

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3
4 *****
5 STEWART'S SHOP
6 29 WADE ROAD
7 APPLICATION FOR CONCEPT ACCEPTANCE
8 *****

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

15 BOARD MEMBERS:

16 PETER STUTO, CHAIRMAN
17 MICHAEL SULLIVAN
18 BRIAN AUSTIN
19 TIMOTHY LANE
20 KAREN GOMEZ
21 ELENA VAIDA, Esq., Attorney for the Planning Board

22 Also present:

23 Joe LaCivita, Director, Planning and Economic
24 Development

25 Tom Lewis, Stewart's

Joe Grasso, Clough Harbour and Associates

Chris Potter, Stewart's

John Fahey

Robert Fanniff

Tom Johnson

Carol LaBatte

1 CHAIRMAN STUTO: First on the agenda is
2 Stewart's Shop, 29 Wade Road, application for
3 concept acceptance. It looks like the
4 applicant is all set up.

5 Let the record reflect that Mr. Lewis is
6 approaching the Board with materials.

7 I'll ask Joe LaCivita to give us an
8 introduction on this.

9 MR. LACIVITA: The application before us
10 tonight is 29 Wade Road, which is the
11 application for concept acceptance for a new
12 Stewart's, 3,000 square foot convenience store
13 with fuel canopies. It was before the
14 Development Coordination Committee on December
15 14, 2011. This actually is on the corner of
16 Wade and Forts Ferry Road where the site hosts
17 a medical plaza and prior to that had
18 preapproved restaurant pad. Stewart's was
19 interested in the site and is going forward
20 for the development of a 3,000 square foot
21 convenient store.

22 I can now turn it over to Mr. Lewis.

23 MR. LEWIS: Thank you. Hi folks. You may
24 remember that the first time we had spoke to
25 the Board about this about 10 years ago. We

1 actually had a contract on these pieces
2 here (Indicating) - on those houses there and
3 that was like a four-year deal that didn't
4 work. That was disappointing and someone from
5 the Town of Colonie actually called me up and
6 said, have you guys thought about this lot?
7 So, here we are.

8 Based on our comments at the last meeting
9 on this on the sketch plan, we're hoping that
10 the Board would consider conceptual approval
11 this evening.

12 The lot is 1.1 acres on Wade Road
13 Extension in the COR zone. The building is
14 3,000 square feet. The canopy is 3,016. So
15 there will be six pumps allowing for a maximum
16 of six cars. Our green space is 30.9 percent
17 and that means we get to make about a \$20,000
18 contribution under the incentive zoning. There
19 are two building signs; both modest.

20 We had originally asked for full access
21 on both Forts Ferry which was initially over
22 here (Indicating) and a full access on Wade
23 Road Extension. The TDE who saw the plan said
24 that you can't be serious about the full cut
25 on Wade, so we asked for a right-in and

1 right-out. We met with Commissioner Cunningham
2 and had some interesting discussions about
3 that, and this Board told us that we needed to
4 move the cut on Forts Ferry further up to here
5 (Indicating). So, I'm happy to say that a
6 realtor for Columbia Development was able to
7 persuade the Health Park to create easements.
8 I was afraid we weren't going to get that, but
9 we did. The Board also asked for a
10 cross-connection in the back over here
11 (Indicating) and they reluctantly agreed to
12 that as long as we didn't use up more than two
13 car spaces, which is what this is. That's what
14 we are proposing.

15 CHAIRMAN STUTO: Is that the end of your
16 presentation?

17 MR. LEWIS: That is it.

18 CHAIRMAN STUTO: We'll hear from our Town
19 Designated Engineer, Joe Grasso, from CHA.
20 He's acting on our behalf and has reviewed the
21 project on behalf of the Town and the Planning
22 Board.

23 Joe, would you like to offer your
24 comments?

25 MR. GRASSO: Yes. We had issued a comment

1 letter dated June 28th and it's included in
2 your packets a couple of pages in. I'll go
3 through most of the comments there.

4 Regarding SEQRA - because of the size of
5 the building being less than 4,000 square
6 feet, it's a Type II action. So, no SEQRA
7 review is required and there will be no SEQRA
8 action taken prior to final action by the
9 Planning Board.

10 There is a number of waivers from the COR
11 design standards required for the project.
12 These are generally consistent with other
13 requests for store redevelopment projects in
14 the Town. I've listed those. They are the
15 maximum front building setback, the parking
16 lot paving in the front yard setback, the
17 minimum frontage build out of 80 percent, the
18 landscaped interior to the parking area, the
19 fuel canopy within the front yard and use of a
20 non-masonry dumpster.

21 Like I said, these have been granted and
22 justification for these items have been
23 provided on previous projects and think that
24 justification for those waivers are
25 appropriate for this project, too. Although

1 we've asked that the applicant provide
2 additional support for the record so that the
3 Planning Board can consider it in its
4 deliberation.

5 CHAIRMAN STUTO: Have they provided that?
6 Is that part of our packet?

7 MR. GRASSO: They have not, as of yet,
8 provided the additional written justification.

9 The final determination on the waivers is
10 taken at final so that's why we would like to
11 see it. If there are certain waiver items that
12 we feel are of particular concern, then it
13 should be a topic of discussion.

14 CHAIRMAN STUTO: Okay, let's pause now
15 and ask the Board if they have any comments on
16 the waivers that are being proposed.

17 MR. LANE: My only one is: Why are you
18 requesting a waiver on the non-masonry
19 dumpster?

20 MR. LEWIS: Let me introduce my partner,
21 Chris Potter. I have an answer, but he may
22 come up with something better.

23 MR. POTTER: What our feeling is that
24 with 328 shops and a lot of dumpster
25 enclosures out there, the masonry dumpster

1 enclosures are much harder to repair when
2 there is damage to them. So, vinyl fence is
3 much easier.

