

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 *****

4 HUDSON PRESERVE II

5 PROPOSED REZONING

6 122-134 TROY SCHENECTADY ROAD

7 *****

8 THE STENOGRAPHIC MINUTES of the above entitled

9 matter by NANCY STRANG-VANDEBOGART, a Shorthand

10 Reporter, commencing on September 10, 2013 at 8:02 p.m.

11 at The Public Operations Center, 347 Old Niskayuna

12 Road, Latham, New York.

13 BOARD MEMBERS:

14 PETER STUTO, CHAIRMAN

15 BRIAN AUSTIN

16 SUSAN MILSTEIN

17 KATHY DALTON

18 KAREN GOMEZ

19 LOU MION

20 ALSO PRESENT:

21 Elena Vaida, Esq., Counsel to the Planning Board

22 Michael Tengeler, Planning & Economic

23 Development

24 Daniel Hershberg, PE, Hershberg and Hershberg

25 George Mahserjian

Holly Durbage

Carol Mull

Marvin Chudnoff, Hudson Preserve

Linda Saito

1 CHAIRMAN STUTO: We'll call up the next and final
2 item on the agenda. This is Hudson Preserve II. This
3 is a proposed rezoning, 122 to 134 Troy Schenectady
4 Road. This is for a recommendation to the Town Board on
5 a rezoning 27.99 acres from neighborhood/commercial/
6 office/residential known as NCOR to a multi-family
7 residential zoning district.

8 Mike Tengeler, do you have any introductory words
9 on this?

10 MR. TENGELER: I think that you described it pretty
11 well. Again, the proposal is going from a neighborhood/
12 commercial/office/residential to a multi-family
13 residential zoning district.

14 The Hudson Preserve Apartments border the areas
15 that Mr. Hershberg is going to be talking about
16 tonight. This is just a recommendation to the Town
17 Board. There is no SEQRA required at this level. Mr.
18 Hershberg will make his presentation and the Board will
19 discuss it and the recommendation ultimately gets made
20 to the Town Board for the next step.

21 I'll turn it over to Dan Hershberg.

22 MR. HERSHBERG: Thank you, Mr. Chairman. My name
23 is Daniel Hershberg with the firm of Hershberg and
24 Hershberg. With me tonight is Marvin Chudnoff who is
25 the managing partner of the group that's part of this,

1 and Joseph Garland who is the property manager for the
2 apartments next door.

3 For those people who are not familiar with this,
4 this is the Hudson Preserve Apartments. This is Beryl
5 Way, the driveway that goes along the cemetery. This
6 is Route 2 down the hill and this goes into a
7 roundabout and these are the Hudson Preserve Apartments
8 which were completed about five years ago. We started
9 it about eight or nine years ago, but they are up and
10 running and they're a well received commodity in the
11 community.

12 People apparently like the apartments. They have
13 a very good rental rate; the rental rate, not the
14 amount. The rate of apartments that are rented is what
15 we're talking about.

16 The application is here and there are a multiple
17 number of properties in here that were smaller
18 properties; some of which had buildings that were badly
19 run down. The applicant, as part of this contract of
20 sale offered to take down some of those buildings.
21 Some of them have to be demolished because they were in
22 very bad condition and were about to be cited by the
23 Building Department for violations. As part of their
24 contract to settle, they offered to take those down.

25 This is next to the NCOR zone which would permit

1 the applicant for these 27.99 acres to go 530,000
2 square feet of commercial office space on the site. By
3 mixed-use they could build 20 percent of that, or about
4 103,000 square feet worth of commercial space and 134
5 apartments.

6 CHAIRMAN STUTO: Is that analysis in here?

7 MR. HERSHBERG: Yes, it actually is right in the
8 draft recommendation. Those figures are in there. All
9 of these figures are based upon the gross area of the
10 site which is the method used in the NCOR zone and the
11 SNR zone for density. It's not net of wetlands and it's
12 not net of slopes. It's the gross area by definition
13 for the site area. It would be different if we were in
14 a conservation district, but again, it permits the use
15 of the gross area.

16 There are some wetlands on there. It's shown in
17 light blue on this plan here. There is a stream course
18 down here and another stream course and this is another
19 intermittent stream course that runs down toward
20 Watervliet (Indicating).

