

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 *****

4 LIFE COVENANT CHURCH
685 WATERVLIET SHAKER ROAD
5 APPLICATION FOR CONCEPT ACCEPTANCE AND
ODA RECOMMENDATION TO TOWN BOARD

6 *****

7 THE STENOGRAPHIC MINUTES of the above entitled
matter by NANCY STRANG-VANDEBOGART, a Shorthand
8 Reporter, commencing on January 13, 2015 at 7:21
p.m. at The Public Operations Center, 347 Old
9 Niskayuna Road, Latham, New York

10

11 BOARD MEMBERS:
PETER STUTO, CHAIRMAN
12 LOU MION
BRIAN AUSTIN
13 SUSAN MILSTEIN
TIMOTHY LANE
14 KATHY DALTON

15 CRAIG SHAMLIAN

16

17 ALSO PRESENT:

18 Michael C. Magguilli, Esq., Town Attorney

19 Joseph LaCivita, Director, Planning and Economic
Development

20

21 Andrew Brick, Esq., Donald Zee, PC

22 Peter Faith, Greenman Pedersen, Inc.

23 Brian Sipperly, PE, L. Sipperly and Associates

24 Joe Grasso, PE, CHA

25

1 MR. LACIVITA: Peter, our second item on the agenda
2 for tonight, Meadowdale Estates, is being postponed.
3 There has been some changes to the plan within the last
4 few days. We're having Town Departments and our Town
5 Designated Engineer review those changes so we're not
6 going to call a public hearing on that to go to final
7 until we have everything.

8 CHAIRMAN STUTO: Okay, that sounds good.

9 MR. MAGGUILLI: That was postponed at the request
10 of the applicant.

11 MR. LACIVITA: Yes, the applicant and the engineer
12 and the Town; we all agreed that we were going to
13 postpone that.

14 CHAIRMAN STUTO: Okay, next item on the agenda is
15 Life Covenant Church, 685 Watervliet Shaker Road. This
16 is an application for concept acceptance and
17 consideration of an open development area. This is one
18 story, 36,601 square foot place of worship.

19 Joe LaCivita, do you have any introductory
20 remarks on this one?

21 MR. LACIVITA: The only thing that we will add to
22 that, Peter, is some of the significant dates that we've
23 had with this project. It was before our Development,
24 Coordination Committee meeting on June 12, 2013. We've
25 had it before our Planning Board September 10, 2013,

1 August 12, 2014 and most recently October 21, 2014. As
2 you said, we are here tonight for the application on
3 concept acceptance and the review and recommendation of
4 the ODA, the open development area.

5 CHAIRMAN STUTO: Before we turn it over to the
6 applicant, we have a sign-in sheet over on that table.
7 If anybody wants to speak, would you please sign in?

8 We'll turn it over to the applicant, if you can
9 identify yourself?

10 MR. BRICK: Andrew Brick from the firm of Donald
11 Zee, PC. Happy New Year to the Board Members and the
12 staff.

13 With me this evening is Mark Allen from Life
14 Church as well as Ryan Dowdy, the local pastor from
15 Life church. Also with me this evening is Mike
16 Konopic and Steven Dimmit of Jackson Walker of
17 Dallas Texas, as well as my associate, Chris [SIC] Peoree
18 from Donald Zee, PC and our traffic engineer, Peter
19 Faith from GPI as well.

20 I wanted to briefly bring you up to date on
21 where we have been since you've seen us last. We
22 appeared, as Joe said, here at a meeting on October
23 21st. The Board Members had requested that we get
24 together and meet with the Town Designate Engineer
25 as soon as practicable after that meeting. We did

1 have a meeting with Joe Grasso on October 23rd,
2 within 48 hours of the Planning Board meeting. So,
3 we were able to put that meeting together.

4 At that meeting Joe informed us that he needed
5 to obtain information from us and gather data
6 because he was going to be speaking with Town Board
7 members about the issue that had come up regarding
8 the ODA. We, in that meeting, did our best with
9 Peter, our traffic engineer, to provide any
10 information and answer any questions Joe and his
11 traffic people had on October 23rd.

12 On November 20th I hadn't heard anything in
13 response to that meeting or Joe's subsequent meeting
14 with Town Board Members, so I reached out to Joe and
15 Joe to find out what the status was and where we
16 were. It was at that point that we informed that
17 nothing had taken place because the Town Designated
18 Engineer escrow fund hadn't been replenished. I'm
19 not saying that's the fault of the Town, it's Town
20 Policy as I understand it, if there isn't money in
21 the TD escrow, the TD doesn't review the project.

22 We corrected that within a day and at that time
23 I sent an email to Joe Grasso requesting if there
24 was anything else further from us that is required
25 to get us on the next available agenda.

1 He responded and stated that he did need a full
2 environmental assessment form - a long environmental
3 assessment form. When I followed up with Brian
4 Sipperly I realized that the long environmental
5 assessment form was actually provided directly to
6 the Town on October 27th; about three weeks prior to
7 that date. It just hadn't made it to Joe. I
8 confirmed that with Joe that the long environmental
9 assessment form had been provided.

10 At that point Joe gave us an indication of what
11 he thought was going to happen on the meeting of the
12 16th if we got on the agenda.

13 Don, in my office, had some questions about it.
14 Joe graciously said I'm available to meet with you
15 to answer any questions that you may have regarding
16 what is going to happen on the 16th.

17 That meeting took place on November 25th and at
18 that meeting Joe gave to us some draft conditions of
19 approval that he stated that he was going to
20 recommend to the Board be conditioned of any
21 approval that this Board considered on the 16th.

22 I have packets of all of the documentation that
23 I'm referring to now for everybody. I do want to
24 read into the record that the proposed conditions
25 that he provided to us in person at that meeting on

1 the 25th of November say conditions of approval.

2 This is in your packet.

3 1. Access off Moffat, emergency access through
4 post office.

5 2. No future development without Town Board
6 approval.

7 3. No use of traffic control officer without
8 Town Board approval.

9 4. Service times shall be at least two hours
10 apart start times except with written Town Board
11 approval.

12 5. Any more times than Sunday service times
13 will require Town Board approval.

14 6. Weekday services shall start no earlier than
15 6:30 p.m.

16 7. Must have rights of access over Moffat Lane.

17 We ended the meeting when these conditions had
18 been approved and we reviewed them with my client
19 and my client made a determination that these
20 conditions were not something that were acceptable
21 to them in light of the fact that they attempted to
22 regulate the internal details and the operational
23 details of their services and the scheduling of
24 their services and it wouldn't work from their
25 perspective.

1 I informed Joe LaCivita that the conditions
2 aren't going to be approved by my client and I
3 received correspondence from him on December 5th. I
4 received an email saying that since our client
5 wasn't going to abide by the Planning
6 recommendations then he couldn't put us on the
7 agenda for the 16th until the issue got worked out.
8 Our initial response is what Planning recommends
9 because we hadn't seen any Planning recommendations.

