

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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4 CUMBERLAND FARMS
5 211 TROY SCHENECTADY ROAD
6 APPLICATION FOR AMENDED FINAL REVIEW

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8 THE STENOGRAPHIC MINUTES of the above entitled
9 matter by NANCY STRANG-VANDEBOGART, a Shorthand
10 Reporter, commencing on February 24, 2015 at 8:11
11 p.m. at The Public Operations Center, 347 Old
12 Niskayuna Road, Latham, New York

11 BOARD MEMBERS:
12 PETER STUTO, CHAIRMAN
13 LOU MION
14 KATHY DALTON
15 CRAIG SHAMLIAN
16 SUSAN MILSTEIN

15 ALSO PRESENT:
16 Kathleen Marinelli, Esq., Counsel to the Planning Board
17 Michael Tengeler, Planning and Economic Development
18 Joe LaCivita, Director, Planning and Economic Development
19 Stephanie Bitter, Esq., Cumberland Farms
20 Chuck Voss, PE, Barton and Loguidice

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1 CHAIRMAN STUTO: Next one on the agenda is
2 Cumberland Farms, 211 Troy Schenectady Road. This is an
3 application for an amended final review and revised
4 driveway access and reduction from 8 to 6 fuel pumps.

5 I think that we were here one meeting ago and
6 there had been some discussion about how DOT or some
7 other authoritative source felt about moving the
8 driveway. I'm not sure if that's where we are at.
9 Should we talk about that first? Is there a slight
10 twist to what we are being asked to vote on tonight?

11 MR. LACIVITA: I think that one of the things that
12 we left back on the last meeting, is that our members
13 wanted to have a letter from DOT as to the access point.
14 Since that time, we have had successful conversations
15 with both Cumberland Farms and the parcel owner of 207
16 along with DOT. That letter was shared with you via
17 email that we received from DOT as to the fact that both
18 accesses can be permitted to DOT.

19 CHAIRMAN STUTO: Can you read it? It's a short
20 email.

21 MR. LACIVITA: Sure, I can read it. This was by
22 Kevin Novak on February 20th at 11:04 a.m.

23 "Joe, New York State DOT is prepared to issue a
24 highway work permit necessary for the construction
25 of a shared access drive directly to Route 2 from

1 both parcels (207 and 211 Troy Schenectady Road)
2 consistent with our understanding of the subdivision
3 conditions. These two access drives designed under
4 consideration, one being approved design with the
5 driveway positioned on both parcels and the second
6 being proposed modification. The proposed
7 modification would place the shared driveway within
8 the existing easement on Lot 211. Either drive
9 would be permissible, however, DOT's preferred
10 design would meet the approved design that maximizes
11 the intersection spacing on Route 2 by planning the
12 drive further to the west as requested to the Town
13 with its continued efforts for the involved parties
14 to progress toward a preferred design."

15 CHAIRMAN STUTO: I think that there is some thought
16 that is a typo.

17 MR. LACIVITA: Yes, actually it should say east,
18 Peter.

19 CHAIRMAN STUTO: Further away from the
20 intersection.

21 MR. LACIVITA: Yes, further away.

22 CHAIRMAN STUTO: Okay, we'll let the applicant
23 speak on where they are and what are the possibilities.
24 I understand that there has been some discussion with
25 the neighbors.

1 MS. BITTER: There are also members here that were
2 not here at the last meeting. I'm Stephanie Bitter and
3 I'm local counsel for Cumberland Farms.

4 This is the plan that we are proposing this
5 evening. This is the modification. The two
6 modifications are as Joe had described, this access
7 point (Indicating). The approved plan in April
8 wasn't straddling 207 and 211. We're also reducing
9 the number of pumps.

10 Just to give you a brief timeline of how we got
11 to this point: Cumberland Farms, when it purchased
12 this lot, believed that this lot was owned by the
13 same individual. So, when we were proposing to
14 straddle it, they thought it was something that
15 could be done at closing - that modification. The
16 existing easement is located right here
17 (Indicating).

18 CHAIRMAN STUTO: And your next door neighbor has
19 rights to go through that?

20 MS. BITTER: Correct.

21 CHAIRMAN STUTO: All right. Who has to maintain
22 it?

23 MS. BITTER: It's a shared access point. At this
24 point, that declaration has it being a shared
25 maintenance as well as a shared cost of construction.

1 We reached out to 207 in October to try to have
2 the modification be what was the original approval
3 to straddle. Unfortunately, they were marketing at
4 that time and they were negotiating. They are
5 since, under contract. We have had a lot of contact
6 over the last month. The one thing that the Town
7 discovered with our submitting for this modification
8 is that this easement being accessed by 207 cannot
9 be done under 280a of the Town Law. As this lot
10 exists right now, it has no access points from its
11 own frontage. It accesses it here and here
12 (Indicating). So, the other party is now encouraged
13 to pursue this modification, but we're not there
14 yet. We're very close.

15 What we are asking for you to do tonight is to
16 approve this modification plan with a condition that
17 if we can get 207 to sign that easement modification
18 before constructing this easement at this access
19 point, we'll obviously do the preferred plan which
20 is straddling.

21 CHAIRMAN STUTO: Okay, any comments or questions
22 from the Board?

23 (There was no response.)

24 Chuck, do you have anything to add or is it all
25 out there right now?

1 MR. VOSS: Yes, at this point we have approved the
2 site plan as it was proposed. The ideal preference is
3 to have the single access points for both parcel and the
4 two parties to come to terms.

5 MR. LACIVITA: Peter, I think that part of that is
6 going to be overseen by the Town as we work through the
7 process. We got the parties together since our last
8 meeting. We've had great dialogue, I think, moving
9 forward. I think that before any application is
10 submitted to DOT, that paperwork should come into the
11 Town so that at least we know what is going to be done.
12 That last point, with respect to this design, I will
13 work my hardest that we get the preferred method.

14 MS. BITTER: I've been copying Joe on the
15 correspondence that we have all had.

16 CHAIRMAN STUTO: Any comments or questions from the
17 Board?

18 (There was no response.)

19 Any comments or questions from the public?

20 (There was no response.)

21 Okay, we'll have a motion to approve the
22 amended site plan, as proposed, by the attorney for
23 the applicant.

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

25 CHAIRMAN STUTO: Do we have a second?

1 MS. DALTON: I'll second.

2 CHAIRMAN STUTO: Any questions or comments?

3 (There was no response.)

4 All those in favor say aye.

5 MR. MION: Aye.

6 MS. DALTON: Aye.

7 MR. SHAMLIAN: Aye.

8 CHAIRMAN STUTO: Aye

9 All those opposed say nay.

10 MS. MILSTEIN: Nay.

11 CHAIRMAN STUTO: Okay, we have one recorded no.

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13 (Whereas the above entitled proceeding was
14 concluded at 8:19 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 March 16, 2015

