

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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4 GIBBY'S PLAZA
5 175 TROY SCHENECTADY ROAD
6 EXTENSION OF FINAL APPROVAL

7 *****

8 THE STENOGRAPHIC MINUTES of the above
9 entitled matter by NANCY STRANG-VANDEBOGART, a
10 Shorthand Reporter, commencing on February 26,
11 2013 at 7:02 p.m. at The Public Operations Center,
12 347 Old Niskayuna Road, Latham, New York

11 BOARD MEMBERS:
12 PETER STUTO, CHAIRMAN
13 LOU MION
14 BRIAN AUSTIN
15 KAREN GOMEZ
16 TIMOTHY LANE
17 SUSAN MILSTEIN
18 KATHY DALTON

17 ALSO PRESENT:
18 Elena Vaida, Esq., Counsel to the Planning Board
19 Joe LaCivita, Director, Planning and Economic Development
20 Joe Grasso, Clough Harbour and Associates
21 Dennis Deeb

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1 CHAIRMAN STUTO: Joe, when do we want to do the
2 GEIS findings? Can we do that now?

3 MR. GRASSO: Sure. For the Planning Board in
4 January, we had distributed draft copies of the
5 findings statement for the Boght Road GEIS traffic
6 study. Since that time we've gotten time we've gotten
7 some comments from the Town Attorney's office that we
8 have incorporated into the newer version of the
9 document as well as there was a letter provided to the
10 town from First Columbia which is one of the property
11 owners within the study area. There were some comments
12 regarding statements made at the final GEIS, so the
13 statement of findings has been revised to address some
14 of the concerns expressed in that letter. I'm going to
15 pass out a couple of things. ONE is an updated findings
16 statement and the second being the letter from First
17 Columbia. This document should replace the draft
18 findings statement that was distributed back in
19 January.

20 CHAIRMAN STUTO: Thank you. Any other comments
21 that you wanted to make? This will be in March, right?

22 MR. GRASSO: Yes, this will be considered at an
23 upcoming Planning Board meeting for final adoption by
24 the Planning Board.

25 MR. LACIVITA: Please save those for your next

1 meeting.

2 MR. GRASSO: The Planning Board has already
3 adopted the draft GEIS well as the final GEIS and as
4 the lead agency, they need to adopt the finding
5 statement.

6 CHAIRMAN STUTO: Thank you.

7 To members of the public, if you want to
8 speak on the items that we're going to vote on
9 which will be concept acceptance and final
10 acceptances - the public will be heard on those
11 but not on sketch plans. The sketch plans are
12 going to come back but if you want to be heard on
13 the other items, please sign in on the sign in
14 sheet. That will help us maintain order
15 throughout this meeting.

16 The first item on the agenda is Gibby's
17 Plaza, 175 Troy-Schenectady Road, extension of
18 final approval.

19 Joe, do you want to give us an introduction
20 on that?

21 MR. LACIVITA: Sure. Our land use law allows for
22 extensions of approvals that are granted by the
23 Planning Board. It's actually section 190.56.02 of the
24 land use law and it provides for a one-year extension
25 to be created after final approval has been given to a

1 project. This project was before us in January of 2008
2 and has been extended on an annualized basis up until
3 now We have Mr. Deeb here this evening to ask for
4 additional one year extension in this land use law.

5 CHAIRMAN STUTO: Hi Mr. Deeb. Before you start,
6 how is the market for that type of project?

7 MR. DEEB: It's better than it was last year.
8 It's steadily improving. It's a retail center.

9 MS. DALTON: I just wondered if there is a limit
10 on how many times we can grant an extension?

11 MR. LANE: I was just going to ask the exact same
12 thing.

13 CHAIRMAN STUTO: Joe, is there a limit on the
14 number of extensions?

15 MR. LACIVITA: There is no limitations on the
16 extension and the number of times a person can come to
17 extend their project. Actually, as Mr. Deeb will
18 explain to you, he's been actually paying the
19 provisions under the stormwater regulations while still
20 marketing his project. It complies with all the
21 standards that were approved at the time. So, that's
22 why we don't have a limitation. As long as they are
23 still upholding any permits or anything that they have
24 done with DEC or those agencies.

25 MS. DALTON: YOU said that he complies with the

1 rules at the time?

2 MR. LACIVITA: The design standards back in 2008,
3 which are the current ones that we work under now -

4 MS. DALTON: So we haven't made any amendments?

5 MR. LACIVITA: We haven't made any amendments to
6 any design standards or anything that this would apply
7 to. Typically when a project asks for an extension, we
8 typically give a copy of the site plan that we approved
9 and it typically doesn't change. We ask the building
10 department to just verify the zoning and verify the
11 setbacks that we have and to make sure that it's in
12 compliance. We get that verbal and then we move
13 forward to the extension process.

14 MS. DALTON: Thank you.

15 CHAIRMAN STUTO: Mr. Deeb, did you have more to
16 say about it?

17 MR. DEEB: No, not really. Other than I'm
18 marketing the property and cutting the lawn and paying
19 the taxes. The retail market is coming back.

