

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 *****

4 ALBERT MIXED USE DEVELOPMENT

5 844 TROY SCHENECTADY ROAD

6 APPLICATION FOR CONCEPT ACCEPTANCE

7 *****

8 THE STENOGRAPHIC MINUTES of the above
9 entitled matter by NANCY STRANG-VANDEBOGART, a
10 Shorthand Reporter, commencing on October 22, 2013
11 at 7:44 p.m. at The Public Operations Center, 347
12 Old Niskayuna Road, Latham, New York

10

11 BOARD MEMBERS:

12 PETER STUTO, CHAIRMAN

LOU MION

13 SUSAN MILSTEIN

KATHY DALTON

14 TIMOTHY LANE

15 ALSO PRESENT:

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

17 Joe LaCivita, Director, Planning and Economic Development

18 Joe LaCivita, P.E., CHA

19 Jessie Holland, Sunrise Management Consulting

20 Dave Ingalls, Ingalls and Associates

21 Donna Condon

22 Arlene Weiskoff

23 Leslie O'Clair

24 Jane Tallmadge

25 Brian O'Clair

1 CHAIRMAN STUTO: Okay, we'll call up Albert Mixed
2 Use Development, 840 through 844 Troy Schenectady Road.
3 This is an application for concept acceptance.

4 We've seen this a couple of times.

5 Joe LaCivita, do you have any introductory
6 remarks before we get onto this one?

7 MR. LACIVITA: This project, as we all know, has
8 been around for a little bit of time. It's been
9 through a number of looks and feels for the Board. I
10 think that what we have before us is a very
11 comprehensive design at this location. It is here
12 tonight for concept acceptance. The last time that it
13 was before us was February 5, 2013 they just received
14 zoning verification which we'll speak a little bit
15 about over the course of the review here.

16 CHAIRMAN STUTO: Okay, we'll hand it over to the
17 applicant.

18 Could you introduce yourself and we'll get
19 started?

20 MR. HOLLAND: My name is Jessie Holland with
21 Sunrise Management Consulting. We had a review in
22 February and presented at that time and had input of
23 the Board and the public.

24 We have revised option three and we hope that
25 this will meet with everyone's approval. We now

1 have updated our entire drawings which are in your
2 packets which include the floor plans and
3 elevations.

4 There is one single commercial space in this
5 area here (Indicating) of 8,705 square feet and a
6 two-story multi-family building which based on
7 your comments and public comments from February,
8 we have taken from three stories and brought it
9 down to a two-story building. Originally, we were
10 working on a three-story 11-unit building and it's
11 now two-story and 12 units, which works better on
12 the site for construction costs. The total square
13 footage is 11,520.

14 Based on the comments, each unit will have
15 its own direct access from the outside, there are
16 no common hallways or common areas.

17 The retail tenants are expected to have a
18 maximum of 20 employees. The hours will be Monday
19 through Friday 7:00 to 7:00 and Saturdays 8:00 to
20 5:00 and we expect to be closed on Sundays.

21 The access has been redesigned. There is a
22 letter of intent with the neighbor to have a
23 combined driveway in this area directly opposite
24 Knadler Drive which takes us from having three
25 distinct entrances on the two properties to one

1 which meets the goals for the access management
2 improvement plan.

3 The parking has a total of 62 total spaces;
4 23 plus one handicapped for the commercial tenant.
5 Ideally, we'd like to bank 14 of them. So, 24
6 plus two handicapped for the residential tenants
7 and another 12 spaces that will be shared jointly
8 in this area over here allows our neighbor to
9 solve some of their parking problems and access
10 problems for trucks.

11 Additionally, we've been able to separate the
12 commercial and the residential uses significantly
13 with shielding in this area here (Indicating) as
14 well as connected with sidewalks and walkways so
15 that it has one unified feel to it. Last time or
16 a couple of times ago there was significant
17 question as to whether all of the people who might
18 be impacted were notified beyond the 200-foot
19 required zone. We also sent out later letters to
20 43 neighbors on Laura and Garling Drive and we
21 were here earlier and nobody approached us to see
22 if anybody had any questions or wanted to get
23 further information.

24 The last piece is some common community space
25 for the apartments back in this area (Indicating)

1 so that there are places for kids to run and
2 picnic tables and that type of thing.

3 MR. INGALLS: I'm Dave Ingalls with Ingalls and
4 Associates.

5 Jessie summarized the modifications basically
6 reflecting on the plans for both the site plan and
7 the building floor plans and elevations for both
8 the commercial building up front. We slightly
9 downsized that down to about 8,700 square feet and
10 we put in the additional square footage into the
11 rear apartments for 12 units. The Board should
12 have elevation views and floor plans for both the
13 front commercial building which will be Top Tile
14 and a small 2,500 square foot retail space for
15 kitchens.

16 The individual apartments do have their own
17 access, which was one of the comments by the
18 Chairman last time; you didn't like the long
19 halls. Each unit has its own entry door.

20 Jessie touched on screening. We did add some
21 additional screening between the apartments and
22 the loading dock, which is in this area here
23 (Indicating). This will be a biofilter for our
24 stormwater treatment, and just outside of that we
25 have some tree plantings in addition to the

1 biofilter plantings.

2 We have added crosswalk striping to guide the
3 residents through any of the pavement sections
4 from the apartments through the parking area
5 across the greenspace and out to the sidewalks on
6 Route 7. We will try to limit the disturbance
7 when we finalize our grading plan in the rear area
8 here (Indicating).

9 There was a question about vegetation. That
10 was one of the comments. Since February we've
11 been working on hiring an architect and detailing
12 the building plans and elevations which pretty
13 much ready to go into detail drawings if the Board
14 likes those.

15 We did receive a comment letter from Clough
16 dated September 23rd. We have responded to that.
17 We basically have no issues with any of the
18 comments, and all of those will be incorporated
19 into the detailed plans as we go further.