10 On December 8th, however, we did receive the
11 official CHA comment letter where the conditions
12 that had been given to us at the meeting with CHA
13 were recommended. We took that the Joe LaCivita
14 note that the Planning recommendations in the hand
15 written note --

16 MR. MAGGUILLI: Were there any difference between
17 the two?

18 MR. BRICK: Both sets are in your packet.

19 MR. MAGGUILLI: I understand that. The question
20 is: Is there any difference between the two?

21 MR. BRICK: I can check that for you.

22 MR. MAGGUILLI: Thank you.

23 MR. BRICK: In my review, I did not see any
24 specific differences.

25 Mr. Magguilli, were you aware of a particular

1 difference that you noticed that I can talk to real
2 quick?

3 MR. MAGGUILLI: I'm just trying to figure out what
4 the cause of the delay was between the handwritten and
5 the type written conditions. If there was something
6 substantially different, I suppose that I could
7 understand it. But if there is no substantial
8 difference or no difference at all, I'm having trouble
9 with your position.

10 MR. BRICK: Understood. I'm just relaying the
11 chronology of how we got to this point.

12 So, subsequent to that, we were informed that
13 we would be on this agenda. The Town reached out to
14 us and told us that we were going to be on this
15 agenda. So, that's why we are here this evening.

16 It's our understanding that we are on the
17 agenda for consideration of concept approval and
18 possibly a recommendation of an ODA. Again, my
19 client's position remains that they've submitted a
20 site plan with direct access to Watervliet Shaker
21 Road. They would have absolutely no objection to a
22 condition being placed upon the approval that should
23 an ODA be obtained for the use of Moffat Lane and
24 there are no other issues with utilizing Moffat Lane
25 with an ODA, then they will abandon the direct

1 access to Watervliet Shaker Road and utilize the
2 Moffat Lane access through the ODA. That remains
3 their position, but they are asking you for a vote
4 on the direct access as shown on the site plan.
5 Again, they accept the condition that should an ODA
6 be obtained that they would abandon that direct
7 access.

8 Lastly, there were some media reports that
9 related to traffic being the primary issue of
10 concern that needs to be addressed. With that, I'd
11 like to turn it over to Peter Faith, our traffic
12 engineer, who has a quick summary of the traffic
13 analysis on this project to date.

14 MR. FAITH: Thank you and good evening. I have a
15 little summary here and if we can give this to the
16 stenographer if she wants to enter this into the record.

17 Again, my name is Peter Faith. I'm a traffic
18 engineer and transportation planning practice for
19 Greenman Pedersen, Inc. in upstate New York.
20 Greenman Pedersen, if you don't know is an
21 engineering firm that's been in business for over 40
22 years and has 1,300 employees and 20 offices
23 throughout the eastern United States. Our Albany
24 office has been in continuous operation since 1975
25 and employs 120 people.

1 In January of 2014 - about a year ago - GPI was
2 approached to complete a traffic impact study for
3 the Life Church project on Watervliet Shaker Road,
4 which is a roadway which is maintained by the New
5 York State Department of Transportation.

6 As part of our effort to ensure a traffic
7 impact study was prepared, I personally contacted
8 Kevin Novak from New York State DOT Region 1 to
9 discuss his concerns about the project and what
10 issues should be addressed as part of a traffic
11 impact study. Mr. Novak indicated to me during our
12 conversation at his office that it did not require a
13 traffic study for this project since the church does
14 not generate traffic during the peak hours on
15 Watervliet Shaker Road and that the existing traffic
16 on a Sunday in this area is significantly less than
17 a typical weekday.

18 We proceeded to complete a traffic impact study
19 according to the industry standards and subsequently
20 responded to all comments regarding analysis
21 completed. I'll give you a following summary or
22 timeline of key milestones in the traffic analysis
23 process.

24 In March of 2014 we prepared the traffic impact
25 study assuming a Moffat Lane access with the typical

1 items in our traffic impact study including
2 forecasts, level of service delay analysis and
3 queuing analysis.

4 On April 9, 2014 we prepared a supplemental
5 traffic impact study reviewing a separate access,
6 recognizing that there might be some difficulty in
7 obtaining a right to use Moffat Lane as their
8 primary access. That supplemental study also
9 included queuing analysis, the traffic forecast,
10 level of service and delays and a recommendation for
11 where to locate that subsequent access.

12 On May 15, 2014 the Town Designated Engineer
13 provided some review comments. In that letter, four
14 of 13 total comments focused on traffic. There were
15 questions regarding trip generation, questions on
16 capacity analysis and requesting some additional
17 analysis regarding unsignalized intersections and a
18 traffic control officer that was recommended. That
19 letter also contained, in part, a comment that
20 stated that the level of service was acceptable and
21 this project does not require mitigation. That's
22 was made in comment 4 of that May 15th letter.

23 On May 21st we prepared a response to all the
24 traffic comments that were made in the TDE review
25 letter.

1 On August 12th my staff member Mike
2 Wieszchowski attended the Planning Board meeting and
3 presented to this Board a summary of findings and
4 answered questions. At that meeting the Town
5 Designated Engineer requested additional trip
6 generations on the existing facility questions that
7 the church operates in the Town.

8 On August 29, 2014 we provided that information
9 on trip generation at the existing church facility.

10 On September 26th we reached out to the Town
11 Designated Engineer requesting a meeting and to
12 discuss any questions that they had on the
13 additional information provided.

14 On September 29th, we sent an email and also
15 placed a subsequent phone call to both Joe Grasso
16 and Dave [SIC] Polo who we know to be the Town
17 Designated Engineer's lead traffic planner to try to
18 get some information and any response to the
19 information that we had provided. We did receive a
20 reply from Joe that we would not be able to meet
21 with the Town Designated Engineer until he prepared
22 their review letter to the Town.

23 On October 3rd was the date of the Town
24 designated review letter and of the total 22
25 comments in that letter, 16 of them referenced

1 traffic.

2 On October 15th there is a letter prepared by
3 Sipperly's office that contained GP's response to
4 the traffic comments.

5 October 23rd there was a meeting at the Clough
6 Harbor offices to discuss traffic issues with the
7 department. The applicant was there and the Town
8 Designated Engineer was there. At that meeting it
9 was requested that we provide work analysis,
10 specifically more refined analysis with the peak 15
11 minutes on both entering and exiting peaks. Also,
12 more information on the Wednesday youth group
13 service and how much traffic that would generate.
14 We provided that information later that day in an
15 email to Joe Grasso, both the 15 minute analysis and
16 the information on the Wednesday youth group
17 service.

18 That's the chronology of events. The last few
19 statements I want to make to summarize the analysis.
20 All of the analysis was prepared by a licensed
21 professional engineer and a licensed professional
22 engineer who has over 20 years of experience and all
23 that work is reviewed by me as a licensed
24 professional engineer. All the work was done in
25 accordance with industry standards and accepted

1 practice. Our analysis determined that the time
2 frame was the adjacent public roadway as the most
3 impacted by the project Sunday mornings between
4 11:00 a.m. and noon. Our analysis concluded that
5 Watervliet Shaker Road will have less traffic on a
6 Sunday peak hour with the project than a typical
7 weekday peak hour today and all studied
8 intersections will operate at a level of service C
9 or better in a future build condition that queues
10 will not impact the adjacent traffic signals or left
11 turn storage lanes.

12 The Wednesday evening services are going to
13 begin at 6:30 p.m. The forecasted traffic on
14 Watervliet Shaker Road with the youth service
15 program is 300 vehicle per hour less than the
16 present Watervliet Shaker Road during a typical
17 weekday p.m. peak hour between 5:00 and 6:00 p.m.

