

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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4 FUCCILLO NISSAN OF LATHAM
5 976 LOUDON ROAD
6 APPLICATION FOR FINAL REVIEW DESIGN CODE
7 WAIVERS & SEQR DETERMINATION

8 *****

9 THE STENOGRAPHIC MINUTES of the above entitled
10 matter by NANCY STRANG-VANDEBOGART, a Shorthand
11 Reporter, commencing on November 17, 2015 at 8:15
12 p.m. at The Public Operations Center, 347 Old
13 Niskayuna Road, Latham, New York

14

15 BOARD MEMBERS:
16 PETER STUTO, CHAIRMAN
17 LOU MION
18 SUSAN MILSTEIN
19 CRAIG SHAMLIAN

20

21 ALSO PRESENT:
22 Kathleen Marinelli, Esq, Counsel to the Planning Board
23 Joseph LaCivita, Director, Planning and Economic
24 Development
25 Michael Tengeler, Planning and Economic Development
Daniel Hershberg, PE, Hershberg and Hershberg
Victor Caponera, Esq.
Chuck Voss, PE, Barton & Loguidice

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1 CHAIRMAN STUTO: Next on the agenda is Fuccillo
2 Nissan of Latham, 976 Loudon Road, application for final
3 review, design code waivers and SEQR determination.

4 Joe LaCivita, do you have any introductory
5 remarks on this project?

6 MR. LACIVITA: We're ready to go to final on this,
7 so we'll just jump right in.

8 CHAIRMAN STUTO: Mr. Caponera?

9 MR. CAPONERA: Mr. Chairman and members of the
10 Board, four score and 20 months ago I came before this
11 Board and got concept approval. We went through four
12 different submissions to the TDE and we're here tonight
13 seeking final approval. We believe that we've answered
14 all the issues and questions that the engineer and the
15 various departments had and we're here to answer any
16 questions you might have but this project, we feel, is
17 ready for final approval.

18 CHAIRMAN STUTO: Can you just give us a brief
19 description of it?

20 MR. CAPONERA: Absolutely.

21 As you may or may not remember, there is an
22 existing building up here right now that believe it
23 or not used to be Smith Pontiac (Indicating); Mark
24 Smith Pontiac. Saving you money is what got us
25 here. He has a building that is currently behind

1 here (Indicating) which is a service facility
2 building and then there is another building in this
3 location which is the northerly part. So, there are
4 three buildings on the site, currently. The
5 proposal is to take all of them down and construct
6 this one building which is shown on the plan right
7 now (Indicating) and essentially it's going to be
8 the new Nissan building. That's the newest building
9 that you see that's required by these manufactures
10 and that's pretty much it.

11 By the way, we also lease a space from National
12 Grid which is shown here and it's used exclusively
13 for parking and this has been in place for many,
14 many years and we're negotiating a longer form lease
15 on this right now.

16 Other than that, that's pretty much it.

17 CHAIRMAN STUTO: Can you go over the lease part
18 again?

19 MR. CAPONERA: Sure. This is the property line
20 (Indicating). This area here is an area that has been
21 leased by the previous Smith Pontiac and then when Mr.
22 Fuccillo bought this property he used it also. There is
23 a lease in place - a written lease whereby National Grid
24 leases this for parking. That's pretty much what it is.

25 CHAIRMAN STUTO: Okay, we've had this reviewed by

1 our Town Designated Engineer. Chuck Voss is here from
2 Barton and Loguidice.

3 Chuck, do you want to offer your comments?

4 MR. VOSS: Yes, thank you, Peter.

5 Again, we are here for final. In your packets
6 you'll have our September 21st final TDE letter. As
7 Mr. Caponera basically stated, we've spent a fair
8 amount of time looking at this project from a lot of
9 different aspects. Our final letter basically
10 concurs with all of our final comments. It also
11 concurs with the initial Town departmental comments
12 which at this point there are none.

13 We're comfortable with the project certainly as
14 designed. It's a use that is consistent with use of
15 the prior use and it's consistent with everything
16 that you see in the area.

17 They are asking for four waivers for the
18 project and we have a Findings Resolution for that.
19 We believe that those waivers are certainly
20 reasonable.

21 CHAIRMAN STUTO: Can you go over those right now?

22 MR. VOSS: Yes, I'll just reference their section.

23 The first one is Section 190.47g, parking for
24 display units. In the front which doesn't meet the
25 50 foot required front setback for this area. We

1 can go through the rest of this -

2 MR. CAPONERA: That's off the table. The reason is
3 that there is an easement that runs through here and
4 Pure Waters didn't want it so we don't have that one on
5 the table.

