

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 *****
4 PANDA EXPRESS RESTAURANTS
5 545 TROY SCHENECTADY ROAD
6 WAIVER AND INCENTIVE ZONING REQUEST
7 *****

8 THE STENOGRAPHIC MINUTES of the above entitled
9 matter by NANCY STRANG-VANDEBOGART, a Shorthand
10 Reporter, commencing on June 17, 2014 at 8:40 p.m.
11 at The Public Operations Center, 347 Old Niskayuna
12 Road, Latham, New York

13 BOARD MEMBERS:
14 PETER STUTO, CHAIRMAN
15 LOU MION
16 TIMOTHY LANE
17 TINA GOODWIN SEGAL
18 SUSAN MILSTEIN
19 TIMOTHY LANE

20 ALSO PRESENT:
21 Kathleen Marinelli, Esq., Counsel to the Planning Board
22 Joe LaCivita, Director, Planning and Economic Development
23 Bob Ziegenfuss, Panda Express
24 Lori Washburn
25 David Vallecorsa

1 CHAIRMAN STUTO: Okay, this is Panda Express
2 Restaurants, 545 Troy Schenectady Road. This is a
3 waiver and incentive zoning request.

4 Mike Tengeler, would you like to give us an
5 introduction on this?

6 MR. TENGELER: Absolutely, yes.

7 This is the proposed Panda Express
8 redevelopment at 545 Troy Schenectady Road. This is
9 the former Legacy Bank. It's located near the NCOR
10 zoning district on a 7 acre lot.

11 Bob Ziegenfuss is here. He made a trip from
12 Orlando, Florida on behalf of Panda Express. He
13 brought the warm weather with him. I'll give it to
14 him to give a presentation and we'll go through the
15 three waivers that are being requested on behalf of
16 this project.

17 MR. ZIEGENFUSS: Thanks Mike. I appreciate it.

18 Good evening, everyone. I wasn't very
19 successful doing that in January when I was here
20 when it was about seven below.

21 My name is Bob Ziegenfuss and I am the engineer
22 for the project representing Panda Express
23 Restaurants. As Mike mentioned, this is the
24 redevelopment of the former Legacy Bank which is
25 currently vacant. It is just under 3,400 square

1 foot commonly known as a fast food or quick service
2 restaurant. It is an Asian theme commonly known as
3 Chinese food. They are based in California. They
4 are very prevalent in the west and in the southeast
5 and are making their way into the northeast part of
6 the country now; upstate New York being their first
7 market.

8 MR. LANE: So, we're first in the area?

9 MR. ZIEGENFUSS: We have simultaneously -- I was
10 just at a Board meeting in the Town of Cicero over in
11 the Syracuse area about three weeks ago. Both of these
12 are kind of simultaneously moving forward at the same
13 time.

14 What we are here tonight to present to you is
15 the project. If you have any questions about it in
16 general, I can answer those but more importantly the
17 waivers that we are requesting. I'll just go
18 through those one by one.

19 The first is the distance that the building is
20 set back from the street. This particular site does
21 front Troy Schenectady Road of course. It also has
22 a side street which is Sunset Drive which adds a
23 little more complexity to the issue because we are
24 dealing with two roadway frontages. As it relates
25 to building setbacks, first we are decreasing the

1 building setback and bringing it closer to the
2 street than the Legacy Bank sits today. One of the
3 challenges is that our firm has quite a few fast
4 food drive-thru restaurants. One of the challenges
5 that we run into across the county when we build
6 fast food restaurants is the new urbanism feel in
7 bringing that building street side as much as
8 possible. One of the challenges becomes the
9 drive-thru circulation and bringing that drive-thru
10 circulation back around the front of the building.
11 In this particular case, it's coupled with the fact
12 that we do have a 15 foot wide utility easement
13 across the front of the property. That's where the
14 Latham Water main currently resides. So, we are
15 dealing with the circulation around the front of the
16 building. That water main easement across the
17 frontage that did force us to bring that building
18 back somewhat. Again, it is better than what we
19 have out there today.

