

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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4 CUMBERLAND FARMS  
1159 TROY SCHENECTADY ROAD  
5 SKETCH PLAN REVIEW

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8 THE STENOGRAPHIC MINUTES of the above entitled  
9 matter by NANCY L. STRANG, a Shorthand Reporter,  
10 commencing on August 25, 2015 at 7:21 p.m. at The  
Public Operations Center, 347 Old Niskayuna Road,  
Latham, New York

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

19 ALSO PRESENT:

20 Kathleen Marinelli, Esq., Counsel to the Planning Board  
21 Victor Caponera, Esq.  
22 Chuck Voss, PE, Barton & Loguidice  
23 Stephanie Bitter, Esq.  
24 Jim Gillespie, Bohler Engineering  
25 Mark Nemith  
Joseph LaCivita, Director, Planning and Economic  
Development

1           CHAIRMAN STUTO: Next on the agenda - it being  
2           7:15 - Cumberland Farms, 1159 Troy Schenectady Road.  
3           This is a sketch plan review to construct a new 4,738  
4           square foot convenience store and fuel canopy with eight  
5           fuel dispensers.

6           I know that we do have some history on this  
7           site, Joe. Do you want to tell us about that?

8           MR. LACIVITA: Yes, I think that this Board will  
9           hopefully remember the address of 1159 Troy Schenectady  
10          Road. We worked for several months with a prior  
11          applicant known as Fastrack. When that site was being  
12          developed, it was much denser. It had a tenant within  
13          the building. It was a larger building. There were  
14          drive-thru issues going forward.

15          The applicant that we have tonight for the same  
16          site - we also will remember this applicant  
17          Cumberland Farms as they developed a nice corner of  
18          the eastern side of Troy Schenectady Road by the  
19          corner of Route 2 and Swatling Road. That  
20          development came out very nice and later on tonight  
21          we'll actually hear from another group that is  
22          coming there as neighbors. They are looking to take  
23          the same exact footprint of what they have over on  
24          Troy Schenectady Road, bring it here, go do the same  
25          curb cuts that DOT was going through with the last

1 project for Fastrack and tonight we're here for a  
2 less intense use on the same site and hopefully at  
3 some point we can go right directly into concept at  
4 another point in time.

5 CHAIRMAN STUTO: Okay, we'll hear from the  
6 applicant.

7 MS. BITTER: My name is Stephanie Bitter and I'm  
8 local counsel for Cumberland Farms. I don't mean to  
9 repeat what Joe said but that's pretty much what I'm  
10 going to do.

11 We're here tonight to talk about 1159 and 1163  
12 Troy Schenectady Road. They're two lots in a fairly  
13 new subdivision. The owner has vetted the same but  
14 as Joe had mentioned, the Fastrack proposal had died  
15 and that contract was cancelled.

16 When Fastrack was proposed to you, it was a  
17 bigger building, there was a drive-thru associated  
18 with it. There were eight pumps. Those things have  
19 been limited. This is a smaller project. This  
20 would be a Cumberland Farms convenience store, 4,738  
21 square feet in size and eight pumps. There would be  
22 no drive-thru. A lesser impact, but similar in the  
23 situation that there would still be waivers that we  
24 would looking at obtaining.

25 As you aware this is in the COR development.

1 The parcel is quite large because there would be two  
2 parcels considered with the project. It's 4.53  
3 acres in size. As you are aware, it's currently  
4 vacant.

5 The waivers that we would be seeking for the  
6 site plan would be to build the building further  
7 back than the 25 foot setback. It would also have  
8 the parking in the front with the canopy in the  
9 front. The parking spaces are about 10 by 20 as  
10 they are presently proposed.

11 Unlike the past applicant, Fastrack, as Joe has  
12 mentioned, Cumberland Farms has an existing brand  
13 new product that I believe we reviewed with all of  
14 you. That's on the corner of Troy Schenectady and  
15 Swatling. The product as it's shown right here in  
16 the existing picture provides a colonial style  
17 building with architectural features. Obviously,  
18 the earth tones, the stonework - that's all carried  
19 out in that canopy that we have in the front. As we  
20 had discussed with you on that project, we sought  
21 similars waivers. We feel that those waivers are  
22 necessary not only for security safety purposes but  
23 also with marketability to be able to compete with  
24 those existing convenience stores that are already  
25 located on that Troy Schenectady corridor there.

