

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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4 *****
5 ALBERT MIXED-USE DEVELOPMENT
6 840 - 844 TROY-SCHENECTADY 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 August 7, 2012 at 7:48 p.m. at the Public
13 Operations Center 347 Old Niskayuna Road,
14 Latham, New York 12110

15 BOARD MEMBERS:

- 16 PETER STUTO, CHAIRMAN
- 17 MICHAEL SULLIVAN
- 18 BRIAN AUSTIN
- 19 KATHY DALTON
- 20 LOU MION
- 21 KAREN GOMEZ
- 22 ELENA VAIDA, Esq., Attorney for the Planning Board

23 Also present:

- 24 Joe LaCivita, Director, Planning and Economic
25 Development
- 26 Joe Grasso, PE, Clough Harbour and Associates
- 27 Dave Ingalls, Ingalls and Associates
- 28 Jesse Holland, Sunrise Realty
- 29 Anna Albert
- 30 Fred Pettingill
- 31 Gary Bogossian
- 32 Phil Podhoretz

1 (cont.)

2 Keith Gager

3 Bob Conant

4 Joy Tallmadge

5 Lorraine Reith

6 Matthew Rys

7 William Duax

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1 CHAIRMAN STUTO: Next is the Albert
2 Mixed-Use Development, 840 - 844
3 Troy-Schenectady Road. This is an application
4 for concept acceptance. This is a 10,488
5 square feet retail office and 11 residential
6 apartment units.

7 I think that we have some neighbors
8 signed up to speak on this.

9 MR. LACIVITA: Before we go any further,
10 I don't know if the engineer or the applicant
11 is in the building.

12 Just to give a historical perspective on
13 the project, we were here with the project at
14 a DCC meeting on August 12, 2009. This Board
15 saw the perspective land on October 11, 2011
16 and concept was first heard by this Board on
17 February 28, 2012. After lengthy discussions
18 that evening, the project was tabled so that
19 the applicant could go back and address some
20 of the comments and concerns of the Board.
21 We're here tonight to revisit the concept
22 acceptance application. That would be the
23 action tonight, if accepted.

24 CHAIRMAN STUTO: The applicant?

25 MR. INGALLS: Good evening. I'm Dave

1 Ingalls of Ingalls and Associates representing
2 the applicant. The applicant is here, as well.
3 Jessie Holland from Sunrise Management is here
4 also.

5 The last time that we were here was back
6 in February. We got the minutes from that
7 February meeting. John Endres from our group
8 was here and we studied those hard and we
9 tried to make some plan modifications. We also
10 submitted back to PEDD as well as the Town
11 Designated Engineer, Clough Harbour. We did
12 have a round of comments that we did address
13 in a letter dated June 5th. Hopefully, we made
14 some progress on the plans and we'll take you
15 through that.

16 CHAIRMAN STUTO: I just want to make one
17 comment. I had a couple of conversations today
18 and a comment was made that it hadn't changed
19 much since you were last here. We're going to
20 give you the opportunity to show where it has
21 and where you've taken our comments under
22 consideration.

23 MR. INGALLS: I think that one of the
24 biggest items that we worked hard on was the
25 architectural - the building façade. Not only

1 the building façade facing Route 7 - we do
2 have some updated elevations.

3 One of the discussion items was the front
4 façade - namely the front entryway. We have
5 made an entrance to the front of the
6 buildings. This is Route 7 here and this being
7 the curb line (Indicating). We have an
8 entrance and we have a pedestrian connection
9 with the sidewalk. Likewise, the building has
10 been not only dressed up with a front façade
11 entry canopy, but the entire building is now
12 shown as a stucco, or EIFS type finish with a
13 cultured stone. Again, that's the elevation
14 facing Route 7.

15 Likewise, we have the elevation - this
16 would be coming in the entrance drive looking
17 to the east. This is a continuation of the
18 same theme of decorative cultured stone and
19 the EIFS finish.

20 This is another perspective view of the
21 east elevation as you're starting to approach
22 the rear of the building.

23 CHAIRMAN STUTO: Those are the same as
24 the elevation in our package; correct?

25 MR. INGALLS: Yes.

1 I think that there is quite a bit of
2 discussion about the rear elevation. This
3 would be facing the proposed apartments and
4 this would be directly opposed (Indicating).
5 This is the curved island which would separate
6 the building business from the tile business
7 from the apartments, which are approximately
8 100 feet to the rear. So, again, we think that
9 there was some discussion while looking at it.
10 It wasn't so aesthetically pleasing for a
11 building. We think that this is going to be a
12 very mainstream lined façade with the EIFS
13 finish and the cultured stone landscaping and
14 also we're looking at - one of the comments I
15 think from the TDE was to fortify the
16 landscaping between the tile store and the
17 apartment.

18 We didn't prepare new elevations for the
19 apartments. Again, this is the 11 unit
20 apartment building. What we're thinking of
21 doing here is it will carry the same cultured
22 stone through the apartment building - at
23 least a portion of the towers, and put a nice
24 clapboard siding on the apartment building.

25 So, again, we spent quite a bit of time

1 with the architect trying to fortify and make
2 the building elevations much more
3 aesthetically pleasing as well as flow with
4 the residential portion.

5 There was quite a bit of discussion about
6 the parking. By Code, the parking requirement
7 is 61. We are proposing 37 parking spaces to
8 be shared, which I think was reasonably
9 supported by the TDE, as well as the Board. We
10 were looking at possibly looking at
11 constructing these 11 here (Indicating) and
12 that would be the primary additional banked
13 parking that would be constructed first, if
14 necessary. Then, we also had some banked
15 parking for another 13 spaces to the rear.
16 Again, we have pedestrian connectivity,
17 existing sidewalk in the front, connecting to
18 the front entrance way, and sidewalks
19 throughout. It's over a crosswalk over to the
20 apartment building in the rear.

21 In terms of landscaping, this area here
22 would be reasonably or heavily landscaped in
23 terms of screening.

24 Also something that we really didn't talk
25 about is that there is a fair amount of

1 preserved area or green buffer to the rear of
2 the apartments which will be readily visible
3 or have view sheds out the back to the
4 existing forested area to be maintained. We
5 have a 100-foot buffer that we are respecting
6 for the DEC wetlands. We're not proposing to
7 disturb anything within that buffer.

8 CHAIRMAN STUTO: What is going to screen
9 that portion from the neighborhood?

10 MR. INGALLS: From the closest point of
11 construction of the building, it's 600 feet to
12 the closest house, which would be on Laura
13 Lane. I have an overview map with me
14 tonight - the aerial. It's a very similar
15 distance to what they would have to the
16 existing dome over at the golf club.

17 We also are showing some screening in the
18 lawn area that we can fortify. But 600 feet is
19 very, very substantial in terms of making some
20 natural screening.

21 CHAIRMAN STUTO: So, you're not proposing
22 anything additional?

23 MR. INGALLS: We would show some
24 evergreen plantings behind the bridling. Yes,
25 we are showing some plantings on our site,

1 which would supplement the existing present
2 buffer. Some of the stormwater practices that
3 we'll be looking at would be conservation or
4 preservation of existing green areas and
5 rooftop disconnects. Also we're looking at
6 possibly some infiltration, bioretention and
7 some underground storage to attenuate any peak
8 discharge rates.

9 I don't know if it was discussed last
10 time - the water sewer facilities are easy
11 connections at Route 7.

12 The apartment building will be on a
13 grinder pump. We can't get gravity. The
14 proposed commercial building will be gravity
15 to the existing sewer out front.

16 This gives us a little bit of an
17 overview. I don't know if the Board can see
18 from that perspective. This is the entire
19 parcel - 2.5 acres (Indicating). This is Route
20 7. This is approximately 600 feet from the
21 proposed apartment building to the closest
22 residence on Laura Lane.

23 We're at approximately 270 - elevation
24 275. It drops down into a natural ravine and
25 back up to a similar elevation over on Laura

1 Drive.

2 We're not proposing any unshielded
3 lights. These are just going to have some
4 pedestrian level 12 foot box lamps shielded.
5 So, we don't envision any off sight glare,
6 which would also protect the view shed for the
7 existing residences.

8 I think that one of the cruxes of the
9 conversation was centered around the proposed
10 uses and compatibility of the uses. As we take
11 you down through the project site statistics
12 table, we are permitted by right for uses
13 within the COR district. Compatible uses in
14 terms of the tile store - showroom with a tile
15 store, some warehousing to the west side and
16 some additional office space or rental space
17 to the south.

18 In terms of traffic, we're not looking at
19 any large traffic numbers. Total a.m. peaks
20 are approximately 25 cars; 18 cars exiting.
21 There were 18 cars exiting and five cars
22 entering. So, there's not a big traffic
23 generation.

24 Again, we think that the uses are
25 compatible. We will do some screening. I was

1 hoping that the applicant would be amenable to
2 as well. Maybe there would be some type of
3 amenities such as picnic tables, gazebo - that
4 is something that we could add to the plan.

5 MR. MION: Are you putting that back
6 where you have the 13 banked spaces? Is that
7 what you're saying?

8 MR. INGALLS: We could even fit it to the
9 west of that - slightly west of that.

10 We're very high in the greenspace with
11 the banking. We're over 60 percent. We
12 definitely can find a place to put some
13 benches, picnic tables or something that the
14 apartment residents could use to sit outside.

15 Also in speaking with the applicant, she
16 has had several inquiries as to potential
17 rentals. You questioned whether or not there
18 was a demand. Obviously, there is a demand.
19 Actually, Jesse Holland from Sunrise would
20 like to just give us a quick rundown on the
21 need for the apartment scenario.

22 MR. HOLLAND: Good evening. We've done
23 some analysis on this project for the
24 applicant and we're involved with apartment
25 rentals and management across the Capital

1 Region for the last 25 years. The target
2 audience for this project will be work force
3 housing. It's not high-end luxury and not
4 affordable. It's the nurses, para
5 professionals, police officers that we want
6 living in our community. These people are
7 often challenged in buying a home. Down
8 payments are very difficult right now as well
9 as mortgage financing. So, having apartments
10 at that price point are very desirable right
11 now. We are currently marketing another
12 project in the Town of Colonie that is very
13 high-end off of Sand Creek Road - the
14 Cornerstone apartments. We do get a lot of
15 inquiries regarding that price being too high.
16 We think that that this venue is definitely
17 there as rents go up in the Capital Region and
18 the location is excellent for this type of
19 thing.

20 CHAIRMAN STUTO: What would the rental
21 fees be?

22 MR. HOLLAND: We have not set a price
23 point yet, but the high-end luxury apartments
24 right now in Colonie and the Capital Region
25 are \$1,800 to \$2,200 a month for a two bedroom

1 apartment. So, we're planning on being below
2 that level - something that's a more
3 affordable range in price, but not subsidized
4 apartments.

5 As far as the mix between the two
6 buildings, we believe that this is actually a
7 very good transitional use between a
8 commercial corridor along Route 7 and the
9 single family development behind it. The
10 single family homes aren't seeing the
11 commercial use whatsoever. You have that sort
12 of transition between. It allows the owner to
13 spread their costs if they were just to build
14 a commercial building on this base. My
15 understanding is that they could build a
16 building somewhere in the neighborhood of
17 90,000 square feet, which would obviously have
18 a tremendous impact on sight views and
19 traffic, etcetera. By building smaller
20 buildings with the different uses, that keeps
21 a traditional nature of this neighborhood. It
22 also spreads the cost factor out to the owner
23 and has a much lower impact on traffic and
24 other services in the Town.

25 CHAIRMAN STUTO: Thank you.

1 Any questions for that gentleman?

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

3 CHAIRMAN STUTO: Please continue.

4 MR. INGALLS: We did prepare a response
5 letter to the TDE letter. Their letter was
6 dated June 5th and ours is June 7th. I think
7 that I touched upon most of those points, but
8 if there is anything specific -- I'll just go
9 through this quick.

10 One thing that we did evaluate was
11 possibly bringing this in curve and linear,
12 but the problem with that is that we were
13 concerned that we would lose the potential for
14 the future banking, if they were needed. If
15 they were needed, that would be the most
16 logical place; versus putting them into the
17 rear. We do feel comfortable with the straight
18 on tangent drive access. We did look at that.

19 The other item with that is that we do
20 have an entrance here to the east which would
21 be - if we added a bunch of landscaping there
22 (Indicating), we would lose the identity of
23 the commercial building. So, we would go
24 heavier and denser with the landscaping on the
25 island between the two buildings.

