entire lot with porous
14 asphalt and providing under drainage of
15 limited infiltration results.

16 The plan depicts a number of existing
17 wells located on the site which appear to be
18 groundwater monitoring wells - these may have
19 been associated with the former uses of the
20 site. A phase I environmental site assessment
21 should be completed and any recommendations
22 included in the development of the site."

23 Our next few comments relate to the
24 traffic study that was prepared by Creighton
25 Manning and in general we concur with their

1 results of the traffic study, even though we
2 think that the trip generation -

3 CHAIRMAN STUTO: Can I just slow you down
4 a second? The environmental report that you
5 did - was that Phase I?

6 MR. HERSHBERG: We did what's called a
7 Phase I environmental site assessment and we
8 also did an extended study of some surface
9 ground water conditions because we found that
10 the previous contamination was an issue.

11 CHAIRMAN STUTO: Mr. Grasso wasn't aware
12 of that.

13 MR. HERSHBERG: I actually hadn't
14 submitted it yet. Mr. Grasso said that we
15 should submit it and I have a copy. We will in
16 due course submit the copy.

17 CHAIRMAN STUTO: I'm sure that we'll be
18 talking about that, too.

19 MR. GRASSO: The results of that are
20 probably going to significantly impact the
21 stormwater both from a conceptual nature, as
22 well as through the final design process.

23 Regarding the traffic study, we went
24 through and concur with the ultimate results
25 of the traffic study in that it will not

1 result in significant traffic impacts on the
2 area roadway network and that offsite traffic
3 improvements, other than a cross access
4 connection, is not required as part of the
5 project.

6 "The project site is located within the
7 Boght Road/Columbia Street GEIS study area.
8 This study has identified comprehensive
9 traffic improvements needed to address
10 cumulative development effects within the
11 study area, including those from projects such
12 as this.

13 Because the site was previously
14 developed, specific additional development of
15 this parcel was not evaluate in the GEIS
16 study. Nonetheless, the traffic from this
17 project can be considered part of that which
18 would be created by development within the
19 study area. In order to address cumulative
20 impacts and development on traffic, a series
21 of improvements has been planned and
22 mitigation funds are assessed to establish
23 each project's fair share contribution. The
24 current mitigation fee formula is based on a
25 project's total building square footage and

1 general building type whether office, retail
2 or industrial.

3 Special considerations such as specific
4 type of office use or occupancy levels are not
5 taken into consideration in the formula based
6 on the current proposed building square
7 footage of roughly 93,000 square feet. The
8 mitigation fee for the new development would
9 be \$243,754. Because the site was formally
10 occupied by a retail building, a credit for
11 demolition of the former building may be
12 appropriate. Based on the former retail area
13 of 35,041 square feet, the corresponding
14 credit would be \$145,070. This results in a
15 net traffic mitigation fee of \$108,684. The
16 applicant's agreement to pay this mitigation
17 fee would be a condition of concept
18 acceptance.

19 The Town of Colonie is currently
20 completing an update to the traffic portion of
21 the Boght Road/Columbia Street GEIS that
22 includes a new method of calculating a
23 project's fair share mitigation contribution.
24 This method may take into account uniqueness
25 of each development including trip

1 generations, etcetera. If the update is
2 approved prior to final approval of this
3 application, this method may be applicable.

4 The Town Attorney's office has classified
5 this as an unlisted action pursuant to SEQRA
6 and coordinated review is not required. We
7 have provided a couple of comments on the full
8 environmental assessment form that's currently
9 in the file -

10 CHAIRMAN STUTO: Okay, let's slow down
11 and talk about that. They initially said Type
12 I and because they reduced the size of the
13 building, it's not unlisted. Is that the
14 position of the Town Attorney's office?

15 MS. KENNEDY: Yes.

16 CHAIRMAN STUTO: We'll leave it at that
17 for now.

18 MR. GRASSO: There are just a few
19 comments on the full EAF. As new environmental
20 information becomes available, the full EAF
21 will be updated throughout the course of the
22 project, and the Board will be ready for a
23 SEQRA determination.

24 CHAIRMAN STUTO: Okay, leaving aside the
25 number of parking spaces, does the applicant

1 have any major objections to the comments in
2 the Town Designated Engineer's letter, or any
3 comment to offer?

4 MR. HERSHBERG: No. We concur with all
5 findings regarding things like mitigation fees
6 and the comments regarding greenspace. We have
7 reviewed Mr. Grasso's comment letter and we
8 are in concurrence with everything. We would
9 be willing to go through the final design to
10 show how the 320 would be built and then we
11 might build a lower number - a number that we
12 would use in the ensuing 10 years.

13 CHAIRMAN STUTO: Is there an engineering
14 way to help us make a good judgment on that?

15 MR. HERSHBERG: I think that essentially,
16 there are plenty of studies that show that
17 Town standard levels of parking under a zoning
18 requirement are for the most part, excessive
19 and very rarely does any use exceed that
20 regarding office spaces. Occasionally with
21 retail it does. There are a couple days a year
22 where retail has a huge difference in use, but
23 I think that generically DEC has requested
24 that all municipalities take a hard look at
25 their parking requirements to reduce that

1 because they need some more impervious area
2 than more parking lots being built. Is there a
3 scientific way to do it? Yes. We actually have
4 done studies that say that the parking lot for
5 an office space, especially a single occupancy
6 office space, would be closer to three per
7 thousand or four per thousand. Short of having
8 a building occupied and then going out and
9 counting the parking spots that are used, it's
10 very hard to justify the rate because as you
11 know certain buildings might have people in a
12 very small confined office spaces as opposed
13 to a few number of employees -- because this
14 is based on an actual work plan that Cap Com
15 has for staffing their building, I think that
16 you can rely on the figures regarding numbers
17 for employment.

18 MR. LANE: Do you have those previously
19 listed?

20 MR. HERSHBERG: Yes, we can provide
21 those.

22 MR. LANE: I would be interested in
23 seeing that because that would be a
24 demonstration of the actual employees that
25 would occupy the building. You can kind of

1 estimate the number of places that would be
2 occupied on a given day and how many you
3 actually need for customers, etcetera. I think
4 that would take those things into account.
5 That would be helpful.

6 MR. HERSHBERG: I think that we are
7 prepared to provide you the build out level
8 for now and for 10 years from now so we can
9 tell you how many employees we expect to have.

10 MR. ROEMER: As far as a number of how
11 many will officially occupy the building, it's
12 about 154 employees.

13 MR. HERSHBERG: And that includes
14 employees being relocated.

15 MR. ROEMER: That's correct. There are
16 approximately 13 employees that will be
17 relocated from the Latham branch to the new
18 location.

