

1 PLANNING BOARD COUNTY OF ALBANY
TOWN OF COLONIE

2 *****

3 CAPITAL BANK
581 LOUDON ROAD

4 APPLICATION FOR CONCEPT ACCEPTANCE

5 THE STENOGRAPHIC MINUTES of the above entitled
6 proceeding BY NANCY STRANG-VANDEBOGART,
a Shorthand Reporter, commencing on
7 July 10, 2012 at 8:07 p.m. at the Public Operations
Center 347 Old Niskayuna Road,
8 Latham, New York 12110

9 BOARD MEMBERS:

10 BOARD MEMBERS:

11 PETER STUTO, CHAIRMAN
12 MICHAEL SULLIVAN
13 BRIAN AUSTIN
14 TIMOTHY LANE
KAREN GOMEZ
ELENA VAIDA, Esq., Attorney for the Planning Board

15 Joe LaCivita, Director, Planning and Economic
16 Development

17 Robert Osterhout, Bohler Engineering

18 Eric Larner, Schuyler Companies

19 Jim Hartle, VP Regional Sales Manager, Capital
20 Bank

21 Terrance Blake, Intel Construction Services

22 Margaret Blanco

23 Kevin DeLaughter

24 Robert Ballard

25 Ann Marie Luke

1 CHAIRMAN STUTO: Next is Capital Bank,
2 581 Loudon Road, application for concept
3 acceptance.

4 Joe LaCivita would you like to give us an
5 introduction on this? I think that we've seen
6 this for sketch plan review.

7 MR. LACIVITA: And you might also
8 remember this Board saw this same project or
9 the same site with a different project. It was
10 an 8,000 square foot office. This has
11 downsized. It was scaled down. It's a
12 different use. It's a bank versus an office.
13 It's 2,500 square feet of a branch bank with
14 the drive-thru tellers on the corner of
15 Homestead and Loudon Road.

16 I will now turn it over to the applicant.

17 MR. OSTERHOUT: Thank you, Joe.

18 Good evening. My name is Rob Osterhout
19 with Bohler Engineering. I'm here tonight with
20 some colleagues. I have Jim Hartle from
21 Capital Bank with me, Terrance Blake with
22 Intel Construction Services, and Eric Larner
23 with Schuyler Companies. He is the owner of
24 the site.

25 What I will do is walk you through an

1 introduction to the project. We were last here
2 back in April for sketch plan review with the
3 Board and prior to that, as Joe had indicated,
4 this site was previously considered for an
5 8,000 square foot office building. That was
6 much more intense use from both a development,
7 traffic, and environmental perspective that
8 what we are proposing today.

9 Today we're proposing a 2,500 square foot
10 bank facility with two drive-thru lanes and
11 associated parking on a 1.30 acre lot. We're
12 located at the south east corner of Route 9
13 and Homestead Drive. Homestead Drive is
14 currently restricted on the egress movement to
15 Route 9 to rights-out only. There are
16 prohibitions for left turns.

17 We are proposing to have a right-in and
18 right-out access from Route 9 into the site at
19 the south end of the site, as far away from
20 the Homestead intersection that you can get,
21 and then a full unrestricted access out onto
22 Homestead opposite the driveway into the
23 medical office that's on the north side of
24 Homestead.

25 As I mentioned, the site is 1.3 acres.

Legal Transcription

1 It's a vacant lot. It is basically a meadow.
2 There are grasses, lower brush and there are a
3 few scattered trees throughout the site. There
4 is denser vegetation along the boundaries of
5 the southerly and easterly boundaries of the
6 site which is buffered to the existing
7 residential development.

8 Speaking of those homes, we're in the
9 NCOR district here and we're at the southern
10 limits of the NCOR district. The actual zoning
11 district boundary line between the NCOR zone
12 and the single family residential zone lies
13 right along our southerly boundary line and
14 also along our easterly boundary line here
15 (Indicating). That continues up to Homestead
16 across and heads north.

17 What we are proposing, as I mentioned, is
18 a 2,500 square foot bank facility. We've got a
19 parking requirement that is substantially less
20 than what we are proposing for parking on this
21 site. The reason for that is that there is a
22 known issue in the area here with on-street
23 parking. The owners of the property, the
24 applicants, have been working diligently with
25 some of the neighboring property owners to

1 work out some agreements so that we can help
2 rectify an issue that has nothing to do with
3 this project. We're not causing it and we're
4 not part of it today. There is no use on this
5 property that is adding to this problem, but
6 there is a problem out there. In good faith,
7 the applicant and the owners have come forward
8 to try to help the situation out there. We're
9 not guaranteeing that we're going to solve the
10 problem and we're not looking to solve the
11 problem. We're looking to help assist in
12 correcting some of the deficiencies out there.
13 With that, we're providing parking in addition
14 to what is typically proposed for a facility
15 of this size.

16 We're seeking several waivers from the
17 Board. One of them is for that additional
18 parking. We're also seeking some waivers
19 relative to setbacks for parking on the north
20 side of the site, over on Homestead. We've got
21 five parking spaces proposed within 15 feet of
22 the property line, along Homestead Drive.
23 There are two waivers related to that
24 improvement. One of them is through pavement
25 within 15 feet and the other is parking within

1 the 15 foot setback. The reason why we're
2 trying to seek a waiver for those parking
3 spaces is that we're subject to a larger
4 setback requirement along our southerly
5 property line because of the single family
6 residential zoning district to the south.
7 We're required to have a 50 foot setback along
8 the southerly line of parking and 100 foot
9 setback along that southerly line to our
10 building. We're proposing roughly a 68 foot
11 setback to parking so that we can provide
12 additional buffers to the residential zone.
13 The building setback - we're at roughly 108
14 feet. We're tucked up into the corner as close
15 as we can get to the setbacks along Homestead
16 Drive.