18 The level of traffic analysis prepared for this
19 project exceeds what would typically be required for
20 a project of this type at this location. In fact,
21 the level of traffic analysis prepared for this
22 project equals or exceeds what would have been
23 completed if the Town had requested a full
24 environmental impact statement be required. No
25 additional impacts of this project would be gained

1 by requiring a full EIS at this time.

2 Finally the result of all this effort is a very
3 comprehensive record of traffic analysis and
4 concludes that the project will not have a
5 significant impact on traffic and this is just a
6 summary of all the traffic analysis that has been
7 prepared for this project. Thank you.

8 CHAIRMAN STUTO: Okay, before we continue, I want
9 to clear up one thing. I'm a little bit confused. I
10 thought that we had a very good meeting here last time
11 in front of the Planning Board.

12 MR. BRICK: No question.

13 CHAIRMAN STUTO: You all had subsequent staff
14 meetings and so forth and you recited, I think, sometime
15 in November and there is a note here - a photocopy of
16 notes dated 11/25/14 conditions of approval; first,
17 access off of Moffat. Emergency access through the post
18 office. Then you said that you requested it in writing,
19 I think, and what are the conditions. We have a letter
20 from CHA dated December 8th signed by Joe Grasso and the
21 first paragraph 5 says the use of Moffat Lane as primary
22 access point -- and then it continues on. Subparagraph
23 1 says primary access shall only be through Moffat Lane
24 and development of no new curb cuts shall be permitted
25 between Moffat Lane and the Exit 5 interchange ramp.

1 When you first made your presentation, your
2 drawing shows that the access is to the west of
3 that. You said that if we can get the ODA and have
4 access on Moffat Lane, you'd be agreeable to that.

5 MR. BRICK: Correct.

6 CHAIRMAN STUTO: It seems like you said before that
7 the conditions weren't acceptable and now you're saying
8 that's acceptable. I just want to be clear. I think
9 that's probably the major point of this whole thing.

10 MR. BRICK: And I understand. Let me be clear. I
11 agree that it's something that I think needs to be
12 clarified.

13 CHAIRMAN STUTO: When I talked to Joe LaCivita, he
14 said that you didn't submit a drawing on Moffat Lane and
15 you've admitted in these notes that you handed in -- and
16 in the letter from Joe Grasso that the department and
17 the TDE preferred access through Moffat Lane.

18 MR. BRICK: Correct, however those proposed
19 recommendations were the recommendations of the ODA. We
20 have tried twice already to obtain an ODA. The first
21 ODA in September of 2013, we were informed that the Town
22 wasn't going to entertain it - the Town Board. There
23 was a meeting in May with staff and we thought that
24 there was an agreement when we left that meeting that
25 staff was going to approach the Town Board about

1 obtaining an ODA to utilize Moffat Lane. We were
2 informed in June that the ODA request was not going to
3 be placed upon the Town Board agenda.

4 CHAIRMAN STUTO: Then we had our good meeting and
5 they're recommending access off of Moffat.

6 Can anybody help me out here on staff?

7 MR. LACIVITA: I think that one of the other things
8 from the initial project, Peter, was the ODA was
9 required because the applicant had brought in a project
10 that had subdivision in the front so they had no access
11 to it.

12 CHAIRMAN STUTO: I'm not sure what counsel's office
13 is telling us.

14 MR. LACIVITA: The project has morphed so many
15 different times. I agree with you that the last time
16 that we met we all agreed that access was going to be
17 off of Moffat Lane, but we have the application here
18 before us that shows a separate and distinct access.

19 CHAIRMAN STUTO: Let's just talk about that now
20 because it's a major issue.

21 Does the Board have any comment on that?

22 MR. MION: I have gone out there many times and I
23 have major issues about having the way you have it there
24 -- just the way you have it going into that entrance. I
25 know what the footage is and all that. You've already

1 got a problematic intersection there to begin with.
2 This is just going to add that much more to it. I would
3 much rather see you go down Moffat Lane and use that. I
4 think that you're saying that. I think that when we
5 left before that you were going to put in for the ODA or
6 were going to get the ODA from the Town Board.

7 MR. BRICK: From our perspective, since the ODA has
8 been attempted twice with no success - any type of
9 approval that you give conditioned upon an ODA really
10 isn't an approval. If we don't get the ODA, we have
11 nothing. That's why we are seeking the approval with
12 the direct access and again, we will abandon that direct
13 access should the ODA be obtained by the Town Board and
14 that Moffat Lane could be utilized.

15 MR. MION: Have you attempted again to go for the
16 ODA?

17 MR. BRICK: No we have not because when we left the
18 meeting in May it was agreed that staff was going to
19 request the ODA. My client has presented an application
20 showing a direct access. Again, if the ODA is obtained,
21 they have no qualms about abandoning that direct access
22 but approving something without that direct access and
23 without an ODA in place isn't really an approval because
24 there is no guarantee that we can get it. It's
25 completely within the discretion of the Town Board

1 whether or not to grant the ODA and it hasn't happened
2 twice.

3 MR. MION: What does staff have to say about that?

4 MR. LACIVITA: I'm sorry I was looking at some of
5 the last minutes. What was the question?

6 MR. MION: About going forward.

7 MR. MAGGUILLI: I can tell you that the Town Board
8 has addressed this issue and has looked at the open
9 development area and I think that it would look
10 favorably on any application that exclusively used
11 Moffat Lane as their main and their sole source of
12 ingress and egress. Other than that, I don't know what
13 to tell you, Andy. They would look upon it favorably.
14 Nobody can guess what a Town Board is going to do and
15 I'm not going to stand here and tell you that there has
16 been discussions and a vote because there hasn't been.
17 What I can represent to you - and I'm willing to do
18 right now - is that the Town Board would look very
19 favorably on this application if the sole means of
20 ingress and egress was Moffat Lane.

21 Now you have to understand from the Town
22 Board's perspective, it keeps getting conflicting
23 applications from the church. Even now we have a
24 conflicting application that's dated January 6, 2015
25 that is something that we haven't seen before. It

1 has different times of church services, different
2 dates of church services that we have never seen
3 before. It has a different address; 687 Watervliet
4 Shaker Road rather than 685. I don't know if there
5 is a reason for that or not. I would like an answer
6 to that. Is there a reason for that?

7 MR. BRICK: I believe that there is. I believe
8 Brian, didn't we clarify that the Moffat post office
9 address was being utilized for this property. I'll let
10 Brian speak to this.

11 MR. SIPPERLY: Thanks, Andy.

12 It had come to our attention when we were
13 actually talking with Mike Huller at 911 and Albany
14 County Sheriffs that 685 - there is a difference
15 between a postal address and a registered 911
16 address. The post office had taken the non-911 but
17 they had solidified the postal address and they
18 didn't want to change it because their thinking is
19 that everyone in the Town knows 685 and let's choose
20 it differently. We talked with folks within the
21 Colonie 911 and we determined that 687 was the next
22 logical address to take and I think that I did put a
23 sentence or two in the narrative regarding the note
24 for the address change.