19 CHAIRMAN STUTO: Okay, I'm going to take
20 questions from the Board.

21 Brian?

22 MR. HAAK: I don't think that I have
23 anything at this point.

24 CHAIRMAN STUTO: Mike?

25 MR. SULLIVAN: Mr. Hershberg, I had a few

1 questions that relate to parking. How would
2 the snowstorms be handled?

3 MR. HERSHBERG: We believe that because
4 there is a significant grade difference here,
5 that the snow would be deposited at a point
6 here (Indicating). There is actually a
7 significant slope at that point. Until this
8 part gets built out, the obvious place is to
9 deposit snow there. There would also be
10 potential to plow this parking lot to this
11 area here (Indicating). We intend to put a
12 berm at this location here, but there is about
13 40 feet from the back of the berm to the front
14 of the parking lot that we could store some
15 snow in there, as well as the sidelines here
16 (Indicating).

17 This area over here is a slope up to the
18 property, so it's not very convenient for snow
19 storage here (Indicating). This area here is a
20 slope down and we believe that we can put snow
21 in this area here. We think that there are
22 plenty of spaces. We can't demonstrate the
23 area there. I believe that as opposed to some
24 sites where say if they have two or more
25 inches, you have to truck it all, we think

1 that we have adequate space on site to store
2 any snow as required.

3 MR. SULLIVAN: How many of the parking
4 spaces are for - you mentioned that 70 would
5 be for conference?

6 MR. HERSHBERG: What we're talking about
7 is in order to come up with a number that we
8 needed, we took the 154, and we added in
9 something for people coming from other
10 branches for a conference or for visitors.
11 That totals 224 and we want to build 263 so
12 that we have an extra margin of safety in
13 there. One thing that we don't want to happen
14 is run out of parking because there is no
15 place for anyone to go. We don't have adequate
16 parking. So, that's how the figure was arrived
17 at. Obviously, you don't have 100 percent of
18 your employees in every day. Employees go on
19 vacation. Normally about 85 to 92 percent of
20 the parking spots are filled. It doesn't
21 account for anybody that might decide to car
22 pool, get dropped off by a spouse, use public
23 transportation or ride a bicycle. We thought
24 we were conservative when we said 260 parking
25 spots in the interim.

1 MR. SULLIVAN: And that would leave you
2 about 40 extra that could be used by
3 Kimberly's as overflow.

4 MR. HERSHBERG: By Kimberly's or the
5 branch.

6 MR. SULLIVAN: Do you have an update on
7 the existing pavement and the National Grid
8 right of way?

9 MR. HERSHBERG: The discussions have
10 taken place internally. We believe that a
11 contact was made with National Grid to inform
12 that we don't need the pavement and Cap Com's
13 attorney will continue that discussion. I'll
14 let Rob talk briefly about that.

15 MR. ROEMER: Our attorney has contacted
16 National Grid in reference to that. Initially
17 it had come out as a point of discussion at
18 the DCC level. National Grid's response was
19 that they were not going to entertain that. It
20 seems to have become a point of contention.
21 Our attorney will certainly work with their
22 attorney.

23 MR. SULLIVAN: Thank you.

24 CHAIRMAN STUTO: Tim?

25 MR. LANE: I noted that in just scanning

1 Mr. Lynch's letter - there was a concern
2 having to do with the contamination and the
3 ground water monitoring wells. They seem to be
4 concerned with excavation causing damage to
5 Columbia's property. You stated that there
6 wouldn't be any excavation or how are you
7 going to avoid -

8 MR. HERSHBERG: The only excavation that
9 we anticipate doing would be for utilities or
10 the foundation of the building which we do
11 intend to excavate even though we have
12 encountered shallow rock. A portion of that we
13 do intend to excavate because if the rock
14 turns out to be weathered shale, which could
15 be removed in a way rather than blasted or
16 drilled, we do intend to be able to excavate
17 that.

18 This building down here (Indicating),
19 which used to be the shop area, is demolished.
20 We will excavate by taking out the building
21 slab. That's the only excavation here. The
22 finished grade here is actually going to be
23 raised in grade because there was a
24 contamination spot right about here
25 (Indicating).

1 MR. LANE: How far down are the wells?

2 MR. HERSHBERG: I think that they are 12
3 feet in the ground, but the contamination
4 level is primarily between four and five feet.
5 This was a modestly small spill. It had to do
6 with an oil separator. When you have a shop
7 when you work on cars, oil and grease are
8 brought together. They come out to a separator
9 before the water is discharged to a sanitary
10 sewer. That could develop a leak. It impacted
11 this area here (Indicating) and that was why
12 it was cleaned up. That was removed and
13 cleaned up and essentially the environmental
14 assessment finds that there is no concern
15 about it. It's no longer a concern to DEC.

16 MR. LANE: That's what the DEC report
17 said.

18 MR. HERSHBERG: Yes. Essentially that no
19 further action was required. No further action
20 is required because we don't intend on
21 excavating that area. To excavate this area,
22 we would have to take some additional effort.

23 The other test wells are down in this
24 area here (Indicating), where we don't intend
25 to do anything. Again, the only reason to do

1 any kind of excavation in this area is in fact
2 if the bank parking was ever built. This area
3 here - we tried to avoid. We did not want to
4 have any impact on those wells. A lot of these
5 wells are already bound to what's called ND;
6 non-detectable levels. So, essentially we're
7 being ultra conservative by avoiding them
8 entirely. Rather than raising the issue, we
9 believe that area should be avoided so we do
10 not intend to do any work in that area. The
11 stormwater pipe goes around it. The sand
12 filter system doesn't impact it and
13 essentially we have avoided impacting
14 anything. If we were determined that we had to
15 excavate contaminated soil, we would share the
16 concern raised by Peter Lynch in his letter.
17 We would do it properly to make sure that any
18 contaminated soil was handled in a matter of
19 approval by DEC.

20 CHAIRMAN STUTO: We're going to get into
21 more of that with Mr. Lynch's letter.

22 Brian?

23 MR. AUSTIN: I just had two concerns with
24 questions regarding the TDE's comments on
25 number five where it says "encourage the

1 construction of public space". I'm just
2 wondering what your thoughts are on that. That
3 little strip of green - is that public space?

4 MR. HERSHBERG: Our feeling is that we
5 have two different areas that we'd like to
6 explore. For the use of the employees here, we
7 think that we'd like to set a couple of picnic
8 tables and benches back in this area here
9 (Indicating) which we landscaped nicely. We
10 have a little plaza area here. For the public,
11 we would have just a single bench and a bike
12 rack. We would probably provide two; one here
13 (Indicating) and one in the back for
14 employees. We'd like to keep them as close to
15 the building so that they would be monitored
16 so that nobody walks away with a bike. Again,
17 that would be the level of what we would like
18 to do there. We believe that would meet the
19 goal of the COR zone to provide some public
20 space.