17 If you look at the rendering here, we
18 have the darker vegetation along the southerly
19 and easterly side of the site (Indicating).
20 That's all existing vegetation that we're
21 looking to maintain on the site. We submitted
22 photos with the application of that
23 vegetation. It's very dense. It provides a
24 very substantial buffer today. Even in the
25 leaf-off condition there is a substantial

1 buffer to the south here (Indicating). There
2 is actually a vacant parcel directly to our
3 south that is wooded. It's owned by the same
4 resident that has the next parcel to the south
5 and that family is one of the neighbors that
6 the applicants are working diligently with.

7 As part of the project, one of the bigger
8 items that needs to be addressed here is that
9 we're looking for the full access onto
10 Homestead Drive. With that, we want to have
11 full access off of Homestead onto Route 9.
12 That's a prohibited traffic movement today
13 because of sight distance issues. If you're
14 exiting Homestead Drive, you have very limited
15 sight distance available to the north and
16 limited sight distance available to the south.
17 As part of this project, we're proposing to
18 correct and mitigate the existing issues at
19 this intersection for sight distance in order
20 to allow those lefts out from Homestead. The
21 applicant has been working diligently with DOT
22 on that as well as working with the Town and
23 the Town Designated Engineer and we recently
24 secured a letter from New York State DOT where
25 they are in agreement with that approach.

1 They're in agreement with the rights-in and
2 rights-out on the site, and we're working
3 with those neighboring properties. There are
4 actually agreements in place today that will
5 allow the offsite improvements to be made to
6 correct those sight distance concerns. Those
7 factors that will need to be mitigated
8 basically involve a steep slope, an embankment
9 and some vegetation on the north side of
10 Homestead Drive intersection. That bank will
11 be cut back.

12 CHAIRMAN STUTO: The doctor's office
13 property?

14 MR. OSTERHOUT: Correct. And to the south
15 there is existing vegetation that's planted
16 along the Route 9 corridor that prohibits some
17 of the sight distance available today. Those
18 plantings will be relocated and transplanted
19 elsewhere.

20 MR. LANE: So, you basically addressed
21 the June 27th letter from DOT.

22 MR. OSTERHOUT: I'm pretty sure that
23 there is an issue with the DOT letter where we
24 need to address maybe the maintenance
25 responsibility for the clearing limits that

1 are going to take place for the sight distance
2 improvements. That hasn't been shown on the
3 plan yet. There are some minor things that we
4 need to address, but the larger items have
5 been addressed.

6 With that, the other waivers that we're
7 looking for were related to the setback of the
8 building off of Route 9. A maximum setback
9 allowed is exceeded in this application. We're
10 at roughly 37 feet. There is a 20 foot
11 requirement here. What we're doing is because
12 of our drive-thru facility, we have to be set
13 back off a little bit more so that we can get
14 circulation to the drive-thru. It actually
15 works out well because when we were last in
16 for sketch plan review, we had the building
17 pushed up closer to the road. We talked about
18 moving it back away from the right of way and
19 it's actually going to provide a nice
20 transition. The existing medical office up
21 here is roughly 48 feet off of the right of
22 way (Indicating). So, if we were in 20 feet
23 and that was at 48 feet, there would be a big
24 transition there and it would be an awkward
25 situation. This provides a nice transition

1 between that and the residential homes to the
2 south. We're also looking for a waiver on some
3 of the frontage build-out for the property. We
4 know that there are some outstanding comments
5 related to that. We are in the midst of
6 working with the Board and Town staff and with
7 the TDE to address some of those concerns.
8 We're looking at options on how we can extend
9 some of that frontage build-out that we're
10 showing right now. What we're basically
11 providing at this point for frontage build-out
12 is decorative aluminum fencing along the Route
13 9 corridor with some stone piers. Then, the
14 same thing along Homestead Drive. We had run
15 them up to this point on the site at this time
16 and we're looking at options to extend either
17 landscaping or that fencing up along the site
18 driveway here (Indicating).

19 We've got sidewalks shown on the site
20 plan along the Route 9 corridor. We had some
21 concerns and some comments about potentially
22 extending the sidewalk up along Homestead to
23 the driveway here (Indicating). So, those are
24 all items that we'll be looking at in more
25 detail as we move forward.

1 We're here tonight seeking concept review
2 from the Board. Based on the sketch plan
3 review conference that we had back in April,
4 we think that we've addressed a lot of the
5 items that were out there. We tried to submit
6 very detailed plans for this stage of the
7 game. The reason for that was we wanted to
8 basically get as much information in front of
9 all the regulatory agencies - the Town and the
10 Town staff - to see feedback early in the
11 process because of the time constraints that
12 we're looking at for this project. We want to
13 be able to get a shovel in the ground this
14 year. We have a very tight time line for
15 construction and the contractual obligation.

16 CHAIRMAN STUTO: Before I ask Joe Grasso
17 for his comments, I'm going to ask you a
18 couple of specific questions hopefully because
19 I think that the neighbors would be interested
20 in it and it will maybe alleviate some of
21 their questions.

22 One has to do with the parking problem
23 and the other has to do with traffic.

24 With respect to traffic, how much traffic
25 are you going be expected to generate

1 yourselves? It is a high use bank, a low use
2 bank?

3 MR. OSTERHOUT: This is probably not the
4 very standard banking application. I can defer
5 to Jim on some of it, but I'll answer briefly
6 and if he wants to jump in, he certainly can.

7 Capital Bank does a lot of commercial
8 banking. So, they're not your typical bank
9 where they have a lot of individuals in and
10 out of the facility all day long. We're
11 looking at three to four employees at this
12 facility and maybe 20 to 25 customers a day.
13 Based on their other operations and other
14 facilities, it's very typical. It's the same
15 protocol that they're following here. They're
16 not doing a different type of offering or a
17 different type of service.

