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PLANNING BOARD COUNTY OF ALBANY
TOWN OF COLONIE

TOWNE PLACE
5 FORTS FERRY ROAD
EXTENSION OF FINAL APPROVAL

THE STENOGRAPHIC MINUTES of the above entitled
matter by NANCY STRANG-VANDEBOGART, a Shorthand
Reporter, commencing on November 12, 2013 at 7:13
p.m. at The Public Operations Center, 347 Old
Niskayuna Road, Latham, New York

BOARD MEMBERS:
PETER STUTO, CHAIRMAN
BRIAN AUSTIN
TIMOTHY LANE
LOU MION

ALSO PRESENT:
Joe LaCivita, Director, Planning and Economic Development
Elena Vaida, Esq., Special Counsel to the Planning Board
John Fahey

1 CHAIRMAN STUTO: With respect to the Shelter Cove
2 project, we're in the same boat as we were last time.
3 I'll say it publicly. I'm recused from that item.

4 As you can see we have four members here now
5 so, we'll be down to three which is not a quorum.
6 We're trying to get a hold of another member to get
7 them here so we can deal with your issue. We've
8 already brought you back once. I apologize for that,
9 so please be patient with us.

10 MR. LACIVITA: Peter, one of the things that I
11 was going to say that if we don't have a quorum this
12 evening, we are meeting again next week because of the
13 holiday.

14 CHAIRMAN STUTO: Anything else administratively
15 that you want to talk about before we get started?

16 MR. LACIVITA: No. We're at the process now that
17 our Planning and Economic Department website portal has
18 been approved by the Supervisor. We're probably going
19 to be launching our new website by the end of this
20 month, I'm hoping. We are actually starting now to
21 take online applications and do a lot of things like
22 that. We've become pretty aggressive with the website
23 development. We have a portal that will take you into
24 Planning and Economic Development and then from that
25 site, you're able to blast off into the IDA, the Local

1 Development Corporation and the Small Business Advisory
2 as well as Conservation Advisory Council; everything
3 that Planning and Economic Development has oversight
4 of. I'm pretty excited about it because we've cleaned
5 it up. It doesn't have the look and feel of the
6 current website that we have. Hopefully, we have the
7 approval to launch. By the end of the month we should
8 do that and move on.

9 The Industrial Development Agency is looking
10 into putting stuff up on the board here where we'll
11 be doing this electronically as well, so people in
12 the audience can see plans and everything that
13 they'll be able to go forward with. We're trying to
14 bring us in closer to the electronic age.

15 CHAIRMAN STUTO: Great, we'll save some paper and
16 some trees.

17 Anything else before we call up the first
18 project?

19 CHAIRMAN STUTO: Okay, Town Place, 5 Forts Ferry.
20 This is an extension of final approval.

21 Are you handling this?

22 MR. LACIVITA: Yes we are handling this on behalf
23 of the developer in the sense that the developer has
24 met all the needs of Planning and Economic Development.
25 He has paid his mitigation fees. His approval that was

1 granted was actually in 2011 and it sunsets the spring
2 of November 22, 2014. Like I said, he satisfied
3 everything from Planning and Economic Development.
4 What he has currently is plans into the Building
5 Department and into sanitation, and also into Pure
6 Waters and Latham Water to get their permits. Our fear
7 is that is not going to be approved fast enough to make
8 sure that he doesn't lose his approval with us.

9 I'm asking the developer to send a letter in so
10 that we can grant a one-year approval. He's ready to
11 break ground in March of next year.

12 CHAIRMAN STUTO: Can you briefly describe what
13 the project is?

14 MR. LACIVITA: Sure, I can actually show you
15 here. You have Town Place Suites, which is going to be
16 a 100-room hotel.

17 You remember this elevation that we have here
18 (Indicating). It's in the site of the old Borden
19 right next to COR development and Carrabbas and
20 Target. It's got a small retail pad on the side
21 which is a restaurant. We approved this back in
22 February and got everything stamped and everything
23 done on our end on October 3, 2013. Benderson
24 Development is ready to break ground in March, so
25 we're here asking from an administrative side of

1 things to grant a one-year extension so we don't lose
2 any approvals that have already been done.

3 CHAIRMAN STUTO: Any comments or questions from
4 the Board Members?

5 (There was no response.)