20 In addition to that, there is again the
21 requirement of the parking being either to the side
22 or the rear of the building. In this particular
23 case we do have the two street frontages.

24 Mike, correct me, the code requirement does
25 refer to Sunset as well as Troy Schenectady.

1 MR. TENGELER: Correct. Both are frontage streets,
2 however the major street that we're considering is Troy
3 Schenectady Road.

4 MR. ZIEGENFUSS: So, what we did is we took that
5 major street, Troy Schenectady and we originally had a
6 site plan at one point before we came in and talked to
7 everyone that did have some parking out along there.

8 The most effective way to park a site like this
9 would be to park it here and park it here
10 (Indicating). That's what you commonly see in
11 commercial development. So, we were able to pull
12 that parking to the side. It just so happens that
13 on this particular site, that is a street side and
14 it's just the way that the drive-thru restaurant
15 works. If we were to try to put this on the side,
16 we would be putting parking on the drive-thru side
17 of the building which wouldn't function very well.
18 So, we have done our very best to protect that main
19 street, Troy Schenectady Road, and bring that
20 parking to the side along Sunset rather than put it
21 out in front of Troy Schenectady.

22 The third -- greenspace, I believe that there
23 is a 35 percent greenspace requirement. We are less
24 than one percent over that. We are at 7 percent, if
25 I'm not mistaken. It's just simply trying to

1 provide the parking spaces and circulation on the
2 site and we're just a minor amount over. There is a
3 payment in lieu of that is required. I believe that
4 it's \$750.00.

5 MR. TENGELER: It's \$10.00 a square foot.

6 MR. ZIEGENFUSS: So, we're enough to make it a
7 waiver request.

8 Those are the three waivers. I'll add to it
9 that one of the things that we discussed when we
10 came up and met with Mike and some of the other
11 staff -- I believe that this was the First Niagara
12 Bank that was -

13 MR. TENGELER: Pioneer Bank.

14 MR. ZIEGENFUSS: What they had done and what we are
15 going to match out there is they had put in some stone
16 columns and some aluminum fencing out along here
17 (Indicating). We've offered that up as kind of a
18 off-set to what we are requesting in the way of waivers.
19 We're going to match is that fencing that they did
20 across a portion of their land that's not currently
21 fronted by building or driveways. They provided that
22 fence down along their property. We're going to match
23 that same theme both along Troy Schenectady and along
24 Sunset Drive. I think that will probably enhance the
25 area quite a bit and really set off that intersection of

1 Sunset and Troy Schenectady with matching architecture
2 of that fence and columns along those streets.

3 MR. TENGELER: Could you just mention the payment
4 in lieu of the bus shelter that you're contributing
5 towards per CDTA's recommendation?

6 MR. ZIEGENFUSS: Yes. CDTA did come back with some
7 comments and basically what we're able to comply with
8 their requirements here. They wanted some additional
9 signage as you approach -- you'll see that detail right
10 here on the plans (Indicating). It's to warn of the up
11 coming crosswalk that comes across Sunset Drive. One of
12 the things that they had requested was there is a need
13 for a bus shelter in the area. In the bus shelter, they
14 would like to put at the northwest corner of the
15 intersection across the state road and also put a
16 crosswalk across that state road. I discussed that with
17 Ross - and I can't remember his last name - at CDTA.
18 What we are doing is working with CDTA in order to come
19 up with a payment in lieu of. Unfortunately, what that
20 would have thrown us into is a situation where we would
21 need to go get a DOT permit and currently we are not
22 needing a DOT permit. It would just not derail the
23 project, but just slow it down to a great extent. So,
24 he agreed and we are working through that process. They
25 have agreed to the concept of it and what we are working

1 through right now is what that payment in lieu of will
2 be and CDTA does have the ability for minor projects
3 like this that they can go do that work on their own,
4 given the funds from the developer.