20 We have concurrence with DOT on the shared
21 access. We have that in a letter dated May of
22 2013. There are a few technical comments and
23 details that we'll work out with them relative to
24 the actual work permits for construction.

25 Other than that we hope that this Board is in

1 concurrence with us and we're looking for the
2 concept approval.

3 There is one item that we need to discuss
4 relative to the zoning verification. They're not
5 recognizing these 12 spaces that we have shared
6 with the neighbor, Mr. Bogosian, or the 14 banked
7 parking spaces, so we'd be looking for some type
8 of waiver. Maybe Joe can help us out and how we
9 go through that process relative to waiving the
10 parking. Is that something that the Planning
11 Board can do?

12 MR. LACIVITA: Does somebody want to expand a
13 little bit about why John came in because of the Zoning
14 verification constrictions that Bob Cordell was having?
15 Would you like to go over that a little bit more as to
16 why that is kind of flip-flopped now? Would you like
17 me to speak to it? It's up to you.

18 MR. INGALLS: Part of my understanding is that Bob
19 really doesn't recognize anything that's not on-site;
20 correct? There are 12 spaces that are really on the
21 Bogosian site, but those will be shared parking through
22 a legal agreement. Top Tile, and more specifically,
23 the apartments would probably use these. They'll have
24 legal rights to those spaces.

25 CHAIRMAN STUTO: Will that be a recorded agreement

1 so that it runs with the land?

2 MR. INGALLS: Yes, we can put that right into a
3 deed covenant so that it runs with the land, regardless
4 of ownership here or here (Indicating), that can run
5 with the deed.

6 CHAIRMAN STUTO: Can you make a note of that and
7 we can revisit it next time and let us know how you did
8 that?

9 MS. DALTON: Can you point out again where the
10 banked parking is?

11 MR. INGALLS: The banked parking is right here
12 (Indicating). Basically the banked parking would be
13 servicing the Top Tile and the kitchen retail building.
14 So, they would be right along here (Indicating). There
15 would be 14 spaces.

16 CHAIRMAN STUTO: But it wouldn't take up all the
17 greenspace there though; right?

18 MR. INGALLS: It wouldn't take up all the
19 greenspace. It would take up one-third of it. We
20 could say that's about 40 feet wide or 50 feet wide.

21 MR. LACIVITA: Part of the problem that Bob
22 Cordell was having from a building perspective in
23 trying to give an approved zoning verification was
24 again, the parking was off-site, even though one side
25 said banked and the other side was going to be

1 constructed. When he did the parking calculation,
2 there wasn't enough parking on site in order for him to
3 get -

4 MS. DALTON: Even with the banked?

5 MR. LACIVITA: The banked parking had to be based
6 on the calculation that's on the plans. He wanted to
7 see it constructed. That's why John was in there with
8 that meeting. He approved it with it being constructed
9 and the bank being flipped to the other side and then
10 when all those agreements come into play. Those can be
11 constructed.

12 MR. MION: Concerning access to the rear of the
13 apartments for emergency vehicles such as a fire truck;
14 is there an access there?

15 MR. INGALLS: The fire lane access would be along
16 the front here (Indicating). We have a clear zone
17 along here so if there was a fire, there is not a
18 requirement to get to the rear of the building. It can
19 be done off the pavement here. This is about a
20 30-scale plan, so there is about 35 feet on this side.
21 So, they might be able to nose into that side of the
22 building, if need be. But I wouldn't count that we
23 have rear access. We don't have rear access.

24 CHAIRMAN STUTO: Again, we have our Town
25 Designated Engineer, CHA represented by Joe Grasso who

1 has reviewed this project for us.

2 Joe, do you have comments that you'd like to
3 share?

4 MR. GRASSO: We have a comment letter in your
5 packet dated September 30th. I'll just go through a
6 couple of the items there.

7 The project has been the subject of
8 considerable discussion regarding compatibility of
9 the land uses, access management, the building
10 architecture and facade treatment. After
11 substantial revision, the revised sketch plan was
12 presented at the February 5, 2013 Planning Board
13 meeting and the latest plan before us tonight
14 incorporates many of the major areas of concern
15 and appear satisfactory for concept site plan
16 determination by the Planning Board. We bring up
17 a number of technical comments. Some of those
18 I'll speak to, but some I'm sure can be addressed
19 as the plan moves forward.

20 I just want to talk about the parking that's
21 proposed. We had reviewed it and deemed it
22 acceptable that they were going to build, for
23 right now, the nine spaces for the commercial
24 building up front and then the 24 spaces in the
25 back. We thought that landbanking the 14 spaces

1 in the middle of the site was acceptable and we
2 were agreeable to the 12 additional spaces that
3 would be constructed on the lot next door. From
4 our review we thought that as presented it was
5 zoning compliant. We thought that the legal
6 agreements that would be put in place prior to
7 final site plan approval would require those
8 parking spaces be shared and we deemed that
9 acceptable. Obviously, that's not the case with
10 the Building Department. So, there is a couple of
11 options and one would be that the applicant could
12 represent tonight to build what was previously
13 considered to be the 14 spaces and make it
14 compliant with the Code and not be reliant on
15 those adjacent spaces. Or, conversely the
16 Planning Board could grant a waiver which is
17 something that the Planning Board could act on at
18 the time of final. We could consider a waiver to
19 continue to landbank those 14 spaces, and if it
20 comes to approving the site plan with 33 spaces,
21 the Planning Board would have to do that. They
22 would grant approval based on this with 33 parking
23 spaces and 14 additional spaces landbanked. They
24 would have to be granted a waiver for that. Then,
25 we could, obviously, during a review of the final

1 plan continue to look for an agreement with the
2 adjacent land owner that shows that 12 additional
3 parking spaces are going to be constructed on that
4 adjacent parcel. Obviously, it might have to come
5 in as a separate site plan application and the
6 zone verification can get approved for that. It's
7 almost like a separate site plan application. I
8 think that it's good tonight that we can kind of
9 see how both projects can dovetail together
10 because I think that achieves a lot of the goals
11 that the Planning Board had expressed during the
12 early review of the site.