1           We understand that these design standards are  
2           important to the Town, but we do appreciate the  
3           flexibility so that we again can construct another  
4           beautiful product in the Town of Colonie.

5           I'd like to turn it over to Bohler.

6           MR. GILLESPIE: I don't have a lot to add.  
7           Stephanie pretty much covered it. She did hit on some  
8           key components here.

9           First, this is a less intense use than what you  
10          saw before. The overall layout is very important to  
11          Cumberland. The relationship between the canopy and  
12          the store is important. Visibility from the store  
13          to the canopy, accessibility to the canopy -- one of  
14          the things that they look for is a short and safe  
15          travel path from the canopy to the store and that  
16          there is not a lot of conflicts or as little as  
17          possible. They also look for the ability to pull it  
18          to the pumps after fueling to be able to pull  
19          straight ahead to the store. That's something  
20          that's very important to them. Not everybody does  
21          that. A lot of them just park there and walk. This  
22          would be something that they would love to give the  
23          customer that opportunity to free up a spot and just  
24          pull straight ahead to the store and have a short  
25          walk into the store. So, all those factors are

1 something that they consider in their layouts. It's  
2 a winning layout for them.

3 Stephanie mentioned marketability. There is a  
4 Stewarts up the street with a very strong canopy  
5 presence. There is a Mobil just down the street and  
6 there is a very strong canopy presence right at the  
7 street parallel to the road. So, they want to be  
8 successful here and they want to be on the same  
9 playing field as the competition on both sides and  
10 they don't have a Hot Dog Charlie's here. They are  
11 a step behind so they have to stay even. This was  
12 very well received, as far as everything that we  
13 heard. People love the store at 211. They just  
14 want to continue that success.

15 CHAIRMAN STUTO: It appears from the note on the  
16 drawing that the lot line -- the parcels are going to be  
17 merged; am I correct?

18 MR. GILLESPIE: Yes; Lots 3 and 4.

19 CHAIRMAN STUTO: How does it relate to the ingress  
20 and egress there? Can you explain? I remember that we  
21 discussed this with the last application in the westerly  
22 direction.

23 MR. GILLESPIE: There will be an access easement.

24 CHAIRMAN STUTO: Who owns that parcel?

25 MS. BITTER: It will be over by Lot 2.

1           MR. GILLESPIE: Right, and Lots 3 and 4 would be  
2 merged. Part of this project would be the construction  
3 of the fourth leg of this intersection with British  
4 American Boulevard and Route 7.

5           CHAIRMAN STUTO: There is a light there now?

6           MR. GILLESPIE: Yes.

7           CHAIRMAN STUTO: But there seems to be an outlying  
8 strip parcel there or shaded on the drawing that we  
9 have.

10          MR. GILLESPIE: That's an easement area.

11          CHAIRMAN STUTO: Who owns that?

12          MR. CAPONERA: [SIC] Derazio, LLC.

13          CHAIRMAN STUTO: And that's to the west; right?

14          MR. CAPONERA: We own Lots 1 and 2.

15          CHAIRMAN STUTO: What is the nature of that  
16 easement and where does it lead to? In other words, it  
17 goes somewhere, right?

18          MR. GILLESPIE: This is a suggested easement for  
19 utilities and it would also be an easement for access to  
20 this parcel.

21          CHAIRMAN STUTO: Is it a dedicated easement now?

22          MR. GILLESPIE: I do not believe this has been  
23 dedicated.

24          CHAIRMAN STUTO: I know that there is a story here.

25          MR. CAPONERA: There is a story and you know that I

1 can tell a story.

2 I'm Victor Caponera and I represent the owner  
3 of the property. When this was being developed, the  
4 Town wants in our master plan cross access easements  
5 so adjacent property owners can essentially get to  
6 this light which is a four-way light. The idea here  
7 was to develop an access easement all the way to the  
8 back of the property.

9 There is also a bike path that the Town wants  
10 connected to this. Essentially what this is for is  
11 to access to Lots 1 and 2 to the west and these two  
12 lots which are going to be merged as part of this as  
13 well as the property over here to the east including  
14 the Stan Skubis Law Firm to be able to get to the  
15 light by going behind the building and coming down.  
16 So, that's why this easement was put in here.