4 MR. LANE: You're talking a cost thing
5 and I don't know if that's a factor for us.

6 MR. POTTER: It's not cost; it's repair.

7 MR. LANE: That is cost.

8 CHAIRMAN STUTO: Joe, can you comment on
9 that?

10 MR. GRASSO: There have been other sites
11 and we have taken different positions,
12 depending on the site. This one, we're
13 somewhat indifferent of, which is why we
14 didn't touch on it in the letter.

15 MR. LANE: I don't think that the cost
16 for repairs is strong enough reason.

17 MR. GRASSO: I think that the important
18 thing to take into consideration and the
19 reason why we've supported this waiver in the
20 past is when you look at the Stewart's shops
21 and where they're located, they're generally
22 in very high visibility areas. So, I think
23 that if we look at use of a fencing type
24 material -- like the one that comes to mind
25 was a white vinyl fence - very

1 decorative - that's more of a landscape
2 treatment element, as opposed to an extension
3 of the building. When you switch over from
4 that and you use masonry enclosure, all you're
5 thereby doing is you're increasing the size of
6 the building from the place that it's viewed
7 from. So, you're not doing any more to screen
8 the refuse over here (Indicating).

9 MR. LANE: It's not just a matter of
10 screening. Isn't it also a matter to contain
11 the waste that must blow around and keep the
12 vermin out?

13 MR. GRASSO: I don't think so because of
14 the type of vinyl fencing - because I've seen
15 the ones that they've installed, I think that
16 it effectively contains the trash and it
17 stands up well.

18 MR. LANE: Then what is the Town's reason
19 for just requiring masonry enclosures?

20 MR. GRASSO: I think that through the
21 years the Town has seen so many poorly
22 constructed refuse areas that are improperly
23 maintained and as a safeguard - as a baseline,
24 they've said, we're never going to allow chain
25 link enclosures, we're not going to allow

1 sites not have any refuse enclosure. We're
2 going to establish the baseline; that's being
3 masonry. It's durable and it's low maintenance
4 and that's what they've written into their
5 design requirements.

6 CHAIRMAN STUTO: Do any other members
7 have an opinion on that particular point?

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

9 CHAIRMAN STUTO: We're not going to make
10 a decision tonight.

11 Tim, I agree with you, but we don't have
12 to decide that tonight, so I'm going to think
13 hard about that between now and final.

14 MR. GRASSO: And what I would recommend
15 is that you just try to visualize where it is
16 on the site and the extension of a masonry
17 enclosure, because it basically becomes an
18 appendage to the building.

19 MR. LANE: So does any enclosure.

20 MR. GRASSO: That's why I said, think
21 about the context. Are you going with a
22 structure that's an extension of the building
23 or as a landscape treatment? Are we trying to
24 make the building look smaller, or are we
25 willing to have the building look bigger?

1 That's all I'm saying. That's the way that we
2 look at things and why we look at them the way
3 that we do.

4 MR. LEWIS: In terms of this issue, this
5 is not a big deal for us. The other waivers
6 are all kind of deal killers.

7 CHAIRMAN STUTO: How is the one on
8 Route 9?

9 MR. POTTER: That's a masonry enclosure.

10 MR. LEWIS: That's why the people that we
11 answer to who are in charge of maintenance on
12 all these different stores - they kind of went
13 ballistic on that after we did it.

14 CHAIRMAN STUTO: Do you have an example
15 of a vinyl one? I'm going to drive by each
16 one.

17 MR. POTTER: New Scotland Avenue.

18 CHAIRMAN STUTO: Do you have one in
19 Colonie?

20 MR. LEWIS: We hope to soon - Vly Road.

21 MR. GRASSO: Vly Road is approved -

22 MR. AUSTIN: It's vinyl?

23 MR. GRASSO: Yes. It's a very visible
24 site. It's a site like this where it's a
25 corner site, whereas the Route 9 one was just

1 a frontage site. It wasn't a corner site. Your
2 context of looking at the enclosure was
3 different.

4 MR. AUSTIN: Right, and I think that the
5 Route 9 one is a more commercial site as well;
6 whereas this is somewhat more surrounded by
7 residential.

8 MR. LEWIS: Just to get back to what I
9 consider a big issue - that curb cut, that
10 right-in and right-out - that gets real
11 important. It sounds silly for me to say that
12 the dumpster is really not a money issue. In
13 the scheme of things, that is not a major big
14 thing. If you could accommodate us, that would
15 be great. If not, it's not the end of the
16 world for us.

17 CHAIRMAN STUTO: Anything else on the
18 waivers from the Board?

19 MR. SULLIVAN: I had a question on the
20 build out.

21 MR. GRASSO: We have a comment on that.

22 MR. SULLIVAN: Has that been addressed
23 further?

24 MR. GRASSO: Yes, I'll speak to it.

25 Because all of the waivers - they do need

1 to provide justification and in looking at one
2 of them was the requested waiver of 80 percent
3 build out across the frontage, which is
4 typically done by a combination of fencing or
5 other landscaped treatments. They are only
6 proposing 10 percent and we didn't see where
7 there was going to be justification to justify
8 not making a better attempt to comply with the
9 Town. We identified that in the letter.

10 Since then, we've had a discussion with
11 Stewart's and we actually worked on a plan
12 that showed what we felt was additional
13 landscaped treatments across the frontage.
14 I'll pass this plan around just so you know
15 what it shows. On either extent of the map by
16 the two curb cuts is where Stewart's had
17 proposed the fencing and the columns. In red
18 is where we thought there should be
19 additional. There is a gap at the corner
20 because there was a pedestrian accommodation
21 that shows up in our comments and planning
22 comments that we thought should be
23 accommodated. I'll pass this down. I have
24 notes written down regarding where this gets
25 them.

1 Part of the fencing is shown outside
2 their property because remember the curb cut
3 on Forts Ferry Road - we asked them to shift
4 it down. It's actually off their property.
5 What they had proposed was fencing on both
6 sides of the curb cut. If you count that in as
7 the frontage built out, if they went by this
8 map, it would get them up to 83 percent. If
9 you just looked at the frontage within the
10 project site, they would be at approximately
11 70 percent. It's relatively close to the 80
12 percent. We felt comfortable with that.