13 CHAIRMAN STUTO: What's your recommendation?

14 MR. GRASSO: Our recommendation is that we
15 continue to landbank the 14 spaces on the site and we
16 work with a process that gets outlined by the Building
17 Department. We consider a waiver at the time of final
18 site plan approval and then we continue to look for an
19 agreement with the adjacent land owner for final site
20 plan approval to show that their intent is to build 12
21 additional parking spaces on the other side.

22 CHAIRMAN STUTO: I'm personally inclined to agree
23 with that.

24 MR. GRASSO: The beauty of the landbanked parking
25 spaces is that if there ever is a parking issue, the

1 applicant can either come in and request to the
2 Planning Board that they want to build those spaces or
3 if the Town sees a parking problem, we can go to the
4 applicant and say we're going to force you to basically
5 build those parking spaces, based on the site plan.
6 So, we've got a couple of options there.

7 In terms of going through some of our other
8 comments, the Planning Board previously expressed
9 a desire to make the commercial building northerly
10 faced along Route 7 to appear to be the front of
11 the building. The perspective rendering and north
12 elevation appears to show a doorway facing Route 7
13 however, the building floor plan does not.
14 Included in your packets are the elevations and I
15 take this to be the elevation facing Route 7, so
16 it looks like there is a doorway there and it
17 looks like there is a projection of the building.
18 This would be the side of the building. Then when
19 you flip to the next elevation, this would be the
20 north elevation, so as you're looking from Route 7
21 and it looks like there is an entrance there and
22 signage for Top Tile is there. Then, when you get
23 to the floor plan on the third page of the retail
24 building, there is no projection or door shown
25 there. That was a question that we had raised

1 that we want to make sure that it's clear exactly
2 what is being proposed because it dovetails into
3 our next comment where the Planning Board had
4 previously said that they wanted at least a store
5 front looking part of the building facing Route 7
6 as well as a sidewalk extending from that door to
7 the sidewalk along Route 7.

8 I'll turn it over to Dave.

9 MR. INGALLS: We'll work that out with the
10 architect. Our understanding is that the front facade
11 as shown would be a flush facade. However, it will
12 have a doorway. It may have an awning or a canopy to
13 make it appear as it is an entrance in terms of making
14 a streetscape facade. However, the main entrance will
15 be the easterly entrance here (Indicating). So, we
16 will make it look like that. Since the last plan that
17 was submitted, we will have this continuous facade with
18 some type of wrought irons to continue the facia of the
19 building across the frontage of the lot.

20 MR. GRASSO: So, maybe the sidewalk could extend
21 from Route 7 to that false doorway and then swing
22 around the building.

23 MR. INGALLS: I don't know if we wanted to confuse
24 people by actually bringing them to a place where they
25 can't get in.

1 MR. GRASSO: Understood. I think that's something
2 that we need comment from the Planning Board about, but
3 do you understand the concern or the issue? It's up to
4 the Planning Board to comment on it.

5 CHAIRMAN STUTO: So, the question is on the
6 entrance in the front.

7 MR. GRASSO: Yes.

8 MR. LANE: I think that we can see that when it
9 comes back.

10 MR. GRASSO: Yes, and I think that we're still
11 okay with it being a flat facade as long as it looks
12 from this elevation that there is something there that
13 looks like the entrance.

14 The second question becomes the sidewalk. Do
15 you want it going from Route 7 up to this doorway,
16 or do you want it along the side of the building
17 as shown? That's just so he can advance his plans
18 accordingly.

19 CHAIRMAN STUTO: How will it be different with the
20 second alternative?

21 MR. GRASSO: The second alternative is the
22 sidewalk projection from Route 7 would come right into
23 the middle of the building, and then you would need to
24 curl around to get up to the normal entrance to the
25 building which is along this side (Indicating).

1 CHAIRMAN STUTO: Is this an aesthetic question, or
2 a functional question?

3 MS. MILSTEIN: Can you show both of the again
4 please?

5 MR. INGALLS: This is the Route 7 sidewalk running
6 up and down. Our sidewalk connects here and comes
7 right up past our front door, continues around the side
8 of the building and then all the way back to the
9 apartments, through these crosswalks over the paved
10 area.

11 The other option would be to have a false
12 facade which is what we are committing to having.
13 It would appear that there was a doorway here on
14 the front facade (Indicating) and then you would
15 come from Route 7 up to that and then come over
16 and up. The only reason that I don't want to do
17 that is that we might be confusing people by
18 bringing them up to the front entrance and they're
19 going to be trying to open these doors all the
20 time and it could be very confusing.

21 MR. GRASSO: I can't imagine that you're going to
22 have a great deal of walk-up business from Route 7.

23 MR. INGALLS: Likewise, this sidewalk shares the
24 functionality in that not only does it allow these
25 people that are parking to come to the tile store to

1 get into the building, but it also is a direct sidewalk
2 to the rear parts. So, this is more of a direct route
3 versus bringing somebody up to the facade that is not
4 really functional and then back easterly and have to
5 take another angle.

6 CHAIRMAN STUTO: This looks like a more functional
7 layout. Would it look odd at all driving by it?

8 MR. GRASSO: I think that it will look odd if you
9 have what appears to be the front of the store and you
10 don't have a sidewalk going to it. No doubt, this is
11 more functional, but I think that you have to look at
12 what the purpose of the Code requirement is. Waivers
13 have been granted toward this front facade and we heard
14 it on the last project, too. I think that it's a
15 little bit more important on this site. I think that
16 some of the concerns that have been expressed at least
17 initially is that you really want to reinforce that the
18 building is oriented to Route 7. When you look at the
19 floor plan that's not the way that the building is
20 oriented. The Board discussed can you do some things
21 to make sure that it appears that there is a front door
22 facing Route 7, or can you add a second front door to
23 the building facing Route 7. Now we're just getting
24 into the nitty gritty so the Board has to decide -

25 MS. DALTON: Can you have a sidewalk that goes all

1 the way around the building?