21 MR. AUSTIN: The northern egress is going
22 to be Century Hill Drive. Has any thought been
23 given to keeping the two
24 entrance/exit - existing ones on Route 9 and
25 make one of those a designated entrance,

1 one a designated exit and then getting rid of
2 the egress? I know that there is a hill there
3 as you go over there. So, having the southern
4 one possibly be the ingress or the entrance
5 way, and maybe having the northern one for
6 this area now - that would be the exit.

7 MR. HERSHBERG: That would somewhat
8 violate New York State DOT's intent of access
9 management. They're always encouraging
10 eliminating curb cuts wherever we can on state
11 highways. So, by eliminating this one, I think
12 that essentially we met that goal. By
13 providing an access to an existing traffic
14 signal, that's another way of providing access
15 which is encouraged by both the DEIS and New
16 York State DOT. So, I think essentially, our
17 proposal is to try to get people to use that.
18 Especially those people who tend to make a
19 left hand turn. People who intend to make a
20 right hand turn out and head south on
21 Route 9 -- 65 percent of the people leaving
22 this site will go in that direction. If 65
23 percent go in this direction, only 35 percent
24 will go in that direction (Indicating). Only a
25 maximum of 35 percent will go in that

1 direction to try to make that turn, and some
2 of the people will try to come out the main
3 entrance and head left. We also determined by
4 asking Cap Com what time the employees leave.
5 The employees leave the building at times that
6 vary from 3:00 p.m. to 5:30 p.m. So, it's not
7 a typical one discharge time.

8 We have those and we have provided those
9 as part of our submittal to show you that the
10 request was made here and could we do some
11 sort of flex time. In fact, that's what's
12 happening. It may not have been formally
13 planned that way but, that's what happens now.
14 People arrive and leave at different times.
15 Essentially you don't have to worry about the
16 peak hour volumes being all of those trips
17 because we have essentially done some
18 mitigation of that peak hour.

19 CHAIRMAN STUTO: Lou?

20 MR. MION: I have nothing at this time.

21 CHAIRMAN STUTO: Okay, are there any
22 members of the public who would want to speak?
23 We do ask that you sign in over here
24 (Indicating).

25 Mr. Lynch, why don't you go ahead?

1 MR. LYNCH: Thank you for the opportunity
2 to speak. I'm Peter Lynch and I represent
3 First Columbia, who is the owner of the office
4 park that exists immediately to the west of
5 the subject site, and to the south there is
6 the park where the first building is. Anjio
7 Dynamics is there, and three-quarters of the
8 balance of that site that will be developed.

9 The Town Board about a year or so ago
10 approved the open development area for the 39
11 acres that my client owns, and of course there
12 is anticipation that the balance of that
13 project will be developed. So, recognizing the
14 significance of their investment in the area,
15 they wanted to take a hard look at some of the
16 issues arriving out of this particular
17 project.

18 Contamination through the oil spill is a
19 very significant issue. We were aware of the
20 spill but when we reviewed the application, we
21 didn't find any information about it. So, we
22 raised it as an issue because the generic
23 draft environmental impact statement that was
24 done in 1989 - while it did not include the
25 development of this site because it was

1 already developed, it did have significant
2 information in it dealing with excavation;
3 especially in areas where the groundwater is
4 less than four feet. The report that the
5 applicant submitted evidenced that ground
6 water was as high as three and a half feet.
7 The DGEIS, which I cited in my letter, said
8 look, if you're going to excavate in these
9 areas, and you're exposing and disturbing the
10 earth, you may have a potential for
11 contamination of ground water. Of course all
12 of our lands are at a lower elevation than the
13 subject property. What complicates that
14 contamination factor is the fact that there is
15 this is a spill site.

16 The DEC letter which we provided a copy
17 of, is not a closure letter. It even states in
18 my letter that there may be more remedial
19 work. Now one of the things that were talked
20 about tonight was well is we're going to have
21 266 parking spaces. Tonight, I gathered from
22 the commentary that the applicant is agreeing
23 now to put in another 54 parking spaces to
24 bring it up to the 320. Where are they going
25 to be? We just heard Dan Hershberg say that

1 this area right here that I'm pointing out
2 (Indicating) is an area of sensitivity where
3 they don't want to disturb it because we have
4 this contamination issue. If you add the
5 additional 54 spaces, how do you know that
6 you're not impacting the area where the
7 petroleum contamination exists? The answer is
8 you don't at this point.

9 As I laid out throughout my letter, we
10 believe that based on the magnitude of this
11 project and the significant issues that are
12 raised, that this is exactly the type of
13 project that has to be reviewed thoughtfully,
14 carefully, objectively and using tools to
15 allow you, as board members, to take a hard
16 look at the environmental issues. We believe
17 at the end of the day that you should issue a
18 positive declaration of environmental
19 significance which doesn't mean to the
20 applicant that we are denying your project. It
21 simply means that you want to use all the
22 tools that are available to you so that when
23 you do make an evaluation and determination in
24 this case, you can be comfortable that your
25 evaluation is fair, intellectually honest and

1 based upon all the relevant information that
2 would be gathered and provided to the full EIS
3 process. That's what we're asking you to do.

4 Now, interestingly in the application,
5 and I noted tonight that there was no
6 discussion regarding the archeological report.
7 The archeological report essentially says that
8 this entire back area is a high sensitivity
9 area for prehistoric artifacts from an
10 archeological perspective; high sensitivity.
11 This is the area which is going to be
12 excavated and there is proposed to be built
13 the three basins for stormwater collection.
14 You can't rely upon just the DGEIS. You have
15 to do an independent review. The DGEIS
16 specifically stated, and I quoted in my
17 letter, that when you have an area which has
18 been identified as having high sensitivity for
19 archeological significance, you have to take a
20 hard look at it. You have to require the
21 additional archeological studies. Maybe even
22 to the point of a stage II with an
23 archeological dig. In fact, this area here, in
24 the archeological report which is a very
25 preliminary, indicated that this is

Legal Transcription

1 essentially a level plateau overlooking the
2 lands gradually declining in elevation as
3 you're looking west toward the Mohawk River
4 and was a likely area of individual
5 settlement.

6 So, the archeologist, in his report,
7 which is an appendix to the narrative, is
8 saying this is a very significant area. The
9 draft GEIS from 1989 says, when you have that,
10 you basically have to stop and really take a
11 hard look at it. Yet, in the narrative, it's
12 represented to you that there were areas
13 identified and we took a look at it and
14 nothing was recovered. Nothing was recovered
15 because nothing has been done.

16 These additional studies have to be
17 performed if you are going to comply with the
18 recommendations of the DGEIS. How do you do
19 that? Well, you require a full EIS. Part of
20 the EIS is a thorough archeological evaluation
21 of the project. At the end of the day, you may
22 find that it's not something that would
23 prevent you from making a decision one way or
24 the other, but you have to have the
25 information in order to comply with SEQRA.