25 Since that time, we have just updated our site

1 plan with the correct address. So, if it sent
2 confusing messages, we apologize. We tried noting
3 it in a narrative.

4 MR. MAGGUILLI: The narrative says no parcel
5 previously referred to as 685 Watervliet Shaker Road.
6 That's the only thing that it said.

7 MR. SIPPERLY: Fair enough.

8 MR. MAGGUILLI: It doesn't give an explanation as
9 to why the change. What you're representing to us right
10 now is that it's a merely a 911 issue.

11 MR. SIPPERLY: It had everything to do with the
12 postal versus 911.

13 MR. MAGGUILLI: The other issue that I had with
14 this most recent filing from L. Sipperly and Associates
15 dated January 6, 2015 - the second paragraph on the
16 first page refers to Life Covenant Church as: "provides
17 faith worship services for church members for the
18 facility located at 560 Sand Creek Road in the Village
19 of Colonie." Membership is growing, etcetera. Then it
20 talks about the need to construct a new facility which
21 would accommodate the existing and new members. "The
22 new facility would also enable First Covenant Church to
23 provide additional faith services."

24 Who is First Covenant Church?

25 MR. BRICK: I believe that's an error in the

1 document. It should be Life Covenant Church.

2 MR. MAGGUILLI: So, there are no two facilities
3 here?

4 MR. BRICK: No, it's Life Church.

5 MR. MAGGUILLI: You'd be willing to correct that
6 here for the record?

7 MR. BRICK: Absolutely. I believe that there is a
8 typo in that document related to the weekday Wednesday
9 night service time beginning. Just for the record so
10 it's clarified, Wednesday night services begin at 6:30.
11 It's the only weekday service and it begins at 6:30. I
12 believe that there is a typo in that document pertaining
13 to that.

14 MR. MAGGUILLI: Then you are referring to the
15 paragraph headed hourly operation. It appears to be
16 page 3 where it says the church also offers social
17 meetings and structural classes on Wednesdays from 6:00
18 p.m. to 9:00 p.m. Is that what you are referring to?

19 MR. BRICK: Correct. That time should be 6:30.
20 The only weekday events occur on Wednesday and they
21 being at 6:30 p.m. which is important because 6:30 is
22 outside of the p.m. peak traffic hour. I wanted to
23 clarify that as well.

24 MR. MAGGUILLI: The only other thing is that Life
25 Covenant Church's normal schedule is one service on

1 Saturday evenings at 6:00 p.m. and three services on
2 Sundays at 9:30 a.m.; 11:00 a.m. and 12:30 p.m. In the
3 past it has always been represented to the Planning
4 Board that there would be two services on Sunday. Which
5 is the scenario that we are supposed to go forward with;
6 two services on Sundays, or three?

7 If you want to take a look at the transcript,
8 we have it here and we'll be happy to read it into
9 the record. We just all have to make sure that
10 we're talking apples and apples and oranges and
11 oranges. There seems to be quite a few
12 discrepancies in the various submissions to the
13 Town.

14 MR. BRICK: If you would indulge me for one second?

15 MR. MAGGILLI: Sure, take your time.

16 MR. BRICK: At this juncture they would like it to
17 be kept as three on Sunday with none on Saturday. We
18 can eliminate the Saturday.

19 MR. MAGGILLI: Would you agree with me that is a
20 significant change from the church's representation in
21 the past to this Board, particularly when you have our
22 traffic engineer saying that all of the studies that
23 have been conducted based upon the church's
24 representation that there was only going to be two
25 services on Saturday?

1 MR. BRICK: I believe that Peter has conducted it
2 for three services on Sundays.

3 MR. MAGGUILLI: That doesn't answer my question.

4 MR. BRICK: I would say no because Sunday is
5 off-peak per se. There is no peak hour on Sunday. The
6 traffic isn't going to be an issue on Sunday mornings.
7 That's the analysis that Peter provided. An additional
8 service is not going to impact the traffic on Sunday
9 morning.

10 MR. MAGGUILLI: If I understand his representation
11 a little earlier, he made his representations based upon
12 two services on Sunday; did you not?

13 MR. FAITH: The traffic impact study assumed that
14 there were two services on Sunday; one at 10:00 a.m. and
15 one at 11:30 a.m. The peak hour for analysis, when the
16 worse case condition, if you will, would be in between
17 the 10:00 a.m. and the 11:30 services when the 10:00 is
18 leaving and the 11:30 is coming in. We did also assume
19 a Saturday evening service. I think that what is
20 happening is that the Saturday evening service is
21 becoming the Sunday morning 8:30 service. We did have
22 estimates from the church on how many people attend all
23 these services and the busiest services at 10:00 where
24 we expect to have between 250 and 280 vehicles coming in
25 and out and the next busiest one is the 11:30, which we

1 have between 245 and 275 coming in and out. If that
2 Saturday evening service becomes a Sunday morning
3 service, it still doesn't change the impact of the
4 analysis because it's still going to be in between the
5 10:00 service and the 11:30 service.

6 MR. MAGGUILLI: Our only concern in this is that we
7 want the record to read correctly. We have a number of
8 different proposals to this Board and we want to work
9 with you and we want to get this project going. What
10 the problem is that based upon the representations
11 contained in this January 6, 2015 letter of Sipperly and
12 Associates - there is a big difference between what you
13 have asked for in the past and what is before us today.
14 What do we approve?

15 MR. BRICK: At this point we would be requesting an
16 approval for a project that is showing three Sunday a.m.
17 services and a Wednesday night activity beginning at
18 6:30. It's not a service, but it's a youth activity.
19 That would be what we would be seeking concept approval
20 for.

21 MR. MAGGUILLI: Andy, a little earlier you had made
22 the statement on the record that by the Town -- and I
23 think you called it limiting the number of services,
24 that we were having a direct impact on your ability to
25 conduct your religion.

1 MR. BRICK: My understanding of the operational
2 detail that is problematic and what was proposed in the
3 conditions was the difference in time between the
4 services. The Town was proposing a condition to
5 separate the services to two hours wherein I believe
6 operationally they run services an hour and a half
7 separated.

8 MR. MAGGUILLI: Then you made a statement that
9 directly impacts your freedom of religion.

10 MR. BRICK: No, it directly impacts the
11 institution's ability to operate in the most effective
12 manner they deem for their provision of the religious
13 worship services. They believe that operationally what
14 works best for them is to have the services an hour and
15 a half apart. My statement was: I question whether or
16 not the Town would have the ability to set the time
17 frames between services as is a condition of site plan
18 approval.

19 MR. MAGGUILLI: Okay.

20 MR. AUSTIN: Andy, just as a point of note I am
21 looking at Peter Faith's final page of his document he
22 gave us. You're saying that it's a Wednesday activity.
23 In the response it says Wednesday evening services and
24 then it says youth services.

25 MR. BRICK: The terms are used interchangeably and

1 that's why I wanted to clarify. It's a youth activity
2 night on Wednesdays. It's not, per se, a worship
3 activity. It's a youth activity.

4 MR. SHAMLIAN: Also Andy, in the Sipperly letter
5 there is a reference to other member social meetings and
6 activities occur on a random basis and are scheduled
7 between 8:00 a.m. and 9:00 p.m. which I assumed is meant
8 to mean during the week - the weekday. Can you
9 elaborate what those might be and what kind of activity
10 you might be talking about?