13 Tom, is this what you're handing them?

14 MR. LEWIS: Mr. Potter is learning how to
15 do Planning Boards and that's why he's here.

16 MR. POTTER: The sketch that Joe did - we
17 don't have an issue with as long as the Town
18 doesn't have an issue with us installing the
19 fence and the columns in the driveway. Right
20 now, the edge of our pavement beyond the
21 canopy there is like two feet from the
22 property line. When there is a car fueling at
23 the dispenser, it allows for one car to get
24 around there.

25 MR. LEWIS: The single sheet that you

1 have shows where the cars have to go around
2 the island at that fork where Wade and Forts
3 Ferry kind of meet.

4 MR. GRASSO: I guess I'm confused between
5 the maps and what they're reflecting. There is
6 one map that you gave where the fence is
7 within the property.

8 MR. POTTER: That's where we moved the
9 porch off the front of the building. By doing
10 so, you lose your landscaping at the building.
11 So, your sidewalk would then bump right up
12 against the front of the building. You'd have
13 the eight feet of landscape between the
14 building and the sidewalk, which allows us to
15 move the canopy further away from the road as
16 well as the edge of the pavement. That will
17 allow us to construct the fence on our own
18 property. The second sheet shows what the new
19 elevations would look like without the porch.
20 The Board would have to give up the porch and
21 the landscaping at the building for the fence.

22 CHAIRMAN STUTO: Joe, can you summarize
23 where we are? You proposed fencing?

24 MR. GRASSO: Yes, we support the fencing.
25 We think that the porch on the front of the

1 store is extremely important; probably more
2 important than the fencing, although obviously
3 we support both and they both have some
4 relative importance. I think that the porch on
5 the building and the landscaping there really
6 helps this store fit within the setting of the
7 neighborhood. We think that's somewhat sacred
8 ground. We would support backing off on that.

9 We are supportive of the fence going
10 right along the sidewalk. If it has to be
11 somewhat within the Town's right of way, that
12 would be acceptable as long as we could
13 indemnify the Town from having to maintain the
14 fence, if there was any damage to it. That's
15 similar to what the Town does for like
16 irrigation systems that are installed in their
17 right of way. I don't think that issue is
18 insurmountable.

19 MR. LEWIS: We're comfortable doing what
20 Joe asked for as long as we can do it.

21 CHAIRMAN STUTO: Does the Board agree to
22 Joe Grasso's suggestion?

23 ***(The Board Members all agreed.)***

24 MR. POTTER: The only other thing that I
25 want to point out is that there could be a

1 possible issue of the location of the water
2 main on Wade Road Extension. We're looking
3 into if there is a possible easement for that
4 with it being so close to our property line.

5 MR. LEWIS: That was the same thing that
6 happened on Loudon. Remember, we were over the
7 sewer? As long as that's not an issue -

8 CHAIRMAN STUTO: The Town has to agree.

9 MR. LEWIS: Correct.

10 MR. GRASSO: As long as you're 10 feet
11 off the center line, they're generally okay.
12 That might be a big water main. I can't
13 remember the size.

14 MR. LEWIS: It's 36 inches.

15 MR. GRASSO: Okay, they may have some
16 special concerns regarding that. If it's
17 within the easement, I think that a hold
18 harmless agreement does protect the Town
19 there. I don't think that's insurmountable.
20 Then, if it is, we'll bring it back to the
21 Board for final and make a decision.

22 CHAIRMAN STUTO: I think that we have
23 consensus from the Board about that.

24 Anything else on the waivers from the
25 Board?

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

2 CHAIRMAN STUTO: Joe, can you continue?

3 MR. GRASSO: The next comment is
4 regarding the green space. The Town zoning has
5 a 35 percent minimum. It also has provisions
6 if the applicant proposes less than
7 that - which involves a monetary
8 payment -- that applies to open space or green
9 space related projects. They're proposing 31
10 percent and we feel that it's appropriate for
11 the site. The required calculation works out
12 to be slightly less than \$20,000 which the
13 applicant is aware of. As Tom had mentioned in
14 his presentation, they're agreeable to paying
15 that.

16 The next comment is regarding the
17 proposed sidewalk on the north side of Forts
18 Ferry Road. They extend it down to the
19 proposed curb cut and then there is a short
20 extension of sidewalk past it, which gets into
21 that issue of the sidewalk to nowhere. Our
22 recommendation in those instances is generally
23 we would like a landing or a safe refuge area
24 developed on the far side of the curb
25 cut - approximately five feet and that's where

1 the sidewalk would stop.

2 CHAIRMAN STUTO: Can I ask the applicant
3 to point to the spot that Joe is referring to?

4 MR. LEWIS: Right here (Indicating).

5 MR. GRASSO: Instead of extending out 30
6 feet or 20 feet, we want it to only extend out
7 five feet. It still allows it to be easily
8 extended in the future and allows somebody to
9 take refuge if they're caught within the
10 driveway and cars coming in. They can jump on
11 both sides of the driveway.

12 CHAIRMAN STUTO: You also suggest a
13 refuge area or just the five feet?

14 MR. GRASSO: No, just the five feet is
15 that refuge area. What we don't like to see is
16 that they then jump on the sidewalk, they get
17 to the end of it and then rather than coming
18 back into the site, they just keep walking and
19 pretty soon they're not in a safe area or on
20 private property.

21 Regarding the sidewalk - picking up on a
22 comment from the Planning Department - they
23 had supported better pedestrian connections
24 into the site from the sidewalk system towards
25 the store. What we had recommended was an

1 extension from the corner of Forts Ferry and
2 Wade Road directly in and then providing a gap
3 in the fencing there. That was reflected on
4 our sketch that we sent around. We also had
5 also considered maybe just extending it in
6 front - the curb cuts into the site.

7 Tom, I don't think that you had mentioned
8 that in your comments. Do you have a response
9 or should it be left up to the Planning Board?