17 CHAIRMAN STUTO: Is the easement recorded now?

18 MR. CAPONERA: The easement is not recorded. It's  
19 in a deed to [SIC] Derazio when Wolford Associates  
20 conveyed it and it's laid out in not only in the deed,  
21 but also in a post-closing agreement where this meets  
22 and bound description was described. It's there and  
23 it's in a deed.

24 CHAIRMAN STUTO: How solid is the other parcel's  
25 access - the easterly parcel's access to that signal?

1           MR. CAPONERA: I can't comment on that. I really  
2 don't know, but I do know that when Joe - when we had  
3 our meetings there was the discussion -- I wasn't  
4 involved with the initial subdivision of this larger  
5 lot. That was the idea of trying to get cross easements  
6 back there together with the bike path. I know that we  
7 talked about that.

8           CHAIRMAN STUTO: Is now the time to talk about that  
9 - whether we are going to get those as part of this  
10 development?

11           Do you know what I am saying Joe?

12           MR. LACIVITA: I think that even through Mr. Nemith  
13 - you can chime in if you like. I know that his parcels  
14 are all pretty locked solid with it. I know that as the  
15 Hewitt's property develops in the future, we'll be  
16 asking to get those things. It's all part of what we  
17 try to do Peter in trying to connect -

18           CHAIRMAN STUTO: I understand that, but is it going  
19 to be locked in as part of this?

20           MR. LACIVITA: Not for the Hewitt's, that have  
21 control right here (Indicating). These two that are in  
22 the green -

23           CHAIRMAN STUTO: But if you don't do it as part of  
24 this application, you're not going to have any leverage  
25 to make sure that it occurs with the other parcels. You

1 follow what I'm saying?

2 MR. LACIVITA: We can talk to the applicant on  
3 that.

4 CHAIRMAN STUTO: Do you have a reaction?

5 MR. CAPONERA: I understand exactly what you're  
6 saying and I think that what Peter is saying is that he  
7 wants to make sure that when this project goes forward  
8 that there is a proviso and a condition that access  
9 easements be provided for the adjacent properties. I  
10 think that everybody understands that - reservation of  
11 rights; yes. I think that you're right. I think that it  
12 should be part of this.

13 MR. MION: I have a question. On the entrance on  
14 the east side - is that going to be a right-in/right-out  
15 only?

16 MR. CAPONERA: Right here it's now shown, but I'm  
17 sure that the applicant will pay heed to DOT's  
18 requirement of a right-in/right-out only.

19 Am I misspeaking here?

20 MR. GILLESPIE: No. We will work that out with  
21 DOT.

22 MR. CAPONERA: So, if DOT wants a  
23 right-in/right-out, the applicant -- you're hearing from  
24 the applicant's esteemed engineer that they will work  
25 with them.

1 MR. MION: I would strongly lean that way.

2 MR. CAPONERA: We know that, they know that and  
3 even though that shows a full access, I'm sure that the  
4 next time that we're here, you'll see a  
5 right-in/right-out only.

6 MR. MION: Thank you.

7 CHAIRMAN STUTO: I do see that there is a note on  
8 the drawings "Lots will be subject to access easements  
9 for the benefit of adjacent parcels." In the top left  
10 of the green. Do you see that note there?

11 MR. CAPONERA: I do.

12 CHAIRMAN STUTO: Is that what we're talking about?

13 MR. CAPONERA: That's exactly it.

14 CHAIRMAN STUTO: Chuck, can you make sure that you  
15 keep an eye on that?

16 MR. VOSS: Yes.

17 CHAIRMAN STUTO: Do you have any comments on this,  
18 Chuck, as our Town Designated Engineer?

19 MR. VOSS: Not really at this point. This is a  
20 sketch review and this is the first time that we're  
21 really taking a look at it. We have worked with this  
22 model before. We have worked with this engineer and  
23 this typical design on the other project. Bohler did a  
24 nice job with that project and certainly brought it  
25 along and they addressed all of our questions and

1 comments as we move through the process. We are  
2 expecting for the same on this.