5 MR. LACIVITA: We will probably be able to wrap
6 that right into the Latham Mall redevelopment as they
7 are doing some other things with DOT. If they're going
8 to offer a payment in lieu of, we could probably wrap
9 that right into that project so that it's one permit and
10 make it easy and simple.

11 MR. ZIEGENFUSS: That really became the major
12 problem. It's not a lot of money to do what is being
13 asked of us. It's the process and the time that it
14 would take. One of the things that we talked about was
15 the possibility of not having this wrap around the front
16 of the building and have the drive-thru exits straight
17 out to Troy Schenectady Road. That's not something that
18 DOT wanted to do. So, we did a lot of things to try to
19 avoid the length of time that it would take to go
20 through that DOT permitting process and get this project
21 into the ground as quick as possible and this would have
22 just added to that. Like I said, it's not a money
23 factor; it's a time factor.

24 CHAIRMAN STUTO: Thank you. Can you refresh me on
25 where we are in the process? We're not doing site plan

1 review. I understand it, but can you explain it?

2 MR. LACIVITA: Sure. Back in 2011 in order to spur
3 some of these underutilized sites -- for example Legacy
4 Bank has been abandoned for a long period of time. Back
5 in 2011 we put a group together with the administration
6 trying to figure out how we could spur some of these
7 underutilized sites to come through a development
8 mechanism where the internal review would be done by
9 Town Departments.

10 CHAIRMAN STUTO: Are there any members of the
11 public that have an interest in this?

12 (An audience member raised their hand.)

13 MS. WASHBURN: I'm Lori Washburn and I live on
14 Sunset Drive. I go in and out of that street eight or
15 nine times a day. The exit is almost directly across
16 from the exit for Pioneer Savings Bank. If anyone
17 drives up and down my street at noontime, which I come
18 home for lunch every day, it's one of the busiest times
19 of the day. It's busy for any fast food restaurant at
20 lunch and dinner and the same thing for the bank. At
21 5:00 and noontime you're going to have all these people
22 trying to exit almost directly across from each other to
23 get to the light. It's already hard enough when you
24 pull into the street -- Pioneer Savings Bank is so close
25 to the road, you don't see the person pulling out of the

1 drive-thru for the ATM, so you're almost right on top of
2 them. They don't see you and you don't see them and
3 there are many - at least three times a week I have to
4 slam on my breaks because somebody is coming out of
5 Pioneer Savings Bank. Now, you're going to have to
6 worry about people coming the other way, also. The
7 entranceway is down further where Pioneer is. So, the
8 exit is almost directly across from their ATM.

9 What are the hours of business?

10 MR. ZIEGENFUSS: They are open for lunch and
11 dinner. The exact hours - it would be somewhere in the
12 vicinity of 11:00 to 9:00, but I'm not 100 percent sure.
13 It's a lunch and dinner establishment. It's not 24
14 hours.

15 MS. WASHBURN: With some chains, sometimes they
16 have odd hours and could be open until later hours with
17 the drive-thru. Do you generally have more traffic
18 during your drive-thru than you do in the sit down?

19 MR. ZIEGENFUSS: We do quite a few of these fast
20 food restaurants. Most of them do quite a bit of their
21 business in the drive-thru and it's different from every
22 establishment. This particular brand does have a little
23 bit more of an eat-in. You can imagine that your
24 typical Chinese fare is a little more difficult to eat
25 in your car. Really that plays into it more than a

1 McDonalds or a Burger King or any of those others that
2 you see where it's more easy to eat in your car. This
3 is something that their taking it home or dining in.

4 CHAIRMAN STUTO: Ma'am, you have to direct your
5 comments an questions to us.

6 MS. WASHBURN: Is it going to be like a Red
7 Lobster? Is it going to be something that's going to
8 have constant traffic all the time? That's all I'm
9 worried about.