6 CHAIRMAN STUTO: Do we have a motion to grant a
7 one-year extension?

8 We normally don't take public comments, but go
9 ahead.

10 MR. FAHEY: You don't?

11 CHAIRMAN STUTO: Yes, but go ahead.

12 MR. FAHEY: You've done it before.

13 I have a question on the final site plan. The
14 final site plan was approved in April of 2010. I
15 inquired of the Planning Department about whether or
16 not that had expired in April of this year. The
17 response that I got was that due to a site plan
18 amendment, they have until November. My response
19 back to that was that when they were back in here in
20 November of 2011 they were here to amend their site
21 plan and during that meeting and in the minutes there
22 was no mention made of extension and the motion was
23 merely to accept the site plan amendment.

24 MR. LACIVITA: Even if that approval was granted
25 and they did a site plan amendment at that time, they

1 would have approved it at that point - whatever the
2 date is that you're giving. I have a signed Planning
3 Board decision on November 22nd of 2011 and that's when
4 the clock starts to tick forward from that point.

5 MR. FAHEY: So, you reset the clock for three
6 more years based on just the amendment?

7 MR. LACIVITA: That's when the approval process
8 would have been set.

9 MR. FAHEY: No, your approval was given in April
10 of 2010.

11 MR. LACIVITA: And we made that amendment and we
12 signed it and dated it November 22, 2011.

13 MR. FAHEY: And the motion was to amend the site
14 plan.

15 MR. LACIVITA: That's correct, and at that point
16 in time they would have gotten a full approval.

17 MR. FAHEY: I just don't want to see the Board
18 get stuck here making a decision based on false
19 information. If you could explain the Land Use Law to
20 me, I would appreciate it. There was nothing in there
21 about an extension. Given the age of the project, it's
22 even possible that this project only had a two-year
23 site plan approval because it goes back to 2006.

24 CHAIRMAN STUTO: Okay, we understand the
25 question.

1 Joe, do you want to address that again?

2 MR. LACIVITA: As I said, they had an approval at
3 one point in time. This project does date back. Mr.
4 Fahey is right. It dates back a little while. The
5 flags have changed. It was supposed to be a Fairfield
6 Inn or something like that, and then it went to the
7 Town Place Suites. They made some adjustments because
8 of footprints. They got a site plan amendment. That
9 approval then came with that amendment November 22,
10 2011 therefore that's the new approval date and then it
11 starts to roll forward from that point.

12 CHAIRMAN STUTO: So, you're saying that the
13 action on the amendment was the current final approval.

14 MR. LACIVITA: Correct.

15 CHAIRMAN STUTO: I will accept your
16 interpretation unless I hear something different.

17 MS. VAIDA: I think that it is really subject to
18 interpretation. It says final site plan shall be valid
19 for two years from the date of issuance and since there
20 was an amendment, the plans were restamped and I would
21 think that you could interpret that as a final
22 approval.

23 MR. FAHEY: I wish someone had told me that. The
24 only email that I tried sending -

25 CHAIRMAN STUTO: You kind of expressed that when

1 you first said it. They told you that the amendment
2 made the date go out to November.

3 MR. FAHEY: It's not in the Land Use law.

4 MR. LANE: It's not a good explanation though.
5 He's got a good point.

6 MR. FAHEY: I figured the Land Use Law would say
7 that, but it doesn't.

8 MR. LANE: Which is what she's saying. It
9 doesn't state that specifically.

10 MR. FAHEY: Right, and I just didn't want to see
11 someone make a decision in error. If you guys are
12 happy with that, that's fine. I finally got an answer
13 here after three months.

14 MR. LACIVITA: You should have given me a call,
15 Jack. We could have went through all that.

16 CHAIRMAN STUTO: Who were you emailing to?

17 MR. FAHEY: Mr. LaCivita, and I even reached out
18 to Mr. Rosano who was going to get an answer for me and
19 his response - I think that it was at that last
20 September meeting or first meeting in October. I asked
21 Mike and he said I don't know. That's the last that I
22 heard of it. Like I said, if you guys are comfortable,
23 then that's great. I was unclear. It just looked like
24 concept had expired twice before on this project. It's
25 worth asking.

1 CHAIRMAN STUTO: Any other questions or comments?

2 (There was no response.)

3 MR. MION: I'll put out the motion to extend it.

4 MR. AUSTIN: I'll second.

5 CHAIRMAN STUTO: All those in favor?

6 (Ayes were recited.)

7 CHAIRMAN STUTO: All those opposed?

8 (There were none opposed.)

9 CHAIRMAN STUTO: The ayes have it.

10 Thank you.

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15 (Whereas the above proceeding was concluded at

16 7:22 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 29, 2013