

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

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5 JOE'S CRAB SHACK  
6 579 TROY SCHENECTADY ROAD  
7 SKETCH PLAN  
8 \*\*\*\*\*

9 THE STENOGRAPHIC MINUTES of the above entitled  
10 proceeding BY NANCY STRANG-VANDEBOGART,  
11 a Shorthand Reporter, commencing on  
12 February 28, 2012 at 10:26 p.m. at the Public  
13 Operations Center 347 Old Niskayuna Road,  
14 Latham, New York 12110

15 BOARD MEMBERS:

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

24 Also present:

- 25 Michael Tengeler, Planning and Economic  
Development
- Robert Sweeney, Esq.
- Todd Huntington, GPD Group
- Joe Grasso, PE, Clough Harbour and Associates
- John Fahey
- Edward McGraw, Senior VP, Ignite Restaurant Group

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1                   CHAIRMAN STUTO: We're calling up Joe's  
2 Crab Shack, 579 Troy-Schenectady Road,  
3 application for concept acceptance, raze  
4 existing restaurant and replace with a new  
5 8,180 square foot restaurant, presented by GPD  
6 Group, reviewed by Town Designated Engineer's  
7 CHA.

8                   I think that we saw this in sketch plan.  
9                   Mike, do you have any other introductory?

10                  MR. TENEGLER: This is the former Dakota  
11 Restaurant site in Latham Farms. Again, this  
12 is to raze the existing building and erect an  
13 8,180 square foot Joe's Crab Shack Restaurant.

14                  They went through the DCC December 6,  
15 2011 and they have been progressing through  
16 and have gone through the sketch plan review  
17 in front of the Planning Board and they're  
18 here tonight for concept.

19                  CHAIRMAN STUTO: Okay, we'll allow the  
20 applicant to make their presentation.

21                  MR. SWEENEY: Thank you very much,  
22 Mr. Chairman. My name is Bob Sweeney and I'm  
23 an attorney. I'm here on behalf of the  
24 applicant, Joe's Crab Shack. We have with us  
25 tonight Ed McGraw from Ignite, and you've met

1 before our project engineer. Todd will do the  
2 presentation on the details of the site plan.

3 We have an issue - a cross connection  
4 issue that we talked about at sketch plan and  
5 will come back to me to present that. But as  
6 you just heard and just quickly, this is  
7 Troy-Schenectady Road; corner of Erin Drive,  
8 which is the access road to Latham Farms  
9 Shopping Center. It's the redevelopment of the  
10 Dakota Restaurant, which has been closed for a  
11 number of years. All of our work on this site  
12 will be within the curb line of the existing  
13 Dakota Restaurant, with the exception of some  
14 landscaping enhancements around the perimeter.

15 Our intent is to redevelop that building  
16 in its current location for our new product  
17 which Todd will present to you. As you heard,  
18 the total square footage is 8,180. The current  
19 Dakota Restaurant is about 7,900 square feet.  
20 This is actually a close building. It's  
21 slightly smaller than that and there is a  
22 1,200 square foot roofed patio with a closure  
23 that you'll hear about, as well. So the  
24 buildings are very similar in size. The  
25 parking lot will remain in the same

1 configuration. As I said, we'll hear about the  
2 enhancements. We've had comment letters from  
3 all the Town Departments. We've responded to  
4 the Clough Harbour letter and also to one from  
5 the Planning Department and they've talked  
6 about those specific issues. In the end, we'll  
7 come back to this cross connection issue that  
8 we talked about before.

9 Let me bring up Todd to talk about the  
10 specifics of the site plan.

11 MR. HUNTINGDON: Once again, Todd  
12 Huntingdon with the GPD Group. Also I  
13 mentioned, what we're doing here is replacing  
14 the existing building with the new Joe's Crab  
15 Shack Building. Essentially it's the same  
16 orientation as what there is now. I've  
17 provided an 11 by 17 to you of what I have up  
18 here, so you don't have to look so far. It  
19 should be the second page in there. It's the  
20 elevation view. The front façade, which is the  
21 main façade - the front entry of the building  
22 is actually what is facing Troy-Schenectady  
23 Road. Then the façade that you see on the  
24 bottom of the second elevation which has the  
25 left side elevation. That's what faces Erin

1 Street. There are two main facades where  
2 vehicles are coming up the highway on State  
3 Route 2, coming into Latham Farms. You're  
4 going to see the main two facades of the  
5 building. The east façade, on the side that  
6 Appleby's is on - that's where we're housing  
7 utility rooms, mechanical rooms and electrical  
8 rooms. We're keeping that all on the east side  
9 and then the trash enclosure and everything  
10 facing the back of the building.

11 You'll see on the landscape plan that  
12 there is kind of a dark gray area. You'll see  
13 out in front of the building, out towards the  
14 ADA stalls. The stalls are out near State  
15 Route 2 and the dark gray area that you see is  
16 a pavement replacement. It's not necessarily a  
17 full replacement. There will be some milling  
18 and redoing the surface coating to make it ADA  
19 compliant. Also, there is the removal of the  
20 existing Dakota basement. So, the excavation  
21 will require us to remove that basement.  
22 You'll see that we do have some pavement  
23 removal out in that area, but to the extent of  
24 what we're doing - we're trying to keep the  
25 building in the same location, minimize the

1 amount of work on the site, seal coat and  
2 restripe the parking lot and keep the same  
3 site layout consistent with what it is.  
4 Obviously, we're making some adjustments,  
5 bringing it up to Code. Like I said, redoing  
6 the ADA striping and we've incorporated some  
7 of the landscaping on the site. There was some  
8 perimeter landscaping screening on Erin Street  
9 and State Route 2. There is some interior  
10 landscaping. We will maintain all of that  
11 along the frontage as well as supplement it  
12 with some additional landscaping. That kind of  
13 ties in with the requirement for the frontage  
14 on the street. What we have provided is a  
15 landscape fencing all along the entire  
16 frontage of Erin Street and it's going to wrap  
17 around the corner all the way to where you see  
18 the Latham Farms monument sign.

19 We discussed at the last meeting - one of  
20 the issues that we had is that we don't want  
21 to put the sign directly in front of our  
22 building. There is a grade difference where  
23 you're standing on the sidewalk on State Route  
24 2, and it's about five and a half feet higher  
25 than the elevation of the building. So, trying

1 to limit the visibility of the building and  
2 showing where that fence is going to  
3 go - we've showed it all along Erin Street  
4 where there is no issue and then comes the  
5 monument sign. That's where that wall starts  
6 coming back to this side of the project  
7 (Indicating).