10 MR. LEWIS: We're fine with the one on
11 the corner. That works for us.

12 MR. GRASSO: I know that the Planning
13 Board often comments on pedestrian
14 connections.

15 CHAIRMAN STUTO: I have no objection to
16 it.

17 MR. GRASSO: Comment five is a relatively
18 minor one regarding a handicapped parking
19 space.

20 Six is just related to additional
21 stormwater design information that will be
22 provided as the plan advances on.

23 Chris, just from a conceptual standpoint,
24 could you go through your stormwater approach
25 so that we have it on the record?

1 MR. POTTER: What we're looking to do
2 here is an underground storage like we have in
3 the past that would outlet into the
4 bio-retention stormwater management area. We
5 would then go into the storm sewer system,
6 which ultimately ends up in the DOT system
7 with no increase.

8 MR. LANE: The snow storage is going to
9 stay on-site or trucked off?

10 MR. POTTER: It would be on-site.

11 MR. LANE: There seems to be enough
12 space, so maybe on that little space on Wade
13 there (Indicating) -

14 MR. LEWIS: I would imagine up here or up
15 here (Indicating).

16 As always, any time that it accumulates,
17 we haul it off the site.

18 MR. GRASSO: Our last comment, number
19 seven related to the traffic study that was
20 prepared by the traffic engineer on the
21 project, Creighton Manning and then our review
22 of that as well as our review of the access
23 for the project. Just going back when the
24 project was initially proposed, as Tom had
25 mentioned, we expressed concern over any

1 access on Wade Road Extension and in working
2 with the applicant, we had talked to them
3 about that we could be supportive of a
4 right-in and right-out on Wade Road Extension
5 and full access onto Forts Ferry as long as
6 they could provide adequate design
7 documentation stating that it wouldn't be
8 creating a public safety issue or creating
9 impacts to traffic or turning movements in the
10 area. So, when the project came up for sketch
11 plan review, we were supportive of a right-in
12 and right-out curb cut on Wade Road Extension.
13 But the location of the curb cut on Forts
14 Ferry Road was closer to the intersection of
15 Wade Road Extension and was going to be into
16 that turn lane and blocked by occasional
17 vehicle queues at that intersection. Thereby,
18 blocking left turns into the site off of Forts
19 Ferry Road. The applicant has gone back and
20 worked with adjacent owner and got the legal
21 permission through an ingress/egress easement
22 on the adjacent property to shift that curb
23 cut further towards the north down Forts Ferry
24 Road and out of that operational queue area at
25 that intersection. So, we're supportive of the

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1 curb cut arrangement as proposed.

2 The other thing that we had supported was
3 an internal connection to the Capital Region
4 Health Park. When the Health Park was
5 originally developed, it was always
6 anticipated that there would be such an
7 internal connection and we thought that based
8 on this being a convenient store, that there
9 is an advantage to that connection going in.
10 So, that one has always been proposed as such.

11 DOT has commented on the plan and said
12 because we're dealing with Town roads, both
13 Wade Road Extension as well as Forts Ferry
14 Road, they don't have any direct jurisdiction
15 and they have no comment on the proposal
16 either for or against, which shows us that
17 they don't have any significant concerns with
18 the project.

19 There is a letter provided by the Town's
20 Highway Safety Committee, which is just an
21 advisory committee dated July 2nd and they
22 said:

23 "The Committee would like to see the
24 right-in and right-out curb cut on Wade Road
25 eliminated. Access to the shop from Wade Road

1 could be obtained through the curb cut to 711
2 Troy-Schenectady Road that is presently on
3 Wade Road. The right-in and right-out curb cut
4 is too close to Forts Ferry Road and the 711
5 curb cuts that are presently on Wade Road.

6 CHAIRMAN STUTO: What is their reference
7 to the curb cut to 711?

8 MR. GRASSO: It's the main access to
9 Capital Region Health Park.

10 CHAIRMAN STUTO: How far would that be?

11 MR. GRASSO: Their preference is that all
12 the traffic on Wade Road would come in and
13 loop around the back. We're not comfortable
14 with that. You have to understand that if it
15 was a full access considered on Wade Road
16 Extension, then we would consider that an
17 acceptable alternative. But because it's a
18 right-in and right-out, it really is a free
19 flow movement and it's not going to be an
20 impediment to traffic flow on that road. You
21 want to provide access that is recognizable
22 and easy for the traveler to understand and
23 operate. We don't want to take them on a
24 circuitous route through the Capital Region
25 Health Park. That's an access that they

1 probably wouldn't want to use anyway.

2 CHAIRMAN STUTO: Joe LaCivita, do you
3 have any opinion on that?

4 MR. LACIVITA: I know that we talked
5 several times through our Town departments
6 with Highway, DPW and the Commissioner of DPW.
7 We found it to be acceptable, and we
8 conferenced Joe in as well. I think that I
9 agree with Clough Harbor that it's acceptable
10 for us.

11 CHAIRMAN STUTO: Does the Board have any
12 questions or opinions on that?

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

14 MR. LEWIS: This is one of those things
15 that I think that the four Board Members and
16 the fifth one I don't know
17 yet -- philosophically, the way we like to
18 approach the Planning Board and we've done a
19 few of these over the years -- we don't want
20 to argue over the little stuff. You know
21 fencing or landscaping. The really important
22 issues that make the difference between our
23 doing the project or not is that right-in and
24 right-out is very important to us. We hope
25 that the Board will support that.

1 MR. GRASSO: And it's significant. Access
2 management - you hear us talk about it a lot
3 it's an extremely important planning
4 consideration. We look at every scenario on a
5 case by case basis and we put a lot of thought
6 and a lot of evaluation into it to make sure
7 that we feel that the access scenarios are
8 appropriate site by site. If we're not
9 supportive, we'll let you know that we're not
10 supportive of it.