18 CHAIRMAN STUTO: Will you expect the
19 customers spread throughout the day or just
20 certain hours?

21 MR. OSTERHOUT: Spread throughout the
22 day.

23 CHAIRMAN STUTO: How many hours will you
24 be in operation?

25 MR. OSTERHOUT: That will be 9:00 to 4:30

1 or so, and then Saturdays 9:00 to 2:00.

2 CHAIRMAN STUTO: So, like three customers
3 an hour or something like that?

4 MR. OSTERHOUT: Very little traffic
5 compared to a normal retail banking operation.

6 CHAIRMAN STUTO: Can you speak more
7 specifically as to the parking and what you're
8 working on to the extent that you can? I think
9 that in prior discussions of this property,
10 there is parking that you show on Homestead.
11 Some theories are that it's generated by the
12 medical office building. Other explanations
13 are that people are parking to catch a CDTA
14 bus. I'll invite you to address that and how
15 you're working on alleviating that problem.

16 MR. OSTERHOUT: I'll let Eric up here.
17 His office is right in the area.

18 CHAIRMAN STUTO: That's fine.

19 MR. LARNER: I'm Eric Lerner with
20 Schuyler Companies. We're the owners of the
21 project. I work there every day so I see what
22 happens. Primarily, what we notice is that the
23 medical office building doesn't have enough
24 parking. They end up parking on Homestead. The
25 problem with Homestead is that it's one way,

1 but everybody goes down it illegally so it's
2 really unsafe because people are going out
3 onto 9 when they shouldn't be. There is also
4 some talk that people are hopping on the bus.
5 I'm sure that's the case, but primarily what
6 we see is that it's either patients or staff
7 for the medical building being in there.

8 Originally, we were here a little over a
9 year ago and got approved for the 8,000 foot
10 building because we met all the setbacks and
11 everything else. But an 8,000 foot office
12 building was going to be a much higher
13 intensive use. Capital Bank is more of a
14 commercial and not a high residential volume
15 bank. Back to the parking issue - we have more
16 green space than required. We have a lot more
17 space than we actually need. We can try to
18 maximize it and do other things on it, but we
19 really wanted to do as low impact as we could.
20 So we spoke with an owner of the building and
21 Capital Bank has agreed and we have agreed to
22 let them have a certain amount of parking
23 spaces for their use. That's really just to be
24 neighborly and also because we want to make
25 Homestead a safer way in and way out. People

1 are doing it illegally now and it's dangerous.

2 CHAIRMAN STUTO: How many spaces do you
3 think that you'll be able to offer?

4 MR. LARNER: I think that a minimum of
5 six and maybe a little more. For sure, a half-
6 dozen spaces, which I don't truthfully travel
7 up Homestead so I only see what my eye can
8 see.

9 CHAIRMAN STUTO: But you're not
10 generating that problem.

11 MR. LARNER: No, the bank won't generate
12 what we want to put here. If anything, the
13 office building that we had every right to put
14 there - I don't think that our neighbors liked
15 it and we didn't like it either. We have to be
16 able to develop the property. Keeping it as
17 far away from the neighbors, I think, is
18 great. It's not going to be open at night and
19 it has a 25-year lease. Actually, the
20 neighbors to the south - we do have signed and
21 executed agreements with them to just relocate
22 some of the trees; not taking them down, but
23 relocated them. It's all for the sight lines
24 so we can see. They're very happy. It took six
25 months for all of us to agree. Whether they

1 had a right to or not, we wanted them to be
2 happy. You can't make everybody happy, but you
3 try.

4 They also own that vacant lot that was
5 mentioned and they have no intension of
6 developing it. They like that buffer for
7 themselves. That's why they bought it when
8 they bought that lot and developed it. So
9 overall, we're trying to accommodate a problem
10 that's not ours. It's costing us money to do
11 that. We're trying to help a street that's not
12 safe right now because people are using it
13 that way. We basically shrunk an 8,000 square
14 foot building that we had a right to build
15 there down to a 2,500 square foot building
16 that's a low impact use. We realize that we
17 can't make everybody happy, but we're trying
18 our best. If there are any other questions,
19 I'd be happy to answer them.

20 CHAIRMAN STUTO: Thank you.

21 Now, we'll ask for comment form our Town
22 Designated Engineer, Joe Grasso from CHA.

23 MR. GRASSO: We have a comment letter in
24 your packet dated June 25th. I'll go through
25 some of the comments there.

1 The second one regarding the SEQRA - it's
2 similar to the Stewart's project because the
3 building is less than 4,000 square feet. It's
4 a Type II action and no additional SEQRA
5 review is required.

6 The next comment goes through a number of
7 waivers that are requested, which is exceeding
8 a maximum number of parking spaces, the front
9 yard parking setback, the parking lot paving
10 within the front yard setback, the maximum
11 front yard building setback and the minimum
12 frontage build-out of 80 percent. The project
13 narrative includes that applicant's
14 justification for each of the waivers and in
15 general the rationale provided appears to
16 justify the waiver and result in an
17 appropriately designed project that will
18 result in less impact on the character of the
19 neighborhood, less environmental impact, or
20 both. That said, there doesn't appear to be
21 adequate justification for the lack of
22 frontage build-out of 80 percent, understand
23 that this could be comprised of additional
24 fencing with stone columns. The current amount
25 of frontage build-out is approximately 50

1 percent, whereas an 80 percent minimum is
2 required. Given that the parking is proposed
3 closer to Homestead Drive than permitted, we
4 recommend that the proposed fencing and stone
5 columns extend across the entire frontage
6 along Homestead Drive. If the remaining
7 waivers are acceptable to the Planning Board,
8 there will be prepared a draft resolution for
9 consideration during final plan review.

10 Rob, during his presentation mentioned
11 that they were considering the extension of
12 the fencing along Homestead Drive and
13 obviously we support that in our comment.