8 At this corner, there is mature  
9 landscaping pretty much the extent of that  
10 corner, there are three large evergreen trees  
11 that provide screening in the wintertime. Then  
12 in summer when the foliage is in, there is a  
13 tall maple tree there, as well. The buffering  
14 of the pedestrian pathway - there is all that  
15 sidewalk there and all that has to be  
16 maintained. So, I guess the existing  
17 landscaping provided that buffer in this  
18 corner of the property and we're not putting  
19 anything directly in front of the building so  
20 we're not blocking that view. Then, we're  
21 providing that fencing all around the  
22 remainder of the site.

23 I'm not going to touch on every single  
24 issue as far as some of the engineering  
25 comments. I think that we've gone and worked

1 with the comments that we received and sent  
2 response letters back in.

3 We addressed the 35 percent minimum  
4 landscape requirement and looked at the  
5 overall development as a whole. As a whole, we  
6 have reduced the landscaping on the 89 acre  
7 site by .2 percent. In our opinion, it's still  
8 an insignificant decrease in landscaping and  
9 it's still at roughly 42 percent over the  
10 entire Latham Farms development. So, we're  
11 still meeting the 35.

12 There was a comment about the type of  
13 plants used. There are three different types  
14 of plants that were originally shown along the  
15 landscape plan. Essentially, we replaced those  
16 plants with things that would not be competing  
17 with natural vegetation to this area.

18 The interior landscaping - that's another  
19 waiver that we're looking at. By replacing  
20 this (Indicating) and trying to keep the  
21 existing areas as they are, and simply  
22 restripe and seal coat the lot, we're at about  
23 2,100 square feet of interior landscaping that  
24 we have on site. That's not including anything  
25 around the building. It's just any kind of



1 interior landscaped area that has 75 percent  
2 of its perimeter in the parking lot. Including  
3 these that you see on the end here  
4 (Indicating) with the parking and not  
5 including anything on the interior, we're  
6 falling about 900 square feet short. I guess  
7 in our opinion the trade off to get to that  
8 3,100 number that we need - really the only  
9 way to get there is to eliminate parking  
10 stalls. Right now we're at 151 stalls provided  
11 on the site. Based on seats and the bar area,  
12 we're required to have 147. We'd really prefer  
13 not to have to start eliminating parking  
14 spaces. We're talking 900 square feet of  
15 landscaping. We can do some things with  
16 transverse striping and maybe switching that  
17 out with landscaping, but I guess in hindsight  
18 when we're talking about a 2.5 acre lot, we're  
19 talking 900 square feet of landscaping. How  
20 beneficial is that really going to be?  
21 Parking, in our opinion, would be the most  
22 important aspect. That would be one item.

23 Then, there is the parking in front of  
24 the building. That was the other waiver that  
25 was pointed out by Mike Lyons. Going back to

1 the same thing is putting a like for like  
2 building back in the same location. There are  
3 19 parking stalls out along State Route 2 in  
4 front of our building. Eliminating those  
5 stalls and shifting the building up - there is  
6 no way to make those stalls up front.  
7 Essentially, we'd be bringing our total  
8 parking area down to 130 stalls. We'd be  
9 deficient in parking and not providing enough  
10 parking for what we actually need on the site.  
11 In our opinion, we're not laying this out and  
12 it's not our intent to put all the parking in  
13 front of our building. It's just restriping  
14 and redoing what was there now to try to come  
15 in with the same location and make this site  
16 viable.

17 CHAIRMAN STUTO: Okay, is that the end of  
18 your presentation?

19 MR. HUNTINGDON: Yes.

20 CHAIRMAN STUTO: Joe?

21 MR. GRASSO: Yes, we have a comment  
22 letter that we issued on the concept plan  
23 dated January 16<sup>th</sup>. We touch on many of the  
24 items that we had in our letter. I'm not going  
25 to go through all of them. I'll just touch on

1 a couple of them briefly.

2 In summary, this project was well  
3 received by the Board during the sketch plan  
4 review. We also found the application  
5 extremely favorable, primarily because it's a  
6 great redevelopment project and we're trying  
7 to retain as many of the positive features of  
8 the site and make substantial enhancements to  
9 it with its redevelopment. They have modified  
10 the plan to address many of the comments that  
11 we brought up during sketch plan review as  
12 well as during our concept plan regarding the  
13 frontage building out and the use of the  
14 fencing; they have modified the plan to  
15 address our concerns. We feel what they are  
16 currently proposing is in accordance with the  
17 design standards, so no waiver would be  
18 required there.

19 They are still seeking the waiver for the  
20 lack of interior landscaped islands within the  
21 parking lot. Based on my calculation, they're  
22 at about 70 percent of what the design  
23 standards would otherwise require because it's  
24 a redevelopment project. They're looking to  
25 minimize the amount of site work within the

1 developed portions of the site. We feel that  
2 is a reasonable granting of a waiver to grant  
3 the relief of the additional 30 percent. I  
4 don't feel like it's worthy of losing  
5 additional parking spaces just for the sake of  
6 creating new landscaped islands within a  
7 parking lot.

8           Regarding the greenspace, we raised that  
9 as a comment during sketch plan review. We had  
10 asked them to look at what the greenspace is  
11 for the overall Latham Farms parcel. They  
12 demonstrated that the current greenspace  
13 percentage is 42 or 43 percent. As Todd said,  
14 this project is going to have a negligible  
15 impact on the amount of greenspace, so that it  
16 meets the Code and we have no concerns there.

17           There are some spot improvements that  
18 will be required on the site regarding the  
19 storm sewer and some of the pavement  
20 conditions, and some of the frame sets that  
21 are on the site. That's something that I'm  
22 sure they'll be able to address as they  
23 address the final plans.

24           The last comment is related to the cross  
25 access connection, which is something that our

1 office had supported during the sketch plan  
2 review. As we got additional comment from the  
3 Planning Department, they continue to request  
4 that a driveway connection to the abutting  
5 Appleby's Restaurant to the east be required.  
6 There are also comments in your packet from  
7 CDTA regarding the access connection. They  
8 said:

9 "We strongly request that the Planning  
10 Board require transportation connection  
11 between the sites. This will allow employees  
12 and customers at those establishments to  
13 access CDTA's transfer location in the winter  
14 when snow may be in a manner that impedes  
15 pedestrian connectivity."