11 MR. BRICK: Sure. There is staff and also pastor
12 counseling. A family might come in and meet with the
13 pastor. There is nothing contemplated in terms of
14 random large scale events. They don't do weddings at
15 the facility. It's nothing that would take place. Just
16 wanted to leave some flexibility. If two neighbors are
17 feuding and they agree to mediation and they come in,
18 you may have two cars of people that come in to meet
19 with the pastor. We're not talking large scale events.
20 I just didn't want you think that nothing goes on during
21 the day. Pastor Dowdy is actually pretty busy down
22 there on some days.

23 CHAIRMAN STUTO: Okay, we're going to go through
24 our letter, but finish your whole presentation. We
25 interrupted, I think, on a couple of important things,.

1 MR. BRICK: That's fine and I appreciate you trying
2 to bring clarity to this process and give me the
3 opportunity to clarify the record. We are requesting
4 three waivers.

5 Originally, Town staff identified four waivers.
6 If you remember in October meeting we said that we
7 wouldn't need the waiver for the square footage in
8 the landscaped islands. We can show sufficient
9 landscaped islands. So, the waivers that we are
10 requesting are a waiver from the restriction on
11 parking in the front yard. A waiver on the
12 restriction of 20 foot maximum setback in the zone
13 and a waiver from the restriction on greater than
14 25% of your minimum parking. We believe that this
15 site justifies a waiver. The front yard parking is
16 set back from the road. It's not going to be a
17 detriment to the site. It includes traffic flow
18 with the design that we're showing.

19 Again, we think that we have a better design
20 moving it back off of Watervliet Shaker Road. We
21 have a large property. It's a good location for the
22 building. It utilizes the space of the property.

23 Also, if we were within 20 feet we may run into
24 some of the wetlands up there in spots. We are
25 requesting a waiver on that.

1 Lastly, we are requesting a waiver on the 25%
2 above minimum parking because the church is growing.
3 One of the good things that everyone can take from
4 this is that the church is doing really well. In
5 fact, it's outgrown Sand Creek. That's why we are
6 here. They anticipate that they're only going to
7 get bigger. So, the parking is designed to make
8 sure that there is sufficient parking for existing
9 as well as should they grow in the future and when
10 they grow in the future. So, we are requesting a
11 waiver on that.

12 Again, it fits on the site. We have more than
13 enough land. We're not paving over the whole
14 property. We're leaving significant greenspace and
15 we have requested that waiver, as well.

16 I'm here to answer any additional questions the
17 Board may have.

18 CHAIRMAN STUTO: We'll go through the comment
19 letter of the Town Designated Engineer first and I'm
20 sure that there will be other questions.

21 I do want to make a comment though. I don't
22 think that the comments that were made and the
23 handwritten note or the Town Designated Engineer
24 letter - I don't think that we were that far apart
25 that we had major unresolvable issues. I'll just

1 say that for the record.

2 Joe, you want to go through your letter?

3 MR. GRASSO: I'm going to go through our letter and
4 if you don't mind, I just need to make a clarification
5 for the Board and refute something that was stated. I
6 take offense when things are taken dramatically out of
7 context.

8 There was a reference that Peter made and it's
9 in your packet now. It says on May 15th that the TDE
10 comments stated in part that the level of service is
11 acceptable and doesn't require mitigation.

12 When you go back to our May 15th letter it's
13 important to note that was our first concept review
14 letter and one of the things that we said in our
15 leading statements is that access to the site is
16 contemplated via two alternatives; one being through
17 the use of Moffat Lane and the other being a
18 development of a new full-access curb cut.

19 We also state in the letter that under 3, we
20 start off by saying that we've provided a cursory
21 review of the traffic study and additional
22 information is required and before detailed
23 technical comments can be provided, we request the
24 following additional information or clarifications.

25 The thing that is taken out of context is

1 comment 4 and I'm going to read this into the
2 record. It says:

3 "Although we agree that there will generally be
4 acceptable levels of service as measured by average
5 vehicle delay following development and therefore
6 not require mitigation, it should be noted that the
7 average vehicle delay is projected to significantly
8 increase as a result of the project. This is
9 primarily due to the minimal delay that currently
10 occurs at the studied intersections during Sunday
11 mornings. For example the average vehicle delay at
12 the northbound ramp/Holly Lane intersection will
13 increase from level of service B which is 18.7
14 seconds from the no-build condition to a level of
15 service C at 27.5 seconds for the build condition
16 while a level of service C is generally considered
17 acceptable in terms of traffic management, it
18 represents a 47% increase in delay over existing
19 conditions. This increase could be considered
20 significant and require appropriate mitigation which
21 has not been evaluated."

22 I just wanted to get that on the record to
23 clarify that.

24 Our latest comment letter is dated December 8th
25 and I'll go through the half dozen comments that we

1 have.

2 In general, many of the comments that we raised
3 in our May 15th and October 3rd concept review
4 letters remain. These comments generally include
5 the following areas of concern: Access to the site
6 and its associated impacts, traffic generation from
7 the site and its associated impacts. The ability to
8 have a traffic control personnel assigned to the
9 facility to direct traffic to and from the facility
10 and visibility from the Northway corridor.

11 2. The concept site plan shows a new primary
12 access drive from Watervliet Shaker Road
13 approximately 90 feet west of Moffat Lane and a
14 second access drive that extends off the end of
15 Moffat Lane. We assume the second access in
16 response to previous concerns raised relative to
17 lack of a second means of access could be used in
18 the event of blocked primary access to or from the
19 site.

20 3. As previously stated, we continue to
21 recommend the use of Moffat Lane for primary access.
22 We believe that the development of a primary access
23 drive in the location shown may result in
24 significant environmental impacts including traffic
25 delays and safety related impacts. In addition the

1 development, of a new access drive separate from
2 Moffat Lane has not been supported by New York State
3 DOT or the Colonie Planning Department. The
4 original project narrative dated June 3, 2013 stated
5 "the subject property has a deeded right of way to
6 use Moffat Lane for ingress and egress." This is
7 also supported in the transcript of the sketch plan
8 review meeting held September 10, 2013 where it was
9 stated by Mr. Sipperly "the deed to this particular
10 property does have egress, ingress and utility right
11 of way and easement across that Moffat Lane to
12 access the property." We would be supportive of the
13 access arrangement if the plan would be revised to
14 show primary access from Moffat Lane as we do not
15 believe that there would be as significant
16 environmental impacts subject to certain conditions
17 elaborated below.

18 4. Regarding the secondary access from Moffat
19 Lane, we do not support that approach for emergency
20 access. If Moffat Lane is used for primary access,
21 in the event that the Moffat Lane/Watervliet Shaker
22 Road access is ever blocked and a second means of
23 access to or from the site is required for emergency
24 access purposes we believe that it is likely the
25 eastern most curb cut for the post office could be

1 used to gain access to or from the site. We support
2 such an arrangement and do not believe that it needs
3 to be memorialized by easement or access right
4 arrangement.