1 Now, I took the time to write this letter
2 in detail and I'm going to incorporate all of
3 the comments that I made, but I just wanted to
4 bring some of the major points to your
5 attention. Archeology is a major issue in this
6 project. Contamination is a major issue in
7 this project.

8 The traffic and queuing
9 issues -- we read the report and it indicated
10 well, they took a look at it and in the p.m
11 hours the driveway at Cap Com was only blocked
12 twice, so we must be good to go. Ask yourself
13 if that makes any sense whatsoever because
14 that type of an observation today does not
15 even account for the additional traffic that
16 would be added if it was coming from this
17 project and from the Kimberly's project. So,
18 how do you evaluate the queuing without
19 considering that additional traffic? You can't
20 go out there this afternoon and say, well,
21 there was only two times that it was blocked.
22 How do you evaluate it if you have another 100
23 vehicles? They said that 35 percent are going
24 to go to the north, as a projection. Okay,
25 based on the 320, that would bring us to 100

1 additional vehicles being added to the queuing
2 line. The point to be made is that the traffic
3 analysis is preliminary and purely
4 speculative. If you're going to design a
5 project and consider the traffic impact of a
6 90,000 square foot office building and your
7 claim is that we're not going to cause a
8 significant impact because we're going to rely
9 upon the courtesy of other drivers to let us
10 out, that is not the type of stuff that is
11 objective and that is not the type of
12 information that affords you the ability as a
13 Planning Board to take a hard look at the
14 traffic issue.

15 I'd like to talk about waivers for a
16 second. There is a building right here. It's
17 an office building with apartments above it.
18 Look at where the front of that building is.
19 It's actually right along the front of the
20 parking lot area. We raised the waiver issue
21 because your ordinance specifically says that
22 if you're going to seek a waiver from a
23 restriction, you have a maximum setback of 25
24 feet in this area from the front property line
25 and you've got 144 proposed. You can't have

1 any parking in the front yard. If you're
2 actually going to ask for that waiver, you, as
3 the applicant, have to demonstrate that there
4 is no practical way to design this project
5 without the waiver. They haven't done that.
6 They haven't shown you anything that would
7 demonstrate that there is any practical
8 problem whatsoever in complying with that
9 setback.

10 To refer to the Kimberly's building is
11 one thing, but you can't ignore the existing
12 building immediately to the north of the
13 project that is a street scape that already
14 exists.

15 I want to refer the balance of the
16 specific comments of my letter, but I want to
17 talk a little bit about the State
18 Environmental Quality Review Act from our
19 perspective.

20 As a project, we just heard as Joe
21 indicated that there was a recommendation from
22 the TDE that this is an unlisted action. We
23 take the position that wait a minute. When you
24 look at the criteria for a Type I action,
25 there is a provision that says if you're going

1 to have the expansion of an existing
2 nonresidential facility - which here we have
3 an expansion from 35,000 square feet to 93,000
4 square feet - the criteria for Type I is
5 reduced by 50 percent. So, one of the criteria
6 for a Type I is 100,000 square feet of
7 development but when you apply the 50 percent
8 threshold, it's 50,000 square feet. Here we
9 have even more than 50,000 square feet above
10 the existing space. That triggers a Type I
11 action.

12 In the EAF it was represented that the
13 building height was 48 feet, yet the plans
14 indicate that the building height was 55 feet.
15 A Type I criteria is 100 feet, but if you
16 apply the 50 percent threshold reduction, that
17 brings us down to a 50 foot height and that
18 makes it a Type I action.

19 Under SEQRA, at the end of the day, the
20 difference between the Type I action and the
21 unlisted action is really critical to
22 understand. The Type I action means that
23 because of the magnitude of the project, the
24 project is presumptively going to require a
25 full EIS review because it's more likely than

1 not to have significant adverse environmental
2 impact. An unlisted action doesn't carry that
3 presumption. An unlisted action still requires
4 the mandate that you take a hard look at the
5 impacts. It says that if a project may have a
6 significant adverse environmental impact, that
7 is one significant adverse environmental
8 impact. It may have one. Whether it's a Type I
9 action or an unlisted action that triggers the
10 obligation to issue the positive declaration
11 simply requiring the applicant to come forward
12 with the full EIS with all the underlying
13 studies to evaluate the issues so that when
14 you make your decision, you have all the tools
15 to do it. Whether we agree or not on the
16 classification of the action, the obligation
17 is affirmative under SEQRA to take a hard look
18 at the impact.

19 Frankly, as I indicated, there are at
20 least three major impacts that really require
21 a full look to the EIS process; the
22 archeological, the contamination with the
23 ground water, the traffic and we also talked
24 about the possibility of flooding. Right here
25 we have this basin in the back (Indicating)

1 and we've already heard about the poor
2 infiltration rates requiring this type of a
3 design. But when this spills over, where does
4 it go? Our parking lot is right here
5 (Indicating). There is nothing in the design
6 of this basin that would divert the water away
7 from the parking lot and prevent potential
8 damage. Well, that may be a design issue, but
9 that's exactly the type of issue that needs to
10 be evaluated through your review.

11 I know that the applicant has talked
12 about concept review and I know that the idea
13 of concept review ultimately does not mean
14 that the project will receive a final approval
15 under the expressed provisions of the
16 ordinance. However, concept review is more
17 than just an "okay, you can continue with your
18 application". It's about setting a project in
19 a direction for being approved. It's charting
20 a course to ultimately approve the project. It
21 is our contention that concept approval cannot
22 be made until such time as you have actually
23 made your SEQRA determination. No action
24 approval and concept approval is indeed a form
25 of approval and can be taken under SEQRA until

1 you've made your SEQRA determination. So, to
2 say, give us our concept approval and then
3 we'll come back and make further revisions to
4 the EAF and we'll complete our SEQRA review,
5 presumes an erroneous SEQRA procedure. SEQRA
6 procedure mandates complete determination that
7 you may ultimately make a decision based upon
8 the long form EAF to issue a negative
9 declaration. You may do that and we may not
10 agree with that, but that may be what you do.

11 On the other side of the coin, you may
12 agree with us and say, hey, you know what? We
13 are going to take a look at these impacts. We
14 are going to require a full EIS because we
15 want all the information to make our decision
16 and issue a positive declaration. You go
17 through the full EAF process and then you make
18 your ultimate findings statement under SEQRA.
19 Whether you go the neg dec route or the
20 positive dec route, you have to do it before
21 you make an approval. So, I would suggest to
22 this Board that a concept approval, in advance
23 of a SEQRA determination, is actually a
24 violation of SEQRA. I would encourage you not
25 to do that. There is really no reason for you

1 to do that. You have a number of issues that
2 have been raised. SEQRA requires where
3 relevant issues have been identified - we've
4 identified issues for your consideration. A
5 hard look must be taken. That hard look has to
6 be based upon objective data. It has to be
7 based on real and complete studies.