2 MR. INGALLS: All the way around the backside
3 also?

4 MS. DALTON: Yes, so you got what you currently
5 have and then you just put another one that goes to the
6 other door.

7 MR. INGALLS: The problem is that you're going to
8 have one that runs along Route 7 and then you're going
9 to have a parallel --

10 MS. DALTON: Oh, so there is a sidewalk.

11 MR. INGALLS: Right, and we don't want anyone
12 walking over here. We could however put a sidewalk
13 along the face of the building. It might be able to be
14 addressed not necessarily with a whole sidewalk, but
15 maybe a pad outside the door so at least it has a
16 presence that way.

17 MR. HOLLAND: We could dress up the front facade
18 at the door and that could maybe function as an
19 emergency egress point too so people could actually
20 come out onto a concrete pad. At least then it's going
21 to appear to be a doorway with some type of functional
22 pad.

23 CHAIRMAN STUTO: That works for me.

24 MS. DALTON: That works for me.

25 MR. GRASSO: The only other item in our letter

1 that I wanted to speak of is 12. There was a concern
2 raised by the Planning Board about the visibility of
3 the loading dock and the need for substantial screening
4 between the back of the retail store and the apartment
5 building and this dovetails into why we don't support
6 the creation of the landbanked parking there. You're
7 going to further cut into the room that could be better
8 used for landscaping. That area is proposed for
9 stormwater management area, so it's going to be
10 naturally depressed. We would like to see more trees
11 added to the plan than what is currently described.

12 Dave, if you want to go through what is
13 currently proposed?

14 MR. INGALLS: Sure. This would be our
15 bioretention here (Indicating) which is more lower
16 groundcover shrubberies and some herbaceous type
17 plants. We actually took a stab at it and put more
18 additional street type trees through here. It looks
19 like we have four street trees, but we can review that
20 landscaping. That would be right in this area here.
21 Here is the loading dock (Indicating). One good thing
22 is the loading dock is facing easterly and not facing
23 the apartments. This is the area where if we don't
24 construct the additional 14 spaces, even respecting
25 those at the back of those spaces, we could have some

1 additional screening.

2 MR. GRASSO: And there is not a lot of detail on
3 the plans now because we're only at concept, but it's
4 something that I want to raise awareness to the Board
5 so that when you get the final plans you can take a
6 look at it and make sure that you're comfortable with
7 it.

8 CHAIRMAN STUTO: Do you have a south elevation in
9 this package?

10 MR. INGALLS: The south elevation of the apartment
11 building? No, the architect only gave us the east and
12 the north. This is the loading dock area here, and I
13 think that it's pretty easy to visualize that there is
14 going to be some kind of roll up door on it.

15 CHAIRMAN STUTO: I understand what you're saying
16 and that's faced sideways east. I want to see what the
17 apartment dwellers are going to see.

18 MR. INGALLS: We will make sure that the screening
19 shields to the best of the ability. One advantage that
20 we have is that we are down to two stories, so it's
21 bringing everything down to a line of sight and we are
22 quite a distance on this. This is one-inch equals 30.
23 So, you're 150 or 200 feet away. It's a pretty long
24 view path.

25 CHAIRMAN STUTO: If you can get a rear elevation

1 next time, that would be helpful.

2 MR. INGALLS: Definitely.

3 CHAIRMAN STUTO: Okay, members of the public -- I
4 have a couple of people that have written their names
5 down.

6 Donna Condon?

7 MS. CONDON: Thank you for letting me speak.

8 I was here at one of the meetings before and
9 I still have the same concerns. I live on Garling
10 and my back yard backs up to the woods. I wonder
11 what is going to happen with construction going
12 into -- it was declared wetlands many years ago
13 and there is a little stream back there and with
14 any construction, I don't care what they say, you
15 have stuff that goes into that stream and it will
16 be polluted. I have concerns about that because
17 we have wildlife back there.

18 A lot of our wildlife in our Town is being
19 moved out and killed because of construction and
20 they don't have many more places to go. I would
21 hate to see that stream that's polluted.

22 I'm also concerned about the traffic. Many
23 years ago when I moved in, 35 years ago, there was
24 no turning lane to get into Garling and a lot of
25 the neighbors that have since moved -- we had

1 gotten together and wanted to get a street light
2 there. We did a petition and most of the
3 neighbors signed at that time. DOT said that
4 there weren't enough fatalities to have a light.
5 So, we have to have a lot of people get killed
6 before we get a light. We were given a turning
7 lane, which has helped considerably but my concern
8 now is with all these apartments and so forth, I
9 think that you need a lot more than a turning
10 lane.

11 Plus, with trucks going in and out and my
12 concern again is having a lot of noise in the
13 summertime when your windows are open. It's a
14 quiet neighborhood and it is going to effect a lot
15 of people there. Some of our neighbors couldn't
16 come tonight unfortunately. They have children and
17 they have to do things with their children. Those
18 are some of my concerns. I guess I have to keep
19 repeating myself. I have concerns, but thank you
20 for letting me speak.

21 CHAIRMAN STUTO: Okay, would the applicant address
22 those issues which would be protection of the stream
23 during construction and traffic?

24 MR. INGALLS: We didn't discuss in detail the
25 distance and separation to Garling Drive in the rear.

1 We are 500 to 600 feet distant from that. We have
2 committed to maintaining as much vegetation in the rear
3 of the site. You can actually see anything that's in
4 the darker green -- this is the limit of disturbance
5 here (Indicating). The stream is back in here. There
6 is a DEC map wetland flanking that stream as well. It
7 does have an associated 100-foot buffer, which we are
8 respecting the 100-foot buffer to the stream. We are
9 not looking to get any DEC permits. We are not going
10 in the 100-foot buffer.