21 The issue here is that the applicant doesn't see
22 doing a mixed-use development here. Doing a 103,000
23 square feet with a commercial or retail uses on the
24 site would be very difficult, we think, primarily due
25 to the location. People familiar with it - the

1 crescent hill is right here and then you start down a
2 relatively steep hill (Indicating). There are half a
3 dozen current driveways and we are able to eliminate
4 those curb cuts entirely along this strip (Indicating).
5 The goal would be strictly to use Beryl Way for ingress
6 and egress to the site as an existing driveway and
7 existing way that's well established egress and
8 ingress.

9 We have picked some locations that would be
10 potentially usable with some modifications for the
11 stormwater management systems. We believe that the
12 soil here -- and we're very familiar with the soil
13 because we had exactly the same problems encountered
14 here when we did this very large stormwater basin
15 behind this building here on Hudson Preserve. The soil
16 just did not allow us to use our wonderful porous
17 pavement. There was quite heavy clay with pretty low
18 infiltration rates. We're hoping that maybe one or
19 more of these locations that we're trying to find here
20 might have more infiltration rates that we could mix
21 and match and come closer to meeting the infrastructure
22 that's appropriate for the site.

23 The applicant has a mixture of 12, 14 and 16 unit
24 buildings in here. There are three 12, three 16 and
25 twelve 14 -- six 14-unit buildings and we also propose

1 garages. The total number of parking spaces including
2 garages would exceed the Code. We would have to put,
3 for 168 units, two apartment phases of 336 and we
4 propose to have like 402. The reason is that number
5 will be in garages. We do propose to have a
6 significant number of garages on the existing Hudson
7 Preserve site which are a very desired amenity.

8 The proposal would be to add the garages, as
9 indicated.

10 Another building will be the rental office and
11 there is a rendering of the existing building. Again,
12 this will parallel pretty closely with the same sort of
13 architecture, as will the building. What I'm showing
14 you essentially is a rendering of the Hudson Preserve
15 site because the building will be virtually identical.
16 There is a slight change with regard to the building
17 footprint to accommodate the different number of units,
18 but these units will look virtually identical to these
19 sort of treatments. We think that its an attractive
20 building. We think that it works out well. We think
21 that's a better use of the site the NCOR zone would
22 permit.

23 We do propose to maintain 76 percent of the site
24 green. An awful lot of that green area is concentrated
25 back to the point which is adjoining a recently

1 developed site that adjoins us. Again, the site does
2 have some of what I'd say are developmental
3 constraints, and the constraints are primarily across
4 this stream course. We are going to have to come down
5 a relatively steep slope. We'll have to cut into this,
6 and our goal would be to maintain this roadway at about
7 a five percent grade.

8 Our goal here would be to not disturb any federal
9 wetlands at all. We'll do a bottomless culvert across
10 this narrow wetland at this location and a bottomless
11 culvert along this location here, so there would be
12 zero disturbance to federal wetlands (Indicating). We
13 think essentially we could get a minor disturbance and
14 keep it under one-tenth of an acre, but our goal here
15 is to not to disturb any.

16 The proposal would be to put a sanitary sewer pump
17 station to collect all the sewage from the site in one
18 location and pump it up to an existing gravity sewer at
19 this point here (Indicating). This would all be
20 private. The existing system internal to the site is
21 private and it's attributed to a public system that
22 goes out to Delatour Road. We are going to put a water
23 main in through our entire site. When we built Hudson
24 Preserve, it went all the way out and across Route 2.
25 We made that connection. So, we intend to loop the

1 water main from there and loop the water main here so
2 that we'll have two water loops (Indicating). For a
3 second ingress and egress on the site we have this
4 roadway which is in yellow because we don't intend to
5 do it with a hard surface. That's our goal there to do
6 a Grass Tech or one of those pavements that can be
7 maintained during the winter, but will look more like
8 grass. It will be strictly emergency egress and
9 ingress into the site. All traffic will come in and
10 there will be a little hammerhead turnaround at the
11 end, which DEC requested to use rather than using big
12 cul-de-sac. So, we have a little hammerhead at this
13 location here (Indicating). We do have a very large
14 cul-de-sac here that gave us space for the parking. We
15 think that it's a potential for a very attractive
16 addition to the Town and again, although the density is
17 six units per acre, which is identical to what we have
18 on the Hudson Preserve site, it's exactly the same
19 density. We don't think that we're trying to overbuild
20 the site. We think that it works quite well and again
21 because we are eliminating curb cuts all along Route 2,
22 you have sewer and water issues that are easily
23 resolved.