10 CHAIRMAN STUTO: I don't think this is going to be
11 like Red Lobster.

12 Can you address traffic in general and where
13 she is saying the outlet comes out?

14 MR. ZIEGENFUSS: Absolutely. That was something
15 that we did look at very closely on the project. I
16 believe that she is referring to this drive here
17 (Indicating), the outbound bank drive-thru does exit
18 right out onto Sunset Drive. Originally this was a
19 two-way drive. Actually both of these were two-way
20 drives when we first made application and in talking
21 with staff and looking at the traffic circulation
22 patterns, what we have done is this has become a one-way
23 circulation. In other words, this is an in-bound only
24 driveway and this is an exit only. Her point is well
25 taken. That's exactly why this is not going to be an

1 exit driveway. It's an in-bound only. The reason why
2 we don't want to have an in-bound is obviously if you
3 have a couple of folks backed up here, someone comes in
4 off of Troy Schenectady Road and wants to take a left
5 into that site, they can't do it. They start
6 immediately backing up traffic on your main street. You
7 bring everybody in here and you bring everybody out here
8 (Indicating). You have a one way circulation pattern
9 which helps control that situation much better.

10 MR. TENGELER: One of the comments from our Highway
11 Safety Committee - they actually referenced that they
12 are fond of the circulation and the ingress/egress and
13 the way that it is shown on the plans. The Highway
14 Safety Committee actually reviewed this and made
15 comments that they support the layout.

16 MR. ZIEGENFUSS: It's another minor thing. The
17 bank right now has three curb cuts on Sunset and we're
18 reducing that to two.

19 MS. WASHBURN: The land that it sits on right now
20 where the drive-thru was for the bank, there is a sharp
21 drop and there was extra parking down there. How is
22 this going work?

23 CHAIRMAN STUTO: How is the change in elevation
24 going to work?

25 MR. ZIEGENFUSS: I can absolutely address that.

1 One of the great things about this site is that there
2 are some beautiful trees that line the property; both
3 along the rear and along the side. We want to keep
4 those intact. What she is referring to and I wish I had
5 a survey so that I could show you but if you're familiar
6 with the site, there is a drop off about right here
7 (Indicating) where it drops off from the drive-thru to
8 what is known as the rear parking area. We basically
9 just shifted that back and there is going to be a
10 retaining wall that's on the site side of those trees
11 that runs along the outside of the drive-thru lane that
12 will make up that elevation change and still be able to
13 keep those trees intact along there. We felt that was a
14 good buffer from the adjacent properties.

15 CHAIRMAN STUTO: Do you understand that, ma'am?

16 MS. WASHBURN: No.

17 MR. ZIEGENFUSS: Basically, it moves that drop-off
18 from here (Indicating) to here.

19 MS. WASHBURN: So, Dr. Vallecorsa is going to look
20 at -

21 MR. ZIEGENFUSS: He'll look at his side of the
22 fence and on the other side of his fence he's going to
23 see a retaining wall that they're building on their end,
24 plus with the tree that they are maintaining -

25 MS. WASHBURN: Well, most of those are dead anyway.

1 Dr. Vallecorsa's are dead.

2 MR. LANE: If they're dead, will you be replacing
3 them?

4 MR. ZIEGENFUSS: I would have to go take a look.
5 When I was out there, I didn't see any dead trees.

6 MS. WASHBURN: There are at least five or six that
7 are dead.

8 MR. ZIEGENFUSS: They certainly could not be
9 replaced with a like size.

10 MR. LANE: Well, everything grows.

11 MR. ZIEGENFUSS: Exactly. It's something that we
12 can definitely explore.

13 MR. LACIVITA: Just getting back to the circulation
14 pattern - this was reviewed by the Department of
15 Transportation because it is on Route 2. They looked at
16 the traffic patterns as well.

