

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 \*\*\*\*\*  
4 ALBERT MIXED-USE DEVELOPMENT  
5 840-844 TROY SCHENECTADY ROAD  
6 APPLICATION FOR CONCEPT ACCEPTANCE  
7 \*\*\*\*\*

8 THE STENOGRAPHIC MINUTES of the above entitled  
9 Matter by NANCY STRANG-VANDEBOGART, a Shorthand  
10 Reporter, commencing on December 3, 2013 at 8:55 p.m. at  
11 The Public Operations Center, 347 Old Niskayuna Road,  
12 Latham, New York

13 BOARD MEMBERS:  
14 PETER STUTO, CHAIRMAN  
15 LOU MION  
16 KATHY DALTON  
17 TIMOTHY LANE

18 ALSO PRESENT:  
19 Elena Vaida, Esq., Counsel to the Planning Board  
20 Joe LaCivita, Director, Planning and Economic Development  
21 Joe Grasso, PE, CHA  
22 Dave Ingalls, PE, Ingalls and Associates  
23 Joy Tallmadge  
24 John Fahey  
25 Anna Albert

1           CHAIRMAN STUTO: Last on our agenda is Albert  
2 Mixed-Use, 840 to 844 Troy Schenectady Road. This is an  
3 application for concept acceptance.

4           Joe, do you have any introductory comments on this?

5           MR. LACIVITA: No, I think that we can turn it  
6 right over to the applicant. If the Planning Board  
7 remembers, it was here when the applicant had asked to  
8 retract the vote that was taken because there wasn't a  
9 member of the Board here. Tonight we're looking at a  
10 short presentation on where we were and go back to the  
11 vote.

12          MR. INGALLS: Thank you. Dave Ingalls representing  
13 the applicant.

14          Since the last time that we were here, there was a  
15 few minor changes. There wasn't anything too  
16 substantial. We have updated the building floor plan  
17 and elevations for both the commercial building up  
18 front, as well as showing the elevations for the  
19 apartments and we also showed a perspective view,  
20 especially the southern elevation, of the commercial  
21 building. There was some discussion on that.

22          Beginning with the front of the building, we have  
23 added this front facade bump out front entry door.  
24 There was some discussion on that. There is about a  
25 four-foot protrusion on the front facade in this

1 location here, which will have a doorway (Indicating).  
2 We're thinking that will be predominately primarily for  
3 emergency egress. However, we did connect the sidewalk  
4 to the main sidewalk that goes out to Route 7, as well  
5 as continuing back to the apartments.

6 In the packet we show that front facade and we show  
7 the updated floor plan with that. Likewise, we show an  
8 elevation or a perspective view looking from the  
9 apartment to the rear southern elevation of the  
10 commercial building.

11 We will try to keep as much vegetation as well in  
12 the center of the site to screen the residential  
13 apartments from the rear loading dock area. One key  
14 dimension from the closest point to the loading dock is  
15 about 155 feet. There is a substantial distance from  
16 the loading dock.

17 There was also some concern by the Chairman  
18 relative to sound within the units. We spoke to the  
19 architect. All of these walls will be designed as a  
20 sound transmission coefficient of 50, which they are  
21 well rated for a 50 decibel sound rating. Basically,  
22 even if there was a truck parked at the loading dock due  
23 to the attenuation just through distance, the sound  
24 interims of decibels would only be 30 at the building.  
25 We're covered from a sound transmission and some sound

1           attenuation within the building walls.

2           Additional landscaping to point out is that we are  
3           continuing this row of pine trees along the western  
4           boundary (Indicating). There was some discussion that  
5           we had on the southern yard area. We are proposing six  
6           foot high evergreen trees in this location here  
7           (Indicating) and we will look at trying to minimize as  
8           much disturbance as we can, however, we do need to do a  
9           final sizing of the stormwater management areas.