1 We did look at the building setbacks.
2 There was a table submitted and we are
3 proposing roughly 38 to 50 feet from the curb
4 line, which is very similar to some of the
5 adjacent buildings. When we do go to final
6 design, if we can push it back five feet,
7 we'll give it a shot. We're not going to be
8 able to gain a lot of footage.

9 We spoke of possible outdoor gathering
10 space, which we can put into the green area to
11 the rear of the apartment building. We did go
12 over the architecture. The architecture has
13 been spruced up with the EIFS in the front
14 entrance.

15 Something else that I'm not sure that we
16 had on the plan before -- there was some
17 discussion of creating the streetscape of 80
18 percent being building and other fence
19 treatments. We do meet that. The total
20 frontage is 200 feet. The building is
21 approximately 75 or 80, and then we have
22 another 80 feet of fence - basically
23 flattening the building to the west and to the
24 east - which would be an ornamental fence with
25 pillars. I think that addresses the TDE

1 letter. If there is anything specific in the
2 letter, or other questions?

3 CHAIRMAN STUTO: Okay, we'll let our Town
4 Designated Engineer comment.

5 MR. GRASSO: In the Planning Board's
6 packet, we do have a comment letter, as Dave
7 mentioned, dated June 5th and then right after
8 that in the packet is, as Dave mentioned, a
9 response letter of June 7th. I'm just going to
10 go through some of the items in our June 5th
11 letter again and elaborate in a couple of
12 areas.

13 "The Planning Board expressed concern
14 over the visibility of the loading deck at the
15 rear of the commercial building from the
16 apartment building. It appears the loading
17 dock could be easily screened from view by
18 installing dense planting of evergreen trees
19 and shrubs in the north western portion of the
20 proposed parking island."

21 That's where Dave is currently - even
22 that whole island could provide a greater
23 visual separation. They do propose some
24 landscaping there. But if the Board felt that
25 it would provide a better visual separation

1 between the two uses, obviously, additional
2 landscaping could be added there. Dave had
3 indicated in his June 7th response letter that
4 they would consider that as they advance the
5 plan to final design.

6 I'm going to skip comment two because
7 it's really a technical item related to
8 stormwater management and I'll go in and read
9 our third comment.

10 "The Planning Board commented over the
11 apparent lack of compatibility of the land use
12 between the proposed commercial building and
13 apartments. No change in the proposed uses has
14 been made in response to the comment. The
15 applicant's consultant has indicated that a
16 convenient store is not desirable due to
17 traffic and safety concerns, and we agree that
18 this site may not be desirable due to
19 potential traffic concerns associated with
20 more intensive land uses."

21 Our comment there is really
22 related - like that one consideration given to
23 possible convenience type store uses on the
24 site.

25 "Other than that, no other information or

1 justification is provided demonstrating that
2 there is a market demand for the proposed
3 apartment or the two uses are compatible or
4 complementary.”

5 Obviously, during the presentation we’ve
6 heard additional information in support of the
7 market plan.

8 “Nonetheless, it appears that the two
9 proposed uses are permitted uses by zoning.
10 The Planning Board should evaluate, if the two
11 uses represent a reasonable use of the
12 property and if their location and design may
13 result in a long term negative impact on the
14 community.”

15 Again, just because the two uses are
16 permitted as a right, doesn’t mean that this
17 is the right site for them, or that this site
18 plan represents an appropriate use of the
19 site. So, that’s where the Planning Board
20 really needs to apply discretion regarding the
21 compatibility of the two uses and then look at
22 the site plan. Is the site large enough to
23 accommodate both uses? Is there appropriate
24 separation so that the uses can coexist
25 together without causing impacts on the

1 residents, or a negative impact on the
2 property value of the property itself, as well
3 as adjacent properties?

4 "In order to provide more appropriate
5 separation between the residents and the
6 commercial building and to enhance the
7 identity of the apartments, consideration
8 should be given to curbing the access drive
9 away from the commercial building and adding
10 dense plantings between the access drive and
11 the building as shown on the attached sketch.
12 It should be noted that this will impact the
13 viability of the 11 land-banked parking spaces
14 in this area, but may result in a more viable
15 plan."

16 So, the next page in your packet is a
17 sketch that actually we marked up on top of
18 the concept plan that showed a possible
19 alternative entry alignment and some
20 additional landscaping and this is something
21 that is supported in the Town Code. It says:

22 "Entry drives to multifamily housing
23 should be designed to create a positive entry
24 for the project. The landscaping should frame
25 and distinguish entry drives."

1 That's something that we really tried to
2 pick up in our comment and Dave has described
3 how if we take the entry drive and try to make
4 it more appealing for the residential
5 component, obviously it could negatively
6 affect that drive serving as an entry for the
7 commercial building. That's where we get into
8 the compatibility issues between the two land
9 uses that are proposed.

10 "The chart showing the setback of
11 structures on adjacent and nearby properties
12 along Route 7 indicate that the proposed
13 building setback of 38 feet is slightly less,
14 but generally consistent with other building
15 setbacks along the corridor."

16 If you look at the setback of the
17 adjacent retail plaza to the east, that
18 building is setback 89 feet from the curb
19 line. This building, at the closest point is
20 38 feet. So, it is closer, but if you're out
21 there at the site and you look at how close
22 the residences are now as well as the towering
23 row of spruce trees, there is already a very
24 constricted sight line as you drive down Route
25 7 toward the adjacent property to the east. We

1 don't think that the building location is
2 incompatible from a setback standpoint.

3 "The Planning Board had noted that there
4 are no amenities proposed to support the
5 residents of the apartments. The applicant has
6 indicated that the apartment units will be
7 marketed to retirees and young professionals.
8 However, there appears to be no restriction on
9 tenants, regardless of the apartment tenants.
10 At a minimum, we would recommend that some
11 areas be reserved for common outdoor
12 recreation amenities."

13 This is where it kind of dovetails into
14 what is the intended market for the apartments
15 and what would those amenities be? Is a
16 playground appropriate? Are other types of
17 more passive types of recreation areas more
18 appropriate given the intended mix of tenants
19 on the site?

20 The next was regarding the architectural
21 renderings. I think that the applicant has
22 done a commendable job addressing the comments
23 regarding the architecture of both the
24 commercial building as well as the proposed
25 apartments. So, I think that comment has been

1 adequately responded to.

2 "The site plan depicts the locations of a
3 fence from the northwestern corner of the
4 proposed commercial building extended westerly
5 toward the property line. On the east side of
6 the access drive - we recommend the use of
7 stone columns consistent with that used on the
8 commercial building."

9 The applicant has indicated that they
10 would be willing to consider that as they get
11 into more advanced design stage.

12 The next comment is regarding parking.

13 "The applicant proposed a shared parking
14 arrangement for the proposed 11 unit apartment
15 building and 10,488 square foot office retail
16 warehouse. According to the parking
17 calculations, a total of 60 parking spaces are
18 required. The plan currently depicts a
19 construction of 37 parking spaces initially
20 and land banking 24 additional spaces which
21 could be constructed in the future. The
22 applicant should address a potential for a
23 shortage of parking on the weekends when the
24 commercial building is open and the apartment
25 residents are generally home."

1 In their response, they indicated that
2 they would be willing to take some of those
3 land banked parking spaces and construct them
4 initially, which I think is justified. By the
5 same token, we have concern regarding the loss
6 of those 11 parking spaces -- if they were
7 able to accommodate our other recommendation
8 regarding changing the orientation of the
9 access drive. So, we have two conflicting
10 comments there and it doesn't seem to be a
11 mutually acceptable arrangement on the table
12 as of right now, regarding the number of
13 parking spaces and the design of the layout of
14 the site.

15 CHAIRMAN STUTO: Can I ask the applicant
16 to point to which reserved parking spaces we
17 would be referring to?

18 MR. INGALLS: As we come in the driveway
19 to the left hand side, there are 11 spaces
20 that are planned here.

21 CHAIRMAN STUTO: Those are the first ones
22 that you would do?

23 MR. INGALLS: Yes, I think that they
24 would be the most suitable because they are
25 the closest to the commercial building -- if

1 we're talking about overflow on weekends where
2 these would be taken up by the apartment
3 dwellers.

4 CHAIRMAN STUTO: I'm going to ask if I
5 can see that sketch because I can't find mine.

6 MR. GRASSO: It's on the back.

7 CHAIRMAN STUTO: Oh, it's on the back of
8 your letter.

9 MR. GRASSO: I'm going to refer to this
10 sketch.

11 Really if we're trying to accentuate the
12 identity of the residential component, we
13 don't think that it would be appropriate to
14 have cars parked along both sides of the
15 drive. We really think that there is credence
16 to taking the entry drive away from the
17 commercial building as it's in more alignment
18 back to the residents, as opposed to coming
19 back right along side of the commercial
20 building and then hooked around the parking
21 lot. But you can see the impact that it would
22 have on those 11 parking spaces there.

23 CHAIRMAN STUTO: But you couldn't have it
24 both ways.

25 MR. GRASSO: Yes, and that's the issue at

1 hand that we tried to describe.

2 Basically, that sums up the major issues
3 for consideration for concept plan review by
4 the Board.

5 CHAIRMAN STUTO: Does the Board want to
6 be heard?

7 MS. DALTON: Is Eric Bogossian here or
8 representatives?

9 ***(Mr. Bogossian raised his hand.)***

10 MS. DALTON: Have you seen your next door
11 neighbor's comments?

12 MR. INGALLS: Yes, we have.

13 MS. DALTON: So, you're aware that you're
14 next door neighbor is concerned with regard to
15 the overall density - what they consider to be
16 inappropriate - excuse and the fact that they
17 weren't contacted - and some of the safety
18 concerns. So, I'm a little surprised that you
19 didn't address them, if you were aware of
20 them.

21 I want to focus on the lack of
22 compatibility of your next door neighbors and
23 that was raised repeatedly in our comments in
24 the past. The look of the building side, which
25 I think that you did a nice job with -- we

1 were very concerned that there wasn't a clear
2 vision for who was going to be renting these
3 apartments without identifying who was going
4 to in the apartments, and you failed to
5 provide proper amenities. Given that we're
6 talking about middle income apartments,
7 frequently there are children and we focused
8 on the fact that since there would be children
9 living in this building, it's not a safe
10 environment. They are walking out their front
11 door to a parking lot that's going to have
12 trucks and commercial traffic coming back and
13 forth. I think that the TDE did a nice job of
14 articulating comment three that this is a
15 concept plan approval and we were pretty
16 definitive in our last meeting that we weren't
17 supportive of the concept. Yet your response
18 was "We do not believe that modification of
19 the first concept is necessary." So, I'm going
20 to move before we hear from others that we
21 reject this concept because we were rejecting
22 it last time, and the key components that we
23 asked you to change have not been changed.

24 CHAIRMAN STUTO: Any other Board Members
25 want to be heard on that?

1 MR. MION: I am very concerned about the
2 safety. If we get children in there - and we
3 raised that at the last meeting - I don't
4 think that children are compatible in that
5 area. That's when we went from middle income
6 to it's going to be over 55. Now we're back to
7 young professionals and over 55. Well, young
8 professionals normally have kids. So, we're
9 right back to the same issue again - the
10 safety of the children. That's my biggest
11 concern.

12 MR. INGALLS: Okay, can I jump in and
13 address that?

14 MR. MION: Sure.

15 MR. INGALLS: Actually, we think that we
16 have a very good plan with the buffering such
17 that we have the building out front. Route 7
18 here - we're approximately 500 feet off the
19 road. Unlike someone that lives in one of
20 these houses where your children can come out
21 of the house and literally walk onto Route 7,
22 we have a 400 or 500 foot distance. In
23 speaking to the applicant, she's only
24 typically looking at four or five cars during
25 operation typically from 8:00 to 5:00. Again,

1 the target audience is the professionals and
2 the elderly, but we're not restricting the
3 children. So, obviously we want to make sure
4 that the children are safe. We feel that we
5 have a safe environment. They have a front
6 entry door. Similar to many other scenarios
7 where you could come out of your apartment
8 building, you could be subjected to traffic at
9 the end of the street - more so than the
10 parking lot for the apartments. We've done
11 many apartment projects where we cluster
12 buildings around a parking area.

13 MS. DALTON: With all due respect,
14 Mr. Ingalls, those locations don't have
15 tractor trailers typically pulling in and out,
16 or large commercial trucks and vehicles
17 picking up stuff from warehouses.