5 5. Use of Moffat Lane as the primary access
6 point would require ODA approval by the Colonie Town
7 Board which we also support subject to certain
8 conditions. Because the traffic analysis provided
9 thus far shows the potential for significant traffic
10 impacts under certain scenarios and because of the
11 nature of the use and its associated high-volume
12 peak traffic periods, we recommend the following be
13 conditions of concept acceptance by the Planning
14 Board or the approval of the ODA by the Town Board.

15 1. Primary access shall only be through the use
16 of Moffat Lane and development of no new curb cuts
17 be permitted between Moffat Lane and the Exit 5
18 interchange ramp.

19 2. Any additional building development on the
20 site shall be subject to re-review of both the ODA
21 by the Town Board and site plan by the Planning
22 Board. This should not be construed as to limit
23 reasonable expansion of the proposed house of
24 worship, but to allow a thorough review if
25 additional uses or expansions are planned for the

1 site.

2 3. A traffic control officer shall not be used
3 on Watervliet Shaker Road without Town Board
4 approval. The traffic analysis demonstrates certain
5 traffic related and safety impacts may be caused by
6 use of a traffic control officer at any primary
7 access point location, so we currently don't
8 recommend their use until the site is place into
9 service and additional study is performed.

10 4. Service times shall be a minimum of two
11 hours apart from start to start. Typical service
12 times were currently described as being 90 minutes
13 apart from start to start with service times
14 approximately 60 minutes in length. Due to the
15 potential traffic impacts associated with incoming
16 and exiting traffic at the same time we recommend
17 service times be separated by approximately one hour
18 to reduce the potential traffic related impacts of
19 having service times too close together.

20 5. Sunday service times shall be limited to up
21 to three services without additional Planning Board
22 review. The current application and traffic
23 analysis is based on two Sunday service times and
24 having more than three services may cause traffic
25 impacts not currently evaluated.

1 6. Weekday service times shall start no earlier
2 than 6:30 p.m. The current application materials
3 indicated a typical youth service occurring
4 Wednesday evenings beginning at 6:30 p.m. This will
5 result in traffic just past the p.m. traffic periods
6 and an earlier service start on weekdays may cause
7 significant traffic related impacts not currently
8 evaluated.

9 Our last comment in our letter:

10 Regarding visibility of the site from the
11 Northway, the plan does not indicate any landscaped
12 buffering which we believe is appropriate given the
13 high visibility of the site from the Northway
14 corridor and significant changing context of the
15 site. The plan should be revised accordingly.

16 CHAIRMAN STUTO: Does the Board have any questions
17 on Joe's recommend conditions?

18 (There was no response.)

19 Okay, I'll ask the applicant if they can tell
20 us which ones they agree to and if they don't agree
21 to some of them, why not.

22 MR. BRICK: I believe that we had stated at the
23 October 21st meeting that we had no objection to 6 which
24 is an increase in showing the plan landscaping,
25 increased landscaped buffering between the Northway and

1 the site. That is number 6 on the last page.

2 CHAIRMAN STUTO: Can you go through what you agreed
3 to? That would be easier.

4 Primary access through Moffat Lane?

5 MR. BRICK: As I said, I would refer back to -- I
6 think that I've been consistent on what our client's
7 position is. If a concept approval is approved with
8 direct access to Watervliet Shaker and a condition is
9 placed upon it that should an ODA be obtained that will
10 be abandoned and as long as there are no other issues
11 utilizing Moffat Lane as a direct access point, we would
12 shift over to the direct access point of Moffat Lane.
13 That's been our position. The problem is that if we
14 agree to anything that is conditioned upon and ODA which
15 isn't obtained, then it really is no approval and
16 construction still can't commence.

17 If we have a direct access and approval and an
18 ODA does come down and again that's the condition,
19 if the Moffat Lane access can be utilized through
20 the ODA, we abandon the direct access and everybody
21 would utilize Moffat Lane access with a proposed
22 emergency access area in this area which was the one
23 suggested by the Planning staff or Joe had said
24 utilize post office property as emergency access.
25 Either way, it would be fine.

1 CHAIRMAN STUTO: Okay, let's not belabor it. Let's
2 try to go through the easy ones, if there are any.

3 MR. BRICK: I don't know if there are any easy
4 ones.

5 CHAIRMAN STUTO: Let me just say what I thought
6 that I heard you say.

7 On Number 6, didn't you clarify that 6:30 was
8 an okay start time for Wednesday?

9 MR. BRICK: Not only is it okay, it Number 5,
10 subparagraph 6?

11 MR. BRICK: Again, I have to be very careful
12 because of the situation we are in, but I'm not saying
13 that I agree on behalf of the client to any of those
14 conditions. If those are conditions of an approval,
15 then we will evaluate where we go from there at that
16 point.

17 CHAIRMAN STUTO: Let me just go through it then.

18 Subparagraph 5 says three services on Sunday
19 and I think that we just clarified on the record
20 that's what you are proposing.

21 MR. BRICK: That's what they are asking to be
22 reviewed for; yes.

23 CHAIRMAN STUTO: Two hours apart. What did you
24 propose your hours were on Sunday?

25 MR. BRICK: We have 8:30, 10:00 and 11:30; 90

1 minutes separating the start of services.

2 MR. MION: No. That's not what's in here. It's
3 9:30, 11:00 and -

4 MR. AUSTIN: I've heard 8:30, I've heard 9:00, I've
5 heard 9:30 and I've even heard 10:00.

6 MR. BRICK: In the interest of clarifying things,
7 for the record, what we would be requesting your review
8 and approval of is 8:30, 10:00 and 11:30.

9 CHAIRMAN STUTO: Joe Grasso, does that bear any
10 discussion - the difference between 90 minutes and two
11 hours? I mean, further discussion on your part?

12 MR. GRASSO: When we looked at the traffic study -

13 CHAIRMAN STUTO: How long is your service?

14 MR. GRASSO: An hour is what they have represented.
15 What we are seeing is some of the traffic that is
16 leaving and coinciding with the traffic that is entering
17 with it split by 30 minutes. We just asked if we could
18 get a little more time there we think it would provide
19 better traffic dispersions.

20 MR. MAGGUILLI: What objections would you have to
21 the time that we are requesting between services? What
22 is the specific objection to that?

23 MR. BRICK: It's my understanding operationally
24 that is the maximum time frame between services for the
25 flow of the people coming in and going out and that's

1 what works for them. They receive pastor messages
2 through video which are live from an off-site location
3 in Oklahoma. That goes out at the same time to
4 everybody; internationally. So, the time frames of the
5 services are tied directly to when the live feed video
6 from one of the lead pastors comes into the facility.
7 They don't have the ability here in Colonie to alter
8 that because again, it's live and it goes out to all the
9 churches in connection with this.

10 MR. MAGGUILLI: How does that jive with your 9:30,
11 11:00 and 12:30 request in your January 6, 2015 letter?
12 Isn't that the same type of operational difficulty that
13 you were describing?

14 MR. BRICK: Again, I think that it was a
15 typographically error. It's 8:30, 10:00 and 11:30.

16 MR. AUSTIN: What time does the service broadcast?
17 Is it taped? Is it a live-feed or is it a tape-feed?

18 MR. BRICK: Pastor is telling me that it's a live
19 feed.

20 MR. AUSTIN: So, the guy preaches three times.

21 MR. BRICK: I don't necessarily know.

22 MR. AUSTIN: My only thought is that on occasion I
23 attend the other large church in the area, too. They
24 have a lot of overflow that hangs around between
25 services. A lot of people hang and they like to

1 socialize between services. Are you just going to say
2 you're out the door, we've got to get the next people in
3 here? They don't do that at other churches.