24 The stormwater issues will require some work to
25 resolve and we have an archeologist on board to do the

1 archeology study.

2 CHAIRMAN STUTO: There is a cemetery to the west
3 there which would be on the top. What is below it
4 toward Watervliet?

5 MR. HERSHBERG: There is vacant property and then
6 there is a church down below it on Route 2.

7 CHAIRMAN STUTO: Can you put your light along side
8 of it so we can see it?

9 MR. HERSHBERG: This is actually the line here and
10 this property is all vacant (Indicating).

11 CHAIRMAN STUTO: What is it zoned? Who owns it?
12 What's beyond that? You're asking for a rezone. What
13 is the study that the Town does?

14 MR. TENGELER: The Comprehensive Plan.

15 MR. HERSHBERG: This entire area is NCOR Zone right
16 on down to the Town line. The Town line and the
17 Watervliet line right along Route 2 is entirely NCOR
18 zone. The uses are not NCOR, but they are zoned for
19 NCOR.

20 CHAIRMAN STUTO: What are the uses? I have a
21 visual of it. I know the Armenian church is down there.

22 MR. HERSHBERG: There is a church and there is a
23 reference and then we come to Watervliet right after
24 that.

25 CHAIRMAN STUTO: But it could be developed NCOR.

1 MR. HERSHBERG: It could be.

2 CHAIRMAN STUTO: What about on the other side of
3 the cemetery?

4 MR. HERSHBERG: On the other side of the cemetery
5 there is that shopping center. The church is the major
6 tenant. There is a Pizza Hut there. There is no land
7 between the cemetery and that property. Yes, this could
8 be developed down here, but I think that they would have
9 the same sort of constraints regarding the
10 egress/ingress to the roadway. DOT with their access
11 control would be very hesitant to grant a significant
12 number of curb cuts on this roadway.

13 CHAIRMAN STUTO: My other question has to do with
14 the density under current zoning and the density under
15 the proposed zoning. I know that there has been a
16 little bit of an analysis done in a Resolution that the
17 Town Board passed. Now here is where my own personal
18 confusion lies. We haven't done exactly this in the
19 years that I've been here that I can recall, anyway. If
20 you have residential subdivision and you have a certain
21 lot size which is 18 -

22 MR. HERSHBERG: I'm not sure that's true.

23 CHAIRMAN STUTO: Let me finish my whole thing. I
24 don't know how that carries. I would like a consultant
25 on our side to talk about this and get us to think about

1 it. You can certainly respond, but I don't know if that
2 applies to NCOR or if that applies to MFR which is
3 multi-family residential. Some of this is not
4 developable, but we're still going to get our maximum
5 density. That's where I have a question in my mind.

6 MR. HERSHBERG: I point out that the definition of
7 the Zoning Law talks about gross area and what its
8 definition is. The gross area being interpreted as
9 being all the area exclusive of the wetlands. Let me
10 just point out that if we were here for a single family
11 subdivision and we had these plan here, we'd be all over
12 the Cluster Development Law which allows us to use small
13 lots and preserve the rest -- New York State requires
14 that you permit cluster development so your Code does
15 have the requirement under the cluster development. If
16 this is strictly a single family residential area we
17 wouldn't be talking about the density issue being the
18 same. The density issue would be another issue there,
19 and my guess is that if we had this same sort of issue
20 that you described with wetlands and steep slopes, we'd
21 be talking about a cluster subdivision.

22 CHAIRMAN STUTO: How does the analysis go there?

23 MR. HERSHBERG: The single family residential in
24 your zone talks about that it uses gross area. The only
25 exception to my recollection is in the conservation zone

1 which is essentially in the conservation overlay which
2 says that in that area you have to use net area.

3 CHAIRMAN STUTO: I'm not sure about that.

4 MR. HERSHBERG: I'm pretty certain that the
5 definition and in the NCOR it definitely talks about
6 gross area for the density issues.

7 CHAIRMAN STUTO: I don't feel like I'm in a
8 position to make a recommendation at this point. I
9 think that I need some professional guidance. That's my
10 opinion. I'd like some guidance from a Town Designated
11 Engineer. I'm not saying that it's bad, but that's how
12 I feel.