11 Likewise with traffic, there have been
12 detailed studies as part of the environmental
13 impact statement done for the area. We are
14 generating very minor traffic; 25 vehicles in the
15 peak hour, which is negligible compared to the
16 mainline peak hour traffic. Likewise we will be
17 getting a DOT permit. This is part of their
18 shared access management and sharing the access
19 between the two sites. So, we think that we're
20 good on the traffic count as well.

21 MR. LACIVITA: Can you show where a silk fence
22 would be installed during the course of the
23 construction that would actually protect the creek bed?

24 MR. INGALLS: Sure. All along the rear here
25 (Indicating) and the limits of our disturbance all

1 along this line here. That will have a silk fence
2 around the perimeter so any disturbed soils in this
3 area will be prohibited from eroding off the site or
4 pass the site disturbance boundaries. We also are
5 showing some screening that we will put in this area,
6 as well.

7 MR. LACIVITA: The reason that I asked that was
8 because we have a Stormwater Department that goes out
9 to every construction site during the course of
10 construction. They visit them weekly and they check on
11 all the DEC regulations and they talk with the
12 contractors that are on-site and that's one thing that
13 they can look at.

14 CHAIRMAN STUTO: Arlene Weiskoff.

15 MS. WEISKOFF: I also live on Garling Drive. I
16 don't know what the legalities of this whole thing are.
17 I am assuming that a warehouse, because it's a
18 commercial area, is perfectly legal.

19 My question to you ladies and gentlemen is
20 would you rent an apartment no matter how
21 beautiful it was beyond a warehouse with a loading
22 dock right nearby? Would you? I wouldn't and I
23 don't think that most of the people in this room,
24 including these fine gentlemen, would do the same
25 thing.

1 I also have another concern; a school bus. If
2 these are family units, there are going to be
3 children. How are the school busses going to
4 manage together in and out to get the children in
5 the morning and at night bringing them home? This
6 is really what my concerns are. Thank you.

7 CHAIRMAN STUTO: I know that Mr. Holland is an
8 apartment expert, if you will.

9 Do you want to address the marketability of
10 those units?

11 MR. HOLLAND: Sure. We have designed these as
12 two-bedroom units. Also on the smaller side we expect
13 the rents to be between \$1,000 and \$1,100 a month.

14 There are apartments across from just about
15 everything these days. If you go out to
16 Glenville, they are across from an industrial area
17 so with the shielding between it, this is going to
18 be set back on its own. Really, you're going to
19 end up with four sides of woods around these.
20 It's just the entrance to get into it. We're
21 expecting them to be, quite frankly, well liked.
22 Their location as far as access to the Northway
23 and traffic matters that are going on now and
24 we're pricing them -- part of the reason that
25 we've downsize them and reduced the height of the

1 building is to be able to have apartments that
2 were more affordable as opposed to something where
3 we would have to get \$1,800 to \$2,000 a month
4 rents to make the project work. I believe as far
5 as school busses, they would not enter any project
6 driveways to pick up kids. They would be stopping
7 on Route 7 just like they do for any of the other
8 houses anywhere along Route 7.

9 MS. DALTON: Crosswalks were added to create a
10 safe walking environment for kids to get in and out
11 safely.

12 MR. LACIVITA: To expand on that further, one of
13 our processes that we do with both North Colonie and
14 South Colonie with the Planning Department and any
15 other school district to show what housing is coming
16 and what is being proposed in the Town of Colonie. So,
17 we go over all these conversations so they know that if
18 there is approval, they ask how many housing units will
19 you see? They know where everything is being mapped
20 and they work with their own bussing organization.

21 CHAIRMAN STUTO: Any other comments from the
22 public?

23 (There was no response.)

24 CHAIRMAN STUTO: Board Members?

25 MS. O'CLAIR: We also live on Garling Drive. My

1 name is Leslie O'Clair. We are in one of the first
2 houses that was ever built there. My husband moved
3 there when he was six months old.

4 I agree with both of these ladies about all
5 the traffic and the stream and the wetlands. I've
6 been around enough construction site to know about
7 your silk fence and you can say that you gentlemen
8 are on board with things being clean, but the guys
9 on the construction site are going to be throwing
10 plastic over the bank or digging holes and dumping
11 stuff in it and covering it back up. It's not as
12 pristine as we would like it to be. You've got
13 animals that live out there. They're being
14 squeezed out by all the construction. They're
15 getting less and less land. Now, you're going to
16 disrupt whatever patterns they have back in the
17 wetlands behind us with all the construction,
18 their mating seasons, their time to eat during the
19 summer and get fat for the winter. It's going to
20 be bad.

21 And I'm with you about the housing. I'm
22 worried about it turning into a frat boy house. I
23 worry about the neighborhood.

24 CHAIRMAN STUTO: Thank you.

25 J. Tallmadge.

1 MS. TALLMADGE: I disagree. I don't like the fact
2 that is it multi-use property. I didn't agree with it
3 right from the beginning. I live on Laura and I'm
4 going to sit in my yard and I'm going to hear the
5 trucks come in at whatever hour of the day that they
6 come. I don't see it being a multi-use property. I'd
7 rather see the two ugly houses there forever than see
8 that tile business and that apartment back there. I
9 just think that it's the wrong thing for that.

10 Route 7 is busy enough as it is without
11 having a tractor trailer doing a multi-use with
12 another business that has a coffee shop there, an
13 elevator lift place and the Black and Decker
14 store, or whatever it is. There is enough traffic
15 going in and out of those two businesses and now
16 we're going to share a parking lot and these
17 people are going to be walking and kids are going
18 to have to walk out to Route 7. What parent is
19 going to want their child to walk out to Route 7
20 at five and six years old? They're going to be
21 sitting at the end of that road waiting for these
22 kids to get on the bus. How safe is that? I just
23 think that the whole project should be scrapped.