16 There were some concerns raised by the  
17 applicant during the sketch plan review  
18 regarding the potential for undesirable cut  
19 through traffic between the sites and from  
20 Sunset Drive over to Erin Street. We have  
21 taken another look at that and can't validate  
22 those concerns. We don't think that the cut  
23 through traffic between these various  
24 commercial properties is likely to occur. We  
25 see no benefit to that type of cut through

1 movement. The cross connection that we're  
2 really talking about is a connection that  
3 would allow vehicles at this establishments to  
4 be able to access through the Appleby's site  
5 and Starbucks in order to get out to  
6 Troy-Schenectady Road either by that curb cut  
7 or on Sunset Drive, as well as if there were  
8 vehicles in the Appleby's site that wanted to  
9 come over to this site or get down Erin  
10 Street. They could do that without having to  
11 circulate all the way out to Route 2. There  
12 could also be a situation where if one site  
13 was full and unable to accommodate more  
14 patrons or the parking lot was full, a vehicle  
15 could go over and go to the adjoining  
16 restaurant without having to circulate all the  
17 way out to Route 2, seeing that the parking  
18 lots are about 20 feet apart from each other.

19 There was some correspondence recently  
20 from the applicant regarding the -

21 CHAIRMAN STUTO: Was that the e-mail that  
22 we got today?

23 MR. GRASSO: There was a letter dated  
24 February 24<sup>th</sup> that I got and it makes some  
25 references to the Vehicle and Traffic Law. It

1 talks about the cut through traffic. When we  
2 did some research regarding that law, it's  
3 really about vehicles that would come off of  
4 the highway system, cut through a private  
5 property and jump back onto a public roadway  
6 system with the sole purpose of trying to  
7 avoid an existing traffic control device.  
8 That's not what we're talking about with this  
9 cross access connection. We don't see that  
10 there is any likelihood that somebody is going  
11 to come off of Route 2 or come off of Erin  
12 Street and circumvent through these various  
13 properties, jump back on to another public  
14 road for the sole benefit of trying to avoid  
15 an existing traffic control device. That's a  
16 valid concern that we have and we continue to  
17 feel strongly about the need for the cross  
18 access connection.

19 Just for the Board's edification, the  
20 adjoining Appleby's site that we're talking  
21 about - there are currently access easements  
22 across that property that will allow this  
23 property to access through the site. During  
24 the site plan review of the Appleby's it was  
25 strongly encouraged by the Planning Board that

1           they should allow and should facilitate a  
2           cross access connection with the adjacent  
3           property which was the Dakota's Restaurant. No  
4           easement currently exists.

5                        So, what we're asking for tonight is  
6           actually a physical connection to be provided  
7           between the properties. We only have the  
8           application for the Joe's Crab Shack site in  
9           front of us. Appleby's is not here. If the  
10          applicant was wanting to start the connection,  
11          they would have to solicit from the adjacent  
12          property to see if they would allow that cross  
13          access to occur.

14                       CHAIRMAN STUTO: Can we participate in  
15          that conversation?

16                       MR. GRASSO: We absolutely could. There  
17          are other options. It doesn't have to be an  
18          all or nothing thing. It could be something  
19          where we ask this applicant to build up to the  
20          property line and grant a cross access  
21          easement across this site, so that if the  
22          adjacent Appleby's site ever came back before  
23          the Town, it would make it that much easier to  
24          facilitate this connection, which has been  
25          sought after by the Town for over 10 years



1 now.

2 CHAIRMAN STUTO: I've talked to you about  
3 this on a number of projects, and on this one  
4 as well. Why do traffic engineers tell you  
5 that cross connection is desirable?

6 MR. GRASSO: It's one of our access  
7 management strategies. It's really about  
8 trying to provide a safe and efficient way to  
9 get from our network of highways and streets  
10 into various properties - whether or not they  
11 be residential or commercial. There are a lot  
12 of access management strategies that we will  
13 continue to support as we review projects. It  
14 could be things as single spacing, curb cut  
15 spacing, combining curb cuts or providing  
16 cross access connections. All these different  
17 types of things basically tries to promote  
18 safe movement of vehicles to properties and  
19 between properties, while also trying to  
20 protect the integrity of the local roadway  
21 network. A cross access connection is  
22 definitely one of the more popular strategies  
23 that you're going to hear. For example, if  
24 somebody was at the Appleby's site and they  
25 wanted to go to this site, does it really make

1 sense for them to circumvent all the way out  
2 to Route 2 and then go through the traffic  
3 signal on Erin Drive and into the site when  
4 we're talking about two adjacent commercial  
5 sites? It's about providing options for  
6 vehicles so that they're not forced to go  
7 around to get to adjacent properties. It's  
8 about trying to minimize the number of  
9 conflict points that a vehicle is exposed to  
10 as they're trying to traverse between various  
11 properties. Obviously, as vehicles would be  
12 forced to use Route 2 or Erin Street or Sunset  
13 Drive, every time you come out to those  
14 intersections, you're forced with decision  
15 points and conflict points. When we facilitate  
16 these cross access connections, we can  
17 drastically minimize the number of conflict  
18 points that vehicles are going to have to  
19 participate in.

20 CHAIRMAN STUTO: Any other comments?

21 MR. GRASSO: No.

22 MR. SWEENEY: I would like to address  
23 that point. I have some aerial photographs  
24 here that may facilitate what I'm trying to  
25 explain. There should be two photographs

1           there. One is a closer view of the Appleby's  
2           and the current Dakota site, and the other one  
3           is the view of the entire block from Sunset to  
4           Erin.

5                     If we can start with the closer view  
6           which just shows the two restaurant buildings;  
7           Appleby's and the current Dakota site and the  
8           intersection of Erin and Troy-Schenectady  
9           Road. You can see from that aerial photograph  
10          the logical location of a cross connection, if  
11          one were to exist, which would be in the back  
12          corner of the Appleby's Restaurant. There is  
13          one car parked back there. Otherwise, you're  
14          tearing out trees and so forth.

15                    One of the discussions that we had last  
16          time we were here that wasn't just mentioned  
17          is you're losing parking on both sides of that  
18          proposed easement in order to accomplish this.  
19          The discussion here last time about the  
20          engineers was four to five spaces and it would  
21          be on both restaurant sites, plus the  
22          greenspace in between. I hope that you can see  
23          where I'm talking about with the location and  
24          looking in the northwest corner of Appleby's.

25                    Point two on that - that location or any

1 location that you pick along the west line of  
2 the Appleby's site, takes you into the back  
3 end of the Joe's Crab Shack site. You're  
4 entering into the parking lot. You're not  
5 entering into an access or circulation road.  
6 You're going right into the middle of the  
7 parking lot. Then, this cut through traffic  
8 that we're talking about - and that's what  
9 we're talking about - is winding its way  
10 around Joe's Crab Shack building and making  
11 its way out to Erin Drive, if it's westbound.  
12 If it's eastbound, it's winding its way  
13 through the other way, right through the  
14 middle of the parking lot.