6 MR. VOSS: Okay, we're down to three waivers now.
7 The first one then would be Section 190.42a(1)(c)(1)
8 maximum building front setback shall be 25 feet.
9 Section 190.42a(2) parking in the proposed front yard
10 shall be prohibited. We've seen this with other car
11 dealerships.

12 CHAIRMAN STUTO: Can we talk about greenspace
13 facing Loudon Road?

14 MR. CAPONERA: Here is Loudon Road and this is the
15 greenspace right here.

16 CHAIRMAN STUTO: How deep is the greenspace?

17 Have you ever done a rough calculation on that,
18 Dan?

19 MR. HERSHBERG: Yes, I have. The current setback
20 is 15 feet.

21 CHAIRMAN STUTO: Setback to the pavement, you mean?

22 MR. HERSHBERG: Yes, from the property-line to the
23 edge of the pavement. Between the pavements it's into
24 the pavement on Loudon Road and that is 34 feet. This
25 is the property line here and this is 15 feet back

1 (Indicating).

2 CHAIRMAN STUTO: This is my big thing with the car
3 dealers now. I have seen some where we have done them
4 and they've been great - with a physical barrier so that
5 they can't park on the lawn.

6 MR. HERSHBERG: We do have a full curb along that.
7 Sometimes we used to have a gutter and people drove
8 right up it, but we do have a full six-inch curb here.
9 Not that a car that is a SUV or a car like that couldn't
10 drive over it but the deal is that we did try to make a
11 hard barrier for that.

12 MR. CAPONERA: Currently there is no parking in
13 front of the building.

14 MR. HERSHBERG: When we first came in front of this
15 Board, you may remember that we had a double line of
16 parking here. We had it 60 feet wide and we cut it down
17 to a single line. But not to have any parking in front
18 of the building when this is your sales area, makes it
19 very difficult. People would have to park in the back
20 and come around the front for servicing. This is
21 reserved for sales area employees have to park away, but
22 not having any parking in front of this building would
23 really be a hardship for a car dealership.

24 MR. VOSS: The last waiver that we have is the one
25 that you've seen. The parking area is greater than 20

1 stalls and the 20 square feet of landscaped island shall
2 be -- they propose to use the interior parking for
3 vehicle storage. It's not really accessible per se like
4 it would be for -- if it were all parking lot. We felt
5 that was reasonable.

6 Other than that, we are comfortable with the
7 site and the design of th layout.

8 CHAIRMAN STUTO: By the way this is available for
9 public comment. If you'd like to comment please sign in
10 on the sign-in sheet to your left and to our right
11 there.

12 MR. MION: In front of the buildings - the
13 greenspace between the parking area -- how wide is that?

14 MR. HERSHBERG: The edge of Loudon Road and the
15 front of the parking is 35 feet. Between the right of
16 way line, which is 20 feet back from the Loudon Road
17 pavement -- it's 15 feet from the right of way line to
18 the edge of the pavement.

19 MR. MION: I know that in the past - and Victor
20 knows this - we have had an issue with parking on the
21 greenspace. I know that you said that you're going to
22 prevent that, but is there something that we can prevent
23 it.

24 MR. VOSS: The other thing that prevents that is a
25 relatively steep grade change there between Loudon Road

1 and the parking lot would be. It would be very
2 difficult to park there without significantly sliding or
3 moving down into that embankment. You do have a
4 significant grade change.

5 MR. SHAMLIAN: Couldn't we restrict the whole front
6 of the building area whether it be in the paved area or
7 the greenspace area -- there are no cars displayed for
8 sale in that area?

9 MR. LACIVITA: Can we put that on the plan?

10 MR. HERSHBERG: Yes.

11 CHAIRMAN STUTO: Were there members of the public
12 that wanted to speak on this one?

13 (There was no response.)

14 Is this the best elevation that you have?

15 Can you talk about the materials?

16 MR. HERSHBERG: Most of their materials are the
17 metal panels that you see on most of -

18 CHAIRMAN STUTO: Do we know the colors?

19 MR. HERSHBERG: Yes, there are two colors. The
20 light gray, dark gray and red which Nissan requires.
21 Nissan requires that their name be in red and their logo
22 is also specified. These are true colors. You have a
23 deeper gray. This is a lighter gray. The Nissan
24 Fuccillo is in a darker gray on light gray.

