

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 *****

4 RESTAURANT & RETAIL BUILDING

5 109 WOLF ROAD

6 BOARD UPDATE

7 *****

8 THE STENOGRAPHIC MINUTES of the above entitled

9 matter by NANCY L. STRANG, a Shorthand Reporter,

10 commencing on April 4, 2017 at 7:01 p.m. at The

11 Public Operations Center, 347 Old Niskayuna Road,

12 Latham, New York

13 BOARD MEMBERS:

14 PETER STUTO, CHAIRMAN

15 LOU MION

16 BRIAN AUSTIN

17 KATHY DALTON

18 TIMOTHY LANE

19 CRAIG SHAMLIAN

20 ALSO PRESENT:

21 Katheen Marinelli, Esq. Counsel to the Planning Board

22 Joseph LaCivita, Director, Planning and Economic

23 Development

24 Michael Tengeler, Planning and Economic Development

25 William Mafrici, PE, Hershberg and Hershberg

Joseph Grasso, PE, CHA

Sharon Coy

Kevin Parisi

1 CHAIRMAN STUTO: Welcome to the Town of Colonie
2 Planning Board meeting. We have four items on the
3 agenda.

4 Joe, do you have any business to discuss before
5 we call the agenda?

6 MR. LACIVITA: Nothing at this time, Peter.

7 CHAIRMAN STUTO: First item on the agenda is
8 Restaurant and Retail Building, 109 Wolf Road, Board
9 update, application for concept acceptance, 2,800 square
10 foot restaurant and 4,450 square foot retail building.

11 MR. LACIVITA: Just to put it on the record, Peter,
12 this project was here on March 7th for concept
13 acceptance. We tabled it at that time with the direction
14 that the applicant meet with the neighbors on the street
15 behind this project at 109 Wolf Road. We met with the
16 neighbors - the applicant represented from Hershberg and
17 Hershberg and myself met with a number of the residents
18 out there that Sunday.

19 We had a great conversation. It's probably the
20 best meeting that I've had with residents since I
21 have been here. They were very gracious and very
22 engaged and we're here tonight to move forward to
23 concept acceptance based on the comments that you're
24 going to hear tonight.

25 CHAIRMAN STUTO: This is a voting item. It's for

1 concept acceptance. So, if any members of the public
2 would like to speak, there is a sign-in sheet on the
3 table near the door. Thank you.

4 MR. MAFRICI: I'm Bill Mafrici and I'm with
5 Hershberg & Hershberg. We are the design engineer for
6 the project. With me this evening is Kevin Parisi, the
7 applicant and owner of the project.

8 As Joe mentioned, we had updated the plan.
9 There are three major issues, mostly in the rear of
10 the property. One pertains to the quantity of
11 parking. One pertains to the location of the SWPPP
12 basin. Most important was the buffer between the
13 neighbors, the screening and the location of trees
14 and if possible, keeping any of the existing trees.

15 So, since then we hired an engineering and
16 surveying firm and they located each individual
17 tree, sized them and I believe that you have a copy
18 of that tree survey in your packets. Based on that
19 survey, unfortunately, there aren't very many trees
20 that we can save even when we reduced the parking by
21 19 spaces.

22 We located the SWPPP basin further away from
23 the residents. We did locate trees in the buffer and
24 the rear behind Wolf's 111. All those trees are able
25 to remain. Most of them are cottonwoods. There are

1 some maples and a few pines.

2 So, as Joe mentioned we did meet with the
3 neighbors and we came up with a solution that they
4 are happy with, we're happy with and hopefully the
5 Board will accept. That is, a six foot high solid
6 vinyl fence along the rear property.

7 CHAIRMAN STUTO: Can you point to that?

8 MR. MAFRICI: Sure.

9 So, this is the rear of the property
10 (Indicating). There is a 50-foot buffer. We had
11 relocated the center SWPPP basin to greater than 50
12 feet from the residents. The new six foot vinyl
13 fence would connect to the existing fence at Wolf's
14 111 and continue along the easement. We show some
15 white pines to soften the view from the neighbors in
16 the rear.

17 We're also proposing to bank 15 spots in that
18 rear in case overflow parking is necessary and that
19 additional parking would be built at that time.

20 With that, I'll open it up to the Board.

21 CHAIRMAN STUTO: This is being reviewed by our Town
22 Designated Engineer, Joe Grasso, from CHA.

23 Joe, what do you have to say about that?

24 MR. GRASSO: We think that they have done a good
25 job addressing the comments.

1 In terms of the fence, I thought that it was
2 eight feet white vinyl. I never went and measured
3 it. That's just something that you can confirm.