10           I think that those were the key points. Hopefully  
11           we're looking for a concept acceptance.

12           CHAIRMAN STUTO: I'll turn it over to our Town  
13           Designated Engineer.

14           MR. GRASSO: There is not a comment letter from us.  
15           We had previously provided a comment letter with just a  
16           few comments. Dave did a good job describing the  
17           updates which we think are continuous improvements to  
18           the plan. All of our previous comments and those of the  
19           Town departments have been addressed. We thought that  
20           it was ready for concept determination at the last  
21           meeting. It continues to be a further refinement of  
22           that. So, it's still ready for concept. Dave touched  
23           on all the items that were either brought up at the last  
24           meeting or things that he knows that he has to take a  
25           look at as he advances into final engineering, primarily

1           regarding that buffer in the back and trying to keep  
2           that stormwater management area up the slope as much as  
3           possible.

4           That's all that we've got.

5           CHAIRMAN STUTO: Okay, we'll take comments from the  
6           public. Who would like to speak on this?

7           MS. TALLMADGE: I'm Joy Tallmadge. I've been  
8           against this project right from the beginning. First of  
9           all, the wetlands and traffic and tractor trailers.

10          Children walking along the sidewalk between an  
11          apartment building to get out to Route 7 is ridiculous.  
12          No parent is going to want their child walking up there  
13          waiting on the corner. Now, you've got a car parked at  
14          the end of the driveway while a tractor trailer is  
15          backing in and you say that they're not going to be  
16          there during a quiet time, that's ridiculous. That  
17          whole concept should be scratched. I don't mind a tile  
18          business being out there, but a multi-use property of an  
19          apartment building in that area is ridiculous. If you  
20          lived in that neighborhood and even if I am more than  
21          500 feet away and even if it doesn't effect me all that  
22          much, it effects everybody on Route 7 that has to look  
23          at that and have to worry about tractor trailers and  
24          cars - that whole space should be removed. The tile  
25          business can be there. I have no objection to that. Do

1 I like it? No. Do I want to worry about it? No.  
2 People get run over on Route 7 and they go like crazy  
3 and for people to be in that situation - who wants to  
4 rent and look at the back of a big warehouse with a  
5 tractor trailer sitting there unloading tile? Nobody.  
6 The whole thing is ridiculous. I've said that right  
7 from the beginning and I'll say it now. It's a very  
8 poor use of space.

9 CHAIRMAN STUTO: Anybody else from the public want  
10 to speak?

11 MR. FAHEY: I'm John Fahey. I just have a quick  
12 question. Is Top Tile the only tenant in the  
13 commercial building?

14 CHAIRMAN STUTO: That's my understanding.

15 MR. FAHEY: At a previous meeting the word tenant  
16 was used and I was wondering.

17 MR. INGALLS: Part of the floor plan space within  
18 the commercial retail building - they are reserving  
19 approximately 2,500 square feet which they are thinking  
20 would be a kitchen retailer. There would be a tenant  
21 along with Top Tile - a related retail type business.

22 MR. FAHEY: Okay, that's all I wanted to know.

23 CHAIRMAN STUTO: Anyone else from the public?

24 (There was no response.)

25 CHAIRMAN STUTO: I'll open it up to the Board.

1 MS. DALTON: First of all, I've said this before,  
2 for what has been proposed, the applicant has been  
3 incredibly reasonable in terms of the changes that we  
4 have asked for, under the assumption that this is what  
5 they want to do with this property. The last time that  
6 they appeared, the question before us was concept  
7 acceptance. From the very first time that this project  
8 appeared, those of us that have objected to it have  
9 objected to it on the basis of concept. A mixed-use  
10 zoning does not necessarily mean that these two uses are  
11 the best use for this property. Many of us who object  
12 to this believe that marrying a warehouse with a  
13 residential home where children reside is a very bad  
14 idea.

15 For those of you who were not here the last time,  
16 we didn't have everyone. We did have a quorum. The  
17 quorum that was here would not pass it as a concept. I  
18 continue to say that they did a very nice job responding  
19 to our requests with the assumption that this project  
20 would go forward but my personal opinion is as a  
21 concept, it is a bad one.

22 CHAIRMAN STUTO: Anybody else?

23 MR. LACIVITA: I just wanted to make one correction  
24 to that. When the vote was taken last time, if in fact  
25 we do have a quorum the last time or not, I don't know

1 if we did or not --

2 MS. DALTON: We did.

3 MR. LACIVITA: If that was the case we had a three  
4 for and two against.

5 MS. DALTON: Correct. It did not pass and we had a  
6 quorum and it did not pass. The applicant asked to  
7 withdraw the vote pending more people attending.