17 CHAIRMAN STUTO: Can we give the gentleman back
18 there a shot?

19 MR. VALLECORSA: Actually, I'm Dr. Vallecorsa.

20 I have some questions. Most of those 16 trees
21 are dead.

22 First, I have no problem with the development
23 of that site, if it's done properly. Two, the
24 buffer or what he is referring to - the trees that
25 you can see - about 10 of those 15 trees are pretty

1 much dead. I've been there for 34 years so if there
2 is development, I like to see a proper buffer
3 placed.

4 We also have a problem with water run-off
5 there. We've had several kinds of development of
6 the property that is there. I've had that reviewed
7 several times. They did make adjustments. I think
8 that Troy Savings Bank originally did. First
9 Niagara did. I'm concerned about the height. The
10 water run-off -- I've had flooding in my yard. If
11 you remember when Krispy Kreme came in and
12 Starbucks. They went through and made some
13 adjustments to the drainage, which helped but we
14 still get flooding. If you go there when it rains,
15 there is about a foot and a half of water that sits
16 on that lot. My concerns are when they do develop
17 this, the traffic flow is addressed also. It
18 directly impacts mine.

19 Lastly, I have patients that come through that
20 are handicapped and they have small children and we
21 have seniors. When they come into that part of my
22 lot which is across the property - right now with
23 Pioneer coming in it does have an effect and we're
24 dealing with that rather nicely. If you can
25 increase the flow in that area and direct impacts

1 where we have these patients come and go, it could
2 be a problem. That needs to be addressed.

3 This is the first time that I've seen this.

4 Those are my concerns and hopefully they will
5 be addressed.

6 MR. TENGELER: I think that we can speak to all of
7 those.

8 As far as stormwater management, and Bob can
9 speak to this in greater detail, they have to
10 conform to the MS4 Standards which basically says
11 that you cannot increase any drainage to any
12 neighboring property with your development. At a
13 bare minimum there will be no change. Actually 99.9
14 percent of the time it is actually a benefit to the
15 neighboring properties.

16 MR. ZIEGENFUSS: Our proposal is to raise that and
17 develop that area.

18 MR. TENGELER: As of 2011 those standards went into
19 effect. For the Legacy Bank, Krispy Kreme -- those
20 standards were lax and weren't up to par with what they
21 are now. They'll have to abide by the strict MS4
22 standards.

23 Can we talk a little bit about the merits of
24 the stormwater design? It's being reviewed by our
25 stormwater department.

1 MR. ZIEGENFUSS: Yes, absolutely. We did go
2 through the review of the stormwater. When we looked at
3 the site it was in that reduction in impervious surface.
4 Typically what that means is that you're going to have a
5 decrease in the run-off and in most places that means
6 that no stormwater management is required of the
7 project. In this particular case because we are raising
8 the whole site, it's like we take it back to square one.
9 The plan is in our construction plans. I didn't expect
10 to be speaking to that tonight. We're putting in an
11 underground system to hold that additional run-off and
12 so in answering his question, it's better than it is
13 today because we're going to be holding a significant
14 volume of water on that property that's not held today.
15 It simply runs off. I think that part of the problem is
16 this rear low-lying area (Indicating).

17 MR. VALLECORSA: Where are you going to place your
18 additional parking? If you see it now, any kind of
19 minimal amount of rain accumulates there.

20 MR. ZIEGENFUSS: And that will all be captured. It
21 will be captured and brought into that system and held
22 in that system and released at this low area
23 (Indicating). That's what typical stormwater
24 requirements would dictate.

25 He does bring up a good point about the trees.

1 I think that when I was looking at the trees I was
2 thinking more about back here in this corner
3 (Indicating) where they are in a little better
4 shape.

5 MR. VALLECORSA: They're really not too good all
6 the way along. There are about 15 trees in total. Most
7 of them are really pretty much dead.

8 Also, we had a patient have a branch come down
9 during a storm one time and it broke her windshield.
10 So, we were fortunate no one was hurt.