8 You should ask yourself right now; do you
9 really know where the petroleum contamination
10 is on this site? Especially when Dan said that
11 the contamination was at a level of between
12 four and five feet, when ground water is up as
13 high as three and a half feet. You have the
14 levels of contamination at the same levels as
15 the underlying ground water. He indicated that
16 it's up here in the middle of the lot
17 (Indicating) and he also indicated that it's
18 down here, where clearly the additional 54
19 spaces to build the parking up to 320 are
20 going to have to be built.

21 CHAIRMAN STUTO: Are you near wrapping
22 up?

23 MR. LYNCH: Yes.

24 You just don't know right now what the
25 potential impacts are. I think that you do

1 have enough information to recognize that
2 there may be a significant potential adverse
3 impact. So, I'm asking you to give yourselves
4 the tools to work with. Tell this applicant
5 that they need to go through the full EIS
6 process before you make any determination of
7 whether to approve the project or not. Thank
8 you.

9 CHAIRMAN STUTO: Thank you.

10 John Fahey?

11 MR. FAHEY: I don't think that I'd want
12 to be an employee there at this particular
13 location. The reason that I say that is that
14 the ingress and egress -- we have talked about
15 that rear driveway and that's where the left
16 hand turn is going out. We all know how
17 obedient the drivers around here are. They're
18 going to follow that to the left. Come on. The
19 best plan in the world can be defeated by one
20 moron, and there has to be at least one more.

21 CHAIRMAN STUTO: Is that going to be
22 right turns only? The driveway that goes
23 directly to Route 9?

24 MR. HERSHBERG: No.

25 MR. FAHEY: Let's talk about that one for

1 a minute. That's two lanes. That's one lane in
2 and one lane out. The one moron that I'm
3 talking about who wants to take a left hand
4 turn up Route 9 will keep those 155 people who
5 want to take a right hand turn south on
6 Route 9 from getting there. They're going to
7 back up into the lot. I don't know how you're
8 going to adjust that traffic flow going out on
9 that section of building.

10 CHAIRMAN STUTO: Are you going to have
11 more than one lane as an exit there?

12 MR. HERSHBERG: Our current plan is to
13 have one lane in and one lane out. Our
14 capacity analysis shows that's adequate.

15 MR. FAHEY: That site plan - I think that
16 if I read the minutes correctly, that was
17 intended to be one lane out. No one was really
18 going to be coming in from Century Hill. You
19 can check the minutes. I may be mistaken, but
20 I think that was specific.

21 On that subject of the driveway, you
22 mentioned snow storage. Those are significant
23 grades back there. I wonder how high you
24 intend to remove snow. Are you going to plow
25 it onto the neighbor's property, or are you

1 going to have a front end loader in there with
2 a dump truck? You can throw that one around
3 later on, but that was omitted. I know that
4 this winter we've gotten very complacent
5 without any snow.

6 I really think that curb cut on Route 9,
7 if it's at all possible, should be a true lane
8 curb cut and should be expanded to allow that
9 one moron to take a left hand turn, while the
10 right hand turns can get out. Otherwise,
11 you're going to have a lot of disgruntled
12 employees.

13 Also, the northbound queuing is going to
14 try to take a left hand turn into that lot in
15 the face of the Saratoga caravans that we're
16 all very familiar with in the morning. I worry
17 about the queuing at that entrance and how
18 much interference you're going to have in
19 front of the Century House. I think that it's
20 going to amplify what Mr. Lynch has said. That
21 traffic study has to be more than just
22 anecdotal car counts. Someone really needs to
23 take a ball park look at this.

24 It's a great project but I don't want to
25 see the employees or the other citizens in

1 there coming back to the Town complaining
2 about how the Town allowed this nightmare,
3 potentially, to occur. Be up front and get the
4 studies done. Do the diligence and then you
5 can sit there and say concept acceptance based
6 on all the facts that we could possibly have.

7 That's all I have to say. Thank you.

8 CHAIRMAN STUTO: Okay, thank you.

9 Can you make a note to address the issues
10 that he raised, Joe?

11 I don't know if we should let the
12 applicant speak, you speak or Rebekah speak on
13 some of the environmental issues.

14 MR. GRASSO: My preference is always to
15 let the applicant speak. Wendy Holsberger is
16 the traffic engineer who did the traffic
17 study. I skipped over and summarized the
18 traffic comments, but I think that Wendy may
19 be able to go through and speak to what was
20 looked at.

21 MS. HOLSBERGER: Good evening. I'm Wendy
22 Holsberger from Creighton Manning Engineering.
23 I guess I can just clarify a few things.

24 We have a few technical letters on the
25 traffic for this project. We have taken a good

1 look at the traffic impacts associated and
2 it's kind of been progressive as we've talked
3 with the Town and looked at things as the
4 product has progressed.

5 Just to clarify, the back access is
6 supposed to be a benefit for the site. It's
7 supposed to be part of access management. It's
8 something that New York State DOT really likes
9 to see. I think that the Town also knows the
10 advantages of having access management. It's
11 not something that's supposed to be hurting or
12 a detriment to this project, nor is it
13 something that everybody has to use. The
14 original analysis that we did that had just
15 the access point - the single access driveway
16 right to Route 9. We used all the standards
17 and mechanisms. Route 9 is a four-lane
18 highway. Yes, there is a lot of traffic. It
19 also has a center turn lane which is for the
20 purpose to be used by people turning in and
21 out of side roads.

22 So, if you look in the corridor you've
23 got the Century House and you've got hotels.
24 There are driveways and parcels that don't
25 have the ability to find the traffic signal

1 that are operating that are successful
2 businesses. The implication is bad and that
3 this is needed is not really the case. It
4 works with this. We recommended that this
5 continue to be pursued, because from a traffic
6 standpoint it is a benefit.

7 Once we add that in, we did some further
8 analysis because we know that existing
9 driveway to the branch is relatively close to
10 that traffic signal. The queuing issue is
11 something - it's a reality. It's something
12 that we study and we look at all the time. We
13 did a detailed syncro analysis which is
14 actually an analysis that allows us to view
15 the vehicles and watch how they interact with
16 a car entering and exiting. It's a fancy
17 picture of everything. We have really looked
18 at it in detail and the reality is, as is many
19 other signals, the same thing happens every
20 time the light turns red on Route 9.

21 Right now Century Hills' driveway is
22 blocked. Do people manage to get in and out?
23 Yes. That courtesy gap is something that's
24 also a reality, too, that in corridors
25 adjacent to a signal and when you have a

1 driveway, people let you out. That's part of
2 it. The people that choose to use this are not
3 100 people. There is not going to be this
4 large amount of people that come all at once,
5 like 100. We're talking in a magnitude of 20
6 to 25 cars potentially over that peak hour.
7 That's kind of a conservative estimate
8 assuming that more people will choose to try
9 to get up here to take a left at the signal.
10 Again, it's not necessary.