8 CHAIRMAN STUTO: She did state it correctly.

9 MR. AUSTIN: I'm one of the ones that apparently  
10 wasn't here the last time.

11 I like what you have done with the elevations on  
12 the commercial building. It's quite different from the  
13 last time that I saw it and I like it. It's a  
14 contemporary feel.

15 As far as the mixed-use goes, I was the one that  
16 was kind of on the fence along with Kathy on mixed-use  
17 as well. However, the more that you kind of tweaked it,  
18 the more I started to come around a little bit because I  
19 like how you presented that buffer near the residential.  
20 Could it be buffered more? Maybe. I think that it's a  
21 bigger buffer than we originally had. There is still  
22 part of me that agrees with Kathy and some other Board  
23 Members potentially that the residents and the  
24 commercial as well as agreeing with the public with the  
25 kids walking across the parking lot.

1 I also remember that there wouldn't be any tractor  
2 trailers like 18 wheelers. It would be more box-trucks  
3 delivering. Am I correct in that? Will there be big  
4 long huge trucks?

5 MS. GOMEZ: I'd like to hear the answer to this and  
6 too many people are talking. I think that it was a  
7 good question and I'd like to hear the answer.

8 MS. ALBERT: There might be three tractor trailers  
9 a week.

10 MR. AUSTIN: And what are the delivery times for  
11 those? Are they during the day or at night?

12 MS. ALBERT: Most of them come during the day. One  
13 comes at 7:00 in the morning. I won't let them open the  
14 door until 8:00. He comes there because he comes from  
15 Maine and he drives for hours and he parks in the  
16 parking lot and sleeps for an hour.

17 MS. GOMEZ: So, is it 7:00 in the morning? I was  
18 one of the ones that wasn't here.

19 MR. ALBERT: He comes once every two weeks.

20 MS. GOMEZ: In terms of what this lady said about  
21 schools - isn't that when kids get on busses to go to  
22 schools at 7:00 in the morning?

23 MS. DALTON: Yes.

24 MS. GOMEZ: I'm just trying to understand safety  
25 concerns because I wasn't here.

1 MS. TALLMADGE: The school bus comes in our area at  
2 7:30. The high school kids are getting on the bus at 10  
3 minutes to 7:00 - dark. He's going to be idling in the  
4 parking lot.

5 MS. DALTON: And then the younger kids get on  
6 thereafter. So, the busses come at 7:00 and 7:10.

7 MS. TALLMADGE: At the last meeting they said that  
8 he wasn't supposed to be able to be on-site until after  
9 8:00. So, now he's going to be allowed to drive in  
10 there at 7:00 in the morning? We were told at the last  
11 Board Meeting that he wouldn't be able to be allowed to  
12 drive in there until at least 8:00 in the morning.

13 MS. GOMEZ: You said there were three times?

14 MS. DALTON: Do you know the delivery times for the  
15 kitchen store? Those are the delivery times for the  
16 tile store.

17 MS. ALBERT: I do not.

18 MS. DALTON: And if the kitchen store decides to  
19 move out, how would we be able to control who comes in  
20 and out if you re-rent that space?

21 MS. ALBERT: I supposed that would have to be up to  
22 the Board Members.

23 MR. INGALLS: One thing that we discussed at the  
24 last meeting would be to put reasonable hours of  
25 operation - that could include truck deliveries and when

1           they can or can't happen. The applicant would be  
2           willing to do that. The majority of their deliveries,  
3           which would be to this area right here (Indicating)  
4           would be a lot of box truck traffic - as we said limited  
5           tractor trailers. We have dedicated sidewalks and  
6           dedicated walkways. There are a lot of other  
7           residential homes within this COR district on Route 7  
8           that have children who go and get the bus. They are  
9           near existing businesses. We have a dedicated walkway  
10          through here and right out to Route 7 so there will have  
11          to be some care and there will have to be some  
12          coordination between the residential use and the  
13          commercial use. I think that's very doable. We're not  
14          looking at bringing tractor trailers in every day, two  
15          and three at a time. We're looking at two or three per  
16          week. Again, it's not like Home Depot where you have  
17          truck after truck coming in. We painstakingly, as you  
18          thankfully noted, have worked this site plan and  
19          reworked the site plan to separate the uses and the  
20          buffer. What we think to do is safely cohabitate those  
21          uses, both the apartments and the commercial out front  
22          keeping a large buffer between them so that there is not  
23          strong interaction.