13 MS. DALTON: Do any neighbors want to speak?

14 CHAIRMAN STUTO: Any neighbors with any interest in
15 this property?

16 MS. SAITO: I'm across the road from this proposed
17 development. I appreciate you wanting to investigate a
18 little further on the whole green issue.

19 There was a concern earlier about traffic and
20 that's definitely going to be traffic across the road
21 from me. I have deer literally walking up to my back
22 door. I think that this lack of land -- it's just
23 getting smaller and smaller around here.

24 CHAIRMAN STUTO: We appreciate your comments.

25 MR. MAHSERJIAN: I don't know where she lives, but

1 I've been there for 50 years. Since they have Route 2
2 and 787, you hardly have any traffic. We lost 60
3 percent to 70 percent of traffic on Troy Schenectady
4 Road.

5 These people live across the street from me. I
6 run Hilltop Plaza. I've been there for 55 years.

7 CHAIRMAN STUTO: Can you state your name for the
8 record?

9 MR. MAHSERJIAN: George Mahserjian. I don't know
10 what her problem is.

11 CHAIRMAN STUTO: Okay, I don't want to make it
12 personal. You can speak about traffic if you want.

13 MR. MAHSERJIAN: I have one driveway that the state
14 allows me to have. That's all we use.

15 CHAIRMAN STUTO: Are you selling part of your
16 property?

17 MR. MAHSERJIAN: I'm not selling any of my
18 property. I know our neighbors very well. I like to
19 see improvement in a location.

20 When I was first there, there was no one there.
21 There wasn't any Union National Bank. They said to me,
22 what are you doing? Are you crazy? Everyone is coming
23 in and out. I'd like to see people and I'd like to
24 have tax money coming in for your people. With the
25 cemetery there, I have quiet neighbors. I don't know

1 why we're arguing about traffic. What traffic are you
2 talking about? There is hardly any truck traffic.
3 There is just the car traffic. All the traffic and
4 trucks have shifted to 787. There are a few trucks
5 like dump trucks and a few things, but they already
6 have their development there.

7 I have 30 acres myself in the back and I'm working
8 on it and I want to come up with something to bring
9 more people and more activity. The neighborhood is the
10 best neighborhood. I keep my property very nice and
11 they keep their property very nice. There's nice grass
12 and nice shrubs. We have no problem at all. This is
13 not like some other places where there is too much
14 development around.

15 CHAIRMAN STUTO: Thank you, sir.

16 MS. DURBAGE: My name is Holly Durbage and I am an
17 owner of two of the parcels. I am here with some of my
18 cousins. We co-own three more of the parcels and I know
19 that we have owners of the other two parcels. I think
20 that you do have all of the owners here of the parcels
21 in question.

22 Actually, I wanted to address our neighbor across
23 the street, if I can set your mind at all with ease.

24 Our family has actually owned this land since the
25 1840's and it's always been in our family. We take it

1 very seriously in trying to sell this land. One of the
2 things that was always important to us was that it has
3 always been a family home and we wanted to keep it a
4 residential area. We were actually one of the parcels
5 in the Town of Colonie that was unzoned for a very long
6 time. We thought that it was an important thing to
7 keep the integrity of the property and we felt that Mr.
8 Chudnoff and the Hudson Preserve very much did that.
9 We like that he actually considered the land in
10 building it. He wanted to preserve certain trees that
11 were very old and he took that into consideration and
12 that was very important to us. We've had offers over
13 the years with people in commercial development and we
14 felt strongly. We didn't want a shopping mall, a gas
15 station or a Dunkin Donuts that was going to have noise
16 and tractor trailers. Even though we might not still
17 be the neighbors there, we wanted to make sure that it
18 was not disruptive. It was something that we felt was
19 a very good match with Mr. Chudnoff and his development
20 that came in to take care of the neighborhood.

21 CHAIRMAN STUTO: Okay, thank you.

22 We're not going to have a debate, but you will get
23 another chance to speak.

24 MS. SAITO: With all due respect, the Hudson
25 Preserve is nicely located far enough off the road.

1 It's virtually behind the cemetery. What is being
2 proposed is right on the road and there is a lot of
3 traffic. I've witnessed many accidents. I'm sure that
4 you probably have some kind of record of how many
5 accidents occur on that road. It's just going to create
6 more.

7 CHAIRMAN STUTO: As they're currently zoned - just
8 so you know and just for the record so we're clear on it
9 - they are entitled to develop 500,000 square feet of
10 office; is that right?