14 "The project narrative indicates that the
15 applicant is proposing to improve the sight
16 distance at the Loudon Road/Homestead Drive
17 intersection to allow left turns out of
18 Homestead onto Route 9. That narrative
19 indicates that the applicant is working with
20 DOT on the request and you can see that
21 discussed in DOT's comment letters. The
22 concept site plan doesn't depict proposed
23 sight distance improvements or depict removing
24 the left turn restriction on Homestead Drive.

25 We need to understand the impacts of the

1 grading and vegetative clearing because
2 obviously that location may be providing
3 important buffering for those additional
4 properties. So, we don't have any detailed
5 information now, but it's obviously something
6 that we'll need to take a closer look at
7 during final. It's something that even the
8 applicant should be aware of the need to
9 provide that information. Even though it's off
10 the project site, I think that it's important
11 for us to closely look at that so that we
12 address those impacts.

13 The next comment is regarding the access
14 arrangement to rights-in and rights-out which
15 we are supportive of. Our comment talks about
16 some concerns that DOT had initially
17 expressed. If you look at their last comment
18 letter which came after we wrote our comment
19 letter dated June 27th, they are supportive of
20 the proposed access arrangement and they go
21 through some additional information that they
22 will look at as they continue their review of
23 the project. But we have coordinated with them
24 and we're both supportive of the access
25 arrangement as proposed.

1 "The plan proposes 24 parking spaces,
2 whereas the Code requires a minimum of only
3 14. The Town Code actually has a maximum
4 amount of parking that you can provide which
5 would be 20. As 24 are proposed, the waiver is
6 required for that. The application has stated
7 that the additional parking is intended to
8 provide overflow parking for the doctor's
9 office. This, in turn, should reduce the need
10 for the doctor's office patrons to park across
11 the frontage of the project site which occurs
12 on a routine basis and causes safety concerns
13 on Homestead Drive. We agree with this
14 arrangement, but recommend a shared parking
15 arrangement be memorialized in some fashion
16 that justifies the additional parking on the
17 project site."

18 I think that we heard from the applicant
19 that they are willing to provide that.

20 CHAIRMAN STUTO: Let's ask the applicant.

21 Are we going to see something in
22 writing -- and an agreement with the neighbor?

23 MR. LARNER: I'm not able to share it
24 with the Board. I think that your counsel said
25 that it wasn't really the Board's -- but if

1 you want it, I'll be more than willing to give
2 it -- we do have the agreement and it's fine.
3 I don't know. Like we said, we're doing this
4 to help our neighbors, but to get that extra
5 parking waiver, by all means, you can have
6 that.

7 MR. GRASSO: It's our understanding that
8 it's going to be a private agreement. We would
9 like to review it and make sure that it is
10 memorialized. I don't know if it's something
11 that needs to be a binding thing that would be
12 a condition of site plan that it remain in
13 effect in perpetuity, but I think that is
14 something that we can review -

15 CHAIRMAN STUTO: I think that it should
16 be part of our due diligence in making our
17 good judgment.

18 MR. GRASSO: The next comment is a
19 relatively minor comment regarding the
20 stormwater treatment method and some
21 additional information that they will provide
22 as they advance through the design process.

23 Number eight is just a minor thing where
24 the light pole height is taller than the
25 design standards. That will need to be reduced

1 as they work in the final design.

2 "The architecture of the building appears
3 to be in general conformance with the design
4 guidelines. Consideration should be given to
5 the use of window grills or other measures
6 than can reinforce the residential scale of
7 the building which is spoken to extensively in
8 the design standards."

9 We think that it would be in better
10 keeping with the area.

11 CHAIRMAN STUTO: They handed out a west
12 elevation at the beginning of this meeting.

13 MR. GRASSO: Yes, but I think that this
14 is revised. This is revised because yours is
15 showing grills on this that we hadn't seen
16 before - at least not that size grill.

17 MR. BLAKE: And also the main provision
18 of the front canopy, being a gable with a flat
19 roof.

20 MR. GRASSO: So, in looking at it, it
21 would address our comment.

22 CHAIRMAN STUTO: Okay and the Board can
23 address that, too.

24 MR. GRASSO: "We recommend that the
25 landscaping be revised to focus more on how

1 the site would be viewed from off site areas.
2 Consideration should be given to introducing
3 street trees along Route 9 and Homestead,
4 spaces approximately 30 feet apart and include
5 shrubs along the edge of the parking facing
6 Homestead”

7 Right now basically what you see is you
8 see some buffering to the property to the
9 south and just some foundation plants
10 primarily around the building and just a few
11 street trees. We think that they would expand
12 their aesthetic treatment of the site,
13 regarding the landscaping.

14 “The design standards state that when a
15 parking lot access drive crosses the sidewalk,
16 the concrete paving pattern shall continue
17 uninterrupted.”

18 Rob, could you just point to where this
19 comment applies?

20 You probably heard his comment before in
21 previous DOT comment letters that they don't
22 typically support that type of construction
23 because they feel that it creates a false
24 sense of security for pedestrians crossing the
25 access drive. So, we recommend that the stripe

1 be revised to be in accordance with standard
2 guidelines for crosswalks.

3 Number 13 is regarding the sidewalks.

4 "The plan indicates that the sidewalk
5 along Route 9 as in the future and we support
6 its construction as part of the project. In
7 addition, consideration should be given to
8 extending the sidewalk along Homestead Drive
9 with a logical termination at the curb cut on
10 Homestead. If constructed parallel to Route 9,
11 we recommend to terminate much closer to the
12 intersection of Route 9 and Homestead Drive so
13 that a pedestrian heading north is easily seen
14 by northbound traffic. It's now in
15 approximately 20 feet.

16 If the sidewalk extends all the way to
17 Homestead Drive, we recommend a crossing at
18 Homestead Drive with a landing pad such that a
19 logical termination ending at an area of
20 refuge is provided."

21 I'm sure that those are going to be
22 comments that DOT will pick up on as they
23 continue the review of final plans.