24                    We talked about the south area. We have now also  
25                    integrated some recreation to the rear of the building

1 yet we're trying to minimize our disturbance so we're  
2 trying to communicate and listen astutely to this Board  
3 as well as put together a plan that is zoning compliant  
4 with the COR district.

5 Back to the traffic issue: We feel that we can  
6 manage that with some reasonable hours of operation and  
7 specifically regarding deliveries.

8 MR. AUSTIN: I seem to recall that when we had  
9 spoken about potential tenants about the ratio of kids  
10 to adults that would be living in the apartments, it  
11 didn't seem like there would be that many or you would  
12 assume that if there would be 12 kids or what. I would  
13 hope or like to think that a child that is old enough to  
14 walk by themselves to the bus stop in the morning could  
15 avoid a potential large vehicle if they saw it. If not,  
16 the parents would take it upon themselves to escort that  
17 younger child to the bus stop in the morning. Maybe  
18 it's not realistic but -

19 MS. GOMEZ: They can't see while they're texting.

20 MS. DALTON: Not only that, but parents go to work  
21 and their kids walk to the bus stop. And I go back to  
22 saying that of all the things that we asked you to do,  
23 I'm very pleased that you took the steps to mitigate the  
24 danger but that doesn't mean that danger should be  
25 allowed to occur. You mitigated it, but the way to

1 eliminate it is to say that this is not the appropriate  
2 mixed-use for this particular parcel. As a concept -  
3 and we're at concept acceptance - I would ask the Board  
4 Members to think: Is this the best use for this  
5 property? Yes, they took mitigating steps. Yes, they  
6 did everything that we asked for. The very first time  
7 that they appeared, though, and every time that they've  
8 been here since, someone from the public and certainly  
9 at least me on the Board -- and many times there have  
10 been others that have said as a concept, it is not our  
11 preferred use for a property such as this. I continue  
12 to say that there are safety factors. There are  
13 neighborhood factors that make this not consistent with  
14 what else is going on in that particular area. I know  
15 that the applicant disagrees and that's their  
16 prerogative.

17 MR. LACIVITA: If I can just read from the design  
18 standard Article 9 Section 194, a commercial office  
19 residential, which this project is, that's the COR zone:  
20 "The following standards are organized in four  
21 categories for this particular zoning district; its site  
22 organization, its site design, architectural design and  
23 multi-family element design."

24 These were the standards that were developed in all  
25 of the different zoning districts that were created

1 under the Land Use Law which talks directly to our  
2 Comprehensive Plan.

3 Kathy, you just articulated that the applicant and  
4 its engineers addressed everything that they possibly  
5 could by the Planning Board. Based on the COR standard  
6 design, they are meeting what we are asking them to do.

7 MS. DALTON: Again, they wouldn't have gotten here  
8 if they didn't meet the minimum requirements for the  
9 zoning in this particular area. That is not the  
10 argument here. Not only have they met the minimum  
11 requirements, but they have met our requests to mitigate  
12 the public safety factors that we see with this  
13 particular mixed-use. And we talked about the fact that  
14 mixed-use could be a dry cleaner downstairs and some  
15 apartments upstairs in one building. That would be a  
16 mixed-use that we might find more conceptually  
17 acceptable.

18 So, Joe, I'm not arguing that they don't meet the  
19 requirements. They meet the minimum requirements. I'm  
20 not arguing that they don't have a right to do this;  
21 they do. I'm arguing that people appear before the  
22 Planning Board so that we can have an opportunity to  
23 say, is this the best use of this space? Is this  
24 protecting the public safety of our residents? Is this  
25 the kind of thing that we want to see where things are

1 being proposed? Typically this Board is pretty  
2 consistent in how we see those things being done. In  
3 this particular concept - again, I can speak for myself  
4 but we didn't get here because I'm the only person who  
5 thinks this is not the best use considering public  
6 safety issues for this project.