24 CHAIRMAN STUTO: It's zoned property for the use
25 that they are proposing.

1 MS. TALLMADGE: That was a mistake. That should
2 never have happened. It should never have been
3 multi-use. No person in their right mind is going to
4 pay \$1,100. I don't care if there is a buffer. I
5 don't care if there are trees. Those people are going
6 to hear that truck come in and they're going to have to
7 worry about it backing up to the loading dock and it
8 may only be in there twice a week. Who wants to pay
9 \$1,100? I certainly wouldn't. You may say that it's a
10 beautiful place and it's gorgeous, but that is no place
11 to have a business and an apartment complex in 500
12 feet. That's stupid.

13 CHAIRMAN STUTO: You do raise at least one point
14 that brings up an issue in my mind that we addressed on
15 another project. Near Mill Road on Route 7 - didn't we
16 speak to them about increasing the insulation in the
17 house for noise?

18 MR. LACIVITA: Yes.

19 CHAIRMAN STUTO: I would ask the applicant to
20 consider that, and maybe even Joe could help you with
21 that. It's an inexpensive fix, if you will, if I
22 remember right.

23 MR. GRASSO: The issue there was the proximity of
24 the building to Route 7 because we were talking about
25 an apartment building that was set back from Route 7,

1 maybe 30 feet or so. It was extremely close.

2 CHAIRMAN STUTO: How far is this one back?

3 MR. GRASSO: This one is back 200 feet. So, it's
4 substantial. There is going to be noise associated
5 with the retail use. I expect it to be minimal.

6 MS. TALLMADGE: But you're not going to be living
7 there. How can you say that it's going to be minimal?
8 You have no idea of the trucks backing in and they're
9 idling at 7:00 in the morning or even 5:00 in the
10 morning. You have no idea because you wouldn't live
11 there. And you're saying that the noise pollution
12 isn't going to matter. It is going to matter.

13 MR. GRASSO: There will be noise generated between
14 the uses. I think that the Board should look at
15 whether or not mitigation is warranted. It's zoned
16 appropriately. The zoning encourages mixed-use on
17 these sites. Whether or not we like it or not, that's
18 what the zoning allows.

19 CHAIRMAN STUTO: I would like the applicant to
20 look at the noise mitigation. I forgot exactly what
21 they did on the other project, but I recall them
22 suggesting that it was not that expensive.

23 MR. HOLLAND: In construction one of the main
24 concerns with all apartments is noise between the units
25 as well as outside. We look very carefully at noise

1 abatement from every angle. One family above and one
2 below because you don't want to hear them walking
3 around, etcetera.

4 MR. LACIVITA: What's the typically delivery time
5 that materials are coming into the site now?

6 MR. INGALLS: It's during the business day.

7 CHAIRMAN STUTO: I'll ask our engineer to look at
8 that.

9 MR. INGALLS: We want to design a property that
10 people want to live at.

11 CHAIRMAN STUTO: You're just making a general
12 statement. I'd like you to take a look at specifically
13 increasing the noise insulation.

14 MS. TALLMADGE: I go by Top Tile in the morning
15 because I go to Dunkin Donuts on a regular basis and
16 there is a truck in there before 8:00 in the morning
17 and I've seen them back up to the dock, so don't tell
18 me that he's not coming in before 8:00 because I've
19 seen them over there; a 48 footer, to boot.

20 CHAIRMAN STUTO: Is there a note on the drawings
21 for delivery?

22 MR. GRASSO: Not yet, but only because we're only
23 at concept. We can make sure that we add one.

24 CHAIRMAN STUTO: So, we're restricting the hours
25 of delivery.

1 MS. CONDON: I want to address the tractor trailer
2 traffic, too.

3 On Garling and Route 7 we have the car
4 dealership and we have those car carriers coming
5 in. I don't know how that got passed because none
6 of us got a notice for that dealership when it
7 went in, but that tractor trailer comes in and it
8 has to unload cars and we had an incident about
9 three weeks ago where there was an accident out
10 there and the guy backed up and took some lines
11 down and the whole bit. What's to say one of
12 these tractor trailers misses the turn for Top
13 Tile and starts using our street as a turnaround?
14 They used Capital Land as a turnaround.

15 I'd also like to say that my husband is a
16 retired truck driver and I know that from speaking
17 with him that they do make deliveries at a lot of
18 off-times when they think that they can get in
19 places. So, if it's closed and regardless of a
20 posted sign that says you can't make a delivery
21 after 8:00, they do. I can say that from someone
22 who has done it. That might be something that you
23 might really want to look at. I know that some of
24 the other neighbors were concerned about another
25 tractor trailer coming into our neighborhood. I'm

1 sure that you wouldn't want that in yours either.
2 I've almost been hit by a couple of cars from that
3 car dealership on the corner. There is a little
4 extra pullover land and they come around and come
5 in the wrong way on Garling. You can check, I
6 think that it was a couple of weeks ago, maybe it
7 was a month. I've lost track of time where the
8 tractor trailer came in and took some of the lines
9 down. I think that it was trying to turn around
10 in the vet. That could very well happen with
11 this. They could very well miss that turn. Thank
12 you.

13 CHAIRMAN STUTO: Anyone else from the public?

14 MR. O'CLAIR: My name is Brian O'Clair and I live
15 at 4 Garling Drive in Latham and as Leslie pointed out,
16 I've lived in the neighborhood for about 50 years.
17 It's a single family dwelling residence all along
18 Garling and Laura. I appreciate the concerns of my
19 neighbors when you said that this multi-use development
20 is somewhat different than the areas around us and the
21 neighbors that are going to be influenced by it. I'm
22 going to accept that the apartments are going to rent
23 for a reasonably lot of money. I don't know if I would
24 look for my first rental behind Top Tile, but I'll
25 accept that for a moment.