24 CHAIRMAN STUTO: Okay, we're going to
25 open it up to public comment, but I want to

1 ask Joe LaCivita - are you prepared to talk
2 about the sidewalks on Route 9 right now?

3 MR. LACIVITA: Sure, I can if you like.

4 CHAIRMAN STUTO: I think that the Board
5 would be interested and the public as well.

6 MR. LACIVITA: This kind of talks to
7 specifically 13. Right now, Siena College, DOT
8 and the Town of Colonie are working on
9 pedestrian access from Spring Street all the
10 way down to the village.

11 CHAIRMAN STUTO: Spring Street is on the
12 south side of Siena College.

13 MR. LACIVITA: That's correct - on the
14 southerly part of Siena College and they're
15 working on sidewalks all the way down to the
16 Village of New Loudon, which is going to be
17 our next applicant. It will actually terminate
18 here (Indicating).

19 CHAIRMAN STUTO: Basically from the south
20 end of Siena all the way through -

21 MR. LACIVITA: Yes, it's something that
22 we've been working on.

23 CHAIRMAN STUTO: You have grants and so
24 forth for that?

25 MR. LACIVITA: We have a member item

1 that's coming from Assemblyman Reilly. We're
2 working with DOT right now through design and
3 construction. The estimated cost on that right
4 now is about \$750,000. Assemblyman Reilly has
5 proposed \$400,000 through a member item. We
6 have a small gap of about \$350,000 but Siena
7 College will be a partner. This project will
8 actually also be a partner. We met with the
9 Larners last week. We talked about their
10 working with us on it.

11 The next termination point here is going
12 to be the Village of New Loudon and that has
13 sidewalk components so we're starting to
14 see -- I know that Mr. Fahey talked about
15 sidewalks to nowhere. That would be a starting
16 point that this project is coming in - now
17 we're working with a larger project and we're
18 starting to see it - this is how we start to
19 get them. So, I'm sure that as the design
20 comes in, 13 is going to shake out whether
21 that's on the west end side -- so, we're going
22 to try to work with all applicants as we go
23 forward to see where these sidewalks are
24 actually going to be.

25 CHAIRMAN STUTO: So, if it's on the other

1 side, we may prefer cash in lieu of actual
2 sidewalks.

3 MR. LACIVITA: Correct. If this project
4 goes through -

5 CHAIRMAN STUTO: That's for you, our TDE
6 and the applicant to work on that.

7 MR. LACIVITA: Exactly, and we know that
8 the majority of the project right now will sit
9 on the easterly side. Right now they're
10 looking at where it crosses at Maxwell and
11 stays on the western side going into this
12 plaza here (Indicating).

13 CHAIRMAN STUTO: As soon as you see it's
14 fit, can you make a 10 or 15 minute
15 presentation to this Board?

16 MR. LACIVITA: Sure we can.

17 CHAIRMAN STUTO: And it will fit into all
18 the projects that we're working on.

19 MR. LACIVITA: Okay.

20 CHAIRMAN STUTO: Thank you.

21 I'm going to take comments from members
22 of the public. If you haven't signed in,
23 please do so. I'll go in the order that's
24 here.

25 Kevin DeLaughter.

1 MR. DELAUGHTER: Kevin DeLaughter, 574
2 Loudon Road.

3 My first concern is with the right turn;
4 particularly out. One concern is I've yet to
5 see one of those restrictions that actually
6 works, especially when you've got fairly wide
7 shoulder here and a full median. There is
8 plenty of room to take that right turn out and
9 swing back and make a left. I've seen that
10 happen any number of places, including areas
11 where there is a much more restricted turning
12 area.

13 I also have a concern with the right turn
14 out. You'll get one or maybe two cars stacked
15 before you obstruct the entrance to the
16 drive-thru, and you have another car making
17 that right turn in. Another car coming in
18 would have potential for a rear end accident.

19 I hadn't realized that there was mention
20 of removing the restriction on Homestead. That
21 currently is not a restriction on left turns.
22 It says right turn only. There is a through
23 movement potential over to the Newton Plaza,
24 directly across the street. I think that's a
25 potential hazard and I cringe every time I see

1 somebody shooting across four lanes of
2 traffic.

3 I kind of question the 25 customers per
4 day and the need for a drive-thru with that.
5 It seems like an awful lot of effort and
6 expense to go through to put a drive-thru in
7 with that many customers.

8 Concerning the drive-thru also is that
9 typically they have a 24-hour ATM. Lighting
10 for those tends to be an afterthought, but
11 it's a very tremendous impact of an
12 afterthought. It can be lit up like Yankee
13 Stadium. I live a couple hundred feet of the
14 property and in the direction that the
15 lighting would face and I'm very much
16 concerned with that being taken into
17 consideration in the initial design, and that
18 there is no impact to adjacent properties.

19 I was glad to hear the TDE's comment
20 about street trees. I've seen a trend in the
21 corridor with Berkshire Bank, the Rumors
22 beauty shop and even the Stewart's. They tend
23 to be light on street trees these days. That
24 is something that I definitely encourage.

25 My final question would be in terms of

1 trash removal. We do have obvious indications
2 of commercial refuse removal happening at 4:00
3 or 5:00 in the morning for the most part in
4 this area. If there is a dumpster here, I
5 would request that the hours of removal be
6 limited to no earlier than 7:00 a.m.

7 Thank you, very much.

8 CHAIRMAN STUTO: Thank you. Those were
9 good comments.

10 Joe, to the extent that you feel that
11 it's appropriate to deal with those - do you
12 want to address any of that?

13 MR. GRASSO: I did take some notes. The
14 illegal rights-in and rights-out - it's a
15 valid comment. We take that into
16 consideration. The design of it - it's
17 something obviously that we'll look at closely
18 as well as DOT. Given the access arrangement,
19 they have other options that accommodate the
20 other access movements. I think that as long
21 as it's appropriately designed and
22 appropriately signed, we will direct traffic
23 out to Homestead that needs to take a left
24 onto Route 9.