18 When we talk about compatibility of land
19 use and the complementing nature of it - the
20 last time that we were here five of the six
21 Board Members said that we didn't find it
22 compatible and we didn't find it safe and we
23 didn't find it complementary. You're back here
24 essentially telling us that you do so you'd
25 like us to approve the concept. Frankly, I'm

1 baffled why you would do that. We were pretty
2 clear that conceptually, we thought that the
3 uses were incompatible. They're unsafe.

4 MR. MION: What do the children do when
5 they go outside? Where do they play? What's
6 been provided for that? There really isn't a
7 whole lot of room beyond that building.

8 MR. INGALLS: That's actually about a
9 100-foot yard, so we could put something back
10 there. Again, our target renter is not the
11 people with children. We are going more for
12 the professional and the elderly. It's only 11
13 units so it's not a huge massing of units.
14 Again, we have a separation with a curved
15 island in the landscaping, so we're saying
16 that's one development parcel being buffered
17 to the commercial. Again, I think that we had
18 hoped to come back with some additional
19 information to make you feel more comfortable
20 that these were compatible uses. I don't think
21 that the site layout is going to change,
22 whether or not the uses are compatible. Again,
23 we do feel very comfortable that this is a
24 safe plan and whatever conditions or
25 assurances that we can put on it as

1 recommended, we'd be very happy to do that.

2 MR. MION: In one breath we say that we
3 expect to have five or six cars here during
4 business hours and then we have the idea that
5 we're going to have a shared parking lot. We
6 had an issue on the weekend where we're going
7 to have an overabundance of parking. The
8 residents are going to be home and you're
9 going to have an increase in business. What's
10 going to happen here?

11 MR. INGALLS: I think that we were trying
12 to get more into tune with the parking
13 requirements per Code. Anna has an existing
14 business, so she can speak in terms of
15 typically what is happening during the week
16 and what is happening on the weekends. She is
17 telling me that typically no more than four or
18 five cars at a time. So, we have 37 spaces.
19 Maybe the banking would be the appropriate
20 answer. If we have 37 and assuming that we
21 have two per unit for the apartments, that
22 would be 22. So, she would have 15 available
23 immediately at the building. There really
24 isn't going to be a lot of cross circulation
25 with the apartments in that case. The

1 deliveries are very infrequent. It's not like
2 you have five deliveries a day.

3 MS. ALBERT: There are two or three
4 deliveries a week.

5 MR. INGALLS: Obviously, there will have
6 to be somebody out there to accept those
7 deliveries and assure that they are safely
8 brought in. Again, that's not happening at the
9 entryway or the parking areas for the
10 apartments. That's separate.

11 CHAIRMAN STUTO: Anybody else from the
12 board at this point?

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

14 CHAIRMAN STUTO: Okay, we'll call up the
15 members of the public that have signed in.

16 Mr. Pettingill?

17 MR. PETTINGILL: I have a question on the
18 road access from Route 7 - what is the width?
19 I'm looking at it from a Fire Department
20 standpoint - the access road?

21 CHAIRMAN STUTO: Okay, I'll ask the
22 applicant, or the TDE to answer that.

23 MR. INGALLS: I'm sure that we're meeting
24 at least a 24 foot commercial access.

25 MR. PETTINGILL: The second part of my

1 question is: Because you're having a three
2 story residence in the rear, what is the
3 access to the rear of the apartment house for
4 a ladder truck or fire apparatus, other than
5 going over the grass?

6 MR. INGALLS: We'd be glad to work with
7 you on that. We have the parking, which could
8 be the access to the front. We have the drive
9 aisle there. If you think that we need
10 something to get around the side, we could
11 potentially put something down - a gravel area
12 of cover with just a little bit of top soil.

13 MR. PETTINGILL: I think that would be
14 appropriate with these stories. Grass is for
15 an aerial truck. Just for an engine to come
16 down with hose lines to have access.

17 MR. INGALLS: We'd be glad to work with
18 you on that.

19 CHAIRMAN STUTO: Thank you. We appreciate
20 the comment.

21 Gary Bogossian - we have your letter in
22 the file, but it's your floor if you'd like to
23 make some comments.

24 MR. BOGOSSIAN: Yes, I'd like to read
25 some things into the record.

1 CHAIRMAN STUTO: Are you the one whose
2 attorney called and asked about the procedure?

3 MR. BOGOSSIAN: Yes.

4 CHAIRMAN STUTO: Just so I can be clear
5 on this, somebody left me a message. I can't
6 remember if he said 20 or 25 minutes or
7 something like that.

8 MR. BOGOSSIAN: It won't be that long.

9 CHAIRMAN STUTO: Okay, because we have to
10 give everyone an opportunity.

11 MR. BOGOSSIAN: Absolutely, but I would
12 like more than three minutes, if possible.

13 CHAIRMAN STUTO: Okay, but if it goes too
14 long, we'll ask you to sit down and then we'll
15 bring you back up.

16 MR. BOGOSSIAN: That's fine.

17 Good evening. My name is Gary Bogossian.
18 I'm the president of Graven LLC which is our
19 family business that owns and actively manages
20 the three tenant commercial building at 836
21 Troy-Schenectady Road. That's adjacent to the
22 east of the Albert Property. We've owned this
23 building for 25 years and have formally
24 maintained our family business there, Castle
25 Computers, until about five years ago. I'm a

1 practicing architect with over 35 years
2 extensive experience in commercial design and
3 planning and am registered in the states of
4 Pennsylvania, New Jersey and Delaware.

5 As bordering on one side over 500 common
6 linear feet, we are the neighbor most affected
7 by any development at this subject property. I
8 would like to address the Board in two aspects
9 of the application. First, procedural and
10 policy and secondly, the technical design. For
11 the record, this is the first and only Board
12 meeting that we have received notification of.
13 That is in spite of being the largest closest
14 and most effected neighbor. Our current
15 address has been in effect for over three
16 years, is available from Town tax and Town
17 Water Department records, as well as the New
18 York State Department of State online. Our
19 phone number is even on the pylon sign.

20 CHAIRMAN STUTO: Can I ask how you
21 received notice? Did you get a mailing?

22 MR. BOGOSSIAN: For this meeting?

23 CHAIRMAN STUTO: Yes.

24 MR. BOGOSSIAN: I was going to go a
25 little bit further into it. Once we found

1 out in May that there was some activity from
2 hearsay, we immediately went over to the
3 Planning Department upstairs and informed them
4 that we are the neighboring property and what
5 the address was.

6 CHAIRMAN STUTO: Thank you. I believe
7 that there is a requirement that they are
8 supposed to notify people within 200 feet.

9 MR. BOGOSSIAN: This is something that I
10 think that the Board and the Town should
11 address. Even though you have a requirement,
12 there is no consequence for not notifying
13 parties. So, it meets the requirement - a moot
14 point. It's completely worthless. So, there is
15 no negative effect on any party for any
16 notification - and you rely on the applicant
17 to do it, there is not consequence for them to
18 not do it.

19 CHAIRMAN STUTO: Well, there could e a
20 consequence.

21 MR. BOGOSSIAN: But there isn't.

22 CHAIRMAN STUTO: If we believed that
23 would be so, I would make a motion to adjourn
24 until the property notification is done.

25 MR. BOGOSSIAN: I would like to go over

1 this, but I think that the Town should look at
2 it. I've asked the Planning Director what
3 happens when people like us do not get
4 notified and there was no answer because there
5 is no consequence to it, as far as I know. If
6 it's different I'd love to know because we
7 were not notified.

8 MR. AUSTIN: Just to be clear, you're
9 from Pennsylvania; is that correct?

10 MR. BOGOSSIAN: I reside in Pennsylvania;
11 yes.

12 MR. AUSTIN: So, that's the reason that
13 you weren't notified.

14 MR. BOGOSSIAN: Not really, because the
15 notification - any applicant should go to the
16 Department of State and all the current
17 addresses are known by the Department of
18 State. In fact, you could do it online. In
19 addition, they can actually go to the township
20 Tax Department or the Water Department and
21 also find a current address. While there are a
22 lot of people within 200 feet of the property,
23 we are adjoining the property. We share over
24 500 feet of the property.

25 CHAIRMAN STUTO: There is no dispute

1 about that.

2 MR. BOGOSSIAN: Just so that this is in
3 the record, we do not feel that this was
4 proper and we object to the exclusion.

5 For the record, we are the owners that
6 five years ago with unanimous consent of all
7 the other eight neighbors, spearheaded the
8 needed zoning reversal from what we had
9 considered to be the wrong residential zoning
10 change as part of the master plan, back to the
11 original commercial designation at our
12 expense. I want to be very clear that we are
13 much in favor of commercial development along
14 this and other sections of Route 7. We are
15 also firm believers in responsible commercial
16 development, appropriate for each piece of
17 land and location and not just filling out the
18 new zoning restrictions to the maximum
19 capacity.

20 As a final procedural item, we did
21 receive notice for this meeting which was
22 about six to seven days. I'd like to request
23 that the Town look into something to make that
24 longer because an applicant has months or
25 years to prepare materials and exhibits and as

1 a neighbor, we only have a few days really to
2 do even respond to a proposal.

3 Next I'd just like to talk quickly about
4 the technical revisions because we feel that
5 there are areas that should require some
6 refinement and/or revisions. Again, this plan
7 is different than that one that we received
8 with the FOIL request just a few months ago.
9 So, some of these comments are a little bit
10 different for this plan, but in the same basic
11 spirit.

12 The first is the entrance driveway. It's
13 been represented that the drive has already
14 existed there, but there is a small little
15 eight-foot residential driveway and not the
16 larger commercial paved 24 foot drive. As far
17 as I know, it does not include two exiting
18 lanes - a left and right turn lane, which is
19 really important on Route 7. It's also a
20 modern design practice.

21 In addition, the position of the new
22 drive is within 100 feet of our current drive.
23 This particular one is a few feet further
24 because it's been pushed back to the west;
25 slightly, but not much. We feel that it's

1 extremely dangerous. The sight lines in and
2 out from both of our properties are
3 compromised. It blocks views to the west of
4 oncoming traffic. If you go out there and just
5 drive to our property and sit on the apron and
6 get ready to leave, you'll see that Route 7
7 goes down the hill and it curves to the left.
8 Because of that, any cars coming up - and you
9 know that they go 45 to 55 miles an
10 hour - anybody coming up is very difficult to
11 see. So, any car, truck - any vehicle that's
12 sitting in this driveway waiting is going to
13 block views and is going to create a dangerous
14 situation. So, our suggestion is that you
15 would ask them to flip the driveway at least
16 to the other side because that will put it
17 further away and it's down the hill and it
18 would make it much safer.

19 In addition to any pylon sign, if it's
20 incorporated anywhere near the entrance, it's
21 going to also obstruct views; especially if
22 it's of a lower nature. We feel that is going
23 to be a difficult unsafe situation. We also
24 feel that the proposal, while we support
25 commercial development, puts an inordinate

1 amount of program area into two small of an
2 area. Also, it creates difficulty as you have
3 sort of touched on in terms of driveways,
4 turning radius and emergency vehicle access.

5 I know from experience of running our
6 property for five years and plus owning it
7 earlier before that, we have difficultly with
8 trucks coming in and out of our property and
9 that's not because we're not trying and we're
10 just dealt the cards that we're dealt with,
11 but this is going to exacerbate their own
12 situation.

13 Also we'd like to see what you would
14 consider if at some point they sell the
15 building and a different use is put into
16 place. Some of the responses have been
17 relating to the title business itself, which
18 is not a labor intensive use. We also feel
19 that while the overlapping parking usage is
20 accepted principal, in some cases, in this
21 type of mixed-use, it's not really as
22 applicable. They're going to be many periods
23 of residents and commercial office uses at the
24 same time such as the weekends and weekday
25 mornings which our engineer has sort of

1 alluded to. We feel that whatever you put in
2 there, the full amount of space should be
3 planned for.

4 I know that it's an engineering exercise,
5 but as an architect and planner, the
6 stormwater management facility seems
7 inadequate; even by New York State standards.
8 It's probably not as stringent as what I'm
9 used to working with in Pennsylvania, but they
10 still seemed like they were very small. Over
11 half the site is paved for impervious area.
12 Then, once you deduct the area that you can't
13 touch for the 100-foot buffer zone, then it's
14 even more.