15 Several comments that we heard from the  
16 engineer regarding safety of the motor  
17 vehicles - this is a parking lot where people  
18 are backing in, driving in parking stalls and  
19 discharging passengers who are walking from  
20 the parking lot to the building. They're doing  
21 this in the midst of this cut through traffic  
22 that would be promoted by this proposed  
23 easement. The safety of the passengers and the  
24 safety of the people in this parking lot, you  
25 would think, would be paramount to the

1 inconvenience of having to go out to a traffic  
2 light to go someplace else, if you didn't want  
3 to be in the Appleby's site. I don't think  
4 that they even compare. The safety discussion  
5 is paramount. That's just a bad place for  
6 cross access easement. It would cause  
7 significant problems on the Joe's Crab Shack  
8 site. It does the same thing on the Appleby's  
9 site; to a lesser extent, the same thing.

10 The next issue that we raised and I think  
11 that it's a hugely significant one is that  
12 there is no connection here. There are no  
13 easement rights on the east side of this on  
14 the Appleby's side. The connection ends at the  
15 property line. We haven't spoken, obviously,  
16 to Appleby's. But obviously they were  
17 encouraged to provide this at the last site  
18 plan approval and they didn't. I don't think  
19 that it's fair to send the tenant, Joe's Crab  
20 Shack, out there to acquire an easement.

21 Being in the business for a few years,  
22 the first thing that happens when you ask for  
23 a real property interest from an adjoining  
24 property owner is: How much are you going to  
25 pay for it? That didn't get mentioned here. I

1 think that it was called a conversation, but  
2 we know where those conversations go. We  
3 haven't had the conversation and probably  
4 won't. The point here being that there is no  
5 cross connection here. The Board can impose  
6 it. The restaurant won't get built because we  
7 can't supply it. We can't give you that cross  
8 connection. We don't have the legal right to  
9 do that. At the moment, we're just a tenant.  
10 We don't even have a legal right to the  
11 property.

12 MS. DALTON: Can I ask you a question  
13 about that?

14 MR. SWEENEY: Absolutely.

15 MS. DALTON: I want to make sure that I'm  
16 understanding what you just said. I think that  
17 what I just heard you say is that if we, as a  
18 Board, essentially go with Joe's suggestion  
19 and require or mandate or whatever the word  
20 is - that connection and for you to have that  
21 conversation, you would just abandoned the  
22 project? Is that correct? That's what I heard  
23 you say.

24 MR. SWEENEY: We can't provide that cross  
25 connection. I didn't even hear that qualifier

1 from the engineer. We don't have the legal  
2 right to provide that. We have two parties to  
3 deal with. If that's the condition of the  
4 approval, it's a condition that we can't  
5 deliver.

6 MS. DALTON: And why can't you deliver on  
7 it?

8 MR. SWEENEY: Because we don't have the  
9 right to have the cross connection on our  
10 side. That's our landlord. We don't have the  
11 right to have the cross connection on the  
12 other side and in fact, it appears that party,  
13 despite the urging of the Planning Board,  
14 declined to provide that access. So, if you  
15 condition our approval on that being part of  
16 our site plan, we don't have the legal right  
17 to deliver that.

18 MR. HAAK: Have you had a conversation  
19 with your landlord?

20 MR. SWEENEY: No.

21 MR. HAAK: You haven't even said to them  
22 that the Planning Board might condition our  
23 approval on this and gotten a reaction from  
24 that on that?

25 MR. SWEENEY: That's correct. We have

1 not.

2 Where I started with this -- I think the  
3 feeding cut through traffic through the middle  
4 of our parking lot is an unsafe condition and  
5 it's a compromise that you shouldn't force on  
6 Joe's Crab Shack and their maintenance and  
7 control of their parking lot.

8 Just on that point - if I can take you to  
9 the second photograph -

10 MS. DALTON: If I can ask you just one  
11 more question?

12 MR. SWEENEY: Absolutely.

13 MS. DALTON: Is your objection to this  
14 based on liability issues?

15 MR. SWEENEY: It's absolutely part of  
16 that, sure. It's the safety and management of  
17 our parking lot. The liability is obviously a  
18 related issue. We don't want cut through  
19 traffic.

20 MS. DALTON: Assume for a moment whatever  
21 we might say about safety issues speculatively  
22 until something is built based on experience.  
23 So, our engineers are saying that based on  
24 their experience, it is a safer overall  
25 environment to provide these kinds of cut



1           throughs and that's why we're asking for them,  
2           right?

3                     MR. GRASSO:   Correct.

4                     MR. SWEENEY:  All of his commentary  
5           related to vehicles cutting through and having  
6           a safer way to get around the neighborhood.  
7           There was no discussion from your engineer  
8           about what happens in our parking lot - the  
9           middle of our parking lot, as a result of this  
10          cross connection. It was all about external  
11          movement and safety of those vehicles who are  
12          cutting through it. I'm focusing on what  
13          happens where they're coming through.

14                    MS. DALTON:  I really do want to  
15          understand your objection. I think that what I  
16          hear you saying is that when you look at  
17          vehicle movement, having cut throughs may  
18          mitigate some of this. When you're looking at  
19          adding pedestrian traffic in a parking lot,  
20          those cut throughs essentially erase any  
21          benefit that you may have gotten.

22                    MR. SWEENEY:  I don't think that it's  
23          even close in the balance. Most cars want to  
24          avoid going the long way to a traffic signal,  
25          so they're cutting through a parking lot where

1 people are walking from their cars - children  
2 and older people - cars are backing in and out  
3 of parking spaces. This is not an access road  
4 cross connection. It's not a circulation cross  
5 connection.

6 I keep trying to go to that second  
7 photograph to make this point.

8 MS. DALTON: Go ahead.

9 MR. SWEENEY: If you look at the  
10 photograph that shows the whole block, you'll  
11 see on the right side - the east side, Sunset  
12 Drive, and then you'll see a left hand turn  
13 and an access road providing a cross  
14 connection between the Starbucks site and the  
15 Appleby's. That's a safe cross connection.  
16 It's segregated from the parking lot. That's  
17 what cross connection planning is about. It's  
18 not about feeding cut through traffic through  
19 an occupied parking lot. It's a segregated  
20 access road - circumference road, travel  
21 road -- it's not what is being proposed here.  
22 We would fully support it if we were in a  
23 similar situation, but there is no design  
24 concept that can accommodate a separate  
25 segregated cross connection. It's running

1 right through the middle of the parking lot.  
2 It's not even a straight shot down an aisle.  
3 You're coming into the back of the building  
4 and the cars have to turn -- if they're  
5 westbound, they have to turn right. They have  
6 to find a parking aisle to cut through and  
7 then they have to get out of it. Cross  
8 connections are a good planning concept, but  
9 you have to put them in the right place and  
10 you have to have the right design. It can't be  
11 a knee-jerk - connect these two parking lots.  
12 There has got to be some thought as to how  
13 you're connecting them. This is just sticking  
14 a driveway through the two sites which no  
15 party has the legal right to do, and feed them  
16 into the parking lot and let them find their  
17 way out. That's not good.