11 I think that the Highway Safety
12 Committee - their general policy is that they
13 want to try to minimize curb cuts to the
14 greatest extent practicable regarding access
15 on Wade Road Extension and we support that; we
16 understand. But when you really get into the
17 nitty gritty of it and look at all the issues,
18 we're convinced that this is the right access
19 management situation.

20 That sums up our comments and I think
21 that I touched on the other relevant comments
22 in your packet.

23 CHAIRMAN STUTO: I'll see if there are
24 any comments from the public and then we'll go
25 through the Board Members.

1 Anyone here from the public that wants to
2 be heard on the Stewart's project?

3 MR. FAHEY: I'm John Fahey, 46 Perry
4 Avenue.

5 I don't know if it's appropriate here to
6 ask questions, or just make comments.

7 CHAIRMAN STUTO: If it's directed to the
8 Board, it's fine.

9 MR. FAHEY: My favorite subject is
10 traffic. I know that it's a concern on this
11 cross-connection here about the problem of the
12 potential for cut throughs back and forth. I
13 think that based on some experience with other
14 right-in and right-outs, it's going to be
15 problematic down the road. You're talking
16 about the possibility of accessing the
17 property through here (Indicating). People
18 access the bank through here (Indicating) and
19 through Route 7 also.

20 CHAIRMAN STUTO: Cutting through to get
21 to where as an ultimately destination?

22 MR. FAHEY: Right here and out -

23 CHAIRMAN STUTO: To the medical building
24 and out?

25 MR. FAHEY: Yes. We see it now and you're

1 going to see it to a greater extent.

2 You talked about sidewalks. The sidewalk
3 to nowhere is right here on Wade (Indicating).
4 It comes from no residences and it goes to
5 here. You want to put one over here
6 (Indicating) and I think that's what you're
7 talking about. You wanted to put it on this
8 side?

9 MR. GRASSO: This side (Indicating).

10 MR. FAHEY: On the Route 7 side there are
11 no side walks above this on that side of the
12 road. It's all shoulder. So, people have to
13 walk in the right of way to get to another
14 sidewalk to nowhere.

15 Another problem that you've got over here
16 on Forts Ferry -- it's not shown on the
17 drawing - you've got a 114 room hotel going in
18 down here (Indicating). Most people are going
19 to want to walk up there. There is not only no
20 sidewalk, but there is no room for one.

21 You've got a house down here (Indicating)
22 and then the hotel property. On this side, I
23 don't know what you've got in the way of
24 easements or right of ways over here
25 (Indicating). I think that you have to

1 consider that. If that hotel is going in, I
2 see a lot of pedestrian traffic getting
3 generated.

4 It's great that you move it back, but
5 somewhere up in here is a pretty good size
6 mound with mature trees on it, which is going
7 to interfere with the sight lines in one
8 direction, if not both for the people that are
9 using that full function thing. If you're
10 going to take the berm out of there, you're
11 going to be taking those mature trees out of
12 there which is going to affect the whole look
13 of the place.

14 You've got a crosswalk here (Indicating).
15 It's painted, barely. There are no signals at
16 all - no electronic signals to control
17 pedestrian access. DOT owns the signals here
18 (Indicating). I know from experience and I've
19 got correspondence to back it up that this
20 signal is a nightmare.

21 I was over there today and in a 15 minute
22 period I counted two cycles with cars on Forts
23 Ferry Road. They had a red and it went to
24 green, yellow and back to red again. About 10
25 cycles were five seconds or less. The reason

1 being is according to Mark Pyskadlo from DOT,
2 anybody turning east off of Route 7 from that
3 left turn lane, triggers a detector which he
4 called cycle stealing. It steals cycles from
5 this light so everybody has a straight shot
6 down Wade Road. That, to me, is a problem. I
7 watched eight cars jump the red light in 15
8 minutes.

9 There is an access up here to the Health
10 Park that was originally improved as a
11 right-in and right-out. Twelve cars went out
12 in 15 minutes. I sat up there. I'm retired and
13 I have a lot of time. Twelve cars went out, 11
14 took a right turn, one took a left on Forts
15 Ferry. Eight cars entered from Forts Ferry and
16 every one was a left turn. So, clearly that
17 right-in and right-out isn't working. There
18 are no guarantees that this is going to work
19 properly.

20 Now, to the project itself. I would have
21 like to have heard someone from the Board ask
22 for a comparison between this project and say,
23 the one at 605 Loudon Road. We all know that's
24 a busy store. How is this going to compare
25 with that store? Is it going to be less

1 business, the same or more? I think that it's
2 going to be more for the simple reason that
3 it's got twice the number of fuel hoses as the
4 one across from Hoffman's. So, they're
5 expecting twice the amount of gas business
6 that they're getting down across from
7 Hoffman's. That's a lot of traffic. There are
8 peak times and we all know it is in the
9 morning during the commute; the coffee
10 grabbers and the gas grabbers. At noontime,
11 everybody comes in for lunch - the
12 construction folks especially. UPS is in there
13 in the morning - they will be - and the
14 commuters. I believe that they're open until
15 midnight. The bulk of the business at night
16 will be coming down from these neighborhoods
17 up here (Indicating) - all along Forts Ferry
18 Road on either side.

19 I know how people operate. I've been
20 around long enough. They're going to come in
21 through that back entrance and they're going
22 to go out through that back entrance. Why get
23 down here where people are playing games with
24 the lights? I think that you have to give this
25 intersection a real hard look and try to

1 convince DOT to fix these lights. Their
2 strategy was great when Exit 6 was being built
3 to expedite traffic going through. It doesn't
4 apply today. I've been unsuccessful. The
5 police have been unsuccessful and the Town
6 Highway Department has been unsuccessful
7 getting them to change. This is a dangerous
8 thing.

9 As great as Stewart's is, they're batting
10 1,000 right now in three earlier projects.
11 Based on what I see, accept no gracefully. I
12 know that the zoning allows it. Yes, Stewart's
13 is a great place, but does it fit this
14 property? Does it fit the neighborhood? Does
15 it fit the traffic capabilities of these
16 roads? This road is a mess, structurally. It's
17 only going to get worse. Mr. Grasso's own
18 comment is that queuing isn't bad now, but you
19 have to look down the road as this gets built
20 out and when this hotel starts add volume.
21 What else is going down here?