15 It's unclear if the properties are
16 adjoined at this point. I assume that's going
17 to be part of the planning approval. But
18 normally the development requires that the
19 properties are legally joined together. We
20 also feel that there are a few buffer areas
21 providing the planting and fences between the
22 properties. Whether it's required by Code
23 strictly or not, it's always a good practice
24 and especially on the two lateral sides -- our
25 side and the other side could be developed at

1 some point.

2 The last thing I just want to address is
3 putting the building close to the street.
4 They've actually changed it from the last
5 iterations where it was at 20 feet. I
6 understand that the Town master plan code
7 admirably tries to create streetscapes and
8 those have places in urban design. On a road
9 like Route 7, a high speed four-lane highway,
10 they become less of a factor. You'll see that
11 many properties here - it's better to keep the
12 building back and activity at the front. I
13 can't tell here, but it still says 20 feet. I
14 heard someone say that it was 38 feet. When
15 it's really up close, what it is doing is it's
16 turning its back on the street, which you want
17 it to do the opposite.

18 The second thing is that it's going to
19 create more sight line interference by pushing
20 it so close to the street. Again, looking down
21 on Route 7 is going to be very difficult.

22 In conclusion I just want to say again
23 that we oppose the development as it's
24 represented, but we do support commercial
25 development at that site with good engineering

1 practices and possibly a more thoughtful
2 design. Thank you for your time.

3 CHAIRMAN STUTO: Thank you. Those are
4 good comments.

5 MR. LACIVITA: Mr. Chairman, if I may?
6 Back in September 26, 2011 the applicant had
7 made an effort to reach Graven LLC at 30
8 Nottingham Way, Clifton Park New York.
9 Subsequently, when they came back before this
10 Board on February 16, 2012, the applicant had
11 then made an attempt to reach Graven LLC at 30
12 Nottingham Way and it wasn't until we received
13 a letter of an address change for the record
14 that they made certification that they filed
15 with Graven LLC at 2410 Linden Drive in
16 Havertown, Pennsylvania. So, there was an
17 attempt to make it to the neighboring parcels.

18 CHAIRMAN STUTO: Okay, I appreciate that.
19 Phil Podhoretz.

20 MR. PODHORETZ: We have property at 847
21 and we've haven't been notified of the
22 meetings. This is the first time that we were
23 notified of any meeting.

24 CHAIRMAN STUTO: Are you on the other
25 side of Route 7?

1 MR. PODHORETZ: No, the same side.

2 CHAIRMAN STUTO: I'm trying to figure out
3 where it is.

4 MR. PODHORETZ: Excuse me, we're 858.

5 CHAIRMAN STUTO: Okay, you may be outside
6 of the 200 foot zoning. I'm not sure. I
7 appreciate that.

8 Keith Gager.

9 MR. GAGER: I just wanted to agree with
10 what Ms. Dalton said. I thought that we were
11 going to see something a little more
12 different.

13 I have a few questions for the gentleman
14 who I thought did a very nice presentation, by
15 the way.

16 This gentleman mentioned that his
17 building is right next door. Where does that
18 building and its parking lot fit in to where
19 you're building is and you're parking?

20 CHAIRMAN STUTO: You have to address your
21 questions to us. If it's appropriate, we'll
22 get the answer for you.

23 MR. GAGER: I was wondering where the
24 parking was for this building.

25 Also, you mentioned something about

1 some fencing. I was wondering where that was
2 on the property.

3 You may have this already. Being back
4 here, I don't know.

5 CHAIRMAN STUTO: You're asking about the
6 fencing and the parking?

7 MR. GAGER: The fencing, in general, on
8 the property.

9 CHAIRMAN STUTO: What fencing is
10 proposed?

11 MR. GAGER: Yes.

12 MS. DALTON: I think that the question
13 has to do with something that I asked last
14 time. Sherry Lynn's has a big parking lot in
15 front. It goes to the ends of the property and
16 originally they kind of thought that it would
17 be appropriate to extend that parking lot.
18 Like we have in Newton Plaza, you can go from
19 parking lot to parking lot without coming back
20 and forth out to the street.

21 Is that where you were going with that?

22 MR. GAGE: Actually, you're thinking much
23 more about it than I was. They mentioned some
24 fencing and I didn't know where it was going.

25 CHAIRMAN STUTO: I don't know if there is

1 any fencing on the plan.

2 Is there Joe?

3 MR. GRASSO: Yes, they're proposing
4 fencing across the frontage from the corners
5 of the building; basically to each side.

6 CHAIRMAN STUTO: Did you understand that?
7 The only fencing is on Route 7 - that's being
8 proposed.

9 MR. INGALLS: That's correct. It's
10 basically flanking the west side and the east
11 side of the building, we're proposing a
12 decorative ornamental fence with pillars and
13 some landscaping - basically to create some
14 streetscape per the recommendation of the Town
15 Code.

16 MR. AUSTIN: Mr. Gage, what is your
17 address, for the record?

18 MR. GAGE: 18 Garling Drive.

19 CHAIRMAN STUTO: Mr. Bogossian, did you
20 have an interest in connecting the lots? I
21 thought someone had said that to me earlier. I
22 don't know if they said that at the meeting.

23 MR. BOGOSSIAN: This is the first that
24 we've heard that.

25 CHAIRMAN STUTO: Did you say that in your

1 letter?

2 MR. GRASSO: In their letter, they give
3 five specific comments. The fifth one - it
4 says, also contrary to ideas put forth, no one
5 has ever contacted us regarding the overall
6 plan or shared parking or lot access.

7 CHAIRMAN STUTO: Is that something that
8 you might be interested in?

9 MR. BOGOSSIAN: I've got to say that
10 we've been excluded from this thing for a long
11 time. While there are lots of possibilities of
12 ideas, if we were included on certain things,
13 I can't exclude anything. I do know that on
14 Saturdays we have a problem. We have one
15 tenant that is open - Sherry Lynn's - and they
16 use almost the entire lot. So, with the same
17 kind of thing on a Saturday, if they have
18 tenants in their apartments plus people at
19 their store, it would take a hit for us to
20 share parking.

21 CHAIRMAN STUTO: Okay, thank you.

22 MR. GAGER: The other question that I had
23 was about the flow of the vehicles in the back
24 lot. I wondered what kind of plan they had. Of
25 course they mentioned about the fire truck,

1 but not so much about that -- just about their
2 general commercial traffic. How would they get
3 to the loading dock?

4 MR. AUSTIN: I have a diagram that might
5 help you.

6 MR. GAGER: Do you mind if I pass this
7 around?

8 MR. AUSTIN: No, go right ahead.

9 MR. GAGER: That was it for me. Thank
10 you, very much.

11 CHAIRMAN STUTO: Bob Conant.

12 MR. CONANT: Hi, my name is Bob Conant
13 and I live at 814 Troy-Schenectady Road. I'm
14 three doors east from the proposed property.

15 After renting in my house with a friend
16 of mine for a year -- the reason that I rented
17 it was it was so convenient to everything,
18 living in Latham. Me and my friend are both
19 professionals. We are both single and have no
20 kids. People who I've had as friends who have
21 rented have been professionals and no kids and
22 it's always been convenience everywhere. It's
23 a great neighborhood to be in from that
24 standpoint. I can definitely see that the
25 apartment building would be very attractive to

1 people in my life position.

2 I Do have a niece and a nephew and when
3 they do come to visit, I don't bring them out
4 in the front yard. It's common sense. I go out
5 to my back yard, which is pretty and we enjoy
6 the wildlife that we see out there. We enjoy
7 running around in the grass. My neighbors
8 also, two doors down, rented their property to
9 a retired couple and they've set up all sorts
10 of play things for their grandkids in their
11 backyard as well. None of us use our front
12 yards primarily for recreation because it is a
13 busy area. The back yard - it's a wonderful
14 area. Especially with that wetland area back
15 there, it gets so much natural wildlife. It's
16 great to have that in a place in Latham where
17 it's so convenient to everything.

18 I know that Mr. Bogossian was talking
19 about the driveway and the possibility of
20 blocking the view of traffic that exists now
21 his property. I live just on the other side of
22 him and I understand that point. The thing
23 about living on Route 7 is that you're never
24 an aggressive driver trying to get out of the
25 driveway. If you are, you're going to be in

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1 trouble. So, you always have to practice
2 defensive driving. His customers and also even
3 my direct neighbors, if they pull up right
4 after I do or if they pull up when I do -- I
5 don't try to pull out onto Route 7. You don't
6 have a good line of sight. It gets worse in
7 the wintertime when snow gets piled up at the
8 end of the driveways and you really can't tell
9 unless there are headlights coming and it's
10 nighttime. That's one thing that I would
11 recommend, which is a place where they could
12 move the snow so that it's not actually
13 somewhere to block the sites.

14 I support this. I do see how these two
15 uses do blend in this. Those are my thoughts.

16 CHAIRMAN STUTO: Thank you.

17 Joy Tallmadge.

18 MS. TALLMADGE: Hello. I live at 59 Laura
19 Drive and basically from my house I would see
20 over the wetlands. From that proposal, I
21 wouldn't want to have my children living in
22 that apartment and have tractor trailers
23 coming in and backing up. I don't want to see
24 that and I don't want to hear it. I don't
25 think that the proposal has a good use for

1 both of them in the same location. It's
2 unsafe. Even for an adult, you can't walk out
3 there. There is nothing to do. There is not
4 enough space for all of that to be in one
5 location.

6 CHAIRMAN STUTO: Thank you.

7 Lorraine Reith.

8 MS. REITH: I live in the development
9 that looks over the wooded area that would see
10 the apartments the most. They talked about not
11 putting a light -- I assume that means like a
12 flood light type of thing at the top of the
13 building. But I do think that we would still
14 see the lights of that third floor apartment
15 building. I know that's just a preference and
16 that you can't stop things for that reason,
17 but we are definitely affected by it.

18 As far as the idea of the apartment
19 buildings - I know that they are looking for
20 single people and professionals without
21 children. Without restriction, you can't
22 guarantee that. To coin a phrase from the
23 property and casualty business, which gives
24 you homeowners, this presents an attractive
25 nuisance. Where are the kids going to go?

1 They're going to be on skateboards in those
2 nice flat parking lot spaces. They're going to
3 be playing on loading docks. I do my best to
4 keep my kids not doing what they want to do,
5 but they do it anyway. I just can't see how
6 that's a safe environment for kids at all.
7 You're going to keep them away from Route 7.

8 His point is valid that as far back from
9 Route 7, but it's definitely not away from
10 traffic including -- after looking at this
11 which is the proposed pattern for how the
12 tractor trailer would go. The tractor trailer
13 is going to loop right in front of the
14 apartment building and I just can't see that
15 it's not only unsafe for children, but also
16 for people living in the apartment building -
17 a tractor trailer driving through - even if
18 it's only four or five times a week, it's
19 probably not attractive.

20 I just have a question and I don't know
21 if it was addressed. Is this warehouse larger
22 than the current warehouse that the tile place
23 is in?

24 MR. INGALLS: No, it's the same size.

25 MS. REITH: We also talked in the first

1 meeting about what time those deliveries would
2 be made. Can the Board or the Town limit that?

3 CHAIRMAN STUTO: We can make restrictions
4 on it.

5 Joe, what's the normal time?

6 MR. LACIVITA: It's 7:00 to 7:00.

7 CHAIRMAN STUTO: And that's the Town
8 Code; right?

9 MR. LACIVITA: Right.

10 MS. REITH: I was wondering if that's
11 something that could be put in place, or if it
12 was just a promise by the developer.

13 One of the things that concerns me is
14 that while a lot of the things that have been
15 mentioned about what they would do and how
16 they would do it - again, I'm not positive of
17 what is enforceable or just some stuff that
18 they are promising to do, but promises concern
19 me a bit with this group because at the last
20 meeting we made an absolutely strong point.
21 Kathy was adamant that the development that I
22 live in would be notified. We weren't
23 notified. We made it a huge point at the last
24 meeting that we felt that we should be
25 notified because that development, at least on

1 my side, would definitely be effected and we
2 didn't get notification. So, some of these
3 promises worry me.

4 CHAIRMAN STUTO: I think that it's a fair
5 point that we talk about notification. I had a
6 long talk with Kathy, Joe LaCivita and Joe
7 Grasso about that. I'll direct it to Joe
8 LaCivita because you're the head of the
9 department.