25 CHAIRMAN STUTO: How about the back of the

1 building? There is the brick area.

2 MR. HERSHBERG: You mean in the service area?

3 CHAIRMAN STUTO: Yes, and beyond that.

4 MR. HERSHBERG: This service area is fractured
5 block.

6 MR. CAPONERA: It's very similar in look to the Lia
7 dealership right across the street. It used to be Dodge
8 - in terms of the exterior - similar to what we
9 presented on the Audi dealership that we got concept on
10 a little south of this.

11 MR. LACIVITA: The Anderson Group had that same
12 paneling.

13 CHAIRMAN STUTO: You guys are supposed to come with
14 this stuff.

15 MR. CAPONERA: With the materials?

16 CHAIRMAN STUTO: At least the renditions that
17 accurately show what the elevations are going to look
18 like. Today is final approval. Do you agree or not
19 agree?

20 MR. CAPONERA: I agree.

21 CHAIRMAN STUTO: I must be crazy.

22 MR. CAPONERA: No, you're not crazy; not at all.
23 This is the color that you see.

24 CHAIRMAN STUTO: Does our Town Designated Engineer
25 have a rendition? Do you know what the exterior is

1 going to look like? We have architectural reviews so
2 can someone show us?

3 MR. VOSS: We have the same thing that you have.

4 CHAIRMAN STUTO: Then we'll have to come back and
5 vote -- we'll vote approval contingent upon coming back
6 for architectural approval on the exterior finishes. I
7 mean, come on.

8 MR. CAPONERA: I don't disagree.

9 MR. SHAMLIAN: I have a question on the space. How
10 long is the lease?

11 MR. CAPONERA: Normally what they did -- again, I
12 didn't handle that lease. That was done many years ago
13 with Smith Pontiac. I would have to look in my file. I
14 think that it was an annual, or every two years it
15 renews. It's a long-term lease like a 10 or 15 year
16 lease now. That's as much as I know.

17 MS. MILSTEIN: Do we know when this one expires?

18 MR. CAPONERA: I would have to look in my file, but
19 it just keeps renewing and renewing.

20 MR. SHAMLIAN: How integral are the parking spaces
21 in that leased space?

22 MR. VOSS: It's my understanding that they are
23 using those leased spaces for storage of vehicles. The
24 parking lot in back is quite large.

25 MR. CAPONERA: If we lose the lease, it doesn't --

1 it's mainly for storage of vehicles. There are like 400
2 and some parking spaces there. If the lease goes
3 tomorrow, it's not going to affect the operation at all.

4 MR. VOSS: I remember early on with some
5 discussions that you were also going to use that
6 potential lease storage area for loading and off loading
7 of new vehicles as they came in. Tractor trailers would
8 pull in, stop, new vehicles would be temporarily stored
9 in that space and then moved toward the back.

10 MR. HERSHBERG: I can lead you through the list of
11 exterior finish legend which was submitted and I can
12 tell you now that this color is called Sunrise Silver
13 and this is called Nissan Red, believe it or not. Those
14 are the colors and those are both on ACM panels which is
15 listed as aluminum composite material which is the
16 metal panels that we first talked about.

17 The architectural ribbed metal panel are the
18 service reception area and those are there and those
19 are Nissan Red. The pre-engineered metal panel
20 building is what you're seeing on this rear
21 elevation. That's a ribbed metal panel and the
22 colors of that are silver half dollar, so its very
23 light gray.

24 CHAIRMAN STUTO: And the brick on the service part.
25 I was worried that was going to be -- I didn't know what

1 it was going to be.

2 MR. HERSHBERG: The color is Concrete Masonry -
3 service shop exterior walls, pattern covered with color
4 to match P1. P1 is the silver color here (Indicating).

5 CHAIRMAN STUTO: It's going to match that or
6 complement that?

7 MR. HERSHBERG: It's the same color here, even
8 though it looks darker. It looks to me as though it's
9 rendered like it's going to be and that color is called
10 Steel Wool. It's a darker gray.

11 MR. SHAMLIAN: Dan, is it fractured block?

12 MR. HERSHBERG: It's Concrete Masonry with a
13 pattern with -- it's called CMU concrete masonry units.

14 CHAIRMAN STUTO: Thank you.

15 Anything else from the Board?

16 (There was no response.)