3 Other than that, all the utilities are here on  
4 Troy Schenectady Road. The site is certainly large  
5 enough to handle stormwater. There is a lot of  
6 greenspace left open for this. I think that they  
7 should be fine as they move forward.

8 CHAIRMAN STUTO: I'm going to continue on that same  
9 theme. Where would the connections likely be made to  
10 the two easterly parcels? Have we given any thought to  
11 that?

12 MR. CAPONERA: Not I.

13 CHAIRMAN STUTO: There is only so much paved area.

14 MR. LACIVITA: Can we talk to the property owner,  
15 Mr. Nemith?

16 CHAIRMAN STUTO: He's welcome to speak.

17 MR. NEMITH: Our initial intent was and the way  
18 that we laid that out was that would be pretty much  
19 determined by the Board where they wanted it. That's why  
20 is wasn't specified.

21 CHAIRMAN STUTO: You know the parcel better than we  
22 do.

23 MR. NEMITH: The idea is to be close to the  
24 buildable ridge, I guess you call it. This property  
25 goes back almost 300 feet buildable and maybe more. The

1 other parcels are a little less. The road or way is  
2 going to be a little closer up.

3 For a reference point, it would probably hit  
4 the back corner of the pizza parlor on the west  
5 side and somewhere right at the Hewitt's which is  
6 all level on this side. We don't have any control  
7 over the utility easement that is between us, but  
8 somehow or another we'll have to get the right to  
9 cross that I suppose.

10 MR. CAPONERA: There is a wetland too, delineated  
11 back here.

12 MR. NEMITH: There is room to go on the south side  
13 of that, without any problem.

14 MR. CAPONERA: Yes, of course.

15 CHAIRMAN STUTO: We are all cognizant of it and  
16 when you come in for concept -- this is only sketch -

17 MR. LACIVITA: Does the Board foresee any issues  
18 with the waivers granted on the prior site when they  
19 develop this?

20 MS. DALTON: You guys did a really nice job on the  
21 other building.

22 MR. LANE: I do have a question for you, Joe. You  
23 can tell me if I'm comparing apples and oranges but on  
24 the comments from the departments, five on page 2 states  
25 that the bike/pedestrian connection between Troy

1 Schenectady Road and the recently created Mohawk River  
2 Road Park by way of a permanent easement -- discussions  
3 of the exact route need to occur which would be to the  
4 PEDD in a prior submission.

5 Then on page 6 of 7 - 5 in the highway -- there  
6 is no need for proposed easement on the bike path on  
7 the eastern property line.

8 Is there a conflict in these?

9 MR. LACIVITA: I think that this goes back to when  
10 there was an easement shown during the DCC where the L  
11 was in the back.

12 MR. GILLESPIE: There is some confusion as to where  
13 this easement should be located.

14 MR. LACIVITA: When they first saw this at DCC,  
15 Tim, there was actually an easement and I asked that we  
16 take it off on this one because it's not what we are  
17 proposing. It went where the green shaded L was here  
18 and it's to the top.

19 Jim, if you remember that when it first came  
20 in?

21 MR. LANE: So, it's another location all together.  
22 We might need to state more clearly. I just wanted to  
23 make sure that there wasn't a conflict in the  
24 statements.

25 The gas trucks that will come in and exit -

1           what is the distance between the building and the  
2           fuel canopy?

3           MR. GILLESPIE: This is a good 60 feet at least.

4           MR. LANE: Between the building and the fuel  
5           canopy?

6           MR. GILLESPIE: No, from the pump to the curb is 58  
7           feet. That's the optimum.

8           MR. LANE: And that's enough room for the trucks to  
9           operate?

10          MR. GILLESPIE: That is the perfect proven space;  
11          again and again. They are very adamant about that.  
12          They've tried it so many different ways and that's the  
13          winner.

14          CHAIRMAN STUTO: Any other questions from the  
15          Board?

16          (There was no response.)

17          Chuck or Joe, do you have anything else?

18          MR. VOSS: No.

19          MR. LACIVITA: Nothing else at this time, Peter.

20          CHAIRMAN STUTO: Thank you.

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23          (Whereas the above entitled proceeding was  
24          concluded at 7:35 p.m.)

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CERTIFICATION

I, NANCY L. STRANG, 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 L. STRANG

Dated September 30, 2015