10 If someone wants to get notified, what is
11 the proper way to make sure that they get
12 notified?

13 MR. LACIVITA: What we typically do -
14 there may be a miscommunication or
15 misunderstanding about when you sign in at a
16 typical Planning Board meeting - that doesn't
17 give a right or put you on a notification
18 list. We don't carry a list on projects. The
19 onus is on the applicant and the engineering
20 firm to actually notify. The requirement is
21 200 feet and it's a courtesy 200 feet. If
22 someone wants to specifically get
23 notification, they send us an e-mail, they
24 call us, or send us a letter to get us onto
25 the list. We did that for two other residents

1 in that neighborhood, specifically. Granted,
2 Ms. Dalton did say that it was adamant to get
3 it on, but the requirement is 200 feet by our
4 notification standard as a courtesy.

5 CHAIRMAN STUTO: But if someone e-mails
6 your department?

7 MR. LACIVITA: We can get it on there
8 directly.

9 MS. REITH: That's fine and I'm sure that
10 we would have all done that, but at that
11 meeting, Kathy had asked them to provide it
12 and offered I believe one or two ways of
13 getting it. We would have signed up or
14 notified somebody if we were told that's the
15 way to do it. At that meeting it was presented
16 that they could get it from other methods and
17 they promised to do it.

18 MR. LACIVITA: I don't remember a promise
19 made.

20 MR. INGALLS: I read the minutes. We did
21 not promise it. Actually, we coordinated with
22 the 200 foot statutory requirement plus a
23 couple of extra people. There is a signed
24 affidavit including Graven with a notice of
25 the new address. We did repeatedly try to send

1 them notices. All the affidavits are legal
2 where we signed-off on that.

3 MS. DALTON: Mr. Ingalls, was there any
4 question in your mind that I wanted to be
5 notified? I'm not talking about anybody
6 else -- that I wanted to be notified when the
7 other notices were sent? Was there any
8 question whatsoever?

9 MR. INGALLS: Was there any question that
10 you wanted to be notified?

11 MS. DALTON: Yes, sir. I'm a neighbor.

12 MR. INGALLS: I was not aware of it; no.

13 MS. DALTON: I'm on record two different
14 times saying that the neighbors want to be
15 notified and I want to be notified. Clearly
16 everyone can find me. If I was notified seven
17 days ago, I could have told my neighbor. I'm
18 not saying that's enough, but I am clearly on
19 record about asking to be notified. I find it
20 very disturbing. I can't force you to notify,
21 but I understand what Ms. Reith is saying with
22 regard to good faith efforts and there was
23 clearly not one here.

24 MR. INGALLS: Okay, well let me respond
25 to that. We didn't mean to extend a

1 discourtesy to you, Ms. Dalton. The 200 feet
2 is the statutory requirement. When you get
3 into adding additional people, but not
4 specifically on a list from PEDD, where do we
5 stop? Do we go half way down Route 7? Do we go
6 through Laura Drive? Do we add Garling? We
7 coordinated with PEDD and did the statutory
8 requirements, and I apologize if there was a
9 specific request that we didn't meet. Again,
10 we go through the GIS and we did the 200 foot
11 radius and those are typically the notices.
12 So, these things can get voluminous when we're
13 putting out -- many towns have us do certified
14 mailings where we are doing hundreds and
15 hundreds of them.

16 MS. DALTON: I understand that, but
17 you're also required or it was a good practice
18 of reading through the comments in each of the
19 transcripts that you were given. It is more
20 than clear in each of those transcripts that
21 at the very least I wanted to be notified and
22 Ms. Reith made it a point of asking to be
23 notified. It was easy to find either one of
24 us, had you read the transcript and tried to
25 comply, that would not have been a major -

1 MR. INGALLS: I personally read all 119
2 pages this afternoon.

3 MS. DALTON: Okay, did you read page 81?

4 MR. INGALLS: I tried to.

5 MS. DALTON: Okay, page 81 - the entire
6 page is about notice. If you go backwards,
7 that was my statement. If you go backwards to
8 page 67, you'll find a brief statement with
9 regard to the notification.

10 MR. INGALLS: I apologize. I guess there
11 are a couple of things that I'd like to
12 respond to when the public is done?

13 CHAIRMAN STUTO: Yes, when they're done.

14 MS. REITH: The only other comment that I
15 had was regarding trucks delivering to the
16 site. We have a similar experience with the
17 auto sales that is on the corner of Garling.
18 God bless him, he's doing a great business,
19 but those trucks do provide a lot of traffic
20 issues for the residents coming in and out of
21 there and for adding some unsafe traffic to
22 Route 7 where it's already quite heavily
23 trafficked between 4:30 and 6:30. That is
24 usually prime time when people are going to go
25 out and shop.

1 CHAIRMAN STUTO: Thank you.

2 Matthew Rys.

3 MR. RYS: I live at 52 Laura Drive. I
4 didn't come to the first meeting. My wife did.
5 I wanted to hear what was going on.

6 The thing that just blows my mind is the
7 parcel of land behind the apartment buildings.
8 We keep talking about many different things
9 that we're going to do with that. We're going
10 to put in a swing set, or a playground. We
11 also need some stone gravel behind there for a
12 three story apartment building. You need to be
13 able to get back there with a ladder. When I
14 heard that I was like oh my God, why didn't I
15 think of that? I don't work for the Fire
16 Department or anything but looking at it, if
17 there are cars across the whole front of the
18 park, I don't see where this is going to go. I
19 guess I can't see. Like I said, how many
20 different things can go in one place? I would
21 be concerned with how are you going to put
22 trees here, landscape here -- or no, we're
23 going to put a picnic table or no -- what are
24 you going to put there? You can't put all of
25 those things there. So, it's not going to

1 work. It's not going to float.

2 The only other problem that I have is
3 with the traffic; 4:00 to 7:00 you go from
4 west to east - you're looking at 20 minutes to
5 try to get from one side of Latham to the
6 other side during that time period. That's the
7 prime time. People need to get around. We
8 don't even have the police station open yet.
9 There will be people coming in and out of
10 there. We haven't even seen what is going to
11 impact that area. Someone said, let's put
12 another traffic light in. We already have
13 three there. It's a major problem as it is
14 right now; now we're putting more traffic on
15 top of that. I understand that it's a
16 commercial area and people need to make money.
17 I understand the commercial, but then putting
18 11 more cars or 22 more cars or possibly more
19 for these building and you're putting a lot
20 more traffic in the area.

21 Those are my concerns right now.
22 Everything else - I agree with other things
23 that were said, but I'm not going to reiterate
24 that. Thank you.

25 CHAIRMAN STUTO: Thank you.

1 William Duax.

2 MR. DUAX: Bill Duax, 46 Laura Drive. I
3 was here at the last meeting. I wasn't
4 notified of the last meeting. I do see a few
5 folks from the neighborhood.

6 I heard a couple of things
7 addressed - the aesthetics - so, I appreciate
8 that. The parking lot - you can see all of
9 what can't be controlled there.

10 One of the things that we talked about
11 though is the 600-foot distance between the
12 backside and Laura Drive in the neighborhood
13 there. I didn't hear any change in how that
14 was going to be addressed. I don't know that
15 the TDE addressed it or asked about it in the
16 letter back and forth and whether that needed
17 to be addressed.

18 CHAIRMAN STUTO: I'm not sure that I
19 understand your question, personally.

20 MR. DUAX: My question is: Why have we
21 not addressed the distance and the potential
22 noise and lights and spread of activity from
23 behind the apartment into the wetlands, as
24 well as the visibility between Laura Drive and
25 the apartment building? As we discussed last

1 time, when you walk down the street, we can
2 see right through the trees. We can already
3 see the lights from the other buildings on
4 Route 7. You can always hear the noise. This
5 is only going to increase it. We can
6 definitely say that if we're going to put and
7 draw the tenants of the apartment to the back
8 yard, and if there are children, you can't
9 control that -- that there will definitely
10 bleed into the wetlands. I'm very concerned
11 about that, still. You know it was asked, are
12 you going to put a barrier up? No, not going
13 to do it.

14 CHAIRMAN STUTO: What was the word that
15 you used - what into the wetlands?

16 MR. DUAX: Bleed. Metronalities, if you
17 want to use that term - trash, noise, people
18 and things. It's going to happen and it will,
19 guarantee.

20 Was the Board aware - or Mr. LaCivita
21 were you aware of the requirement that we
22 needed to provide specific e-mail to notice to
23 your department if we wanted to be noticed the
24 next time during the last meeting? Because it
25 was not stated that's what we needed to do.

1 MR. LACIVITA: I don't think that we said
2 that this was the process and how to do it. I
3 know that there were a couple of people that
4 had talked that gave us the address and we
5 added them onto that.

6 MR. DUAX: I personally came up and said
7 that I'd like to give my name to be notified.
8 A person said, no, you don't have to, it will
9 be taken care of and I said, no, I'd like to
10 give you my name and you wrote it down. So,
11 it's a double take to just get my name listed.
12 We weren't aware that we could send an e-mail
13 to anyone. Somebody mentioned to adjourn the
14 meeting due to notice. There were enough
15 problems with notice - I would adjourn the
16 meeting for notice, but I'm not on the Board.

17 Those are my two key things. I second the
18 notion of safety issues.

19 Thank you.

20 MR. LACIVITA: Mr. Chairman, if I may?

21 The Land Use Law that we review projects
22 under - all projects under any zoning district
23 whether that be COR, HCOR, single family
24 residence, buffers to any district is not a
25 requirement of any design. You go into a

1 single family residence and you guys are over
2 there on Laura Drive, you're back to back. You
3 have a natural buffer. You have 600 feet.
4 That's the buffer that's been naturally
5 provided on this project. Nowhere in this
6 project or this Land Use Law that we design by
7 or we review by that there is a buffer
8 required by any project. I wanted to put that
9 on the record.

10 CHAIRMAN STUTO: That's fine. It's not
11 required but we, in our discretion, can make
12 it part of the project.

13 Joe, do you want to speak or do you want
14 to give it back to the applicant to address
15 the comments?

16 MR. GRASSO: I would recommend that we
17 give it back to the applicant.

18 CHAIRMAN STUTO: Is there anyone else
19 from the public that wants to speak that
20 hasn't spoken?

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

22 MR. INGALLS: I'm not going to respond to
23 every comment. I think that there were a lot
24 that were repetitious. I'll just try to get
25 four or five key points.

1 We did some of that in our responses.

2 I guess the first thing - again, we
3 apologize for the noticing, but we did meet
4 the 200 foot statutory requirements. That was
5 the major attempt - try to go onto the website
6 and get some information plus a couple of
7 other people that have e-mailed in.

8 We're a little bit taken back - we're not
9 viewing this as the same plan. We really did
10 work hard to try to come back to the Board
11 with supped up architectural and a nice
12 looking project.

13 The project is well in excess of
14 greenspace requirements. We have over 60
15 percent or over two-thirds of the site. A lot
16 of people are saying very dense, too dense.
17 We're well within the COR requirements in
18 terms of allowable density. Well within the
19 requirements of the 35 percent greenspace,
20 almost doubling it. You can see that we have a
21 10,500 square foot building and a 5,200 square
22 foot building. We're trying to keep the
23 pavement up or the impervious area down. We
24 have buffers to wetlands. We are not proposing
25 any disturbance within wetlands, within a

1 wetland corridor or within 100-foot buffers.
2 We have done hundreds of commercial site
3 plans. This is by no means a dense plan, at
4 all. Eleven units on 2.5 acres is not dense.

5 Mr. Bogossian's comments - a lot of those
6 were echoed by the residents. We have been in
7 contact with DOT on the entrance. DOT is a
8 purveyor of the state highway. They signed-off
9 on concept and we will get a work permit.
10 We'll meet all the DEC requirements for
11 stormwater, including green infrastructure
12 practices - which we touched on a little
13 bit - preservation of natural areas, rooftop
14 disconnects - all of the requirements,
15 statutory to GP10-01 as well as the New York
16 State Design Manual. That's a given.

17 Just like we meet all the zoning
18 requirements, we attempted to meet the
19 request.

20 We did spend a lot of time in the minutes
21 of the meeting. We spent a lot of time on the
22 TDE comments. Hopefully Joe can weigh in on
23 that. We did try to work with you and respond
24 professionally to the comments. A lot of Mr.
25 Bogossian's comments, I think, are really

1 personal opinions against the project. Again,
2 the plan has been designed in accordance with
3 all of the Town standards, all of the state
4 standards and the uses are permitted by right.
5 That is key. This is the zoning that has been
6 studied and developed for the area and adopted
7 by the Town Board. The intent of the COR zone
8 and either the Town Engineer or the Town
9 Planner can speak to this. This is the COR
10 zone; COR being Commercial office residential.
11 We have the commercial, we have the
12 residential and we do have some office space
13 inside. So, we are getting all of the
14 compatible uses within the COR zone.