17 Okay, environmental review. Chuck, you want to
18 walk us through that?

19 MR. VOSS: Sure. In your packets for tonight you
20 have the SEQRA form. You have the short form Part I.
21 Part II and Part III were filled out by the Town
22 Attorney's office. This will lead to the conclusions in
23 Part III for the Board and then there is the Resolution.
24 Part III determination of significance.

25 This project involves construction of a 35,000

1 square feet automobile dealership on the site of a
2 previous auto dealership. The existing buildings
3 will be used on a temporary basis during the
4 construction phase and razed upon completion of a
5 new structure.

6 Proposed commercial use is permitted, but in a
7 commercial office residential COR zoning district.
8 The project will cause a change in the density of
9 the land use. Because of the low intensity use, no
10 significant impact is expected.

11 The project will create a demand for emergency
12 services. Property taxes are expected to offset any
13 additional increase in cost associated with
14 community services. The project is expected to
15 create construction related jobs which can be
16 considered a positive impact. Because of the low
17 intensity of use and direct access onto a local
18 road, no significant impact of transportation
19 systems is expected. Although the project will
20 result in a change to the site, given the size of
21 the project no significant impact on land resources
22 is expected.

23 The box checked for determination based on the
24 information and analysis above and supporting
25 documentation that the proposed action will not

1 result in any significant adverse environmental
2 impacts.

3 Then we have the negative declaration -

4 CHAIRMAN STUTO: Can I ask you a question? Is this
5 the property where there was a DEC remediation on the
6 other applications that we had? I think that it's
7 appropriate to go through that for the record and where
8 we stand with that.

9 MR. CAPONERA: Absolutely. This went through
10 extensive remediation.

11 MR. HERSHBERG: Essentially, remediation was done
12 starting in 2007. A letter was issued by DEC in 2007
13 saying no further mitigation is required.

14 CHAIRMAN STUTO: Were there petroleum products in
15 the ground, or something?

16 MR. HERSHBERG: Yes, there were petroleum products.

17 CHAIRMAN STUTO: And what remediation was done?

18 MR. HERSHBERG: First of all, they removed the
19 tanks and then the volatile organic compounds were
20 actually sucked out of it. They actually had a system
21 which remove the vapors and that area was cleaned up and
22 the letter from DEC said no further action required and
23 no further monitoring is required in 2007. When we
24 finished our study in 2011 Precision found essentially
25 the same thing. We submitted that to DEC to back up the

1 information and they repeated the fact that no further
2 mitigation is required and that they are satisfied with
3 the work that had been done.

4 CHAIRMAN STUTO: Thank you.

5 MR. CAPONERA: Those letters are on the record too.
6 They have been submitted. Chuck has seen them.

7 MR. VOSS: I have a copy of DEC's letter.

8 CHAIRMAN STUTO: I'll take it on faith.

9 MR. VOSS: It's the June 7, 2007 letter that Dan
10 was just referring to. It was issued by Anthony [SIC]
11 Kodacki, the environmental engineer from DEC.

12 It's a very short letter. I'll just read a
13 little bit of it.

14 "The source area of the former petroleum spill
15 has been effectively remediated as part of the
16 underground storage tank removal. Concentrations
17 are in the state of complying and there is a very
18 low probability of the residual petroleum
19 contamination migrating off the site. The current
20 remedial activities of vacuuming the localize site
21 has reached the limits of the source reduction.
22 Therefore, the department has determined that no
23 further action is required. Unless current
24 conditions change or additional petroleum production
25 has occurred, spill #9311621 is considered closed."

1 CHAIRMAN STUTO: Thank you.

2 Onto the negative declaration.

3 MR. VOSS: You have this in your packet as well.

4 To all interested agencies, groups and persons,
5 this is a notice of determination of no significant
6 effect on the environment, a negative declaration in
7 accordance with Article 8 State Environmental
8 Quality Review the Environmental Conservation Law
9 and the statewide regulations that are at 6NYCRR
10 Part 617, the lead agency which is the Planning
11 Board has received an Environmental Assessment Form
12 in connection with the proposed action described
13 below. The lead agency has determined that said
14 proposed action will result in no major impacts and
15 therefore will not have a significant effect on the
16 environment and that an environmental impact
17 statement is not required to be prepared with
18 respect to this said action. This notice is a
19 negative declaration for the purposes of the act.
20 The lead agency as we just identified is the Town of
21 Colonie Planning Board. Persons to contact for
22 further information are John A. Spath, Town of
23 Colonie Attorney's office. The phone number is
24 given.