22 One alternative is that there is a great
23 pad site right down at Latham Retail. There is
24 a traffic light there. There are five handicap
25 parking signs that have been there since it

1 was built and there is nobody parking there.
2 There is nothing there right now; build there.
3 Build over next to Troop G or the old Hess
4 station. There is a great piece of property
5 there. It was a gas station on Route 7. Or on
6 the other side of Troop G there is a vacant
7 lot that's desperately in need of development.

8 When this property was first part of the
9 Health Park, was it considered green space for
10 this project? If so, how much greenspace are
11 they losing by subdividing this out and how
12 can you justify it?

13 Mr. Lewis mentioned it several times - in
14 2002 the Town asked him to look at these three
15 properties and after four years it didn't
16 happen. Can anybody tell me for a fact why
17 that didn't happen?

18 MR. LEWIS: I can, but I won't tell you
19 with a reporter in the room.

20 MR. FAHEY: I've heard rumors and I'd
21 like someone to check on that. If there was a
22 condition that existed then, does it no longer
23 exist now? I'm not going to belabor the point.
24 I think that I've given you enough to talk
25 about. When this comes back, will it come back

1 with answers at concept approval final?

2 CHAIRMAN STUTO: At final; yes.

3 MR. FAHEY: Okay, good. Thank you.

4 CHAIRMAN STUTO: Joe, he did bring up
5 some good questions. Do you want to comment on
6 that?

7 MR. GRASSO: The questions aren't
8 automatically answered at final. I think that
9 those questions, like you said, are for the
10 Planning Board. If there are things that you
11 want the applicant or us to provide comment or
12 a reason to, we can either try to do that
13 tonight or we can work on responses in advance
14 of the next meeting.

15 MR. FAHEY: The guy to talk to at DOT was
16 Mark Pyskadlo. He hasn't answered my e-mails
17 either.

18 CHAIRMAN STUTO: Is there anything that
19 stands out to you that you could address?

20 MR. GRASSO: Yes. There was a comment
21 about a cut through. Based on the location, we
22 think that if this right-in and right-out is
23 going to be identifiable with the Stewart's
24 and there is a well defined access to Capital
25 Region Health Park that is appropriately

1 signed just 75 feet down the road, I don't
2 think that people are going to use the
3 right-in and right-out to cut through to the
4 Health Park, per se. Also, from a traffic
5 distribution standpoint, traffic planners like
6 cut through traffic. It means that somebody
7 thinks that there is a more convenient way and
8 as long as it's not creating any public safety
9 issue -- if somebody wanted to go in there and
10 stop at Stewart's and go through to the Health
11 Park or whatever, or if they found it more
12 convenient, that's okay too. If the queue on
13 Wade Road Extension was backed up past the
14 curb cut to the Health Park and they wanted to
15 get out on this right-out only because they
16 felt that they were going to pass the queue
17 and safer, then so be it. There is nothing to
18 prevent them from doing that. We don't agree
19 that the cut through issue should result in a
20 change to the plan.

21 In terms of the sidewalk to nowhere, we
22 understand that there is no sidewalk on Forts
23 Ferry Road along this strip, but as projects
24 come in for development, we generally look for
25 it - as long as they can - for that project to

1 build a sidewalk across the frontage so that
2 the burden is not placed on the Town to do it
3 in the future; as long as it makes sense. When
4 you've got these curb cuts, they're a logical
5 termination for sidewalks and we think that's
6 important. If you think that there will be in
7 the future additional sidewalks built on Forts
8 Ferry Road, this will fit into a larger plan.

9 In terms of the sight lines and the
10 impacts of the berm: When we get the final,
11 it's a very valid comment and it's something
12 that we would generally do if we really had a
13 grading plan and additional information from
14 the applicant in order to look at that issue.
15 That's a great comment.

16 In terms of the enforcement of the
17 rights-in and rights-out, my recollection is
18 that we weren't involved with the one for the
19 Capital Region Health Park and I don't know
20 how that was constructed or how it was signed.
21 When we look at rights-in and rights-out, we
22 look at well, do we think that in all
23 likelihood that people are going to respect
24 the restriction? Is there enough adequate
25 access provided to the site to deter them from

1 making illegal movements? There are a number
2 of access opportunities for patrons to and
3 from the site. We think that is going to
4 discourage things. And we will make sure that
5 the thing is appropriately constructed and
6 signed, which also acts as an appropriate
7 deterrent. If you think that the Capital
8 Region Health Park - the reason why people
9 will take a left out is because there is
10 generally no opposing traffic or there is no
11 other curb cut close to that rights-in and
12 rights-out that gives them another reasonable
13 access. We think that we're really looking at
14 apples and oranges there.

15 In terms of the alternative sites that
16 accommodate the Stewart's, we really look at
17 things on a project by project basis. If a
18 project is proposed on this site, then our
19 charge is to review it as such and not look at
20 the idea of: Is there a better spot for a
21 Stewart's. We have to look at what is proposed
22 before us.

23 In terms of the Capital Region Health
24 Park green space: That's a great comment. It's
25 something that we had looked at early on when

1 the project was first brought before the
2 Board. This project site is not required to
3 meet the green space on that adjacent
4 property. This site can stand on its own.

5 MR. LEWIS: With regard to that last
6 comment: When Joe told this Board and then
7 told me afterwards that without the access
8 moved further up Forts Ferry that he would not
9 support the project, one of the things that I
10 asked him then was on the green space and we
11 determined that.