18 CHAIRMAN STUTO: Do you have a response  
19 to that, Joe?

20 MR. GRASSO: Yes. There has been a lot of  
21 talk about the safety issue and commingling  
22 vehicles with pedestrians and this cut through  
23 issue. We still don't think that we're talking  
24 about cut through traffic. We're talking about  
25 the traffic that would be on these sites

1 already - just going back and forth between  
2 the sites.

3 MR. LANE: Why would people move from  
4 Appleby's to Joe's Crab Shack?

5 MR. GRASSO: Let's say you're at Joe's  
6 Crab Shack and the wait is an hour and a half  
7 and you want to go to Appleby's. Can you drive  
8 across there and park in their parking lot? If  
9 there is a need for overflow parking for  
10 whatever reason, and then you decide you want  
11 to park on the adjacent site, can you get  
12 there?

13 MR. LANE: I don't think that's a very  
14 good view of it.

15 MR. GRASSO: I'm just saying if you're at  
16 Appleby's and you want to get to Walmart after  
17 dinner, can you go through the parking lot  
18 there?

19 MR. SWEENEY: That's cut through traffic.

20 MR. GRASSO: We don't consider that cut  
21 through traffic. We think that it's very  
22 common to have vehicles and pedestrians in  
23 parking environments. We're not talking about  
24 roads. We're talking about linking two  
25 commercial properties and their parking lots.

1           It's very common and we've seen this very  
2           successfully used on most of the commercial  
3           sites -

4           MR. LANE: We've seen these where there  
5           is basically an access road across the backs  
6           of the lots and they are configured somewhat  
7           the same. I have to agree with him. If you do  
8           something like that in this situation, it's  
9           not an access road really and you're going to  
10          cut through the greenspace and thereby  
11          reducing the greenspace.

12          MR. GRASSO: I disagree. We haven't  
13          dictated exactly where the cross connection  
14          could be.

15          MR. LANE: Right, so where would that be?  
16          You can't say that you have to make it.

17          MR. GRASSO: There is a drive aisle here  
18          in the back of the Crab Shack. You could cut  
19          through the back of the greenspace here in the  
20          back of the Appleby's.

21          MR. LANE: Like he said, you're driving  
22          through his drive up and not an access road.

23          MR. GRASSO: You're right. You would be  
24          driving down the parking lot drive aisle. When  
25          you look at these cross access connections,

1           there are a lot of variables that you have to  
2           consider; the type of traffic, where the  
3           traffic is being generated from, where they  
4           are trying to go to and the volume of traffic.  
5           I think that when you look at all those  
6           things, we're not talking about a lot of  
7           vehicles.

8                       MR. SULLIVAN: Could you put a cross walk  
9           in there - in that lower parking lot? You're  
10          cutting through the back of Joe's Crab Shack  
11          and if your concern is for pedestrians trying  
12          to cross through there, could you have a cross  
13          walk so that people that are cutting through -

14                      MR. LANE: To be honest, if I'm already  
15          parked in the Crab Shack and the wait is an  
16          hour and a half, I would walk over to  
17          Appleby's. I wouldn't even bother getting into  
18          the car.

19                      MR. GRASSO: As long as there was a  
20          parking space there, yes, that would be fine.  
21          This connection could facilitate that as well.  
22          I think that when we heard form CDTA they were  
23          talking about this connection that they had  
24          used not for just vehicles, but also for  
25          pedestrians.

1                   Mike, to your point regarding the  
2                   crosswalk, when people park their cars, they  
3                   know where their sidewalk is or the building  
4                   entrance is. They're generally going to take a  
5                   straight line - the shortest path, even if  
6                   there is a crosswalk five feet out of their  
7                   way. I don't think that it would provide any  
8                   meaningful safety needs.

9                   MR. SWEENEY: Are we referring to the  
10                  area directly north of Appleby's? That grade  
11                  changes at least eight or ten feet. It is  
12                  certainly a wetland and it maybe a drainage  
13                  basin that has been converted to a wetland  
14                  over the years. That's a significant drop off  
15                  there. I think that there is some topo on our  
16                  plans that will show you that.

17                  MR. GRASSO: I think that the wetland and  
18                  drainage basin is more towards the north than  
19                  what Mike is referring to.

20                  MR. SWEENEY: Maybe I'm not clear on Mr.  
21                  Sullivan's comment, then. If you go north at  
22                  all out of that parking lot, you're down a big  
23                  slope.

24                  MR. GRASSO: A connection wouldn't  
25                  necessarily have to be in back of Joe's Crab

1           Shack. You could look at possible cross  
2           connection across the fronts of the sites, as  
3           well.

4           MR. SWEENEY: Through the trees there?

5           MR. GRASSO: Yes.

6           MR. SULLIVAN: That would take out some  
7           of the concern about pedestrians crossing or  
8           backing out. I would like to see the applicant  
9           reach out to Appleby's to see if they're  
10          favorable -

11          MR. SWEENEY: We are strongly, strongly  
12          opposed to this for safety reasons. We're  
13          backing off it now, but originally to justify  
14          this cut through, one of the stated reasons  
15          for it was that Walmart cars approach the  
16          intersection at Erin Drive and they see a back  
17          up. They can cut through the site and go over  
18          to Sunset Drive and get out of it. That's now  
19          going away if we're hearing that really this  
20          might be just a few cars sharing the two  
21          parking lots. If that's what it is, the trade  
22          off is not worth it. It's a diminimus use for  
23          that purpose. We're backing off the cut  
24          through traffic, which was the original  
25          justification for trying to minimize the



1 amount of traffic. As we're doing that, the  
2 justification goes away. We are strongly  
3 opposed to it. Even if we could work it  
4 out - if both property owners - we don't want  
5 to do it because it compromises our parking  
6 lot and our customers. We haven't done that,  
7 nor do we want to do that because it's not a  
8 safe condition for our parking lot. We are  
9 strongly opposed to this. A well planned cross  
10 connection that makes some sense is fine. This  
11 is not that. This is feeding cut through  
12 traffic through pedestrian occupied spaces and  
13 we're strongly opposed to this. We hope that  
14 the Board can understand that and understand  
15 the valid reasons why we don't want to do  
16 this.