11 I would make a suggestion just to throw it out
12 there. I've seen some of these site developments.
13 I would like to see something, not necessarily a
14 fence, but maybe something that had easy maintenance
15 maybe like an arborvitae. Something tall that would
16 grow together and give me a nice protection barrier.
17 When it rains you don't have to worry about anything
18 coming down and easy maintenance. At one point we
19 had a few different sets of pine trees and those
20 didn't survive. My concern at this point in time is
21 that I've seen enough of that. If you're going to
22 put something there, at least make it so that it's
23 easy maintenance and presents no danger to the
24 public and benefits both of us in that regard. So,
25 that's something that I'd like to see and I'm open

1 to other ideas.

2 My other concern is if you're going to have
3 food, you're going to have debris. You have to take
4 care of that.

5 MR. TENGELER: It's also very strict on the
6 dumpster enclosure, especially for any food uses -- a
7 masonry enclosure. We like to restrict pick-up times
8 between 7 and 7 to lessen the burden on the
9 neighborhood.

10 MR. VALLECORSA: I don't know about a noise factor.
11 That may be an issue.

12 MS. WASHBURN: You mentioned about the dumpster.
13 Is that is going to go for the rest of the buildings
14 around us? They're picking up at 3:30 seven days a
15 week.

16 MR. TENGELER: We would put those kinds of
17 restrictions on the project that is before us. If
18 people come to us in the future, we can always make
19 those kinds of conditions and I can red flag something
20 on your street.

21 MR. LANE: Who is this; county Waste?

22 MS. WASHBURN: I can hear them at 3:30 every
23 morning; seven days a week.

24 MR. LANE: Don't we have restrictions?

25 MR. LACIVITA: There is a change that we have

1 proposed right now that they're going to change the
2 hours of that commercial.

3 MS. WASHBURN: I've discussed this at other
4 meetings. They pick it up and then drop it from like
5 five feet off the ground. I think that 3:30 in the
6 morning is just too early.

7 MR. TENGELER: You can call my office and I'll put
8 a call into the owner of the property and put them on
9 notice what the hours are.

10 MR. VALLECORSA: My general concern is that first,
11 I have a professional practice and we've tried to
12 maintain a nice level of aesthetics. I would like to
13 see something develop there. Again, I want to make it
14 clear that I'm not opposed to that, but it has to be done
15 in the right way. If you're talking about a fast food
16 chain next to a professional office, I think that we
17 should make some effort to keep the aesthetic value of
18 that. I have patients coming and going and they are
19 going to increase the traffic regardless of that and the
20 safety factor should be of concern. You have to keep in
21 mind that I do have wheelchair access cases coming in
22 and out of there for most of the day. The water run-off
23 of course is very important.

24 MR. LACIVITA: That's one of the things that we do.
25 How we balance with our design standards is we look at

1 how we take an existing condition such as yourself and
2 with the new design standards that have come into
3 practice since 2007, you'll see that we'll be able to
4 blend it -- two lots together with the design standard
5 of the buffering and all the things that we're going
6 through with the design.

7 To your point on the volume - I just want to
8 talk a little bit about the stormwater. As you're
9 looking through the design calculation -- currently
10 it's right at 85. We're designing this to go up to
11 91.74. What that equates to is actually required
12 water volume where they are treating with a
13 10-minute flow as it comes out; 1,249 cubic feet --
14 this design here is 2,242. So, it's slowing
15 everything down, retaining it on-site and then
16 releasing it out. You're not going to see any
17 flooding or anything based on the way that this has
18 been designed.

19 MR. VALLECORSA: I would hope that's the case.
20 Right now that's not being done.

21 MR. LACIVITA: Not now, but with the new design and
22 everything that we have seen has taken that concern into
23 consideration.

24 MR. VALLECORSA: I was here with this issue when we
25 did Starbucks. When you go back and look at that, that

1 hasn't really made the changes that it should have. My
2 hope is that it will be maintained properly. I don't
3 know the height or site development requirements that
4 are going to happen once it's raised. So, the aesthetic
5 value of course of it being adjoining, I'd like to see
6 something that is easily maintained and it not a safety
7 issue.