12 Is it okay if I addressed one of the
13 things that the gentlemen said?

14 CHAIRMAN STUTO: Yes, but can you wait
15 until Joe is done?

16 MR. LEWIS: I'm sorry; Sure.

17 MR. GRASSO: I'm done.

18 MR. LEWIS: The gentleman said that there
19 were six pumps and so we assume that this
20 would be better. I hope that it will, but I
21 don't think that it will. This is why many
22 months ago we also showed this Board how we
23 have a contract on Route 9 and Boght Road. The
24 first time we showed you this it had four. The
25 person who owns our company - he's the one

1 that makes the company what it is, He
2 recognized that the Mobil Gas Corporation
3 about four years ago sold all of its retail
4 units everywhere across the country. Over the
5 years, we became more of a gas volume store.
6 So, no matter where we are - in not all cases
7 but in almost all cases, we will be doing six
8 pumps. In fact, to such a degree, we're now
9 looking -- the shop that we did here on Route
10 9 was a big success in terms of how much extra
11 business that we could do. Why is that?
12 Because there was already that portion of the
13 public that liked our service and the sign was
14 too small. Just making it larger just
15 accommodated the demand that was there
16 already. So, that's why now we're looking at
17 numerous sites all over the state where we
18 know that -- most of the land that I sign a
19 contract on in the last 20 years, they're
20 almost all half-acre. Once in awhile I get
21 lucky and get a one-acre site. Now, we're
22 looking at 1.5 acre sites. So, the philosophy
23 of a new store is changing everywhere, where
24 it makes sense. In the small market, it
25 doesn't. There is an answer as to what we did

1 what we did.

2 CHAIRMAN STUTO: Thank you.

3 Any other comments from the public?

4 MR. FANNIFF: Bob Faniniff of 3 Blackburn
5 Way.

6 I've lived in the neighborhood now for 20
7 years and I've watched the traffic volumes of
8 their growth. When they did the construction
9 of the Health Park, we saw a lot more traffic
10 up in that area. I don't have any statistics
11 or traffic studies or anything else, but it
12 seems pretty common sense to me if you put a
13 retail facility on that piece of property,
14 you're going to increase the volume of traffic
15 there. That traffic backs up now. During the
16 lunch hour, you can see that traffic backed up
17 in front of the Health Park. People are trying
18 to come in and people trying to get out.
19 They're waiting because of lines of traffic
20 that are on the existing Wade Road Extension.
21 It backs up Forts Ferry Road. I can't see how
22 it cannot possibly create more of a traffic
23 hazard. There is going to be more volume. I
24 have no idea how many accidents occur in that
25 area now. I assume that a few happen. I

1 think that when you combine traffic of retail
2 facilities such as this, you're going to
3 introduce a greater possibility for more
4 traffic accidents in the area.

5 The other thing that concerns me about
6 Stewart's in that location is more of a
7 quality of the neighborhood or quality of life
8 issue. We have not within a mile of that
9 location at the end of corner of Sparrowbush
10 Road and 9 a gas station and retail stores. Up
11 the road on 7 you have a gas station and a
12 retail convenient store. You've got that on 7
13 near the Northway - a gas station and
14 convenient store. How many gas station and
15 convenient stores do we need in our lives? It
16 just seems like it's overkill.

17 CHAIRMAN STUTO: Yes, sir?

18 MR. JOHNSON: Tom Johnson, Cimarron Way.

19 I have a couple of questions. Mr.
20 LaCivita knows for 21 years I've wanted a
21 Stewart's in the neighborhood. Thank you, very
22 much.

23 I'm surprised with the access on Wade
24 Road. I understand that it's limited access.
25 However, much of the traffic in the morning

1 going to 711 comes up Forts Ferry Road and
2 takes a left and then takes a quick right into
3 that Health Park. Will there be a mechanism in
4 place for the Town to periodically look at the
5 history of rear-end accidents with that
6 right-in and right-out and the driveway to
7 711? That way, if an accident problem develops
8 something can be done to eliminate rear ends.
9 You've got two quick right turn lanes - one
10 into Stewart's and one into 711 and you're
11 also in the area - the same reason that you
12 need the access from Forts Ferry Road down to
13 get out of the right turn taper. There are two
14 lanes tapering closer to Stewart's in that
15 area. I'm just asking if there could be a
16 mechanism to look to the future where accident
17 problems do occur.

18 I thought that I heard earlier requesting
19 that the sidewalk go into the site. They said
20 that it was going to be from the corner,
21 possibly? Can we get that somewhere else so
22 that we don't have to walk through the gas
23 pumps to get into the site? Could it be up the
24 side or down the side instead of right through
25 the gas pumps?

1 CHAIRMAN STUTO: We'll take all the
2 questions and then we'll address them.

3 Anybody else from the public?

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

5 CHAIRMAN STUTO: Joe, do you want to
6 field those?

7 MR. GRASSO: Regarding the last comment
8 of the additional traffic. Yes, this project
9 is going to generate additional traffic. Not
10 only it will be a traffic generator by drawing
11 people there, but there will be additional
12 traffic movements created even capturing what
13 we call the pass by trips. But the things that
14 we look at are two primary things. We look at
15 the significance of the impacts and whether or
16 not we're creating any undue safety hazards
17 for the public. We don't think that this is
18 going to create a significant impact on the
19 traffic operation. Even though it will
20 generate additional traffic, we feel that this
21 is a safe access arrangement and we're not
22 creating any health hazards by what is
23 proposed.

24 In terms of looking at the rear ends -- I
25 think that's a great comment. I think that

1 we'll take that up with either the Highway
2 Safety Committee or the Department of Public
3 Works and talk to them about it. I don't know
4 if it's something that needs to be written
5 into a site plan review process, or tied as a
6 condition, but I think that the Town does
7 routinely go through accident analyses and
8 obviously this is a significant corridor of
9 the Town's highways. I think that it's
10 important for them to look at that. If there
11 are situations that are created that we didn't
12 anticipate and create a health hazard, then
13 they'll work with the applicant or the
14 adjacent property owners to address that.