17 CHAIRMAN STUTO: Joe, you think that it  
18 can be done?

19 MR. GRASSO: Yes, I still support the  
20 connection.

21 CHAIRMAN STUTO: Any more on the  
22 presentation?

23 MR. SWEENEY: No.

24 CHAIRMAN STUTO: Any members of the  
25 public want to speak on this?

1                   MR. FAHEY: John Fahey, 46 Perry Avenue,  
2 Latham.

3                   I've heard about Joe's Crab Shack. This  
4 is going to be tremendously successful. You  
5 guys are going to do an amazing business.

6                   I've heard several references to the one  
7 hour waits. Now, your parking lot - I believe  
8 your size is based on the number of seats. So,  
9 the people waiting for an hour - where are  
10 they going to park? The people that decide  
11 that they're going to have dinner at the  
12 bar - they're taking up a parking spot. Are  
13 you going to take out? Can I call up and come  
14 over and pick my meal up and take it home?

15                  MR. HUNTINGDON: Sure.

16                  MR. FAHEY: Okay, where are the dedicated  
17 parking spots? Appleby's has five for take  
18 out, Carrabas has three, Ruby Tuesdays has  
19 three. So, there is a few more.

20                  Anyway, without that cross connection,  
21 the customers will develop their own. They'll  
22 use Dr. Forman's parking lot. They'll use Uno.  
23 They'll use the back of Walmart. Why? Because  
24 that's what people do around here. They don't  
25 care. They want to go to Joe's Crab Shack. I

1 don't blame them. It sounds like a great  
2 concept, but how many phone calls from  
3 Walmart, Uno and Dr. Forman is Town Hall going  
4 to tolerate?

5 I think that you need that as a safety  
6 valve to get over into what I perceive to be a  
7 highly underutilized parking lot. Starbucks  
8 doesn't get a lot of cars in there. Any time  
9 that I've gone by there, over in the center,  
10 is vacant all the time. I don't know what the  
11 reason it, but I think that you need it as a  
12 safety valve. Without it, you're going to be  
13 clogging up people parking illegally and  
14 people being towed by irate owners. You've  
15 seen it in other properties. I'll give you  
16 .50. Make the phone call to Appleby's and have  
17 the two landlords do it. I think that it will  
18 benefit both projects. That's my two cents.

19 CHAIRMAN STUTO: Thank you.

20 Anyone else from the public?

21 MR. MCGRAW: I'm Ed McGraw, Senior Vice  
22 President of the Ignite Restaurant Group and  
23 I'd like to be heard.

24 I live in Syracuse so I'm right down the  
25 Thruway. I've been doing this for about 15

1 years. I was with TGI Fridays, so I've  
2 developed a lot of sites around the country.

3 I understand the need for cross access  
4 and cross easement. When you have a land  
5 that's raw and you're planning it from the  
6 word go, that's the way to go. That obviously  
7 isn't what happened here. This site is good in  
8 part because it doesn't have a cross access.  
9 If you open it up to Appleby's, Starbucks and  
10 essentially a neighborhood, everyone that is  
11 there, could go through the back of this lot  
12 to get out to the light. They're cutting  
13 through. They can also go out to Sunset. So,  
14 there is a light at Sunset. So, if you're at  
15 Appleby's and you want to go to Walmart, you  
16 can go out to Sunset and get to Walmart and it  
17 might take you another 10, 15 or 20 seconds or  
18 maybe a half a minute. So, it's not as if you  
19 can't get there, it just might take a little  
20 bit longer. Our landlord doesn't want to be  
21 connected to this property and this property  
22 doesn't want to be connected to our property.  
23 We aren't willing to go forward if we have to  
24 be connected; pure and simple.

25 We negotiated for this lot because it's a

1 great lot. It's a great part of the shopping  
2 center. It's a great corner. It's got great  
3 visibility. You connect it to a series of  
4 other retail establishments and residential  
5 homes, which can then all use this cut  
6 through. Believe me, it's a cut through. There  
7 would be parking on the other side. So, there  
8 would be a road going through the back of our  
9 lot and parking on one side. So, we have no  
10 interest.

11 This is a like for like conversion. We're  
12 hoping to do it relatively quickly. We want to  
13 get built and we would employ about 75 people.  
14 We would expect to do about 4 to 4.5 million  
15 dollars. Invariably, at our grand openings, we  
16 do a heck of a job. At grand openings there is  
17 a lot of traffic. But we settle down into a  
18 very straightforward restaurant. We're a good  
19 member of the community and I can't tell you  
20 enough of how frustrating it is, because I do  
21 this around the country, that a situation  
22 where a parcel that we have negotiated for  
23 would become a different parcel if you create  
24 that connection. Instead of suddenly being  
25 freestanding on its own, you're suddenly

1 connected to Appleby's, Starbucks, the banks,  
2 the homes.

3 I drove there tonight before I came over.  
4 There was a community center in the back that  
5 was having some exercise class. That's great,  
6 but all of those people could cut through the  
7 back of our lot. They were parked on the  
8 street. Every one of those people could come  
9 out and start going out and they could cut  
10 through the back of the lot.

11 CHAIRMAN STUTO: That's a dance school  
12 that has been before us.

13 MR. MCGRAW: I love that it's there, but  
14 I don't want to be connected to it directly  
15 with this route. That's my two cents.

16 I know you had a big agenda tonight. We  
17 will not proceed if we have to do that. That's  
18 not the parcel that we negotiated for. It's  
19 not in their interest to be connected to this  
20 other parcel. The other parcel - it's  
21 definitely in their best interest to be  
22 connected to us, but our parcel is the one  
23 that's being damaged by it. We wouldn't be  
24 getting the deal that we negotiated for. I  
25 would kill the deal with the landlord and we

1 would be pulling our application.

2 MR. LACIVITA: Just for clarification,  
3 that access could not begin from Sunset. When  
4 Krispy Creme went it, it was a one way out to  
5 Sunset and over, so people could not come in  
6 via Sunset.

7 CHAIRMAN STUTO: So the dance studio  
8 people can't -

9 MR. MCGRAW: They may not be legally able  
10 to do it, but I did it tonight. So, it can be  
11 done. It can be done whether or not there are  
12 signs.