11 MR. HERSHBERG: Yes, 530,000.

12 CHAIRMAN STUTO: Or in the alternative they can do
13 a mixed-use which would be 101,000 square feet, and in
14 addition 134 units of residential. So, it is going to
15 be developed and they are entitled to develop it. It's
16 a question of whether we move it from what they can do
17 now which I just described which is either 500,000
18 square feet or 100,000 square feet commercial, plus 134
19 units of residential to what they're proposing which
20 would be a maximum of 168 residential. So, they're
21 entitled to develop it. I just want to make it clear
22 for the record. If we say no, it doesn't mean that it's
23 going to stay forever wild or anything like that.

24 What do the letters NCOR stand for?

25 MR. TENGELER: Neighborhood/commercial/office/

1 residential.

2 CHAIRMAN STUTO: That's what it is currently
3 zoned.

4 MR. CHUDNOFF: I appreciate what you have to say
5 and I'm sensitive to what you have to say. You have to
6 look at this map a little bit more carefully. We are in
7 fact going to shut down six curb cuts. A curb cut is
8 perpendicular to the road. A curb cut presents an entry
9 and exit problem. We are going to maintain the existing
10 curb cut that we have for Hudson Preserve. That curb
11 cut is for everyone who will come in and out the same
12 way and there will be curb cuts on our private road
13 which is called Beryl Way. If I remember this correctly
14 - because we did this several years ago - this road is
15 from here to about there (Indicating), which is where
16 the office is currently now. It's about 1,400 or 1,500
17 feet long. So, I just wanted to clarify that.

18 I also wanted to speak about what we're talking
19 about because all we're talking about here is 30-some
20 odd units. We have the absolute right to build
21 130-something units. We would like the right to build
22 160-something units. What's interesting here is the
23 history and although you don't know me from Adam, it's
24 kind of interesting.

25 Holly Durvage is her married name and not her

1 maiden name, which was Holly Dayton. We bought from
2 her family the land up here (Indicating). You cannot
3 see where we built almost 500 apartments 55 years ago.
4 We bought that land from her predecessors.

5 CHAIRMAN STUTO: Which apartments are they?

6 MR. CHUDNOFF: That's called Lakeshore Park or
7 Beverwyck. We have several thousand apartments in the
8 area, but with absolutely contiguity to this right over
9 here (Indicating) there are another 400 or 500
10 apartments which are us, which we bought, interestingly
11 enough from the same family. Also, we bought this land
12 40 or 50 years ago. We are cogniscent of the fact that
13 zoning areas change and land uses change, but what we're
14 talking about here in practicality -- this is virtually
15 one-half the size of this. This is approximately 350
16 units and we would like to build approximately 160-some
17 odd units here (Indicating). This is approximately 30
18 acres - a little bit less. This is approximately 60
19 acres - a little bit less. I don't remember the exact
20 numbers, but we're pretty close. This is exactly what
21 this is.

22 Dan said that the buildings are going to look
23 pretty much like this (Indicating). They're not going
24 to look pretty much like this. They're going to look
25 exactly like what is here. I invite anybody who has

1 any questions to just drive through Hudson Preserve. I
2 can tell you that members of the Town in all sectors
3 have lived in Hudson Preserve. They not only like it,
4 but they choose to live here. So, I'm going to
5 replicate precisely what is here over here
6 (Indicating). The difference is that one building will
7 have 16 units instead of 14 units. It's going to have
8 that because we're going to take that two-bedroom
9 apartment and make it into two one-bedroom apartments.
10 It's a matter of jerry rigging some of the square
11 footages and stairwells. It's exactly the same. If
12 you like what's there, that's what's going to be here.
13 The real question here is what do we do with 30-some
14 odd apartments.

15 The reason that we need it is because the site is,
16 as you can see by these grating lines - you may have
17 the same plan - this site really has 40 to 50-foot
18 grading differentials. So, it's an expensive site to
19 work on. In order to mitigate to some extent the cost
20 of doing that - by doing what any other person in
21 business would do - is I like to advertise my costs as
22 much as possible. I would like this to be six to the
23 acre and we'd like this to be six to the acre
24 (Indicating). We don't want to build 105,000 square
25 feet.