1 I did read the notes fairly extensively from
2 your previous meetings and I noted that there was
3 a concern or a discussion about moving the loading
4 dock or positioning the loading dock on the
5 property so that it faced in this particular -

6 CHAIRMAN STUTO: That's how it is now.

7 MR. O'CLAIR: It's on this side of the property?

8 CHAIRMAN STUTO: Yes, do you see that little stub
9 at the back of the building? The door faces in the
10 direction that you're suggesting.

11 MR. O'CLAIR: Okay, I see. I thought that what
12 they were describing was that you would put the loading
13 and the commercial property as far to the east on the
14 property that you could because everyone that you're
15 hearing from today is over here (Indicating). Much
16 like you just discussed in Lia Auto earlier tonight,
17 you have the people are all concerned about the noise
18 and the commercial development on this side but the
19 loading is coming from the trucks and the waste
20 disposals and probably where the dumpsters will end up
21 being are on the property closest to the people. It's
22 something that you might want to consider as you're
23 looking at the layout on this property. You can still
24 put the stuff in all directions here (Indicating). If
25 you shuffle the pieces around, you have the opportunity

1 to put it further from the creek, also. That's all I
2 wanted to say.

3 CHAIRMAN STUTO: I don't know if you wanted to
4 address that.

5 MR. INGALLS: We've done multiple iterations and
6 gyrations and have brought it back several times for
7 input. I think that this is the best layout for what
8 we have in conjunction with the neighbors.

9 CHAIRMAN STUTO: I tend to agree because it moves
10 the traffic a little bit to the other side - the
11 entrance. The buffer here between the loading dock and
12 the street is a lot bigger than with the Lia project.
13 It's not perfect in that sense. We did go through
14 several renditions.

15 Anyone else form the neighbors?

16 (There was no response.)

17 CHAIRMAN STUTO: Board Members - I'll just open it
18 up.

19 MS. DALTON: I voiced all along that I don't think
20 that this mixed-use is the best mixed-use that we could
21 have. Having said that, ti's a legal mixed-use so you
22 have to consider that they have a right to develop
23 their property. Given that this particular plan is
24 much better than the first plan that we saw. They've
25 made a lot of concessions with regard to kids there.

1 They've put in crosswalks, they've moved the loading
2 dock, they have banked spaces on Mr. Bogosian's
3 property so that we had more greenspace here. They
4 have agreed to leave the back as wooded as they
5 possibly can. So, those are the things that we have
6 asked for, and I feel like the applicant has done as
7 much as they can which is in the confines of what
8 they'd like to do with the property. Do I wish that it
9 wasn't zoned that way? Yes, I do; but it is.

10 MS. MILSTEIN: Can you define for me what you mean
11 by wooded when you say as wooded as much as possible?
12 I want to understand what you are thinking when you say
13 "as much as possible".

14 MR. INGALLS: So, you're talking about this area
15 back here? We're not doing anything with this area
16 back here (Indicating).

17 MS. MILSTEIN: The part that is green.

18 MR. INGALLS: It's my understanding that this is
19 already well wooded. There is a 100-foot buffer line
20 here to the wetlands. Everything that we show here in
21 the darker green color is existing forest area - just
22 like you can see the background area, there is a stream
23 that we've heard about there are some wetlands that
24 flank that stream. It is a designated DEC wetland.
25 There is a 100-foot buffer that comes onto the property

1 so without necessary DEC permits, we can't do work in
2 here. We're not proposing to do any work within the
3 100-foot buffer. That's the permit buffer or the
4 wetland buffer that's proposed on the site which will
5 naturally keep minimally 100-foot buffer from the
6 stream and wetland. So, we're not proposing to do
7 anything there. We could have and we have on other
8 sites if there is a need or purpose, we can get a DEC
9 permit to construct there. We said that we needed to
10 grade in there and we could potentially go to DEC and
11 acquire a permit, but we're not proposing that. Again,
12 it's from the apartments to the closest residence over
13 on Garling. I don't remember the exact number, but we
14 really discussed it in detail at the February meeting
15 and the previous meeting. That 500 to 600 feet is
16 going to be maintained in a wooded buffer.

17 MS. MILSTEIN: What about the light green? You
18 talk about the dark green and keeping it. What's the
19 difference between the light green and that dark green?

20 MR. INGALLS: This would be rear yard area.

21 MR. GRASSO: Susan, that's about 100 feet behind
22 the apartment building. They need to create a
23 stormwater management area and address the stormwater.
24 So, there is a certain elevation that they need to
25 obtain behind an apartment building because the ground

1 slopes down.

2 Maybe you could tighten that up to where they
3 are only clearing say 50 feet behind the apartment
4 building.

5 MS. MILSTEIN: I'd like to see less.

6 MR. INGALLS: In addition to that, the Board did
7 ask at one of the iterations for recreation area -

8 MR. GRASSO: This room is 30 feet deep. Do you
9 want 100 feet or do you want 50 feet?

10 CHAIRMAN STUTO: What's the depth of it now?

11 MR. GRASSO: It's about 100 or 110 feet behind the
12 apartment building to the split rail fence at the
13 furthest point.

14 MR. INGALLS: In addition, one thing that was
15 mentioned is originally it was proposed as a
16 three-story building and so now as a two-story building
17 - it's really not much higher than the houses that are
18 there.

19 MR. GRASSO: Now is the time to decide because
20 when the engineers have to get the stormwater
21 management in there and he's probably going to need at
22 least 50 feet behind the apartment building to put that
23 in.

24 CHAIRMAN STUTO: How tall are the trees there?

25 MR. GRASSO: The trees are practically 70 feet.

1 It's significantly wooded.

2 MS. MILSTEIN: I'd like to see more wooded.

3 MR. INGALLS: I think that we have minimized our
4 potential impacts to the forest as much as possible.
5 We do need the elevation change.