8 MR. TENGELER: Especially with the frontage in
9 wanting to get into a street that you have small
10 business and houses with residential uses on -- we want
11 to make sure that we took that into consideration. Part
12 of the reason that we designed the site as it is with
13 the parking and building as is -- it's far away from the
14 neighbors.

15 MR. VALLECORSA: I still wasn't sure where you were
16 having the drive-thru portion. Is that facing Sunset or
17 facing the other way?

18 MR. ZIEGENFUSS: This is the drive-thru window
19 right here (Indicating). The other thing that we've
20 done is the menu board facing back towards -- and in
21 this case it's residential. We do have that facing the
22 side as well.

23 MR. VALLECORSA: Is there going to be a speaker on
24 that?

25 MR. ZIEGENFUSS: Absolutely, as with any fast food

1 restaurant.

2 I guess I'd like to speak to the trees. I
3 think that it may be a little hard to frame what we
4 do there in this meeting. Certainly when we look at
5 dead and dying trees, it's a safety issue. My
6 client is not going to want a safety concern on his
7 brand new property. I can assure you of that. We
8 will take down any dead and dying trees. What we do
9 to replace it like or come into compliance with
10 current landscape codes -- that's something that I
11 think might be hard to frame here in this meeting
12 tonight.

13 CHAIRMAN STUTO: Were you saying arborvitae?

14 MR. VALLECORSA: Yes.

15 MR. ZIEGENFUSS: I'm not familiar with that. I'm
16 not a landscaped architect. Unfortunately, we didn't
17 bring our landscape architect.

18 CHAIRMAN STUTO: It's a reasonable alternative.
19 That's not what we are here to review.

20 MR. VALLECORSA: And I understand that. I've just
21 seen a lot of things in the 35 years that I've been
22 there.

23 MR. ZIEGENFUSS: It's definitely a concern that we
24 are talking about safety and welfare. If one of these
25 trees comes down and falls on this gentleman's building,

1 it's my client's responsibility. So, I can assure you
2 that he's not going to want that as a liability. These
3 trees will come down. We just need to work with staff
4 on a good replacement landscape plan. We're in our
5 second review of the plans. I would say that we're five
6 percent left in the plan review, but there is no reason
7 why we can't address this.

8 CHAIRMAN STUTO: So Mike, you'll pay particular
9 attention to that?

10 MR. TENGELER: Absolutely, yes.

11 MS. WASHBURN: Is this going to be a soft opening
12 or what we put up with when Krispy Kreme came and like
13 they did with Joe's Crab Shack with hundreds of people
14 standing outside waiting to get into these places?

15 MR. ZIEGENFUSS: They'll have an opening just like
16 everybody else does. When they open their doors, they
17 open their doors. I will tell you that any new facility
18 like that definitely does their better business during
19 the first month of their operation. There is no doubt
20 about it. It's the newness of a new facility, a new
21 product that hasn't been in the area. Krispy Kreme is
22 kind of like crack. Everybody loves those and they're a
23 little bit addictive on top o fit. So, there is no
24 doubt that during that first month they always have the
25 newness factor. I'm sure that they will do a good

1 business during that time.

2 MS. WASHBURN: Does that mean they're going to be
3 lining up on the street because there is not enough
4 parking?

5 MR. ZIEGENFUSS: I wish that I could answer that
6 question.

7 MS. WASHBURN: We put up with that with the dance
8 studio.

9 MR. LACIVITA: I think that this is different from
10 Krispy Kreme. I think that we can look to see what some
11 of the other openings were like and then we will dictate
12 where we will go from there. I don't think that you'll
13 see any type of volume like Krispy Kreme.