11 One of the other comments referred to not
12 looking at the full development and actually
13 SEQRA requires us to really look at the build
14 out of our project for a build year. We
15 actually did a 2020 analysis which is
16 consistent with the GEIS that had volumes in
17 there not only from back here in the
18 development that's coming out here
19 (Indicating), but also all the additional
20 volume that was in the whole GEIS area. So, to
21 say that we didn't look at the big picture,
22 the full development, the growth and the
23 impact of everything in the area, that's also
24 a false statement.

25 I don't know if I got all of those.

1 MR. GRASSO: There was a comment
2 regarding the benefit of a three-lane section
3 and the main curb cut.

4 MS. HOLSBERGER: It's something that we
5 can look at. I will say that New York State
6 DOT isn't always favorable to it. Sometimes
7 there are concerns with site lines when you do
8 have that vehicle waiting to take a left. They
9 could potentially block the view of the right
10 person. So, it's kind of a balance. We really
11 have to look at the queuing and what is the
12 actual impact of it and if it's needed.
13 They're not totally against it.

14 CHAIRMAN STUTO: Can we make a note to
15 make an analysis of that?

16 MS. HOLSBERGER: I can say that the
17 analysis that we did - it wasn't showing a lot
18 of queuing, but I don't have the number off
19 the top of my head.

20 CHAIRMAN STUTO: What would you be
21 thinking about? If there is too much queuing,
22 you would want to have three lanes?

23 MS. HOLSBERGER: It's the queuing and the
24 delay. In the p.m. peak hour, there is no
25 doubt that any unsignalized right of way on

1 the Route 9 corridor has delay associated with
2 it. The analysis that we showed didn't show
3 that it was significant. You would not
4 obviously put a signal here or anything.
5 Again, what we're hoping is that some of those
6 left turners would use the other option and
7 then they're turning -

8 CHAIRMAN STUTO: Probably most of them
9 would. Wouldn't they have p.m. peak hours?

10 MS. HOLSBERGER: It's really an option.
11 Some people choose not to. With the signal up
12 ahead at Century Hill Drive, you will have the
13 gaps that are caused when Route 9 is stopped
14 and you have the center turn lane. There are
15 people that choose to not use the signal
16 because they don't want to wait at the signal.
17 They'd rather just rush out. Some of it is a
18 personal preference.

19 The queuing issue - we looked at it and
20 we're not saying that it doesn't exist, but
21 it's something that happens a lot of places
22 and the flow of a signal -- that queue clears
23 out relatively quickly. That delay is really
24 going to be on the site. You're not adding
25 delay into the system. Once they get out

1 they're going to wait like everyone else and
2 go. Again, it's been looked at. Our traffic
3 was included in our analysis.

4 CHAIRMAN STUTO: Take another look at
5 that for next time.

6 Mr. Hershberg, before you go I read the
7 letters as they came in from Mr. Lynch and
8 your response to that. I've had several
9 discussions with our engineer and our counsel.
10 None of the issues seems insurmountable, in my
11 opinion.

12 Could you start your discussion with what
13 your time frame is and then go on to the
14 merits of your rebuttal?

15 MR. HERSHBERG: Cap Com's time frame is
16 that we would like to achieve final approval
17 in time to start work this summer on grading.
18 Depending on the speed of the site work, the
19 building would follow thereafter. I'm not sure
20 exactly whether or not during this
21 construction season or the next construction
22 season. We would like to be able to do the
23 work during good weather. Obviously doing
24 construction during July, August, September
25 and October is a lot better than doing it in

1 the middle of the winter. Unfortunately, if we
2 were delayed getting final approval, it might
3 push us into wintertime construction. So, our
4 goal would be to get to final site plan
5 approval sometime soon.

6 There was a couple of issues made. I did
7 put this in writing in a relatively fast
8 manner.

9 CHAIRMAN STUTO: Can you put that letter
10 on your letterhead over the next few days?

11 MR. HERSHBERG: Sure. I can formalize the
12 response. This was done this way because Peter
13 was nice enough to e-mail me the letter. It's
14 the same letter that was e-mailed to you.
15 Unfortunately, it got to me at 11:00 last
16 night. So, this was an effort going in the
17 middle of the night which may not be as clear
18 as it might have been. However, I did take
19 issue with a whole bunch of the findings in
20 Peter's letter. I'd like to take them in the
21 same order that Peter addressed them.

22 The contamination issue, we think, is a
23 non-issue. Even if we were required to build
24 out 320 parking spots, we would have to add 54
25 spots. The area that would be developed would

1 be this area right here (Indicating) and not
2 into this area here (Indicating). This would
3 be the absolute last area that we would
4 develop; not necessarily because we think that
5 we have insurmountable contamination problems.
6 We just don't want to have to disturb any soil
7 in this area which did show contamination
8 which is getting significantly less. We can
9 make it to the 325 parking spots.

10 CHAIRMAN STUTO: Can I just ask what the
11 dotted line is?

12 MR. HERSHBERG: Actually this is the
13 drainage area. The tributary
14 drainage - because this area is level, the
15 water that lands there actually stays there
16 and it doesn't run off. This is the outline of
17 the tributary. This area here is tributary to
18 our site, too, because it was graded in that
19 direction. The position here is that can add
20 additional spots to make the 320 parking spots
21 without invading that contaminated area. We
22 admit that it's contaminated there. It's a
23 long-term contaminated area, which was
24 discovered quite a while ago and has been
25 monitored. I think that light was made of

1 DEC's comment that no action is required by
2 DEC at this time. Even though we pursued the
3 project, if we're not going to excavate there,
4 we don't have to go further. If it's
5 determined that the applicant wants to clear
6 this issue up finally and get a closure
7 letter, which Peter mentioned, we might decide
8 to go that way; but that would be entirely
9 optional. DEC says it's at our control. We may
10 decide to proceed that way.

11 Another issue was made about
12 archeological investigation. We read the
13 archeological letter from Hope Luhman. We
14 arrived at exactly the same conclusion that
15 Peter mentioned.

16 So, we went out and dug test pits. We
17 authorized a Phase IB which allows people to
18 go out and dig test pits at an interval to
19 determine whether or not there was any
20 evidence of any previous occupation; either
21 historic or prehistoric. Their findings were
22 none. That's another report that did not make
23 it to the narrative report. That's another
24 report that we will supplement and I think
25 that the findings will be that there are no

1 findings of any potential archeological impact
2 on the site. That report is complete. We'll
3 provide it in response to this letter, to the
4 TDE comments and to any other comments that
5 come out of this meeting.