13 MR. AUSTIN: Joe, is that connection a  
14 public road?

15 MR. LACIVITA: I don't believe that it  
16 is.

17 MR. AUSTIN: So, it's a one-way private  
18 road.

19 MR. MCGRAW: When you have two properties  
20 under a common ownership and you can do it,  
21 great. But you don't have that here. My  
22 landlord has no interest in doing this. As an  
23 applicant who is trying to scrape a restaurant  
24 that's absolute - has asbestos floor covering,  
25 asbestos pipe covering and has a basement that

1 is a mess - we're looking to spend probably 3  
2 to 3.5 million dollars investing in this  
3 property and the property doesn't work for us  
4 if there is suddenly a road cutting through  
5 the back of our lot.

6 Any questions from the Board or anything  
7 than I can comment on or respond to?

8 CHAIRMAN STUTO: Anyone else from the  
9 public?

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

11 MS. DALTON: I think that as a general  
12 principal, the reviews are good. Because we  
13 are so familiar with Sunset Drive and the  
14 amount of traffic going back and forth, I have  
15 every expectation that if we offer this cut  
16 through that it would be used as one because  
17 those 68 cars that get out of Zumba all at the  
18 same time are -- we've already talked about  
19 the fact that they are looking for other ways  
20 to get out of that cul-de-sac. We talked about  
21 them using the dance studio as a cut through  
22 to get to that other road, but there is no  
23 light at that other road to help them get out.  
24 So, this would bring them to another area  
25 where there are a number of lights where they



1           could go in various directions. Generally  
2           speaking, it might not be because of the dance  
3           studio, I think that it probably would be.

4                        Secondly, I do agree with the notion that  
5           we kind of are standing, if you will, to  
6           request a tenant to force negotiations between  
7           two owners is questionable. If we wanted to  
8           contract the owners and ask them to do this as  
9           something on the Town and the owners were  
10          willing to grant that easement, I think that  
11          the onus of that contact should be on us and  
12          not on the applicant. For what it's worth,  
13          those are my opinions.

14                       I guess I also want to go on record as  
15          saying that I think that it's a great project  
16          and I'm really looking forward to having it  
17          here. It's hard, however, when you start to  
18          feel like you're being threatened. If you  
19          don't do it that way, I don't want to come. It  
20          just doesn't feel good. I understand what  
21          you're saying. It's a business. I don't want  
22          to feel like afterwards that I was bullied  
23          into what you wanted me to do instead of the  
24          right thing.

25                       MR. MCGRAW: That was clearly not my

1 intent to bully you in any decision. I'm just  
2 telling you as a private business owner  
3 looking to invest in this property, that we  
4 love the way that it is. If you add that  
5 connection road, I wouldn't have cut the same  
6 deal. I probably wouldn't have been interested  
7 at all. It's not the same project.

8 MS. DALTON: I was in a similar situation  
9 at one point having to provide similar  
10 information to someone I was negotiating with  
11 and when I told them that we would pull the  
12 deal, he told me that he didn't want to be  
13 bullied. My response to him was this was this  
14 not intended to bully you. This is for you to  
15 make a really good decision using all the  
16 information. Part of the information that you  
17 need is that you're about to lose a 3.4  
18 million dollar investment. If you don't use  
19 that information properly, shame on you. I'm  
20 going to take it that way. I just wanted to  
21 say that it still makes it difficult.

22 Having said that, we want the  
23 investment -- I speak for me. I want the  
24 investment. I want the jobs. I want the food.  
25 I've been sitting here Googling your menu. For

1 all of those reasons, I think that it's a good  
2 deal and if that's a deal killer -- I agree  
3 that it might be something that we may  
4 sometime want to do to approach the owners of  
5 the property.

6 MR. MION: I agree with Kathy. I'm really  
7 looking forward to eating crab. I agree with  
8 the cut through, but knowing what happens over  
9 on Sunset and all the issues that we've had on  
10 Sunset, I can't help but believe that it's  
11 going to generate a cut through. One of the  
12 things that we had over there on sunset was  
13 the fact that they don't have a light to come  
14 out on the other road, but we have a light  
15 there at Sunset and that's going to stack up.

16 My opinion on the connection is that I  
17 think that it's going to become a hazard. I  
18 agree with it, but I think that it's going to  
19 be a hazard because of the Sunset situation.

20 MR. AUSTIN: I haven't looked at the menu  
21 yet.

22 Just for the record, we should put the  
23 restaurant items earlier in the night because  
24 we're getting hungry.

25 I have to agree with Lou and Kathy on the

1 cut through aspect of it. Dakota has been  
2 empty and it's a vacant property that needs to  
3 be developed. I'm excited about seeing a new  
4 business come in. I would hate to see it go  
5 the route of Dakota and have some viability to  
6 stay.

7 I think that you are correct in saying  
8 that it would create some cut through traffic  
9 with Walmart and Starbucks. As Mr. Fahey said,  
10 people will create their own cut throughs.  
11 That's just how they do things. I've used that  
12 access behind Walmart a few times myself just  
13 to get to Route 2 through Latham Farms. I  
14 guess I'm kind of guilty of that cut through  
15 thing as well, too. I really want to see this  
16 project go ahead. I hate for it to stall on 20  
17 feet of pavement.

18 CHAIRMAN STUTO: Thank you.

19 I think that obviously the big issue here  
20 is cross connectivity. You have three members  
21 who are in favor of not doing it, so we can  
22 see where that may end up going. I think that  
23 the safety issue is over exaggerated or  
24 exaggerated. I think that your argument that  
25 it violates Vehicle and Traffic Laws Section

1 12-25 is absurd and disingenuous, to be honest  
2 with you.

3 MR. SWEENEY: Mr. Chairman, can you  
4 explain that please?

5 CHAIRMAN STUTO: Yes. People make  
6 decision whether they want to go from a public  
7 street through a parking lot to another public  
8 street to violate that section of Vehicle and  
9 Traffic Law. Making the connection, in and of  
10 itself, is not a violation of that section.

11 MR. SWEENEY: Clearly - and I don't think  
12 that anything that I wrote was even close to  
13 saying that. I said the use -

14 CHAIRMAN STUTO: You said the stated  
15 purpose of the cross connection is to allow  
16 people to bypass the traffic signal at Erin  
17 Street and Troy-Schenectady Road. Where is  
18 that stated?

19 MR. SWEENEY: Vehicle and Traffic Law  
20 Section 12-25 -

21 CHAIRMAN STUTO: No, you said the stated  
22 purpose of the cross connection. Who stated  
23 that cross connection?

24 MR. SWEENEY: The last time we were here,  
25 the discussion was had - I'm quite sure - that

1 when you come up to Erin, if there is traffic  
2 congestion there, you can use the cut though.