15 In terms of the sidewalk, I don't know
16 exactly where the Planning Department had
17 recommended those connections. We initially
18 thought from the corner, but I think that it's
19 something that we can take another look at and
20 see exactly where the best location is. I
21 think that there is something in there where
22 we have to include Stewart's in the dialogue.
23 I think that they know their patrons the best.
24 I don't see it as an impediment bringing
25 somebody through in the general location of

1 the fuel canopy because I think that people
2 are going to go -- generally they want to walk
3 towards the front of the store. I don't know
4 if it's beneficial - maybe we could bring them
5 down to one or both curb cuts and then into
6 the site. That's something that we can take
7 another look at.

8 CHAIRMAN STUTO: Then, let's take a look
9 at that.

10 Do you have anything to add to that?

11 MR. LEWIS: We'll certainly work with the
12 Board.

13 CHAIRMAN STUTO: We'll take comments from
14 the Board.

15 MR. AUSTIN: First, I want to thank the
16 audience members for a lot of great input
17 because these are questions that we did not
18 obviously think of and we appreciate that very
19 much.

20 To echo Mr. Johnson's comment about
21 having Stewart's in the neighborhood - I'm a
22 resident of that neighborhood over there a
23 little farther down and I think that it's a
24 great project, too. When I first heard about
25 it, I was quite excited to stop and get my

1 coffee and gas and ice cream cone, too. So, I
2 would say that it's a great location, but with
3 all those other concerns in place - Mr.
4 Fahey's concerns, primarily - there are a lot
5 of great concerns there. That traffic light is
6 a nightmare, but that's not Stewart's
7 responsibly. That would have to be something
8 that's done with DOT and that needs to be
9 looked at. Even now it's not fun to sit there.
10 Let's put it that way. It's very distracting
11 and it's very difficult to get to that
12 intersection.

13 As far as a hotel going in down
14 there, I would assume that they would do some
15 sort of a sidewalk. That house is for sale in
16 front of the hotel. As a Board, we would look
17 into having some sort of sidewalk on that side
18 of the street with some sort of crosswalk and
19 signals put in. It would be great for the
20 hotel guests to go down there and visit
21 Stewart's as well. That's a different project
22 that is in the works and we can look at that
23 when we look at that project too.

24 MR. FAHEY: Correction, that project is
25 approved and is under construction.

1 MR. AUSTIN: It's under destruction right
2 now.

3 MR. FAHEY: It got final.

4 MR. AUSTIN: Did we final that?

5 CHAIRMAN STUTO: I believe so.

6 MR. LACIVITA: We do have sidewalk
7 components there.

8 MR. AUSTIN: Mr. LaCivita said that we
9 have sidewalk components for that project.

10 MS. LEBATT: I'm Carol LeBatt. I have one
11 question. I live at 26 Fenway Drive.

12 I'm a school teacher. How far are you
13 away from Forts Ferry School?

14 MR. LEWIS: About a quarter of a mile.

15 MS. LEBATT: I'm just thinking about
16 schools. That's where I'm coming from -- with
17 little kids.

18 MR. AUSTIN: I think that a lot of these
19 questions can be addressed. We're at a certain
20 stage where we can look at these questions.

21 I like to pump up the tires in my car. Is
22 there a free air thing there?

23 MR. LEWIS: Always. I don't understand
24 why there are other people that are in this
25 business charge 50 cents for air.

1 MR. AUSTIN: Thank you for that. I don't
2 have any other questions or concerns. I'm sure
3 that they'll be addressed as we move ahead.

4 CHAIRMAN STUTO: Tim?

5 MR. LANE: No questions.

6 CHAIRMAN STUTO: Mike?

7 MR. SULLIVAN: Mine were addressed.

8 CHAIRMAN STUTO: Karen?

9 MS. GOMEZ: None, thank you.

10 CHAIRMAN STUTO: I think that the
11 comments were very good as well. I don't have
12 any further questions or comments.

13 Joe, can you also look into that traffic
14 light and the comments that Mr. Fahey made and
15 if there are some things that can be done?
16 Other wise, we have an application for concept
17 acceptance. This is a Type II SEQRA action so
18 no further SEQRA action is required. We have
19 several waivers that are being requested,
20 although we're not voting on them finally
21 tonight.

22 I hope that our applicant heard our
23 comments from our Town Designate Engineer on
24 the fencing and frontage issue and you'll
25 communicate with him, I'm sure, on that. The

1 masonry versus not a masonry -- I'm personally
2 going to take a look at those sites that were
3 suggested. We'll make a final decision on
4 them, but not tonight - the next meeting, I
5 suppose.

6 Do we have a motion for concept
7 acceptance, subject to all the conditions set
8 forth in the Town Designated Engineer letter?

9 MR. AUSTIN: I'll make that motion?

10 MR. LANE: Second.

11 CHAIRMAN STUTO: Elena, are you up to
12 talking about the legal consequence of concept
13 acceptance are?

14 MS. VAIDA: Yes, but I think that
15 Stewart's has been here enough so that they
16 know.

17 CHAIRMAN STUTO: If you could just do a
18 sentence? It's a non binding acceptance by the
19 Board.

20 MS. VAIDA: It doesn't entitle the
21 applicant to final approval. It's not an
22 approval of the project.

23 CHAIRMAN STUTO: We just want to make
24 sure that we have it on the record.

25 Okay, the motion being before us, are

1 there any other comments or questions?

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

3 CHAIRMAN STUTO: Okay, we'll take a vote
4 on that motion.

5 All those in favor?

6 ***(Ayes were recited.)***

7 CHAIRMAN STUTO: All those opposed?

8 ***(None were opposed.)***

9 CHAIRMAN STUTO: The ayes have it.

10 MR. LEWIS: Thank you, very much.

11 CHAIRMAN STUTO: Thank you.

12

13

14 ***(Whereas the above entitled proceeding***
15 ***was concluded at 8:05 p.m.)***

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CERTIFICATION

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4 *I, NANCY STRANG-VANDEBOGART, Short hand*
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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12
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14 _____
 NANCY STRANG-VANDEBOGART

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17 *Dated July 16, 2012*

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