25 Reasons for determination of non-significance.

1 The lead agency has reviewed the application, site
2 plan product description and all supporting
3 documentation and conducted such further
4 investigation of the project and its environmental
5 effects as the lead agency has deemed appropriate.
6 Based on this review the lead agency has determined
7 that the action will have no significant effects on
8 the environment. An Environmental Impact Statement
9 will therefore not be required.

10 This is dated November 7, 2015. It just needs
11 your vote on that.

12 CHAIRMAN STUTO: Any comments or questions on that?

13 (There was no response.)

14 Do we have a motion to approve?

15 MR. MION: I'll make the motion.

16 MR. SHAMLIAN: I'll second.

17 CHAIRMAN STUTO: Any discussion?

18 (There was no response.)

19 All those in favor?

20 (Ayes were recited.)

21 All those opposed?

22 (There were none opposed.)

23 The ayes have it.

24 On the waivers, we have eliminated one, I
25 understand.

1 If you could walk us through that Resolution?

2 MR. VOSS: I have a Resolution again for the
3 waivers.

4 CHAIRMAN STUTO: If you could read the title and
5 then go right down to the resolve part.

6 MR. VOSS: Resolution for Fuccillo Nissan, 976 New
7 Loudon Road, Land Use Law Waiver Findings.

8 Now, therefore be it resolved, that the Board
9 hereby finds that the extent of the requested
10 waivers is not considered substantial; and be it
11 further

12 Resolved, that the Board finds the applicant
13 has established that there are no practical
14 alternatives to the proposed waivers that would
15 conform to the standards and that the waivers are
16 necessary in order to secure reasonable development
17 of the project site; and be it further

18 Resolved, that the Board hereby issues a waiver
19 from the maximum front building setback of 25 feet;
20 and be it further

21 Resolved that the Board hereby issues a waiver
22 from the display of only four vehicles in the front
23 setback; and be it further

24 Resolved that the Board hereby issues a waiver
25 from the minimum 20 square feet of landscaped island

1 to be included within the interior parking areas;
2 and be it further

3 Resolved, that these Waiver Findings be a
4 condition of site plan approval of the application
5 and be kept in the project file in the office of the
6 Planning and Economic Development Department.

7 CHAIRMAN STUTO: Can you mark one up and we'll ask
8 the stenographer to put the entire Resolution into the
9 record?

10 Any discussion on that Resolution?

11 (There was no response.)

12 Do we have a motion to approve?

13 MR. MION: I'll make a motion.

14 MR. SHAMLIAN: I'll second it.

15 CHAIRMAN STUTO: Any discussion?

16 (There was no response.)

17 All those in favor?

18 (Ayes were recited.)

19 All those opposed?

20 (There were none opposed.)

21 The ayes have it.

22 And the main question before the Board, which
23 is for final site plan approval conditioned upon all
24 the departmental comments, Town Designated Engineer
25 comments.

1 Did we make any comments that we made on this?

2 MR. VOSS: No parking displayed in the front.

3 CHAIRMAN STUTO: Can someone say that clearly so
4 that the steno gets it?

5 You're going to put that on the plans, right?

6 MR. CAPONERA: Yes.

7 MR. VOSS: No parking or display of new vehicles
8 within the designated front parking area.

9 MR. SHAMLIAN: Any vehicles for sale.

10 CHAIRMAN STUTO: Customers can park there, right?

11 MR. CAPONERA: Yes, just no on the grass; right,
12 Lou?

13 MR. MION: That's right.

14 CHAIRMAN STUTO: With all those conditions, do we
15 have any discussion?

16 (There was no response.)

17 Do we have a motion to approve?

18 MR. MION: I'll make the motion.

19 CHAIRMAN STUTO: Do we have a second?

20 MS. MILSTEIN: I'll second it.

21 CHAIRMAN STUTO: Any discussion?

22 (There was no response.)

23 All those in favor?

24 (Ayes were recited.)

25 All those opposed?

1 (There were none opposed.)

2 The ayes have it.

3 MR. CAPONERA: This is a 25-year lease and it
4 started in 1989 and after five years it renews every
5 year, but they just keep renewing it. Now, we're
6 working on a long-term lease so it's there.

7 CHAIRMAN STUTO: Thank you.

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9 (Whereas the above referenced proceeding was
10 concluded at 8:46 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 _____