3 CHAIRMAN STUTO: I didn't make that  
4 statement and I don't remember anyone else  
5 making that statement.

6 MR. SWEENEY: It's the use. It's the  
7 driver -

8 CHAIRMAN STUTO: Again, I think that it's  
9 overstated hyperbole. That's what I think that  
10 argument is to try to scare people. That's my  
11 opinion. If someone wants to circumvent a  
12 traffic light by cutting through, that's their  
13 decision whether they want to violate that  
14 section. Creating a connection is an  
15 engineering recommendation that I've been  
16 hearing again and again. So, I just want to be  
17 on the record about that.

18 MR. SWEENEY: I disagree. I don't think  
19 that it's exaggerated. I am talking about the  
20 drivers, but the Planning Board has a role  
21 when it puts the cut through there. You can't  
22 back away from that.

23 CHAIRMAN STUTO: You said the stated  
24 purpose of the cross connection is to avoid  
25 that traffic light. In order to violate that

1 Vehicle and Traffic Section, you have to be on  
2 a public road, cut through to avoid a traffic  
3 light to get to another public road. Today,  
4 nobody has talked about that.

5 MR. SWEENEY: Erin Drive is a public road  
6 and Troy-Schenectady Road is a public road. If  
7 a driver cuts through to avoid that light,  
8 then there is potentially a violation there.

9 CHAIRMAN STUTO: I think that it's well  
10 overstated.

11 MR. SWEENEY: I respectfully disagree. As  
12 I said to you later in the e-mail, I don't  
13 think that's the point, really. I pointed that  
14 out. It's only a point. As was said, it's  
15 information, but I don't think that it's  
16 hyperbole and I don't think that it's  
17 exaggerated. I think that it's a valid point.  
18 I don't want the Board to get distracted by  
19 that.

20 CHAIRMAN STUTO: I think that the reasons  
21 stated are not really the true reasons. I  
22 don't think that safety is a huge issue. You  
23 talk about people walking with children. I  
24 think that's a little bit of scare tactic. I  
25 think that the real issue is perhaps losing

1 customers. I don't doubt that your business  
2 decision is that you prefer not to be  
3 connected. I don't doubt that. I think that  
4 the other reasons that are given are  
5 exaggerations. I trust Joe Grasso. I've been  
6 at a lot of these meetings and cross  
7 connections are the way to go. The applicant  
8 that represents the restaurant, said that if  
9 you were starting from ground zero, that you  
10 would have the cross connection. So, I guess  
11 it can be made safe and anything can be  
12 engineered if you go about it correctly.  
13 That's how I feel about it. I'm not sure how I  
14 feel about the greenspace waivers in the  
15 parking lot. I have to think about that. Maybe  
16 we can ask Joe Grasso about that later - if he  
17 thinks that we should have the greenspace.  
18 Those are my comments right now.

19 MR. LANE: This Board fights hard for the  
20 things that we think are correct and proper,  
21 and we understand the motivations of the  
22 applicants to have or not have certain aspects  
23 of our recommendations implemented. In  
24 general, I think that we come out on the plus  
25 side because primarily because we have an



1 engineer that reviews the applicants for us  
2 and they review them and make the  
3 recommendations.

4 I tend to agree with Peter that it has  
5 nothing to do with the safety issues or  
6 otherwise. I think that because you have a  
7 situation that you have two lots developed at  
8 separate times, they enjoy a property that  
9 doesn't seem to provide an easy route to bring  
10 you down it, and not have difficulty for one  
11 or the other. I don't necessarily think that  
12 it would be a great positive in this  
13 particular situation. We'd like to see these  
14 things and we recommend them in many of the  
15 projects that have come before us. Because the  
16 properties are so close, as I said, if  
17 somebody were at one or the other, they could  
18 walk. If your line is too big at Joe's Crab  
19 Shack, we're going to stay here and walk over.  
20 We'll take up your parking space, or visa  
21 versa. You're not that far apart.

22 MR. SULLIVAN: My main issue is the cross  
23 access. I would like to see it. I understand  
24 your concerns with the grade separation and  
25 the parking in back - the aisle in the parking

1 lot. I understand that issue that when you  
2 open you'll be doing a tremendous amount of  
3 business. There would be a frenzy, but I would  
4 still like to see somehow if it could be done.  
5 The landowners would have to get together to  
6 do it, but I would still like to see the  
7 possibility of that cross connectivity. I  
8 don't want to hold up the project because of  
9 it, but I think that perhaps you've been in  
10 business for awhile and settle down to a nice  
11 normal restaurant business, perhaps then it's  
12 not an issue. I don't know if that's possible  
13 moving forward. I don't know how that would be  
14 addressed, but I don't want to see the idea of  
15 cross connectivity shelved permanently. That's  
16 my opinion. That's all I have.

17 MR. HAAK: My opinion is that if you were  
18 riding on a clean slate, I would definitely be  
19 pushing for the cross connection. At this  
20 point, considering the way that everything is,  
21 I'm not going to make it a deal breaker.  
22 Because of my dietary conditions, I won't be  
23 eating at Joe's Crab Shack. I'd like to see  
24 the cross connection, though.

25 CHAIRMAN STUTO: Do you have anything to

1 add, Joe?

2 MR. GRASSO: No.

3 CHAIRMAN STUTO: Does somebody want to  
4 make a motion?

5 MS. DALTON: I'll make the motion to  
6 accept this concept acceptance.

7 MR. LANE: I'll second it.

8 CHAIRMAN STUTO: Any conditions on that?

9 MR. LANE: Just those put forth by the  
10 TDE.

11 CHAIRMAN STUTO: In the TDE letter?

12 MR. LANE: Yes.

13 CHAIRMAN STUTO: Elena, you want to give  
14 your usual - what concept acceptance is?

15 MS. VAIDA: The applicant and Mr. Sweeney  
16 knows what the procedure is - that the concept  
17 acceptance doesn't entitle the applicant to  
18 move forward to final, that it's not a binding  
19 decision on the Board. It's merely an  
20 acceptance of the concept. It's a flexible  
21 plan at this point, but it gives the applicant  
22 an idea of where the project should head and  
23 any changes that need to be made.

24 CHAIRMAN STUTO: With that said, we'll  
25 take a vote on it.

1 All those in favor?

2 **(Ayes were recited.)**

3 CHAIRMAN STUTO: All those opposed?

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

5 CHAIRMAN STUTO: The ayes have it.

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9 **(Whereas the proceeding concerning the above**

10 **entitled matter was concluded at**

11 **11:35 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.*

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**NANCY STRANG-VANDEBOGART**

**Dated March 22, 2012**