6 The issue of the archeological
7 sensitivity is really not a significant issue.
8 We have disposed of that issue.

9 Wendy talked about the traffic issues and
10 I think that she has addressed those
11 adequately. They have done a substantial
12 amount of traffic work. They have dovetailed
13 it with the work that takes a much longer look
14 than is normally required. Normally you're
15 looking at the build out year or maybe a year
16 beyond the build out year. Here they went to
17 2020 which is a significant look forward. I
18 think, correct me if I'm wrong, Wendy, you
19 considered a Walmart build out and another
20 project which may not physically go forward
21 but applications were made for it. Normally
22 what you do is if you have an application made
23 for development of a piece of property, you
24 assume that it may come forward so you do your
25 traffic estimate based upon that. We think

1 that Creighton Manning did a very conservative
2 estimate of the traffic. We didn't want them
3 to go out on a limb and do anything other than
4 a conservative estimate because any
5 assumptions that we make might lead to a
6 deleterious occupation of this building by Cap
7 Com. It's in their interest to have employees
8 to be able to get in and out of this parking
9 lot and potential customers or visitors to the
10 site.

11 I might point out that this is in a GEIS
12 area. The advantage of a GEIS area is that the
13 vast majority of projects that follow the GEIS
14 area are not required to go through an
15 environmental impact study because either they
16 fit in to what the GEIS required or there are
17 minor modifications to the GEIS or the
18 modifications are such that they have shown
19 that there are no significant environmental
20 impacts. We don't think that an environmental
21 impact statement or even a supplemental GEIS
22 is warranted for this project and we would
23 certainly recommend against it.

24 Again, I'm just going by my experience
25 with this Board. This Board has always

1 considered concept acceptance as opposed to
2 concept approval that did not require a SEQRA
3 determination in advance of giving the concept
4 approval. If that has been changed, I'm not
5 aware of it. I think that essentially that
6 it's clear that the normal routine is that
7 concept acceptance is granted and allows you
8 to go forward to the point that you can go
9 through your preliminary final approval at
10 which point - either that or between the
11 concept acceptance and a SEQRA determination
12 is duly made by this Board. My understanding
13 is that's the way that it's always been.

14 The stormwater management issues - I
15 don't want to belabor those, but there is
16 currently a swale that comes right down across
17 National Grid. The discharge point is right
18 here so all the stormwater from the site goes
19 out there. This overflow only occurs when you
20 exceed the 100 year storm and we would
21 overflow it down to that same area. Nothing
22 would go onto the adjoining property.
23 Obviously, that's a major concern when you
24 design a stormwater management system.

25 The concern about flooding or flooding an

1 adjoining property will be addressed. I might
2 point out that the stormwater feasibility
3 study is just that. Is the plan feasible? We
4 think we show that it is feasible. The
5 question is: What are the details? What's done
6 between the concept acceptance and preliminary
7 final approval? We'll go through the details
8 of all these issues.

9 The question of rock excavation will be
10 handled. I've got John DeForest from BBL
11 construction who has taken a look at the
12 building and we believe that we can do the
13 rock excavation there. We don't have to worry
14 about blasting or drilling. We set an
15 elevation for this building and there is no
16 saying that we might not raise it up a little
17 bit more to reduce the amount of rock
18 excavation. Those sort of changes are made
19 between concept acceptance and preliminary
20 final.

21 When you provide additional reports and
22 data, invariably it impacts the data that you
23 put in the EAF when you first go around and
24 that's why these things are subject to review
25 and change.

1 I just want to address one issue
2 regarding the SEQRA for the site. Peter had
3 said that it's a Type I action by his
4 determination because it's an expansion of a
5 nonresidential facility. This is not an
6 expansion of a facility. If we were going to
7 expand the Fucillo car dealership or make a
8 larger car dealership, that's an expansion. We
9 are demolishing a use and putting in a brand
10 new use. It's a redevelopment site, but you
11 don't reduce the impacts in a Type I action by
12 50 percent because you're redeveloping a site
13 for a different use. This isn't an expansion
14 of a non-residential facility. I think that we
15 took the original position that we took at the
16 DCC and that is that it should be an unlisted
17 action. The attorney originally thought that
18 it might have been a Type I action, but based
19 upon review, it's an unlisted action and we're
20 fine with that. I believe, if I'm not
21 mistaken -- was it a coordinated review that
22 was started with this, or not? I'm not certain
23 whether or not.

24 MS. KENNEDY: No.

25 MR. HERSHBERG: Again, we wouldn't object

1 to a Type I action being declared providing it
2 was figured like it should be, but we would
3 leave that to the Town Attorney's office to
4 determine if it was an unlisted action. We
5 should be bound by the same rules of every
6 other unlisted action that has come before
7 this board.

8 We're prepared to answer any questions.

9 CHAIRMAN STUTO: Okay, I'd like to turn
10 it over to Joe.

11 MR. GRASSO: Dan did a great job
12 responding to many of the items that in the
13 same fashion that I was prepared to. To just
14 elaborate on a couple of points -- I'll begin
15 with Dan's last comment regarding the SEQRA
16 classification. I have the SEQRA law in front
17 of me.

18 CHAIRMAN STUTO: Rebekah, I know that you
19 don't come to too many of our meetings, but
20 please chime in whenever you want.

21 MR. GRASSO: The way it's worded - under
22 the list of Type I actions -- because the
23 decision is whether or not this is an unlisted
24 action or a Type I action. Under the list of
25 Type I action that says:

1 "Activities other than the construction
2 of residential facilities, that mirror or
3 exceed any of the following thresholds -"

4 Which this project does not meet those
5 thresholds.

6 "Or the expansion of existing
7 non-residential facilities."

8 Existing is a key word because obviously
9 this project is a demolition related to the
10 car dealership use. That's one reason why we
11 didn't feel like this project met that
12 requirement for a Type I action. Therefore, it
13 should be considered an unlisted action.

14 CHAIRMAN STUTO: Do you agree with that,
15 Rebekah?

16 MS. KENNEDY: Yes.

17 MR. GRASSO: One of the requirements of a
18 Type I action is a preparation of a full
19 environmental assessment form. Even though
20 this is an unlisted action, the applicant has
21 provided a full environmental assessment form
22 because it does provide a lot of additional
23 environmental information regarding the
24 project site, as well as the project and we
25 think that the completion of this form is very

1 important because it allows us to take a hard
2 look at a whole host of environmental issues,
3 as Mr. Lynch has raised in his letter and as
4 Dan has responded to.

5 In terms of the waivers, Mr. Lynch
6 indicated that there was no practical
7 alternative provided for the waiver of the
8 building setback from the road greater than
9 required. The Land Use Code does not require
10 all practical alternatives to be investigated.
11 As long as there is a basis for the waivers
12 and the Planning Board reviews the basis for
13 the findings and the waivers and it's
14 documented as such, that, in and of itself,
15 can become the basis. What we do is draft
16 findings before it comes up for preliminary
17 site plan review and draft findings for all
18 the waivers for the Planning Board's
19 consideration based on the information
20 contained in the record, the application
21 materials, as well as the discussion that
22 takes place at the Planning Board meeting.
23 We'll work on those as this project continues
24 to move forward.