6 MR. GRASSO: We'll work with you in terms of how
7 you can get the water out of the basin.

8 MR. INGALLS: I don't want to make the portrayal
9 that there is going to be a major reduction. I don't
10 think that we are going to get much more than 20 feet
11 in either direction. I don't think that we can
12 eliminate any more than about 20 feet. Again, that
13 would need to be taken with a grain of salt until we
14 review it.

15 MR. HOLLAND: Our goal is to impact as little as
16 possible.

17 MR. INGALLS: When we come back, we'll work with
18 Joe and we'll explain how we minimized that disturbance
19 in the rear as much as possible.

20 MR. LACIVITA: Dave, what's the make-up of that
21 forest area? Is it mostly deciduous or evergreen?

22 MR. INGALLS: I believe that it's mostly deciduous
23 and I don't think that it's as mature, Joe, as you
24 might think back there. There are more like 10 to 12
25 trees. Again, most of them are deciduous, so they are

1 dropping their leaves in the wintertime. You can see
2 on the aerials there are some spotty pines.

3 CHAIRMAN STUTO: Anything else from the Board?

4 (There was no response.)

5 CHAIRMAN STUTO: Okay, we have an application
6 before us for concept acceptance. Concept acceptance
7 is not a binding action. You have to come back for
8 final at some point, if the acceptance is approved.

9 Do we have a motion?

10 MR. MION: I'll make that motion.

11 CHAIRMAN STUTO: Second?

12 MR. LANE: Second.

13 CHAIRMAN STUTO: Any comments or questions before
14 the vote?

15 (There was no response.)

16 CHAIRMAN STUTO: All those in favor say aye.

17 MR. MION: Aye.

18 MR. LANE: Aye.

19 CHAIRMAN STUTO: Aye.

20 All those opposed say nay.

21 MS. DALTON: Nay.

22 MS. MILSTEIN: Nay.

23 CHAIRMAN STUTO: Okay, we only have three votes in
24 the positive and that's not enough for concept
25 acceptance.

1 MR. GRASSO: How many members do we have?

2 CHAIRMAN STUTO: It's a majority of the total
3 Board that has to vote in the affirmative. That would
4 be four out of seven.

5 Let's take a break and why don't you do some
6 research Elena?

7 MS. VAIDA: Okay.

8 MR. INGALLS: If it's the case that you need four
9 for the majority, we would prefer to table the vote
10 until you have a full Board, if that is the case. We
11 could go with the majority of the members present and
12 that seems better.

13 CHAIRMAN STUTO: We're going to take a break and
14 do some research. We'll take five minutes on this.

15 (There was a brief break in the proceedings.)

16 CHAIRMAN STUTO: Do you have a conclusion that
17 made you comfortable?

18 MS. VAIDA: Yes.

19 CHAIRMAN STUTO: Okay, we'll resume again.

20 Counsel has been reviewing the issue of how
21 many votes are needed to take action by the
22 Planning Board. I'll turn it over to Elena Vaida.

23 MS. VAIDA: Notwithstanding what Robert's Rules
24 normally says, the New York State Town Law which
25 clearly governs the Planning Board actions -- "every

1 motion or Resolution of a Planning Board shall require
2 for its adoption the affirmative vote of a majority of
3 all of the members of the Planning Board". There are
4 seven members and we would always have to have four
5 when voting in the affirmative for something to pass.

6 CHAIRMAN STUTO: Okay, the vote has been taken on
7 this and we have heard the request of the applicant.
8 They have asked us to table it. We'd have to have
9 another motion to reconsider the vote and table it.

10 MR. MION: I would make that motion.

11 MR. LANE: I'll second it.

12 CHAIRMAN STUTO: Okay, any discussion on that?

13 MS. DALTON: If we turn down concept and we stick
14 with that vote, what happens next?

15 CHAIRMAN STUTO: Their options are that they can
16 reapply for concept acceptance, or they can ask us to
17 go straight to final; that's my understanding.

18 MR. GRASSO: That's correct. They can go straight
19 to final. The other option is to rescind the vote and
20 then adjourn it.

21 CHAIRMAN STUTO: That's the motion that's before
22 us.

23 MR. GRASSO: Right.

24 MR. HOLLAND: You guys can't vote, right?

25 MS. DALTON: No, we have a quorum. The question

1 is if we rescind the vote and allow you to table it
2 until the next time --

3 CHAIRMAN STUTO: Or if they don't have the
4 majority to carry that, then they still have options to
5 come back again for concept acceptance or straight to
6 final.

7 MS. DALTON: What is the difference between us
8 turning down concept acceptance now versus rescinding
9 the vote and adjoining and -

10 MR. GRASSO: If they were going to reapply, they
11 would need to change the application in some form, or
12 they can just adjourn it and bring the current
13 application back before the Board and just wait for
14 other members to be present to vote on it.

15 CHAIRMAN STUTO: They'd have to fill out a new
16 application form. I'm not sure how that onerous that
17 requirement would be.

18 Do you have a sense of it, Joe?

19 MR. LACIVITA: No, I don't. I'd have to look at
20 whatever changes could be done to it.

21 MS. MILSTEIN: So, as a practical matter, should
22 they choose, they could bring this whole project back;
23 whether it's adjourned or whether they have to start
24 all over again; one way or another.

25 MS. DALTON: We might as well adjourn it.

1 CHAIRMAN STUTO: There is a motion before us to
2 reconsider the vote and table this matter to a future
3 date. It's been seconded.

4 MS. DALTON: We can take a vote then.

5 CHAIRMAN STUTO: If there are no further
6 questions.

7 All those in favor say aye.

8 (Ayes were recited.)

9 CHAIRMAN STUTO: All those opposed say nay.

10 (There were none opposed.)

11 CHAIRMAN STUTO: It appears that the ayes have it.
12 This matter has been tabled.

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15 (Whereas the proceeding was concluded at
16 9:06 p.m.)

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CERTIFICATION

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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 November 1, 2013