1 I've seen that restaurant that is over here
2 (Indicating). I've seen it change ownership five times
3 in five years, and it's heartbreaking. Merchants have
4 a very difficult time dealing here. To think that any
5 of this could ever be commercial is searching for
6 fool's gold. The difference between this road and this
7 over here is a 40 and 50-foot elevation (Indicating).
8 It's just inaccessible. You can't do it. So, what I'm
9 saying is I want to trade in my 100,000 square feet of
10 allowable commercial space and let me put in
11 residential space. Most of our people that are here
12 are retired or senior citizens and young married
13 couples. That's what I'd like to have come in here.

14 I think that it's going to be a great tax base to
15 the Town. I'd love to get it done as quickly as
16 possible. The Supervisor told me that things are going
17 faster, and I would hope that would happen. I'm not
18 looking to exploit anything. I personally have been
19 here for almost 50 years. I know I look much younger,
20 but I personally have been here for almost 50 years.
21 Don't listen to what I say, but look at what I do.
22 That's more important. Speak to anyone else in this
23 Town that has ever done business with me or any of my
24 compatriots or anyone else and you'll see that a few
25 don't like us, but more people do. That's it.

1 MR. AUSTIN: Sir, I have a question for you. Is
2 the existing Hudson Preserve at maximum capacity right
3 now?

4 MR. CHUDNOFF: Yes.

5 MR. AUSTIN: I mean the occupancy rate.

6 MR. CHUDNOFF: It's about 97 percent. We rarely
7 get 100 percent because someone moves out on Monday and
8 you can't let someone move in on Monday.

9 MR. AUSTIN: So, you've done the market studies or
10 whatever to determine that there is a need for this?

11 MR. CHUDNOFF: Well, put it this way, if you were
12 in the ice cream business, you'd probably speak to other
13 people in the ice cream business and you'd probably have
14 an ice cream business owners association. People such
15 as myself in real estate tend to talk to each others
16 continually and I have been bullish on this area of the
17 last 10 or 12 years. I've been a major booster of what
18 is going on. I'm a booster of the whole nanotech
19 movement. I'm a booster of everything that's been going
20 on in Malta, Wilton, Saratoga and Washington Avenue
21 Extension. This area finally after 40 or 50 years - the
22 children that are born in this area will be able to have
23 a real paying job and stay in this area. They won't
24 have to go to the research triangles that are down
25 south, or up to Boston, or somewhere else. They'll be

1 able to actually stay here and make a living. So, we
2 are very successful with these.

3 MR. AUSTIN: I guess I posed that question because
4 we've seen a number of apartments with residential
5 similarity come across the table in the recent months
6 and we've seen a lot of these. I'm interested to see
7 how we're going to fill them all. I know that the area
8 is great and the Town is great and people go for the
9 school and go for all that kind of stuff. That's a big
10 draw and I understand that.

11 MR. CHUDNOFF: We have an edge. First, we have 350
12 sitting there already. We have people coming in every
13 day that we have to turn down folks that cannot get a
14 two-bedroom. We don't have it. They have one-bedrooms
15 and there is a waiting list on one-bedrooms. That's
16 when you hear me talk about 16 unit buildings, it's
17 because we're building them all one-bedrooms. Don't
18 look at this as just 168 units. You now have to look at
19 this as almost 500 units. The cost of running those 500
20 units is significantly less on a per unit basis than
21 some of the apartments that are presented like 80 unit
22 apartment complexes or 150 unit apartment complexes.

23 CHAIRMAN STUTO: We see a lot smaller ones than
24 that.

25 MR. CHUDNOFF: You must understand the people who

1 manage this are going to manage this (Indicating).

2 CHAIRMAN STUTO: We understand what you're saying.

3 MR. CHUDNOFF: There is a tremendous economy that
4 comes into play here. Don't forget the plowing of the
5 roads which we do. The Town doesn't have to do it.

6 The removal of waste in our recycling center, we
7 do. We build recycling units that can take care of 600
8 apartments.

9 When our people plow these roads, it doesn't
10 matter whether there is 500 families living there or
11 300 families. They are plowing the road. So, I think
12 that from our perspective, again, our industry is kind
13 of overly optimistic all the time. You're going to see
14 a lot of people wanting to build apartments and more
15 apartments. They will build those apartments. The
16 vacancies will rise and they will slowly go down as the
17 population increases - there will always be those
18 fluctuations. Finally, though, the population is
19 increasing here. Finally we're getting the population
20 and the salaries are increasing along with the
21 population. So, for the long-term, I believe that in
22 my lifetime I will see a tremendous grown in this area.
23 I'm seeing it because it's really been the last 10
24 years.