25 Lastly, Mr. Lynch referred to concept

1 approval. There is no concept approval of
2 applications. It's merely a concept acceptance
3 and the Town has made a determination that
4 concept acceptance can be made before a SEQRA
5 determination. The Town routinely makes a
6 SEQRA determination when a project gets closer
7 to final site plan approval because of the
8 level of detail and the additional information
9 that is provided through the planning process
10 that is requested, the public comment period,
11 the TDE comments and through the final design
12 process. We like to rely on that information
13 to support a SEQRA determination to support
14 the project.

15 CHAIRMAN STUTO: Now before final
16 approval, can we communicate with DEC and make
17 sure that they are okay with the plans that
18 have been presented?

19 MR. GRASSO: There are a couple of issues
20 that we typically rely on outside agencies
21 expertise. One is the archeological
22 investigation.

23 There has already been some communication
24 with SHPO regarding the archeological
25 investigation and potential effects. We would

1 like additional documentation from SHPO
2 regarding the need or lack thereof of
3 additional investigations or potential
4 impacts.

5 Another one is the destination issue that
6 relates to soil or groundwater determination.

7 CHAIRMAN STUTO: With DEC?

8 MR. GRASSO: Yes, and we heard of a
9 potential contamination issue on the site and
10 we would look for additional comment by DEC
11 regarding that.

12 CHAIRMAN STUTO: So, we would require
13 additional letters from each of those agencies
14 prior to final approval?

15 MR. GRASSO: That would be our
16 recommendation.

17 CHAIRMAN STUTO: Tim?

18 MR. LANE: Joe, is there any particular
19 reason why the building would have issues
20 because it's not facing the main road?

21 MR. GRASSO: This comment was touched on
22 during the sketch plan review regarding the
23 orientation of the building and what has been
24 described that the building has a couple of
25 different entrances. One is at the southeast

1 corner of the building so, that basically
2 faces the Route 9 corridor and it also faces
3 the front main entrance drive.

4 MR. LANE: That's enough to make it meet
5 the requirement?

6 MR. GRASSO: Yes, at least in our opinion
7 it does based on the elevation -- even though
8 it won't be used by the majority of the
9 patrons of the facility, there is a
10 predominant entrance to the building facing
11 the back.

12 CHAIRMAN STUTO: What is the sidewalk
13 situation there?

14 MR. GRASSO: There are none and there are
15 no plans that we know of.

16 MR. HAAK: Joe, how does this traffic set
17 up fit in with the report that we have, and
18 does the overall traffic fit into what we were
19 looking at?

20 MR. GRASSO: Are you referring to the
21 updated traffic report for the Route 9
22 corridor?

23 MR. HAAK: Yes.

24 MR. GRASSO: This particular project site
25 was not looked at for new development. It's

1 important to understand that when you do this
2 type of comprehensive traffic study, it's not
3 expected to crystal ball every project
4 application that's been a result of traffic on
5 the corridor. This traffic volume and how it's
6 going to be applied to Route 9 is looked at in
7 the traffic study. The improvements that are
8 proposed in that traffic study are intended to
9 address cumulative impacts such as what is
10 coming from this project site. There is
11 nothing that this project would do that would
12 be an impediment to the implementation of the
13 traffic improvements.

14 MR. HAAK: My one other comment - I would
15 like you to look at the three-lane option out
16 on Route 9. Being someone who lives in that
17 area, I am frequently using that center turn
18 lane to get access to Route 9. So, I would
19 like to see how that third lane works and how
20 that would affect the traffic patterns.

21 CHAIRMAN STUTO: Can you put your hand on
22 the article on the parking spaces?

23 MR. HERSHBERG: You want a big book or a
24 little book?

25 CHAIRMAN STUTO: First grade level.

1 Any more comments from the Board?

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

3 CHAIRMAN STUTO: I think that this is a
4 good project. I think that there are issues
5 that should be looked at and we do take an
6 environmental impact seriously. I think that
7 we're going down the right route in doing
8 that. I think that we've been talking about
9 the issues, and I think that we'll continue to
10 talk about the issues as we go forward. It's a
11 great redevelopment this and I don't want to
12 hold it up. I don't think that any of the
13 issues are insurmountable. I think that we can
14 get sign off on the agencies and DEC in
15 particular.

16 What's the other one?

17 MR. GRASSO: Parks and Rec.

18 CHAIRMAN STUTO: If any other issues come
19 up, we'll have those issues addressed as well.
20 If we do see a significant impact, we can
21 still call for an environmental impact
22 statement. We could end up pos decking this
23 along the route that we're going, correct?

24 MR. GRASSO: Yes.

25 CHAIRMAN STUTO: I'm personally

1 comfortable with that. The applicants have
2 agreed to all the comments in your letter.
3 We're still leaving open the parking and we're
4 looking at the waivers and granting you those
5 if we consider concept acceptance today. We
6 still have a lot of work to do and we're just
7 saying that if we do entertain a motion for
8 concept acceptance that we haven't seen any
9 objections to this and we would entertain a
10 final application and for the process to move
11 forward.

12 Does the Board have any objection to
13 moving forward on that basis?

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

15 CHAIRMAN STUTO: We warn the applicant
16 and we generally warn them that if this is
17 granted that it's concept acceptance and it's
18 not a approval and it's not a binding action
19 upon this Board. We can change our mind and
20 say no at any time in the future.

21 Does the applicant understand that?

22 MR. JURCZYNSKI: I realize that, sir.

23 CHAIRMAN STUTO: Anyone make that motion?

24 MR. LANE: I'll make that.

25 MR. AUSTIN: I'll second.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN STUTO: All those in favor?

(Ayes were recited.)

CHAIRMAN STUTO: All those opposed?

(There were none opposed.)

CHAIRMAN STUTO: Thank you.

*(Whereas the proceeding concerning the above
entitled matter was concluded at
8:47 p.m.)*

CERTIFICATION

1
2
3
4 *I, NANCY STRANG-VANDEBOGART, Shorthand*
5 *Reporter, and Notary Public in and for the*
6 *State of New York, hereby CERTIFY that the*
7 *record taken by me at the time and place*
8 *noted in the heading hereof is a true and*
9 *accurate transcript of same, to the best of*
10 *my ability and belief.*

11
12
13
14 -----
15 **NANCY STRANG-VANDEBOGART**

16
17
18 **Dated February 27, 2012**

19
20
21
22
23
24
25

Legal Transcription

Ph 518-542-7699 Fax 518-831-1710
www.albanylegaltranscription.com