15 In terms of the density and uses, again,
16 we're only generating 23 cars; not even
17 measurable in terms of the DOT highway system
18 in the peak hour, where it's literally
19 thousands of cars. Our feeling is that we do
20 want it to be a professional project. We do
21 want it to be meeting all the Codes of the
22 Town. We do want it to be a safe project. We
23 want it to be a safe project for the
24 residents.

25 We'll be glad to work with the Fire

Legal Transcription

1 Department to make sure that we have
2 appropriate drive aisles and fire access.
3 Those are all the things that we would be very
4 happy to do as we work through the final
5 design.

6 In terms of the proposed uses, there is
7 not cross circulation between the two sites. I
8 want to make that very clear. We did provide a
9 circulation plan. Again, the owner/operator
10 Top Tile will make sure that the larger
11 deliveries will be supervised and deliveries
12 within the appropriate hours. Vehicles will
13 come in the drive, go to here, back into the
14 dock and pull out (Indicating). Typically,
15 these are more like the Ryder Trucks, what we
16 call WD-40 design vehicle of a 40-foot
17 trailer. They are not these huge tractor
18 trailers. As the applicant stated, there are
19 only a few two or three times a week. Those,
20 we can make sure that they are safe
21 deliveries.

22 That's our summary. If I didn't touch on
23 anything that the Board thinks that I should
24 have, I'd be glad to answer it.

25 CHAIRMAN STUTO: I'd like to ask Joe or

1 the applicant if they want to -- the one
2 gentlemen -- I'll ask you because you're
3 independent and advocate for the Town. You're
4 not advocating for the applicant.

5 With respect to the buffer that's behind
6 the property, can you address that? The last
7 gentleman talked about that. What could be
8 done to improve that?

9 MR. GRASSO: I'll start by making a
10 summary statement. Obviously, there were a lot
11 of public comments. Many of those have been
12 shared either by the Planning Board, or by our
13 office in our numerous letters. If there were
14 comments made by the public that were not
15 picked up on in our letter, it's typically
16 because our office did not share the concern.
17 We did take a close look at all of these
18 issues and I don't think that there were any
19 comments that were brought up regarding things
20 that our office did not consider in its review
21 of the project.

22 For example, there have been comments
23 made that the buffer to the rear of the
24 property to the residents on Laura Drive is
25 not adequate, or there would not be potential

1 impact there. We have to weigh the likelihood
2 that an impact is going to occur and then the
3 significance of the impact. Regarding the
4 buffer, we think that the 600 foot buffer is
5 adequate. We think that there is substantial
6 vegetative screening there. We think that the
7 project as proposed will not have an impact on
8 the residents or significant impact on the
9 residents of Laura Drive. If there is any
10 visibility between the two sites, it would be
11 very limited, if at all. As the project would
12 go through the final plan review process, it
13 would include certain design features that
14 would minimized the amount of impact, such as
15 the design of the lighting on the site. For
16 those reasons, we think that the buffer to
17 Laura Drive is adequate as proposed on the
18 plan. We didn't bring it up in our comment
19 letter because we haven't been able to
20 validate the concern.

21 CHAIRMAN STUTO: Is there anything else
22 that you'd like to comment on that you may
23 find significant, or think that was
24 unanswered; or that you disagree with the
25 applicant's response at all?

1 MR. GRASSO: No, I think that the most
2 significant issue is primarily the land use;
3 the compatibility of the land use and how the
4 uses are arranged on the site. We understand
5 that it meets the Code; both uses are allowed
6 on the site. It's whether or not the Board
7 feels like the two land uses - the residential
8 component and a commercial component, as
9 proposed, are compatible and if they can
10 reasonably coexist in a relatively small area
11 on the project site. That is understanding
12 that there is obviously commercial traffic
13 associated with the commercial use and
14 residential traffic associated with the
15 residential use. I think that's the primary
16 issue for the Planning Board to weigh for its
17 consideration.

18 CHAIRMAN STUTO: Okay. Now we have to do
19 what we're paid to do and make our decisions.

20 Anybody like to start?

21 MS. DALTON: I would like to make a
22 motion that we reject this concept on the
23 basis of the compatibility of land use. I have
24 the three specific reasons to put into the
25 record.

1 First it's just the incompatibility,
2 overall. I think that Mr. Bogossian made an
3 excellent point with the fact that while Top
4 Tile is going to be the current owner and
5 tenant, we have to think long term over the
6 course of a lifetime of these buildings - if
7 these buildings are going to be compatible now
8 and in the future, and I don't think that they
9 are.

10 In terms of safety, I think that Ms. Rys
11 made a very good point when he said that
12 essentially we're pointing at the same spot
13 and saying that it's going to provide access
14 for fire safety and provide space for
15 residents on the playground and it's going to
16 be banked parking. It can't be all three of
17 those things. I think that all three of those
18 things are important. So, from a safety
19 perspective, I don't think that this is a
20 compatible use.

21 Last, but not least, just the overall
22 marketing and appropriateness of having
23 residents behind a warehouse - I question
24 whether or not that's going to be the type of
25 housing that we want for any possible

1 configuration of our Town residents. I don't
2 see people choosing to want to live behind a
3 warehouse when there is no amenities; no
4 playground, no gyms, no stores. I recognize
5 that it is zoned to allow mixed-use. I don't
6 think that this is the appropriate mixed-use.

7 So, for those reasons, I make a motion to
8 reject this concept.

9 CHAIRMAN STUTO: Okay, do we have a
10 second?

11 MR. MION: I agree with the fact that it
12 fits with the zoning, but I don't see where
13 it's compatible. I don't see where this is an
14 appropriate use for this parcel. With that
15 said, I'm going to second the motion.

16 CHAIRMAN STUTO: Do we have any
17 discussion on that? Anyone want to be heard on
18 the motion? The motion is to reject the
19 concept application.

20 MS. GOMEZ: I have a question. How should
21 you go about saying maybe it could be
22 configured differently on the lot? Does that
23 mean we have to reject the concept or does it
24 mean that if buildings are moved around or
25 parking is moved around -

1 CHAIRMAN STUTO: I think that I
2 understand your question. I've sat through a
3 lot of meetings. If you reject it, I think
4 that the applicant has the opportunity to
5 still apply for final approval, or they can go
6 back to the drawing board to reapply and go
7 back through and maybe they could rejigger it
8 to that extent. We have seen it twice. You
9 haven't seen the project yet.

10 The other option is to vote against
11 rejection and make a motion to table with some
12 suggestions, or to accomplish what I think
13 that you're saying. So, it would be a motion
14 to table and offer your comments or you can
15 vote for concept acceptance.

16 Does anybody see any other options?

17 MR. GRASSO: Just to clarify, so the
18 rejection is based on the plan and the project
19 as presented. It doesn't deprive the right of
20 the applicant to submit a revised plan in
21 another layout or different use.

22 CHAIRMAN STUTO: For concept - without
23 reapplying? Without going back to the drawing
24 board?

25 MR. GRASSO: No, going back to the

1 drawing board. They still have the ability to
2 come back with a different project, or revise
3 and resubmit for reconsideration.

4 CHAIRMAN STUTO: But if you wanted to
5 keep it in front of us and not make them
6 reapply, we could table it.

7 MS. VAIDA: Just from a small discussion
8 that we had, there was a question about if
9 there was a way to reconfigure -- are the
10 Board Members against the idea of having an
11 apartment building and tile place on the same
12 lot? If there were a way to maybe downsize the
13 size of the buildings and have the tile place
14 in the front maybe more centered with its own
15 separate parking and traffic and then the
16 apartment building separate -- so maybe waive
17 the greenspace in the middle, for instance, of
18 the parking lot and use that as a buffer
19 between the two buildings. I think that the
20 question that she was trying to figure out is:
21 Is it the whole concept that's being rejected
22 or is it the layout?

23 CHAIRMAN STUTO: They have an application
24 before us. You either vote for it, against it
25 or you table it. If you vote against it,

1 you're rejecting it. If you want to offer
2 commentary about what to bring back, you can
3 do that. The burden to put the pencil to the
4 paper is on the applicant to come back with a
5 different design from what they can figure out
6 from the feedback that they give to us.

7 MR. GRASSO: If the Planning Board
8 Members have specific ideas that they would
9 like the applicant to consider, then now it
10 the time to get it out there and either say
11 yes, we're willing to consider it or no, we
12 think that we've put our best plan forward,
13 for decision.

14 MR. INGALLS: One thing that we forgot to
15 mention, we would be willing to do a
16 subdivision that would make it more palpable
17 if we put buildings on separate parcels.

18 MR. GRASSO: I don't think that speaks to
19 the concerns that we've heard so far.

20 CHAIRMAN STUTO: No, then you get into a
21 frontage issue. Just because there is an
22 imaginary line that runs on the boundary, I
23 don't think that's going to solve, for
24 me -- I don't know about anybody else.

25 MR. LACIVITA: If I could just make a

1 suggestion based on where I sit on a day to
2 day basis from a planning and economic
3 development standpoint - one of the things
4 that I do when I look at the hundreds of
5 projects that come through my office -- we are
6 in charge of retention, attraction of business
7 within the Town of Colonie. We have a long
8 standing business that's been in the Town of
9 Colonie for years. My recommendation or my
10 question would be, I would think that the
11 Planning Board should consider tabling the
12 motion. From my perspective, I would hate to
13 see a company like this design say, if I can't
14 do it here, I'll go elsewhere. Yes, there are
15 compatible uses. Those are issues and I think
16 that we can work with that throughout the next
17 couple of weeks, months or whatever it might
18 be to see what we could potentially do to get
19 what we would want to see as a Town standard.
20 Again, I guess to counter offer the motion I'd
21 like to see if the Planning Board would
22 consider a table where we would have the
23 opportunity to work with the applicant and
24 keep a long standing business here within the
25 Town.

1 MS. DALTON: Excuse me, but I'm confused
2 because the last time that this applicant
3 appeared, essentially we said exactly the same
4 thing. We said that we would table it and give
5 them a chance to change the concept because
6 five of the six of us who appeared that night
7 said that we were uncomfortable with the
8 content and uncomfortable with the issues with
9 having an apartment complex and a warehouse
10 together. So, we tabled it and they came back
11 with the same concept.

12 What I was recently told tonight was that
13 was what we needed to do was vote to reject
14 the concept and then the onerous would be back
15 on the applicant to in fact pay attention to
16 the recommendations that we made with regard
17 to the concept instead of coming back with "we
18 do not believe that modification to the
19 proposed concept would be necessary". So, now
20 I'm confused because I voted to reject this
21 because I was told that the last time when we
22 tabled it, it was not enough to communicate to
23 the applicant that this concept is not
24 acceptable to us. That's what I was told. We
25 table it last time and we didn't get a

1 proposal. We got a better building, no doubt
2 about it. But we didn't get a change to safety
3 things that five of the six of us raised. I've
4 shopped at Top Tile.

5 I love Top Tile. I want it here. I think
6 that it's a great commercial use of this
7 space. I have a problem with the way that they
8 have configured the mixed-use. I don't find it
9 compatible. I don't find it safe and I find it
10 too much on a relatively small space.

11 I point just down the block where we did
12 the Dunkin Donuts and the Sunoco mart. It was
13 a permitted use. It was enough space, but when
14 you're on it, it's not enough space. It
15 doesn't accommodate all the things in that
16 area in that commercial space that need to be
17 accommodated. We made a mistake on that, in my
18 opinion. I think that it's fairly obvious to
19 most of us that this is too much on one piece
20 of property. With Sunoco it works because at
21 least they're two commercial spaces that don't
22 require people to necessarily do a lot of
23 movement around that area.

24 That's not what you're going to have
25 here. You'll have people walking and hanging

1 out in a parking lots.

2 MR. GRASSO: Mr. Chairman, I have a
3 couple of things. I think that the concerns
4 raised by Kathy have been well articulated. I
5 think that you have a good understanding as to
6 the process and the decision for the Board. It
7 may help if Elena explains the decision of the
8 Board and the options available to the
9 applicant after that and then I think that it
10 may be beneficial to ask the applicant or the
11 representative if they are ready for a
12 decision by the Planning Board. There are six
13 Members of the Board here in order for concept
14 to be approved - it would take four out of the
15 six Members to vote in favor of it. Do you
16 want to do that?