25 MS. DALTON: The bottom line is that if we make the

1 recommendation to make this change, we don't make the
2 change. It would be just like as we see in other uses
3 that come in where they knock 30 units off and the put
4 in some kind of Top Tile. From that perspective, this
5 looks a whole lot better to me than some of those mixed
6 use options that we've looked at.

7 CHAIRMAN STUTO: My position is this: This is a
8 major development. Nobody has even talked about the
9 Comprehensive Plan. A rezone is a major step to be
10 taken where you can't waive a wand over a property when
11 we don't have any analysis or an objective person that
12 is on our side to get into the record that this may be
13 the correct recommendation. I don't know.

14 It's a very interesting corridor. A lot of the
15 points are well taken. There is a restaurant changing
16 hands. There is an abandoned car wash and a church on
17 the corner. I don't know where this all fits in, and I
18 don't know where it fits in with the Comprehensive
19 Plan. I would like to have a consultant on our side to
20 do some analysis. That's how I feel about it - before
21 I feel comfortable voting, myself, to recommend
22 something to the Town Board.

23 MS. DALTON: I'm just making sure that my
24 understanding is correct, if we don't recommend change
25 then we certainly could wind up with another proposal

1 like one that we didn't like.

2 CHAIRMAN STUTO: Or you could end up with a lot
3 better.

4 MS. DALTON: I understand that. I'm just
5 clarifying that.

6 CHAIRMAN STUTO: You could end up with offices in
7 the front and residential in the back.

8 MR. AUSTIN: Are we in a position where we could
9 ask the TDE that's present for some advice?

10 CHAIRMAN STUTO: Only if you're comfortable in
11 making general comments about rezoning?

12 MR. GRASSO: Do you have a specific question or do
13 you want to give just a general comment?

14 MR. AUSTIN: Just a general comment.

15 MR. GRASSO: I think that conversation and the
16 questions raised are spot on. I think that no doubt you
17 have to look at the Comp Plan to see what the vision was
18 for how this area was going to develop. I think that
19 it's incumbent on the Planning Board and the Town Board
20 to look at the viability of the current zoning. Right
21 now we know that this is NCOR and we know that zone has
22 a very unique requirement that requires at least 20
23 percent of the project to be an equivalent commercial
24 density. So, I think that if they were going to build
25 130 residential units, they would need to build at least

1 80,000 square feet, I think -

2 MR. HERSHBERG: It would be 101,000.

3 MR. GRASSO: Okay, at least 101,000 square feet of
4 commercial in order to build 130. The zone is also
5 unique in that if you're going to build 50 residential,
6 you still need to build 20 percent commercial. I think
7 that when you understand that uniqueness of the zone,
8 you have to look at things on a site by site basis and
9 see is that the appropriate type of development for this
10 parcel and does that fit in with the vision of the
11 Comprehensive Plan. I think that issue was raised and I
12 think also the issue of just the uniqueness of the site.

13 Eliminating the access on the highway is a great
14 thing. Having everything centrally located and very
15 compact in an efficient way is a good thing. Those are
16 very good things from a planning perspective. I think
17 that you have to take that into consideration.

18 Obviously, it's a constrained site so you also
19 have to take that into account - the capacity and the
20 way to accommodate that. In this case we have a great
21 community right next door that you can look at and say
22 that it's a comparable density and that's without
23 having looked at it closely. It probably had similar
24 constraints, so you can drive through there and get a
25 feel for what that six units per acre is in relation to

1 the property. That's what the Planning Board has to
2 consider.

3 MR. AUSTIN: And I see where the gentleman is
4 coming from with the different grading issues and stuff
5 like that - trying to build a commercial property on
6 such a steep grade.

7 Also, you mentioned the various deep grades. How
8 are you going to attack that with the residential
9 property?

10 MR. CHUDNOFF: It's a commercial property so assume
11 that you're going to build a shopping center; multiple
12 stores with multiple entrances and exits off of the
13 road. It's a 40-foot rise which presents its own
14 problems. Maybe in some cases, it's almost an
15 impossibility. We're not going there. We're setting
16 back from there and we're behind it. We don't need a
17 store that wants to be as close to the street as
18 possible for its marketing visibility. We don't want
19 that. We're deciding not to be there. If you notice,
20 Hudson Preserve sits way back. If you take a look at
21 the front, we're 60 or 70 feet from the property line
22 and only three buildings. Everything else is all the
23 way back. The majority of our business takes place in
24 the back of the site.