14 MR. ZIEGENFUSS: And I will tell you that from the
15 standpoint again -- my firm does an enormous amount of
16 fast food restaurants. This has great drive-thru
17 stacking. If I could get this on a lot of my sites, I
18 would be very happy. We have about 11 cars before you
19 even start to get out into this vicinity here
20 (Indicating). I run into these code requirements as I
21 work around the country. The typical code requirements
22 are six to eight. You have a code that dictates it and
23 the fast food restaurants love to see 10, and we've got
24 11. It really does provide a significant amount of
25 stacking.

1 MR. VALLECORSA: There is no stacking on the back
2 side near my property, correct?

3 MR. ZIEGENFUSS: That is correct.

4 MR. VALLECORSA: The parking is only on the Sunset
5 Drive side?

6 MR. ZIEGENFUSS: It's what we call a double-loaded
7 drive-aisle.

8 MS. WASHBURN: And the parking spaces?

9 MR. ZIEGENFUSS: There are some back here, but they
10 are separated by the drive-thru lanes.

11 MR. LANE: Are they employee spots?

12 MR. ZIEGENFUSS: Essentially those are going to be
13 used by the employees. They're not signed and such, but
14 those will be what the employees use. There are 27
15 total.

16 MR. VALLECORSA: You said that there were
17 preliminary traffic studies done there?

18 MR. ZIEGENFUSS: No.

19 MR. VALLECORSA: Okay, I'm sure that will happen.

20 CHAIRMAN STUTO: Any other questions?

21 (There was no response.)

22 CHAIRMAN STUTO: I think that we've tried to answer
23 them and I think that the department is going to work
24 with you this point forward on the screening and I think
25 that we've answered stormwater and traffic.

1 This is a Type II action which means no further
2 environmental review is necessary.

3 They're asking for three waivers; parking in
4 the front, a waiver from the requirement of maximum
5 setback of 25 feet and the greenspace will be at
6 34.7 percent, provided a payment of \$750.00 is made.

7 Is that a waiver? Isn't that automatic if they
8 pay the money?

9 MR. TENGELER: No, it's not. Technically they're
10 deviating from below the 35 percent threshold.
11 Incentive zoning request - I wouldn't consider it a
12 waiver.

13 CHAIRMAN STUTO: Can someone read the resolves?

14 MS. MARINELLI: Now therefore be it resolved that
15 the Board hereby finds that the extent of the requested
16 waiver is not considered substantial, and

17 Be it further resolved the Board finds the
18 applicant has established that there are no more
19 practicable alternatives to the proposed waiver that
20 conforms to the standard and the waiver is necessary
21 in order to secure reasonable development of the
22 project site, and

23 Be it further resolved the Board hereby issues
24 a waiver from the prohibition of new parking within
25 the front yard, and

1 Be it further resolved the Board hereby issues
2 a waiver from acquiring a maximum building setback
3 of 25 feet from the major roadway, and

4 Be it further resolved the Board hereby finds
5 the incentive request reasonable to allow the
6 further development of the site and grants the
7 incentive zoning request to reduce the site
8 greenspace to 34.7 percent provided the payment of
9 \$750.00 in accordance with the incentive schedules
10 made to the Town, and

11 Be it further resolved this waiver finding be a
12 condition of the site plan approval of the
13 application and be kept in the project file in the
14 Office of the Planning and Economic Development
15 Department.

16 CHAIRMAN STUTO: I would ask that the stenographer
17 put the entire resolution into the record.

18 Do we have any discussion on this?

19 (There was no response.)

20 CHAIRMAN STUTO: Do we have a motion?

21 MR. LANE: I'll make a motion.

22 MR. MION: Second.

23 CHAIRMAN STUTO: Any discussion?

24 (There was no response.)

25 CHAIRMAN STUTO: All those in favor say aye.

1 (Ayes were recited.)

2 CHAIRMAN STUTO: All those opposed say nay.

3 (There were none opposed.)

4 CHAIRMAN STUTO: They ayes have it.

5 Thank you and thank you to the public for
6 coming out.

7

8 (Whereas the above entitled proceeding was
9 concluded at 9:09 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 July 1, 2014