4 MR. BRICK: No. I don't think that's the intent at
5 all. I think that socialization is an important
6 component.

7 MR. AUSTIN: But then they have all these other
8 people and you have more traffic. That's what the
9 concern is.

10 MR. BRICK: With the traffic it can actually be
11 more spread out if people waited for the new service to
12 start and left in between the second service starting
13 and ending. It's spread out even further if people stay
14 and have a cup of coffee. I'm just thinking
15 practically.

16 MR. DOWDY: And specially about turning over the
17 seats in the auditorium, that's advantageous for us to
18 get people out as soon as possible. So, currently
19 that's what we do. That time frame that we're working
20 with is more than adequate enough to turn the entire
21 campus, if needed. Not only in our location but at our
22 multiple locations. So, it's a bigger problem for us if
23 we are unable to accommodate that because people don't
24 like traffic and people don't want to come back. So,
25 that's more important to us than your concerns for the

1 safety. We strive to achieve a certain level of
2 operational excellence and we're able to do that
3 adequately in that amount of time as well as preserve
4 the excellence of our worship experience. That's what
5 we are also looking to protect is the integrity of that
6 experience. We conduct - not a proposed 60 minutes, but
7 it's exactly 60 minutes on a clock from start to finish.
8 We operate off of a satellite clock that is at every
9 campus. I can tell you to the minute, even second, of
10 exactly the length of my stage time and the length of
11 our senior pastor's stage time. It is a well oiled
12 machine and it is a beautiful thing to watch.

13 You've seen our existing facility and I think
14 that we have provided traffic data on that as well.
15 If you stop by on a weekend and see like this past
16 Sunday we accommodated 882 people at our current
17 facility which try to get that in the Smile Zone or
18 another place right there, but that's the type of
19 operational excellence that we provide and that's
20 the reason that people keep coming back. That's
21 what we are looking for here as well.

22 My name is Ryan Dowdy and I'm the campus
23 pastor.

24 CHAIRMAN STUTO: There are two further conditions
25 an you're saying that you're not necessarily going to

1 agree to any of them, but one is the traffic. I'm
2 reading subparagraph 3 "A traffic control officer..." we
3 clarified with Joe Grasso that means uniform police or
4 the rental traffic control officers "shall not be used
5 on Watervliet Shaker Road without Town Board approval."
6 The traffic analysis demonstrates certain traffic
7 related and safety impacts may be caused by use of a
8 traffic control officer at any primary access location.
9 So, we currently don't recommend their use until the
10 site is placed into the service and additional studies
11 performed.

12 The final condition or recommended condition
13 "Any additional building development on the site
14 shall be subject to re-review of both the ODA by the
15 Town Board and the site plan by the Planning Board.
16 This should not be construed to limit reasonable
17 expansion of the proposed house of worship to allow
18 a thorough review of additional uses or expansions
19 or a plan for the site."

20 Do you want to comment on those two?

21 MR. BRICK: No.

22 CHAIRMAN STUTO: Did any members of the public sign
23 up to make a comment?

24 (There was no response.)

25 Are there comments by the Planning Board

1 Members?

2 I'll just try to set the tone.

3 MS. DALTON: That would be helpful.

4 CHAIRMAN STUTO: This is only concept approval.
5 It's not final site plan approval. I, personally, am
6 comfortable with the conditions that are set forth in
7 the letter from CHA dated December 8th including the use
8 of Moffat Lane. There is a lot that happens between now
9 and final. I think that the Town Board will at least
10 consider the ODA between then and now. I would suggest
11 that we make these conditions of the ODA perhaps if we
12 can make that part of our motion. The only one that I
13 would at least like to think about and keep it for
14 discussion is the two hours apart. That might be
15 something that we work on. Otherwise, I think that all
16 the other conditions are pretty reasonable.

17 MS. DALTON: For the record I did just look up
18 while I was sitting here, St. Pieus has two hours in
19 between, Grace Fellowship has two hours in between, Our
20 Lady of the Assumption has two hours in between. I
21 don't know if that's a standard. I just looked up the
22 churches that I could think of off the top of my head.
23 I do appreciate that because everything doesn't take
24 place on-site and your telecasting from somewhere else,
25 that you have other concerns so my silence just now was

1 because I did spend time looking up what everybody else
2 does.

3 So, I guess that I would just agree with Peter
4 and say that there is a lot that is going to happen
5 between tonight and when you finally go live, but
6 the two hours doesn't seem unreasonable to me and I
7 don't know how it effects your entire service. I
8 think that it's something that we have to consider.

9 CHAIRMAN STUTO: Mike Magguilli, did you want to
10 say something?

11 MR. MAGGUILLI: I would. Maybe if they clarify how
12 this would work? Let's say tonight that the Planning
13 Board agrees to approve concept acceptance and they also
14 agree under 280A of the New York State Town Law that
15 there should be an open development area. What they
16 would do is they would send their recommendation to the
17 Town Board. The Town Board is required under New York
18 State Law to hold a public hearing which can be
19 scheduled within two weeks. Let's say that a
20 recommendation comes down tonight that this be accepted
21 and that we go forward with the application. The
22 recommendation is forwarded to the Town Board. I would
23 draft a Resolution calling for a public hearing and that
24 public hearing would be conducted within two weeks of
25 the date of notice. We would need time to publish and

1 post and the like. Two weeks pass and the Town Board
2 would then make its decision on whether to grant the
3 open development area or not and which conditions it
4 deems it should accept or impose. They could try to
5 impose other conditions for all I know. I don't know.
6 The fact of the matter is that you won't know if you
7 have ODA approval if the Planning Board acted tonight,
8 most likely by the end of February and early March at
9 the very latest.

10 The only other thing that I would request is
11 that for a matter of clarity so that we're all
12 working off the same page - that this January 6,
13 2015 Sipperly letter which seems to contain some
14 errors - that you provide the Planning Board with
15 exactly what you are looking for without it here.
16 The times that you are looking for, the dates so
17 that we are all on the same page and quite frankly
18 to preserve the record for any lawsuit, if there is
19 a lawsuit. To preserve the record for the lawsuit
20 Right now, it's very confusing to me on just what
21 you're asking the Town Board or Planning Board to
22 approve.

23 MR. BRICK: You'll have that first thing in the
24 morning.

25 MR. MAGGUILLI: Okay.

1 CHAIRMAN STUTO: Anything before we entertain a
2 motion from the applicant?

3 MR. BRICK: Again, we would justify the three
4 waiver requests and the fourth waiver request has been
5 dropped.

6 CHAIRMAN STUTO: We don't do that until final -
7 until the environmental review is completed.

8 MR. BRICK: Mr. Magguilli said the L word, so I had
9 to make sure that I got everything on the record.

10 MR. SHAMLIAN: So, what exactly are we -

11 CHAIRMAN STUTO: I was going to propose a motion
12 for concept acceptance based upon the conditions set
13 forth in the Clough Harbour December 8th letter and for
14 open development area approval based upon the same
15 conditions set forth in the letter with further
16 discussion to be had on paragraph 5, subparagraph 5 with
17 respect to the hour and a half or two hour separation
18 with the applicant and the officials at the Town.