25 CHAIRMAN STUTO: Anybody else in the public want to

1 speak on this?

2 MS. MULL: In just listening to the conversation
3 and just looking at the area, you're kind of farther out
4 of Town. You're not up where the commercial action is.
5 That's how I look at it. It is more residential in this
6 area. I want to try to keep it that way. A lot of
7 people are coming up through Loudonville and hitting
8 that area right up there. That's where all the
9 commercial draw is. That's what I see. I definitely
10 consider this more of a residential area as opposed to a
11 commercial area. You're right in Watervliet, based on
12 the location.

13 CHAIRMAN STUTO: Thank you.

14 Would the Board consider hiring a consultant,
15 which we can do in our Land Use Law, which would be a
16 Town Designated Engineer to do some analysis on this
17 and do some comparison with the Comprehensive Plan and
18 advise us as we go forward and try to get them on as
19 quickly as possible?

20 MS. DALTON: Yes, I think we should.

21 CHAIRMAN STUTO: Do you want to respond to that?

22 MR. HERSHBERG: Our goal here would be to try to
23 get a referral to the Town Board, obviously. The
24 Planning Board has adequate opportunity to review this
25 plan. This has to be referred back to this Board for

1 site plan approval. If The key issue has to do with
2 land use things like grading and stuff like that, we
3 believe that might impact our capability of getting the
4 density we're looking for -- there will be plenty of
5 opportunity to do that at a later stage in the approval
6 process. The fact that we can be approved for up to 168
7 units doesn't mean from a site plan standpoint that we
8 can get a plan that would meet this Board's approval.

9 I thought essentially that when we went to a DCC
10 review of this project we did a \$1,500 deposit for a
11 TDE -

12 MR. TENGELER: It would have been a \$2,400 deposit
13 if one was made.

14 MR. HERSHBERG: I'm not sure if a TDE was actually
15 appointed.

16 CHAIRMAN STUTO: As far as I know, there wasn't.

17 MR. HERSHBERG: You're trying to get somebody on
18 your side and you know that I'm always on your side; you
19 know that. I want to do the right thing for the Town.

20 For the record, I'm six months older than Marvin.

21 I understand where you are coming from regarding
22 clarity regarding the density issue, but I think that
23 the Comprehensive Plan - the vision of the
24 Comprehensive Plan with an NCOR zone - that would say
25 take the front area here and build 101,000 square feet

1 worth of office space and then build 134 units worth of
2 apartment -- I don't think that first, the NCOR zone
3 was the greatest choice in here because of the
4 difficulty of developing it. The frontage area is very
5 difficult to develop. If you want to say that we can
6 enter it in here and put an office park back there, I
7 supposed we could. We can always go forward and build
8 a 503,000 square foot office park but Mr. *** does not
9 have interest in the office park.

10 Again, we would ask the Board to consider that
11 reference this back to the Town Board. As I said,
12 there is plenty of opportunity to review the details of
13 this development.

14 CHAIRMAN STUTO: Thank you. That said, I have to
15 say that I appreciate your comments. I haven't changed
16 my mind. I would really prefer to have some guidance on
17 this.

18 Did somebody make that motion?

19 MS. DALTON: I'll make it.

20 MR. MION: I'll second it.

21 CHAIRMAN STUTO: Any discussion?

22 (There was no response.)

23 CHAIRMAN STUTO: All those in favor?

24 (Ayes were recited.)

25 CHAIRMAN STUTO: All those opposed?

1 (There were none opposed.)

2 CHAIRMAN STUTO: The ayes have it.

3 This will be tabled and we'll hire a consultant.

4 We'll work with you and come back with some kind of
5 recommendation.

6 MR. HERSHBERG: I know that a gentleman had to do
7 his landscaping and you told him about a next date. Our
8 goal here would be -- we are up against it a little bit.
9 We did start our application quite awhile ago and -

10 CHAIRMAN STUTO: I'll ask staff to do that as
11 quickly as they can.

12 MR. TENGELER: We'll work with you tomorrow
13 morning.

14 CHAIRMAN STUTO: Thank you.

15

16 (Whereas the above proceeding was concluded at
17 9:01 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 September 16, 2013