25 The blocked stacking dovetails in with

1 our review of the amount of traffic for the
2 site and it doesn't appear to be a big traffic
3 generator. There is obviously ample stacking
4 at the drive-thru, so we don't think that
5 there is going to be a lot of occasions where
6 there would be an impediment to traffic flow
7 within the site.

8 MR. SULLIVAN: I have the same concern.
9 Mine is due primarily to if Homestead goes to
10 allowing a left turn, you're going to have cut
11 throughs that want to make a right turn but
12 are stuck. They're going to cut through here
13 (Indicating) and back up that right out such
14 that people that are trying to come in will
15 have no place to go, as Kevin said. Hopefully,
16 they would then decide to go park and walk in.
17 I also kind of wonder if the right turn in and
18 right turn out is needed if there is only 25
19 customers a day. I just think that it's
20 creating a problem. If we can look into that,
21 I'd appreciate it.

22 MR. GRASSO: Then the through
23 movement - we have not analyzed the likelihood
24 of that. That's something that I would like to
25 discuss with DOT and investigate that further.

1 It's a great comment. The need for a
2 drive-thru is something that should just be
3 responded by the applicant.

4 The lighting of the drive-thru is a great
5 comment. There are general standards regarding
6 the lighting levels around ATMs which are
7 located right there at the drive-thru. It is
8 something that as long as we focus on the
9 design and it's appropriately designed, we'll
10 take a close look at it and make sure that
11 there is no glare created by the lights or
12 light spillage from that during a final
13 design.

14 Then the refuse areas -- I think that the
15 restricted hours are appropriate, in terms of
16 the refuse in this location. I think that this
17 came up during the sketch plan review of this.

18 It was going to be internal to the
19 building - the refuse?

20 MR. OSTERHOUT: The refuse for the
21 facility is very minimal. We're not proposing
22 any dumpsters.

23 MR. GRASSO: That's what I thought.

24 MR. OSTERHOUT: We're looking at
25 basically a residential type can. Most of the

1 refuse from the facility is shredded. It's
2 disposed of that way because of privacy
3 concerns. So, there is not a lot of refuse.

4 MR. GRASSO: If you're not dealing with
5 dumpsters, I would think that having
6 restricted hours on the refuse pick up, as
7 long as it's consistent with what the rest of
8 the neighborhood is going to see -- I don't
9 think that should be an issue and something
10 that we should look to build into any
11 condition of approval.

12 CHAIRMAN STUTO: Does the applicant feel
13 the need to address any other comments?

14 MR. OSTERHOUT: At this point, we're
15 moving forward. We'd like to get conceptual
16 buy in from the Board tonight and address the
17 outstanding issues as we move forward.

18 CHAIRMAN STUTO: I mean of that
19 neighbor - is there any of those comments that
20 you'd like to address? I'm not saying that you
21 have it.

22 MR. LARNER: I think that we're going to
23 make sure that there is no spillage of the
24 lights. All of Kevin's comments were good. I
25 don't think that because of the turning lane

1 that's there and also because it's every
2 business' right to do what they want, Capital
3 Bank can address why they want a drive-thru.
4 It's to be competitive. They don't do as much
5 banking and they don't need to, but they still
6 want to be convenient. Overall, I've worked
7 really hard on trying to find a low impact use
8 for the site and knowing that they've been a
9 tenant in Newton Plaza for years now, we know
10 that they are a low impact use for the site.
11 We're going to take all the comments and try
12 to meet them the best way that we can.

13 CHAIRMAN STUTO: Yes, Kevin?

14 MR. DELAUGHTER: Regarding the refuse
15 pick up - a typical residential pick up is
16 curb side. If they have to come into the site,
17 there would still be concerns about back up
18 beepers.

19 MR. HARTLE: I work at the bank and we
20 have five sites. We have no exterior trash
21 cans or any kind of refuse pick up. That's
22 taken away by our cleaning service that comes
23 into the building. They take it when they
24 leave the building. So, there isn't any daily
25 or weekly pick up of anything going on outside

1 our buildings at this stage. That's consistent
2 with all five locations.

3 The transaction volumes - actually that
4 could be high for that branch. It is a low
5 volume environment, but it is something that
6 we want to build on a convenience factor.
7 Also, to be able to allow a drive-thru after
8 hours would fit with the standard banking
9 environment.

10 MS. BLANCO: Thank you for your concerns
11 that have already been spoken.

12 I would like to say that people that are
13 using Homestead now - it's a two way street
14 and there are many people that do not observe
15 the right turn only. We really need to have as
16 much enforcement as we possibly can to
17 encourage folks to obey that rule.

18 Thinking about Homestead, right now it's
19 the right turn only. However, if it's two-way
20 in and out, not only do we need to take on
21 that straight across situation, but I think
22 that we'll have more people coming through
23 Homestead to get out to Route 9. That's going
24 to be a general increase for the whole
25 neighborhood and we need to be aware of.

1 I appreciate the number of the things
2 that you suggested for the bank and it sounds
3 good.

4 How much of that bank will need to be
5 removed to make a good sight line on Route 9
6 going north? Does it affect the parking that
7 cars have for their parking space? It's just a
8 question.

9 Sometimes I think that when a business
10 gets going, they may minimize or understate
11 how many people they think that they will
12 have. Certainly that was the case with the
13 medical building there. They are good
14 neighbors and I don't want to hurt them at
15 all. They had no understanding of a need for
16 using the street. We need to be aware that
17 sometimes happens and we need to protect the
18 neighbors as well as help be a good business
19 situation.

20 Landscaping - there are bushy things on
21 the outside and the east side. I have not
22 looked at it real carefully in recent time,
23 even though I live off of Homestead. I would
24 ask that whoever is doing the landscaping,
25 take a look at it and perhaps consider

1 evergreens to the mix that's already there so
2 that there is some buffering at all times of
3 the year. Thank you.