19 MR. GRASSO: That's subparagraph 4.

20 CHAIRMAN STUTO: Thank you for correcting that.

21 MR. SHAMLIAN: Unfortunately, I don't have an issue
22 with an hour an a half. If that's what they need then
23 that seems reasonable. The rest of the conditions I
24 agree with.

25 MR. LANE: With regard to number three, I'd like to

1 ask Mike - it says a traffic control shall not be used
2 without the approval of the Town Board. Would that need
3 an approval of the contract? From what the email
4 stated, there needed to be a contract between the Town
5 and the applicant to do so. You're actually talking
6 about that they need to have an agreement and there
7 needs to be a contract to use Town Police if that's what
8 it comes to.

9 MR. MAGGUILLI: If they want to use the Town Police
10 Department we would use the same criteria that we do for
11 anyone else. There is a contract that is signed between
12 the Police Department and say like Denny's or any other
13 private party -

14 MR. LANE: So, the approval is the approval of the
15 contract.

16 MR. MAGGUILLI: Correct. The Town Board doesn't
17 approve the contract. It's something that's done
18 internally with the Police Department and it's based
19 exclusively on the Police Department's needs.

20 MR. LANE: So, why does the Town Board need
21 approval of that?

22 MR. MAGGUILLI: It really doesn't.

23 MR. LANE: So, three doesn't really apply then.

24 CHAIRMAN STUTO: So, you're saying get rid of
25 condition three?

1 MR. MAGGUILLI: You can. Again, because it's
2 specifically up to the Police Department whether to do
3 it or not.

4 CHAIRMAN STUTO: What if they wanted to use a
5 private traffic control officer?

6 MR. MAGGUILLI: That's problematic. I don't think
7 that we allow that anywhere in the town.

8 CHAIRMAN STUTO: I think that's why Joe phrased it
9 sort of broadly that way.

10 Joe Grasso, you tell me.

11 MR. GRASSO: No, you're right.

12 MR. MAGGUILLI: I know of no instances where we
13 have allowed private contractors of any type to direct
14 traffic on a public road.

15 MR. AUSTIN: I have a question. Back to that
16 clarity issue - we are approving something without
17 having anything in writing. We're also approving a plan
18 which does not show primary access up front. So, there
19 is not two plans.

20 CHAIRMAN STUTO: No, we're conditioning on this
21 letter. Legally it's not an approval, it's an acceptance
22 which is less than an approval. It's with these
23 conditions and the condition is access from Moffat Lane.
24 It's our motion.

25 MR. AUSTIN: So, that plan means nothing.

1 CHAIRMAN STUTO: No, we're generally approving that
2 plan except the changes that are suggested in this
3 letter and one of those changes is access through Moffat
4 Lane. They have to work out the details.

5 MR. AUSTIN: I haven't seen a plan with primary
6 access from Moffat Lane. I haven't seen any drawings.
7 That's the same plan that we saw at the first meeting,
8 if I'm correct.

9 MR. GRASSO: I'll try to clarify that. Very often
10 during concept we've got a plan that reflects certain
11 things but based on the Planning Board's review you ask
12 for certain changes. For this project I think that what
13 you're saying is the location of the building, the
14 location of the parking is generally acceptable. It's
15 the access that would need to be changed.

16 MR. SIPPERLY: The original plan that you saw that
17 was on record from the original concept acceptance from
18 March of 2014 placed the driveway parallel adjacent to
19 Moffat. We knew that was kind of a flag on the field;
20 it violated DOT spacing requirements. It was really
21 meant to throw it up to have a conversation piece.
22 Since the traffic study came through, the result of the
23 traffic study told us that we had the ability to slide
24 it 90 feet to the west meeting the requirements of the
25 DOT spacing for commercial driveways, hence, the plan

1 that you just saw had the driveway being spaced
2 appropriately at 90 feet with access coming from Moffat;
3 just for clarification.

4 CHAIRMAN STUTO: Brian, we do this all the time.

5 MR. AUSTIN: I'm just making sure that we are under
6 this umbrella. I just want to make sure that the
7 clarity is there.

8 MR. SIPPERLY: Did I answer your question in terms
9 of the original plan?

10 MR. AUSTIN: Yes.

11 MR. BRICK: Can I ask a question for clarification?

12 CHAIRMAN STUTO: Sure.

13 MR. BRICK: Mr. Chairman are you contemplating a
14 motion with a recommendation to the Town Board for an
15 approval of the ODA with those conditions?

16 CHAIRMAN STUTO: Correct.

17 MR. BRICK: Okay, so you're not approving concept
18 acceptance with those conditions here. You're approving
19 concept acceptance here with a recommendation to the ODA
20 to the Town Board - a favorable recommendation, I hope
21 as long as those conditions are included within -

22 CHAIRMAN STUTO: Yes, but I think that the
23 conditions attach both to the ODA and to the concept
24 acceptance.

25 MR. BRICK: That was my question.

1 CHAIRMAN STUTO: Clarify what my suggested motion
2 is. A motion for concept acceptance with the conditions
3 set forth in this letter as discussed and refined and a
4 positive recommendation to the Town Board for an ODA
5 with the exact same conditions set forth in the letter.

6 MR. MAGGUILLI: Subject to the clarification of the
7 January 6, 2015 -

8 MR. BRICK: My last question would be -- I'm sorry
9 to belabor it but I just want to be clear -- has the
10 Board considered changing to the 90 minutes from the two
11 hours between services or is the condition going to be
12 the two hours?

13 CHAIRMAN STUTO: I suggested that as part of the
14 motion that we leave that as a point for discussion
15 between now and final. Craig said that he had no
16 problems with an hour and a half. I don't know how the
17 rest of the Board feels.

18 MR. MAGGUILLI: What may be helpful is this -- I
19 have gone through all the transcripts and the like.
20 This is the first that I've heard about the timing issue
21 with the main minister. If you could explain that to
22 both in writing to the Board it would help us greatly.

23 MR. DOWDY: You're more than welcome to attend a
24 service. We have them at 8:30, 10:00, 11:30 and you can
25 see the punctuality of it. I think that you might enjoy

1 it as well. It's an open invitation for any of you to
2 come out to the church and see how efficient our
3 operations are.

4 MR. MAGGUILLI: Thank you. We appreciate the
5 offer, but I think that it would go a long way to
6 helping you if we understood that was just what the
7 issue is and why you need it the way that you need it,
8 that's all.

9 CHAIRMAN STUTO: Do we need any more clarification
10 for this Board?

11 (There was no response.)

12 Do we have a motion?

13 MR. AUSTIN: I'll make that motion.

14 MR. MION: I'll second.

15 CHAIRMAN STUTO: Any discussion?

16 (There was no response.)

17 All those in favor say aye.

18 (Ayes were recited.)

19 All those opposed say nay.

20 (There were none opposed.)

21 The ayes have it.

22 Thank you.

23 MR. BRICK: Thank you.

24 (Whereas the above referenced proceeding was
25 concluded at 8:25 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 January 26, 2015