17 MS. VAIDA: Yes. So, basically it's in
18 Section 190.56e5 of the Colonie Land Use Law.
19 It says:

20 "The Board shall act to accept, reject or
21 request modification of the conceptual plan.
22 Failure to act does not constitute approval.
23 In the event that the conceptual plan is
24 rejected, the applicant may revise and
25 resubmit the conceptual plan, withdraw the

1 application, or prepare a final submittal in
2 accordance with the rejected conceptual plan
3 and apply for final site plan review and
4 approval.”

5 CHAIRMAN STUTO: So, even if we reject
6 it, they can go for final or revise and come
7 back for another shot at concept approval.

8 MS. VAIDA: Right, and if it's a
9 modification that's requested, the applicant
10 shall resubmit the modified plan to PEDD for
11 review as described above under the initial
12 approval process.

13 CHAIRMAN STUTO: Any other Board Members
14 want to be heard on how you feel about this
15 project? I'm having a tough time with the key
16 question, whether on this particular property
17 the way it's currently configured - whether
18 this 11 unit apartment building works in the
19 back.

20 MR. AUSTIN: I just think that on my end,
21 just for the record, I don't think that I'm as
22 concerned about the health and safety issues.
23 Just in thinking comparatively with the other
24 complexes that we have in the Town or in
25 Latham, in general - for example Berry Oxford

1 or Latham Village - I live relatively close to
2 Berry Oxford. I drive by it and I don't see a
3 lot of kids out and about. I know that there
4 are quite a few that live there. I'm not
5 wrapping my head around the whole health and
6 safety and how many kids would be living in an
7 11 unit apartment complex. That's not where
8 I'm caught up. I'm caught up with Peter here,
9 as far as the mixed-use.

10 It looks better. I really like the look
11 of the design. The design is much improved.
12 It's aesthetically pleasing. My concern last
13 time was this warehouse store - which looks
14 much better and then an apartment complex
15 behind it. The buffer issue -- I understand
16 that with the neighbors. I understand their
17 concerns about that, but 600 feet is a lot of
18 space. That is a concern of the neighbors and
19 I understand that, but that can't be a concern
20 of the applicant. The applicant has a site. It
21 is zoned for that site. They have put on that
22 site what they think is appropriate, but I
23 don't know. I'm close - real close. But I'm
24 not sure how close.

25 CHAIRMAN STUTO: Anyone else want to be

1 heard on this?

2 MR. SULLIVAN: I actually am concerned
3 about safety. We're all over the place with
4 this, but my main aspect is the possibility of
5 children. I don't like the concept of having
6 children possibly in the parking lot with
7 really nothing else to do. You said you may
8 put a play area in the back, but I'd like to
9 see something definite. If your plan is to
10 have children, that would be one thing. If it
11 were senior housing, I would be more in favor
12 of that.

13 The other safety issue I had was and I
14 believe that it will be addressed - is Fire
15 Services. Can they get their apparatus that
16 would be required for a three-story building,
17 if they have to get access to the back? Do you
18 need to have crusher run or whatever to
19 support that apparatus? I would want to see
20 that nailed down to ensure that they can get
21 where they need to get.

22 The main thing that I have is the mixed-
23 use with children involved in the equation.
24 That's the problem; having the possibility of
25 children with no designated play area. That's

1 my main concern.

2 MR. AUSTIN: I'm not sure you need a real
3 play area to just throw a Frisbee or a
4 football on that green area back there. I'm
5 not sure what the size of this is.

6 MR. INGALLS: This is at least 100 feet
7 to the 100 foot wetland buffer; so there is
8 200 feet behind that building.

9 MR. AUSTIN: That's more than a lot of
10 people have.

11 CHAIRMAN STUTO: What is the elevation
12 change there?

13 MS. DALTON: You're also proposing - I
14 don't know how many feet that you have to take
15 out for fire safety equipment. You have 13
16 banked parking spaces back there and if
17 they're needed or the use of the space
18 changes, you're going to have to use that
19 parking space. As you continue to erode how
20 much space you have there, I don't know how
21 big a playground or play area you would have.

22 I also want to point out that yes, that's
23 a wetland. Sometimes it's really wet. I don't
24 think that you can count on that. By the way,
25 it also has a very steep grade to it. That's

1 not conducive to walking because Lou and I
2 actually did walk down there.

3 MR. INGALLS: There are actually no
4 wetlands on the site. It's just a buffer. The
5 wetlands are actually off the rear of the
6 property - just off the property.

7 MR. DALTON: While that is the formal
8 wetlands, you're going to have a swampy back
9 yard. It's all swampy over there.

10 MR. INGALLS: Actually this is about 20
11 feet higher than what the stream elevation is.
12 I would beg to differ on that. This would be
13 higher and dryer. As you go down the slope,
14 yes, it does get water.

15 Speaking of the children, 11 units - we
16 don't really envision any children. If there
17 are one or two children, it would be a lot for
18 this type of development. That's based on
19 Capital District Regional Planning Records and
20 census data. These apartments are not
21 generating many children, if any. So, there
22 may not be any children in this.

23 MS. DALTON: We don't have a lot of data
24 with regard to this, but this is North Colonie
25 School District, which is one of the most

1 attractive school districts in the area.
2 People who are of moderate and low income are
3 dying to find places to stay in here and move
4 into the neighborhood. So, I think that to say
5 that you have 11 units which has a potential
6 of 22 to 33 bedrooms, and you're not going to
7 have low income people who are willing to live
8 behind a warehouse with kids, is not a
9 reasonable expectation.

10 MR. INGALLS: I think that we have a
11 little bit of a stigma of calling this a
12 warehouse. This is really a tile store - a
13 retail store. I'd like to call it a retail
14 store, but it does have some warehouse space
15 to it. It's not a warehouse. It's not a heavy
16 commercial or industrial operation. It's a
17 retail store. We've done many developments
18 where we would take this and we'd put it on
19 top of here for the second floor. It's more
20 like a city style arrangement where you have
21 retail on the first floor and living space on
22 the second floor. Where do those children
23 play?

24 MS. DALTON: If you change that
25 configuration and you did, in fact, put the

1 living space on top of the commercial space,
2 that would give you the opportunity to split
3 your lot and have them walk out doors. There
4 could be bus stops and space there, and you
5 could run the parking along the back then. You
6 would in fact, have a different configuration
7 with the smaller building footprint and more
8 area to accommodate a residential setting.
9 Again, you're back to where is the bus stop?
10 Where is the snow going to go? What's the
11 traffic pattern for the truck?

12 MR. INGALLS: Again, we were trying to
13 separate the two uses somewhat so that there
14 was some privacy and buffering where it keeps
15 the apartments in the back away from the main
16 Route 7 corridor. That was the rationale.

17 We do have the pedestrian connectivity.
18 If you do want to come out, you could come out
19 on the sidewalk. Again, the applicant is very
20 willing, if we think that we need some kind of
21 amenities, recreation amenities -- typically
22 something like this, what we normally do is
23 not an active recreation. We would do like
24 benches and some pavers - more places that you
25 could kind of relax or contemplate. We're not

1 really doing active -- we're not prejudice
2 against children. I have four of my own. We
3 jus don't anticipate a big influx of children.

4 CHAIRMAN STUTO: Elena, we approved a PDD
5 which were houses for sale for 55 and over and
6 you did a little research on that. Do you
7 remember what the law was with regard to the
8 age restriction?

9 MS. VAIDA: They have very specific
10 requirements if you're going to do 55 and
11 over.

12 CHAIRMAN STUTO: For rentals you can do
13 that as well?

14 MS. VAIDA: Yes.

15 CHAIRMAN STUTO: What do you think of
16 that as an idea here?

17 MR. INGALLS: In a three-story building
18 at this point you would need an elevator. That
19 would be significantly more expensive. I think
20 that you can restrict it to 55 and older, but
21 even if you do that, that just means that one
22 occupant has to be 55 and a nine year old
23 could be living with a grandmother or
24 whatever.

25 CHAIRMAN STUTO: But you're going to have

1 less kids that way, probably.

2 MR. INGALLS: I think that based on
3 location, it's a great school district. I
4 think that if somebody is concerned about
5 where their kids are going to play and that
6 type of stuff, they may say that this doesn't
7 offer the amenities I want; like Berry Oxford
8 or Latham Village or something along those
9 lines.

10 CHAIRMAN STUTO: There are some single
11 moms or dads who have children that could be
12 desperate.

13 MR. INGALLS: I have children also and
14 you also don't let your children out in
15 Albany. You have to keep an eye on them and
16 that's the way that it is. If you think that
17 children aren't playing in the parking lots of
18 Berry Oxford and every other apartment complex
19 out there, that's not the case. Children play
20 in parking lots. They play on the grass, also.
21 You don't think that you're going to have a
22 pack of 20 kids around here. You're just not
23 going to have that kind of intense use.

24 CHAIRMAN STUTO: I'll make a comment. I
25 am troubled with a critical question here.

1 I think that we want to support the tile
2 store for sure. They're a great business in
3 the community and I don't think that anybody
4 has any trouble with that aspect of it. I
5 think that the architectural is great. It's
6 much improved in the front and it's always
7 looked good in the back. I think that we do
8 have this fundamental problem that you're
9 talking about. I can't go back and cite the
10 page, but the comments that I thought that I
11 made and I was probably perhaps the most
12 favorable toward the project, as it was, was
13 that there are no accommodations for an
14 apartment. You pull your car in, you go
15 in -- there are no picnic tables. We had
16 suggested fencing or something else. None of
17 that is on the drawing. Maybe if that was made
18 today - and maybe it wouldn't happen - but
19 it's disappointing to me because that's what I
20 was focused on that you came back and said
21 well, we can do something in the future. Well,
22 today would have been the day to do something.

23 Then the other issue got raised by Mr.
24 Pettingill and reiterated by one of the
25 residents. I wanted to ask Joe about this.

1 If you're going to make access for a
2 ladder truck or something back there, these
3 things should be on the drawings.

4 MR. GRASSO: I don't know what the Code
5 is. Every building has certain access
6 requirements. Not every building requires
7 three or four sided access by a ladder truck.
8 I apologize for not knowing.

9 CHAIRMAN STUTO: I think that there is a
10 letter here from Fire saying that they were
11 okay.

12 MR. GRASSO: They were okay with that. I
13 know that there were some provisions - Kathy
14 mentioned it. Some of the banked parking
15 actually loops around the back of the building
16 and I think that the applicant represented
17 that they would gravel that area if access to
18 the back of the building needed to be
19 provided. Again, it speaks to that issue in
20 providing emergency access. You're taking away
21 from the back yard that would be available for
22 other uses and you're dovetailing it into the
23 area that's reserved for banked parking. There
24 is no proposal right now shown on the plan for
25 access back there. Obviously, it wouldn't

1 accommodate a ladder truck. If the ladder
2 truck ever got back there, he might never be
3 able to get himself back out. We did ask for
4 turning templates regarding certain emergency
5 apparatus to get through the site out the
6 front.

7 CHAIRMAN STUTO: Okay, we have a motion
8 before the Board and it's been seconded. It's
9 to reject the plan. We have talked about the
10 alternatives. We're still open for discussion
11 on that motion that's before the floor and
12 questions. Elena has laid out other
13 alternatives.

14 Can you repeat them, Elena?

15 MS. VAIDA: "The Board shall act to
16 accept or reject or request modifications of
17 the conceptual plan. In the event that the
18 conceptual plan is rejected, the applicant may
19 revise and resubmit the conceptual plan,
20 withdraw the application, or prepare a final
21 submittal in accordance with the rejected
22 conceptual plan and apply for final site plan
23 review and approval."

24 CHAIRMAN STUTO: We have three options,
25 right? To reject, is before us right now.

1 MS. VAIDA: Or to accept or request
2 modification.

3 CHAIRMAN STUTO: Does anyone want to
4 propose something different before we take a
5 vote on the motion that's before us?

6 MR. INGALLS: Can the applicant propose
7 something?

8 CHAIRMAN STUTO: Sure.

9 MR. INGALLS: We would like to keep a
10 good working relationship with this Board. It
11 was our intent to come back - we thought that
12 we had all the answers. Maybe we didn't read
13 all 120 pages as meticulous as we should have.
14 We would like the opportunity to clarify a few
15 points, work with staff, if that's appropriate
16 and come back with something that would work.
17 I guess we would be looking for option two.