20 MS. DALTON: I have one other question. IN
21 talking about the compliance, it says that you need 175
22 feet of frontage. It doesn't appear that he has 175
23 feet of frontage. Do we need to do a waiver on that?

24 CHAIRMAN STUTO: Do you know what the zoning is?

25 MR. LACIVITA: This is a COR zone.

1 CHAIRMAN STUTO: Elena, I don't know if anybody
2 can help on that.

3 MR. LACIVITA: I'm trying to see if there was a
4 waiver granted on this. I don't believe that there
5 was.

6 MR. DEEB: No, because it was prior to the COR
7 Joe.

8 CHAIRMAN STUTO: I don't think that it was. The
9 land use law had already been changed before this
10 project.

11 MR. LACIVITA: That was changed in 2007.

12 CHAIRMAN STUTO: Right and everybody here has been
13 here since 2008 or later. Your final was after that.

14 MR. DEEB: But the concept was three years before
15 that, I think.

16 MR. LACIVITA: But also as we went forward with
17 that, some of that carried never to the 2007 when the
18 land use law changed. What used to be known as
19 business E and so on.

20 CHAIRMAN STUTO: But there was a grandfathering
21 provision, correct?

22 MR. LACIVITA: Correct. He was grandfathered in
23 at the time. The only thing different with this
24 project is that there hasn't been a mitigation fee paid
25 because this is in the Boght area GEIS. That's the

1 only thing that held out on the project at this point.
2 Once the GIS fee is paid, of course, then everything
3 else has to be filed and there is the tax change to
4 you. That should all comply with the project.

5 CHAIRMAN STUTO: Can Elena or someone else tell us
6 what the frontage requirement is in the COR district?

7 MS. VAIDA: Peter, what are you looking for?

8 CHAIRMAN STUTO: The frontage requirement. The
9 frontage on the town road in the cOR district. I think
10 that we all recollect that it's 80 feet on residential.
11 We're trying to figure out what it is in the COR.

12 MS. VAIDA: The front setback?

13 MR. LACIVITA: No, the setback is 20 feet.

14 CHAIRMAN STUTO: How wide the property has to be
15 on the road.

16 So, it's either grandfathered in or -

17 MR. LACIVITA: I don't see one that's identified
18 on the plans that there is any waiver for the frontage.
19 Although it wasn't brought up to Mr. Cordell of the
20 Building department when they looked at the plans that
21 would be submitted for it - that he is appropriately
22 zoned and all the setbacks are appropriate in the past.
23 So, Mr. Cordell actually signed off on it on the last
24 extension here and it doesn't appear that he had any
25 issue with the setbacks.

1 CHAIRMAN STUTO: Do you have a problem going
2 forward, KATHY?

3 MS. DALTON: I don't have a problem with the
4 waiver. I do have a problem continuing to pass this
5 through if I'm aware that there is something about the
6 application that doesn't meet our standard. I mean, he
7 can request the waiver and we can move forward from
8 there.

9 MR. LACIVITA: I have to respectfully disagree
10 that there is a waiver here because there was no
11 history of any waiver on this project ever being asked
12 for or granted.

13 MS. DALTON: But now we're aware and we're being
14 asked to extend something that no longer complies with
15 eht own code. My point is that we're aware that it
16 doesn't comply. Why would we extend something that no
17 longer complies?

18 CHAIRMAN STUTO: I'll let you make a rebuttal. I
19 have no problem moving forward with this, myself,
20 personally. You've already been through the process.
21 Id don't think that it's a radical deviation.

22 MR. LACIVITA: Before we go any further, I'd just
23 like to go into the zoning verification that I see here
24 and based on width of the property developed on the
25 street, we're talking 175 feet of front yard.

1 CHAIRMAN STUTO: What is your front? Do you know,
2 Dennis?

3 MR. DEEB: It's 175 feet.

4 MR. LANE: I'll make the motion for the extension.

5 MS. DALTON: I'll second it.

6 MS. VAIDA: What I was going to say is as long as
7 it isn't a substantial change, it's really
8 discretionary with the Planning Board.

9 CHAIRMAN STUTO: Okay, so there isn't a change in
10 the physical application.

11 Any other questions?

12 MS. DALTON: We have a motion and a second.

13 CHAIRMAN STUTO: OKay, Tim mad ethe motion and Tim
14 seconded it.

15 Any discussion?

16 (There was no response.)

17 CHAIRMAN STUTO: All those in favor say aye.

18 (Ayes were recited.)

19 CHAIRMAN STUTO: All those opposed say nay.

20 (There were none opposed.)

21 CHAIRMAN STUTO: The ayes have it.

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23 (Whereas the proceedings were concluded at

24 7:15 p.m.)

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CERTIFICATION

I, NANCY STRANG-VANDEBOGART, Shorthand
Reporter and Notary Public in and for the State of
New York, hereby CERTIFY that the record taken by
me at the time and place noted in the heading
hereof is a true and accurate transcript of same,
to the best of my ability and belief.

NANCY STRANG-VANDEBOGART

Dated February 27, 2013