7 MS. GOMEZ: Elena, do you have any thoughts on  
8 this?

9 MS. VAIDA: My thought is that as Joe pointed out,  
10 that section of the Land Use Law that we just read was  
11 done to be consistent with the Comprehensive Plan and  
12 supposedly the Comprehensive Plan studied the Town of  
13 Colonie and picked out different areas that were  
14 appropriate for certain uses and this area was  
15 determined to be appropriate for a mixed-use of  
16 commercial and residential. So, public safety issues, I  
17 have to assume, were considered before enacting and  
18 putting this piece of property within that zone.

19 It seems like, Kathy, what you're saying is that  
20 you don't feel that this particular area is  
21 appropriately zoned.

22 MS. DALTON: No, that's not what I'm saying at all.  
23 What I'm saying is that this particular project with two  
24 completely separate buildings on a piece of land in the  
25 shape and the size that it is, is conceptually

1           inappropriate for this particular piece of land.  If  
2           they proposed a single building that was mixed-use and a  
3           single building having stores and commercial stuff  
4           downstairs or maybe a store and an office space  
5           downstairs and apartments upstairs and somebody came out  
6           their front door and stood at the bus stop on Route 7  
7           that would be one thing.  But you're talking about  
8           putting kids in an apartment that have to walk through -  
9           we're talking right now about big trucks.  That's only  
10          one consideration.  I'm in a hurry in the morning going  
11          to pick up my tile so that I can get it before my  
12          construction guy shows up.  Am I going to necessarily  
13          pull behind a warehouse expecting to see little kids on  
14          the way to the bus?  I don't think so.  I'm going to  
15          whip into the parking space and expect that nobody is  
16          going to be there at 7:30 in the morning; not little  
17          kids walking to the bus stop.  I think that this  
18          particular concept in this particular space is not the  
19          best use?  It's not my objection to mixing residential  
20          with commercial.  It's this project.

21                 MR. INGALLS:  Just a quick rebuttal to that.  We  
22                 would respectfully disagree with that.  I think that it  
23                 might be more along the lines of somebody rushing to  
24                 Starbucks to get their coffee and not expecting to see  
25                 children which again would be very appropriate for this

1 site. With the zone, the key words are  
2 commercial/office/residential which is exactly what we  
3 have proposed. We do have the residential component and  
4 we work very hard to separate that component. Actually,  
5 it's not above it. It's 150 feet behind it and it has a  
6 dedicated walkway not associated with going near the  
7 loading dock. We've separated the loading dock. That  
8 was one of the concerns, rightfully so, that the Board  
9 had - the safety of those two uses and separating the  
10 two uses, which again, we are communicating with the  
11 Board and we've done everything that we've been asked to  
12 do. We think that it's a great use and that it's zoning  
13 compliant and it fits into the zone. If the Town didn't  
14 want to see that, they shouldn't have studied it under  
15 the Comp Plan and zoned it as it is today. We think  
16 that we have a very zoning compliant, as you have  
17 articulated, site plan.

18 CHAIRMAN STUTO: Any other Board Members want to  
19 speak?

20 I appreciate Kathy's comments. I understand what  
21 she is saying. This maybe zoned  
22 office/commercial/residential but she doesn't think  
23 that this particular configuration of those combinations  
24 is a good idea for this property. I'm going to vote in  
25 favor of it, myself. I think that the applicant has

1 done a lot to mitigate the negative impacts. When  
2 people talk about children and safety, it does raise  
3 another level of carefulness. But I think that the  
4 applicant has put in enough effort to mitigate those  
5 impacts or those concerns and I think that the screening  
6 is good and I think that we've done other apartments.  
7 It may not be zoned properly. Maybe the zoning should  
8 be reconsidered, but so far it hasn't been and we're  
9 seeing other smaller apartment buildings on Route 7 -  
10 not exactly this configuration. I'm inclined to vote in  
11 favor of the concept tonight. That's just me.