4 CHAIRMAN STUTO: Thank you. Those are
5 very good comments.

6 Ann Marie Luke and Robert Ballard.

7 MR. BALLARD: I have some pictures for
8 you.

9 My concern is mostly on the east side of
10 the shrubs and stuff. They said that forever
11 wild, and in the wintertime and the spring
12 there is nothing there.

13 CHAIRMAN STUTO: Can you point on the map
14 where your concerns are?

15 MR. BALLARD: This bumper here is not
16 really that deep with trees (Indicating).

17 I'm also worried about the drainage that
18 goes from that part of the lot back behind my
19 house. All of that land from the doctors and
20 on the other side - it all comes down and it
21 will flood me out.

22 CHAIRMAN STUTO: Can you point to where
23 you live?

24 MR. BALLARD: I live right here
25 (Indicating).

1 I agree with the bank. I don't mind it
2 being built there, but I have a few issues.
3 The parking with the doctors -- they have room
4 for six, which is great but there is over 12
5 and they even go past my driveway. So, there
6 is a big issue there. Once he fills the six
7 in, are they going to still put the rest out
8 on the streets?

9 CHAIRMAN STUTO: Unfortunately, we're not
10 going to be able to address that. I see the
11 pictures with all the cars. I've seen the cars
12 all there.

13 MS. LUKE: I'm his wife. Sometimes we
14 can't see even coming out of our own driveway.

15 CHAIRMAN STUTO: Can you say your name
16 for the record?

17 MS. LUKE: Ann Marie Luke.

18 If I have to go out to Route 9, I can't
19 see what's coming my way from Route 9 down to
20 Homestead. It's blind with cars lined up all
21 the way from my mailbox back to Route 9 and
22 usually the entire sight line of the property
23 as well. It's not 100 percent of the time, but
24 enough so that I'm afraid I'm going to get hit
25 pulling out of my own driveway. They go down

1 that road fast and they do take left turns all
2 the time. They do go straight across all the
3 time. I'm just concerned that's going to add
4 up to that factor. I'm amazed that someone
5 hasn't gotten killed in that little section
6 already.

7 CHAIRMAN STUTO: My personal opinion is
8 that it will be a net help because I don't
9 think that they're going to utilize all the
10 spaces themselves and I think that they will
11 take at least a few cars off. I don't think
12 that they're going to add to the Homestead
13 parking.

14 MS. LUKE: There are times when there are
15 12 cars and there are 10 spots where the
16 doctor is free. I don't know why they're not
17 utilizing that space.

18 CHAIRMAN STUTO: Screening, drainage and
19 the lighting - I'm concerned about the
20 lighting too.

21 MR. LANE: Do you happen to know if the
22 cars that you see on the street - are they the
23 employees?

24 MR. BALLARD: Some are employees, some
25 are patients and some are for the busses. I

1 know one car for sure is for a bus. He's there
2 all the time and he parks there. So, it's not
3 just the doctor, but I think that the people
4 that take the busses can see that there so
5 they just park there.

6 MR. LANE: Is it possible that the
7 doctor's office is telling their staff to park
8 on the street so that they can leave the space
9 for the patients?

10 MR. BALLARD: I think that it's wrong for
11 us to walk across the street to accommodate
12 their bosses.

13 CHAIRMAN STUTO: Thank you.

14 Can the applicant address the screening
15 and the drainage?

16 MR. LARNER: We'll be happy to put
17 evergreens to block our neighbor and again the
18 light spillage and all that other stuff. The
19 next time we come in, we'll have some nice
20 evergreens to give some screening and stuff.

21 CHAIRMAN STUTO: And if you can put that
22 on the landscaping -

23 MR. LARNER: When we said about the
24 parking, there is a lot of parking there. We
25 had to come up with a number with our neighbor

1 because no matter how much you give, they're
2 going to take more. Instead of them parking
3 six cars on the lot, they're parking up to 12.
4 So, we're not going to be out there as the
5 parking police, so to speak. We need something
6 to say hey look, you guys are using this
7 parking lot primarily for your own use and not
8 ours. So, we're hoping that we'll continue to
9 be neighborly. I don't see why we wouldn't be.
10 We have been for years. We do think that it
11 will be positive and no one is going to be out
12 there saying that you can't park there.

13 MR. OSTERHOUT: To address the drainage
14 issue that was raised, I didn't speak to that
15 in my presentation. I apologize for that, but
16 I'll talk about it now. Basically what we have
17 on the site are some suitable soils for
18 infiltration practices.

19 What we're doing is we're collecting the
20 run-off from the site. The run-off currently
21 flows to the east and to the south and is
22 collected in a drainage swale that runs along
23 this portion of the property here
24 (Indicating). We're going to maintain those
25 same drainage patterns except what we're going

1 to do is collect all the run-off from this
2 site and we're going to handle it and we're
3 going to address it by treating it for
4 stormwater quality and release it at a
5 predetermined rate. We're basically looking at
6 infiltration because of the good soils on the
7 site, so there wont' be a lot of run-off from
8 the site except in larger events. But that
9 run-off would be controlled. All that
10 stormwater would be handled as it is today,
11 basically at the south side and east side of
12 the site.

13 CHAIRMAN STUTO: What is the net change
14 going to be to this gentleman's property or
15 right adjacent to it?

16 MR. OSTERHOUT: Today the run-off runs
17 directly off the site toward your property. It
18 will be controlled in the new development. It
19 will be collected and brought into this
20 stormwater management area and infiltrated
21 into the ground or at least in a controlled
22 manner.

23 MR. BALLARD: Right now it's not
24 controlled.

25 MR. OSTERHOUT: We've had a geotechnical

1 investigation out on the site to determine the
2 existing ground water elevations. There has to
3 be certain characteristics available to us in
4 order to have that type of practice. But in
5 general, groundwater infiltration is a green
6 practice.