18 CHAIRMAN STUTO: Or we can just table it.

19 MR. INGALLS: Just to clarify, I think
20 that we talked about a lot of things. If we
21 could maybe summarize the three or four major
22 points - I think that we have them, but I
23 think that the biggest one was the
24 compatibility of the uses and the potential
25 for children and some amenities. If those are

1 the key things, I just want to make sure that
2 we know that we're going away to try to revise
3 the plan and come back with a more favorable
4 plan to the Board.

5 CHAIRMAN STUTO: I think that we should
6 discuss what's before us. I don't have a quick
7 opinion or a quick answer on this. I think
8 that if you didn't have the residential you'd
9 have an easy approval. That's my speculation.

10 MS. DALTON: Or if you just did
11 residential and you moved it up and you
12 had - in my opinion, there is too much going
13 on that is not the same thing in that space.
14 So, if you have an entire commercial area and
15 everybody is there for the same reason, that
16 might be okay. If you had some mixture of
17 commercial and office - but people are there
18 for business reasons; great. If you had a
19 residential area and the type of business that
20 you had there with supporting residents in
21 some way - a dry cleaner, or gourmet store or
22 whatever. Something that was not a convenient
23 store -- a gym, for that matter. That would be
24 what I would consider a compatible mixed-use.

25 MR. INGALLS: The commercial building, I

1 think that we're kind of looking at that as
2 the fixed use. That's the predominant use.

3 CHAIRMAN STUTO: You're saying that's not
4 changing.

5 MR. INGALLS: That's not changing. That's
6 our primary tenant.

7 MR. AUSTIN: I remember hearing the
8 option was the fact that they could come back
9 with a 90,000 square foot commercial building;
10 am I correct?

11 MR. INGALLS: I'd have to go through the
12 calculations.

13 CHAIRMAN STUTO: Somebody made that
14 statement.

15 MR. AUSTIN: And with the residents on
16 Laura and Garling Drive - a 90,000 square foot
17 building would generate a lot more commercial
18 traffic, as well. That's another thing to
19 consider, as well. Is the apartment complex
20 going to be a proffer from the commercial to
21 your residential neighborhood, or do you want
22 a larger commercial potentially -- because
23 they can do that, too. There is no stopping
24 them from doing that - coming before the Board
25 and presenting a very large multi

1 commercial-use building with all different
2 stores and stuff like that in there and a big
3 warehouse, for that matter with a lot more
4 traffic with much bigger trucks. I can
5 understand that it looks like you're putting
6 10 pounds of sand in a five pound bag in some
7 ways, but they're really not. They have the
8 greenspace. They put it all into place. It's
9 just a matter of how it works, I guess.

10 I respect Mr. Ingalls decision to
11 essentially want to table this and go back and
12 do some thinking. That's where I would be.

13 MR. HOLLAND: Just to answer the
14 question, we could have 120,000 square foot.

15 MR. AUSTIN: And that's far larger than
16 what we have here.

17 MR. HOLLAND: There is no way that site
18 could support parking for 120,000 square feet.

19 MR. AUSTIN: Right, but there is still a
20 lot more potential for commercial noise,
21 lighting and that kind of stuff.

22 MR. RYS: We're worried about safety and
23 views and things like that.

24 MR. AUSTIN: It's 600 feet, right?

25 MR. INGALLS: Six hundred feet is the

1 linear distance from the propose apartment
2 building to the nearest residence on Laura
3 Drive. That's a huge expanse.

4 MR. RYS: There is also topographical
5 when you're going down and then up. You can
6 look 600 feet, or whatever it is. You can look
7 that far. The buffer - it goes down.

8 CHAIRMAN STUTO: I don't want this to go
9 into chaos, so I'm going to ask Joe Grasso a
10 couple of questions to try to keep our focus.

11 A dilemma that I have personally is I'm
12 not opposed to this in concept. It's the
13 problems that it may cause. If it ever got
14 approved - something like this, I would want
15 to mitigate all the impacts and really hone in
16 on that. We're still grappling with the
17 fundamental question here.

18 With respect to the apartment, there are
19 no amenities. It occurs to me that if you put
20 a swing set, you may attract more kids. If you
21 wanted to encourage adults only, upstanding
22 citizens, what would you do to change the
23 apartment? If you wanted to encourage more
24 adults as opposed to kids.

25 MR. GRASSO: I would age restrict it. I

1 would only accept 55 and older. I think that
2 you're going to have maybe 5 to 15 kids living
3 in that apartment building 20 years from now.
4 Maybe not in the initial occupancy, but down
5 the road, you should expect there to be a
6 significant number of kids. I would reinforce
7 the concerns raised by the Board.

8 MR. INGALLS: Based on what?

9 MR. GRASSO: Based on my understanding of
10 planning and how area develop and if the fact
11 is that it's not age restricted, I think that
12 you're going to get a mix of families there,
13 given its location. I think that you're going
14 to have kids there, whether you have a
15 playground or not.

16 CHAIRMAN STUTO: Do you know if an
17 elevator is a Code requirement or is that just
18 a marketing thing?

19 MR. GRASSO: I do not.

20 CHAIRMAN STUTO: Does anybody know?

21 MS. DALTON: For an age restriction?

22 CHAIRMAN STUTO: If you have 55 and over.

23 MS. DALTON: I'm virtually
24 certain -- not only that, but I think that if
25 you agree restrict is -- I'm not certain about

1 this, but I think that there are requirements
2 with windows and doors wider and all that. The
3 point is to let them age in place.

4 MS. VAIDA: No.

5 MS. DALTON: That's not a requirement?

6 MS. VAIDA: I think that you're confused
7 with just age restrictions.

8 MS. DALTON: Okay.

9 MR. AUSTIN: Can I ask Jesse's thoughts
10 on those comments as well - as an apartment
11 professional?

12 MR. HOLLAND: An 11 unit building would
13 typically have little to no amenities. To even
14 put in a fitness room is rare. I think that it
15 would be unlikely to see children here. I
16 think that if you are age restricted simply by
17 nature of where it is on a busy road, that
18 you're not going to get an influx of kids.
19 There are other places to go that are better
20 suited.

21 CHAIRMAN STUTO: I might be inclined to
22 educate myself a little bit better on the age
23 restriction. Maybe that's something that I
24 want to be more informed on. I don't have a
25 definite answer right now.

1 MR. HOLLAND: The other question that
2 comes up with age restriction is that
3 typically there are smaller apartments and
4 theoretically there is a more unit density;
5 not necessarily more square footage, but more
6 units. You could get that to 20 or 22
7 one-bedroom apartments that will not have
8 kids, but will have the same number of cars
9 per unit.

10 MR. LACIVITA: What is the density per
11 floor?

12 MR. INGALLS: We were doing it based on
13 unit counts; so, three floors. The oddball one
14 we're going to make a community room or
15 something like that.

16 CHAIRMAN STUTO: How large are the
17 apartments?

18 MR. INGALLS: They're pretty good sized.
19 The building is 6,000 square feet, so they're
20 1,100 to 1,200.

21 MR. LACIVITA: So, part of the amenity in
22 that for an attractive component with seniors
23 you could have - which you mentioned and I
24 didn't hear before - is that there is a
25 recreational component which could be rec

1 room.

2 MR. INGALLS: That would be more for
3 seniors versus children; to attract the older
4 crowd. You can't restrict it to no kids.

5 CHAIRMAN STUTO: I appreciate your
6 comments. I think that you are going to
7 attract kids and I think that over time,
8 you're going to attract more kids. I assume
9 that they're at least two bedrooms apartments.

10 I'll give my personal opinion. If I was
11 going to table this and suggest that you come
12 back, I would suggest senior housing. I would
13 suggest more screening in the back with pines.
14 I would investigate the fire truck issue in
15 the back and at least have an answer to that.
16 Joe might ask you to look into that as well
17 and what your opinion was on that. I would
18 definitely do the dense screening in the
19 parking lot.

20 Joe, what is your opinion on the
21 alternative drive - the thing that you
22 sketched out on the back of your letter?

23 MR. GRASSO: I support the alternative
24 driving lane, as we proposed. Like I said, I
25 think that if there is parking on both sides

1 of the access drive, it would not conform to
2 the design of the apartments and is not the
3 appropriate setting.

4 CHAIRMAN STUTO: And we won't be as
5 concerned about losing a little bit of grass
6 because the kids won't lose any play space, if
7 we have to fill in the alternative parking.
8 How do you think that affects parking? We're
9 going to lose those potential parking spots on
10 the side. Do you think that we'll be okay?

11 MR. GRASSO: I would just recommend that
12 we lose those spaces or downsize.

13 CHAIRMAN STUTO: And I think that with
14 seniors you have less rush hour traffic.

15 MR. GRASSO: That's the other thing.
16 We're looking at a certain amount of density
17 on the site. You can always downsize.
18 Obviously, the applicant has specific needs
19 regarding their building, but maybe there is
20 just too much proposed on the site. They're
21 talking about commercial space and they're
22 talking about some other office space or flex
23 space that could be taken out. The number of
24 residential units is modest; it's only at 11,
25 but maybe it shouldn't be 11. Obviously, there

1 is a proforma that they need to be able to
2 substantiate but they haven't provided any
3 economic data to support the application.

4 CHAIRMAN STUTO: What is your suggestion?

5 MR. GRASSO: If we look at issues like
6 parking, if we can't accommodate the amount of
7 parking - because when you really have to look
8 at the amount of parking that's required by
9 Code and accommodate it on the site. You'll
10 still have a workable plan, assuming that it
11 could be dealt with. Parking codes are there
12 for a reason. If we take out those 11 spaces,
13 they really should go someplace else. That
14 still provides a workable plan. We don't have
15 a workable plan.

16 CHAIRMAN STUTO: I would suggest that be
17 part of my recommendation, too. That's my
18 personal opinion.

19 MR. GRASSO: There are so many options
20 regarding the layout or reducing the plan or
21 changing the matrix a little bit and it's
22 really up to the applicant what they feel is
23 acceptable based on the comments raised and
24 come back with an option.

25 CHAIRMAN STUTO: I agree with that.

1 We're pouring our heart out, but you have
2 to decipher what you think is going to be
3 acceptable, if you table it.

4 Does anybody else want to offer any
5 helpful comments?

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

7 CHAIRMAN STUTO: I would be in support of
8 tabling. I don't know if Kathy would consider
9 withdrawing her motion. I don't know how
10 everybody else feels. If she has enough votes
11 for her motion -

12 MS. DALTON: I don't think that I have
13 enough votes, but I certainly understand if
14 you all want to table it. I feel that we
15 tabled it once and we didn't get a good
16 result. We didn't get what I would consider a
17 good faith effort to inform people who clearly
18 want to be here, to be here. Based on the lack
19 of notice and the fact that many of our
20 significant comments weren't acted on and they
21 got a chance to table it last time, I'm
22 continuing to make a motion that we reject
23 this, in full recognition of the fact that it
24 doesn't close the door. It allows them to come
25 back and give us a plan that has a conforming

1 use that we believe will serve the Town now
2 and in the future.

3 CHAIRMAN STUTO: Okay, we have Kathy's
4 motion. All those in favor or Kathy's motion
5 say aye.

6 MS. DALTON: Aye.

7 CHAIRMAN STUTO: All those opposed say
8 nay.

9 MR. AUSTIN: Nay.

10 CHAIRMAN STUTO: Nay.

11 MR. SULLIVAN: Nay.

12 MS. GOMEZ: Nay.

13 MR. MION: Nay.

14 CHAIRMAN STUTO: I think the nays carried
15 on motion.

16 Do we have a motion to table and allow
17 the applicant to consider all the comments?

18 MR. AUSTIN: I'll make that motion.

19 MR. MION: And I'll second that.

20 CHAIRMAN STUTO: And come back with a new
21 plan, if they so desire. I think that we have
22 a motion and a second.

23 All those in favor say aye.

24 MR. MION: Aye.

25 MR. SULLIVAN: Aye.

1 MS. GOMEZ: Aye.

2 CHAIRMAN STUTO: Aye.

3 MR. AUSTIN: Aye.

4 CHAIRMAN STUTO: All those opposed?

5 MS. DALTON: Nay.

6 CHAIRMAN STUTO: I think that the ayes
7 have it.

8 Thank you.

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*(Whereas the above entitled proceeding
was concluded at 10:02 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.*

11
12
13
14 _____
 NANCY STRANG-VANDEBOGART

15
16
17 ***Dated August 17, 2012***