12 MR. MION: I'd like to make the motion that we  
13 accept the concept.

14 MS. MILSTEIN: Can I ask a question first? Is  
15 there any way of getting sidewalks from the apartment to  
16 Route 7 that would help as a safety factor?

17 MR. INGALLS: We have a dedicated sidewalk from the  
18 apartments directly to Route 7 right here at the front  
19 door. The sidewalk comes across the parking and right  
20 up in front of the commercial building right straight  
21 out.

22 MS. MILSTEIN: But they're going through a parking  
23 lot; right?

24 MR. INGALLS: This is a dedicated crosswalk here,  
25 which will continue right out to Route 7. Yes, you are

1 going through a parking lot for the apartments. And  
2 we're going through a parking field here. Something  
3 that we'll talk about hopefully if we make it to final  
4 is these 14 spaces here (Indicating). We are still  
5 looking to bank those spaces and turn that back into  
6 greenspace. There would be no parking. The only  
7 parking that they would be going through would be those  
8 two rows associated with the apartment themselves.

9 MS. MILSTEIN: On the east -

10 MR. GRASSO: Along the entrance drive?

11 MS. MILSTEIN: Yes.

12 MR. GRASSO: A five foot sidewalk right out to  
13 Route 7? They would sacrifice some landscaping there,  
14 but I think that could be accommodated in the plan - a  
15 continuous sidewalk from the apartment building along  
16 the entrance drive out to Route 7.

17 MR. INGALLS: We would be sacrificing those  
18 islands.

19 MR. GRASSO: It would be within the islands. It  
20 would be replacing greenspace for a sidewalk, but I  
21 think that's for the Board to consider the importance of  
22 one over the other.

23 MR. LACIVITA: Especially if they're going to bank  
24 14 spaces later, you're going to get some green back.

25 MS. MILSTEIN: I'm a great proponent of sidewalks.

1           MR. GRASSO: Well, I think that we're talking about  
2           an important pedestrian connection between the apartment  
3           building and Route 7 and trying to separate it from the  
4           commercial use as much as possible; and that's a valid  
5           comment.

6           FROM THE FLOOR: What do you consider a dedicated  
7           sidewalk?

8           MR. GRASSO: A sidewalk that primarily serves one  
9           use on the site.

10          MS. TALLMADGE: How can that be one use? Other  
11          people are going to be using that sidewalk.

12          MR. GRASSO: I don't want to get hung up on the  
13          semantics.

14          CHAIRMAN STUTO: He means that you can't drive on  
15          it. Isn't that what you mean?

16          MR. GRASSO: Yes, separated from other uses.

17          MS. TALLMADGE: Just like a kid isn't going to jump  
18          off the loading dock when they're not around.

19          MR. INGALLS: We would be glad to see if we can  
20          incorporate that into the final site plan.

21          MS. GOMEZ: I would say that I would not be willing  
22          to vote for it unless that was definitely in the site  
23          plan. That's where I'm going to stand on that vote,  
24          otherwise mine would be no.

25          MR. AUSTIN: I would like to see that sidewalk as

1 well. I think that it provides a line of sight directly  
2 out to Route 7.

3 MR. INGALLS: The applicant has agreed to put in a  
4 dedicate sidewalk from the apartments to Route 7.

5 CHAIRMAN STUTO: Any other comments from the Board?

6 (There was no response.)

7 CHAIRMAN STUTO: Lou made a motion.

8 MR. AUSTIN: I'll second that motion.

9 CHAIRMAN STUTO: Discussion?

10 (There was no response.)

11 CHAIRMAN STUTO: All those in favor say aye.

12 MR. MION: Aye.

13 MR. LANE: Aye.

14 MR. AUSTIN: Aye.

15 MS. GOMEZ: Aye.

16 MS. MILSTEIN: Aye.

17 CHAIRMAN STUTO: Aye.

18 All those opposed say nay.

19 MS. DALTON: Nay.

20 CHAIRMAN STUTO: We have one vote in the negative.

21 Thank you.

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23 (Whereas the proceeding was concluded at 9:22 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 December 31, 2013