7 Do you have any water problems with your
8 basement today?

9 MR. BALLARD: No, I just have the sump
10 pump running.

11 MR. OSTERHOUT: Got it.

12 MR. BALLARD: There are storm sewers that
13 are in front of the road near my driveway,
14 then it goes in front of the house. There is
15 an issue on Homestead there with the run-off.

16 CHAIRMAN STUTO: Is there any retention
17 on your design?

18 MR. OSTERHOUT: Yes. We will be picking
19 up this roadside drainage so that might help
20 you as well. We're going to be picking up the
21 roadside drainage and we have an inlet over
22 here on the driveway (Indicating) and we'll be
23 outletting that to our stormwater management
24 area. That will help alleviate some of that
25 drainage heading toward your house now.

1 CHAIRMAN STUTO: If the gentleman wants
2 to talk to you after the meeting, would you
3 happy to talk to him?

4 MR. OUSTERHOUT: Oh, absolutely.

5 CHAIRMAN STUTO: Yes, ma'am.

6 MS. BLANCO: There is a street that runs
7 behind the house. I'm behind that lot behind
8 your house.

9 Is this plan of drainage that you're
10 thinking about letting the water go in there?

11 MR. OUSTERHOUT: Ultimately if there were
12 a large storm event, the infiltration process
13 couldn't handle the event, then it would flow
14 into that existing water course; yes.

15 MS. BLANCO: I will disagree with you on
16 that because there are strange things in our
17 neighborhood. I would like the Planning Board
18 to be aware of that.

19 CHAIRMAN STUTO: We'll ask our Town
20 Designated Engineer to take a close look at
21 that between now and final.

22 Anyone else want to be heard on this
23 project?

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

25 CHAIRMAN STUTO: Okay, we'll hear from

1 the Board Members. Karen?

2 MR. GOMEZ: I have no questions.

3 CHAIRMAN STUTO: Mike?

4 MR. SULLIVAN: My questions have been
5 answered.

6 CHAIRMAN STUTO: Tim?

7 MR. LANE: Mine as well.

8 CHAIRMAN STUTO: Brian?

9 MR. AUSTIN: The only concern that I have
10 is to echo the last project - I don't think
11 that there is anything that we can do about
12 it, I'm not sure but maybe we can look at it a
13 little bit further; the rights-in and
14 rights-out issues. As an example over at the
15 711, as Mr. Fahey said, it doesn't work there.
16 Even crossing over from Homestead into the
17 Newton Plaza area, that's a very dangerous
18 intersection. So, I'm not sure what kind of
19 traffic mitigation could be done there. I'm
20 not sure if that's the applicant's
21 responsibility of that intersection. I know
22 that the rights-in and rights-out would be the
23 responsibility, but would the intersection be
24 a responsibility Joe?

25 MR. GRASSO: No, but it's something that

1 we should look at anyway.

2 MR. AUSTIN: And the one question that
3 Ms. Blanco had about the berm -

4 MR. GRASSO: We have a similar comment.
5 I'm sorry that we don't have an answer.

6 MR. LARNER: The berm is not getting
7 moved at all, right?

8 MR. OSTERHOUT: On Dr. Clark's
9 parcel - we're going to be pushing that back.

10 MR. AUSTIN: You're pushing it back, but
11 one of the comments was that there was a
12 crosswalk.

13 MR. GRASSO: No.

14 MR. OSTERHOUT: The bank will be cut back
15 in order to allow drivers coming out of
16 Homestead to see more. The question was raised
17 as to what are the limits of the improvements.
18 They basically go up to -- I'll pull out the
19 aerial.

20 Here is Homestead and here is Route 9 and
21 Dr. Clark's office is here (Indicating). The
22 improvements basically go up to the north end
23 of Dr. Clark's property.

24 MR. AUSTIN: I know that the residents
25 have been very concerned about parking on

1 Homestead, but that is really not the
2 applicant's responsibility. However, it has
3 been addressed by the applicant. I think that
4 it's been a sign of real good faith here. They
5 are providing some parking and hopefully
6 trying to help, but it's not their
7 responsibility to do that.

8 MR. BLAKE: New York State DOT looks at
9 the whole system and not just the isolated
10 project.

11 MR. AUSTIN: And so does the Town.

12 CHAIRMAN STUTO: Thank you. I think that
13 we've gotten great comments from the public
14 tonight and if I could ask the Town Designated
15 Engineer to work with the applicant to see
16 that all the questions are all addressed, we'd
17 appreciate that. I think that the applicant
18 has been very good in working with us with our
19 comments so far. I think that they're going to
20 help the parking a bit. They've even improved
21 the architectural look. The new rendition - I
22 asked Joe to take another look at that and see
23 if anything else can be done as well as the
24 Board - we'll be looking at that as well.

25 This is another Type II action which

1 means that no environmental action is required
2 or review. We would entertain a motion for
3 concept acceptance on the condition that the
4 comments heard tonight and the comments of the
5 Town Designated Engineer's letter are adhered
6 to. Do we have that motion?

7 MR. LANE: I'll make that motion.

8 MR. AUSTIN: Second.

9 CHAIRMAN STUTO: Any comments or
10 questions from the Board Members?

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

12 CHAIRMAN STUTO: All those in favor?

13 MR. AUSTIN: Aye.

14 MR. LANE: Aye.

15 CHAIRMAN STUTO: Aye.

16 MS. GOMEZ: Aye.

17 CHAIRMAN STUTO: All those opposed?

18 MR. SULLIVAN: Nay.

19 CHAIRMAN STUTO: Okay, we have one nay;

20 Michael Sullivan.

21 The ayes have it.

22

23 ***(Whereas the proceeding concerning the above***

24 ***entitled matter was concluded at***

25 ***9:10 p.m.)***

CERTIFICATION

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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.*

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14 -----
15 **NANCY STRANG-VANDEBOGART**

16
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18 **Dated July 25, 2012**

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