4 You are basically intending on matching the
5 height of the fence behind the Wolf's 111.

6 MR. MAFRICI: Wolf's 111 is eight feet.

7 MR. GRASSO: You were looking to step that down?

8 MR. MAFRICI: Visually out there it seemed like too
9 much of a wall. We can revisit that.

10 MR. GRASSO: Our recommendation is that it stay - I
11 think that is consistent with what was done down at the
12 Texas Roadhouse - a couple of properties further down -
13 so, that it is one consistent fence.

14 CHAIRMAN STUTO: You feel very strongly about that.

15 MR. GRASSO: I do.

16 I thought that they did a good job with the
17 white firs on the residents' side.

18 In terms of across those property lines - was
19 there a discussion by the neighbors of the
20 maintenance within that strip is going to be via the
21 neighbors?

22 MR. MAFRICI: There were discussions. We are
23 providing an access gate. At this time we had intended
24 to take care of that. The neighbors weren't 100% certain
25 that they wanted to take care of it. So, we provided an

1 access gate on our property to maintain it in the rear.

2 We are looking into another solution - maybe

3 pushing the fence closer to the property line.

4 Wherever the fence goes, it's going to be a good

5 buffer. We have spoken to the neighbors and this is

6 a location that they did choose. It might be better,

7 when it's all said and done, to have that actually

8 on the property line so that we can maintain and

9 clean everything. It's not going to be much

10 different wherever the location is, but the

11 screening will be there.

12 MR. GRASSO: Okay, because there is a sewer

13 easement back there and it does appear like you wouldn't

14 be impacting the sewer easement by having it where you

15 have it located. The proposed location now, I think, is

16 logical. It extends off of the existing fence behind

17 Wolf's 111.

18 At the last Planning Board meeting there were

19 comments about the justification for the number of

20 parking spaces being created. You're looking to

21 build 35 additional spaces on the 109 Wolf Road site

22 and then you're going to provide some additional

23 parking on the Wolf's 111. We would recommended that

24 you quantify what that additional parking is. I

25 thought that the intent was to try to maximize the

1 efficiency of the parking lot. It seems to be
2 inconsistent with you land-banking the spots behind
3 109. What is the reason for land-banking it if you
4 know that the site was under parked?

5 MR. MAFRICI: Only at the request of the Board.

6 MR. GRASSO: Okay, because the Board expressed
7 concern.

8 MR. MAFRICI: The Board felt strongly that we had
9 excess parking. We thought that it was required. We'll
10 be more than happy to put it back.

11 MR. GRASSO: It's good that it's land-banked. At
12 least they are planning for it in the future.

13 I would like to see that analysis. It's really
14 the Wolf's 111 site. Obviously you don't know who
15 your tenants site on-site at 109. You obviously know
16 the use of 111 and if we could get some empirical
17 data to justify the parking and if it shows that you
18 need those additional land-banked spots, I would
19 propose those are part of the application. If the
20 data shows that you don't, then I think that the
21 land-banking is a reasonable approach.

22 MR. MAFRICI: We can certainly look at that. One of
23 the reasons that we picked that location to bank it is
24 because it was so remote from Wolf's 111. It seemed like
25 the most difficult parking spaces to access and be

1 mutually shared.

2 MR. GRASSO: As part of the initial application you
3 were looking for incentive zoning provisions with
4 incentive zoning fee applicable. Is that still
5 applicable based on this revised plan?

6 MR. MAFRICI: Yes, with this plan that is in front
7 of you there is about 1,600 square feet of deficient for
8 incentive zoning.

9 MR. GRASSO: Just to remind the Board, we are
10 supportive of it the last time it was considered.

11 MR. MAFRICI: So, incentive zoning would still be
12 applicable with this plan.

13 CHAIRMAN STUTO: Any comments from the Board?

14 (There was no response.)

15 Are there any residents looking to talk on this
16 one?

17 MS. COY: My name is Sharon Coy and I live that 12
18 Kenlyn Drive.

19 We are a few neighbors short tonight because we
20 we have had some accidents and illness on our
21 street. There are two of us here kind of
22 representing everyone.

23 Mr. Hershberg, Mr. Parisi, Mr. Mafrici and Mr.
24 LaCivita came out on Sunday on the most coldest day
25 of the year. We had a great meeting. They are very

1 accommodating. We came to an agreement that
2 everybody is happy with. We like what they are
3 proposing to do for us. It's going to save us a lot
4 of possible damage to our properties.

5 I brought along some pictures of when my
6 property was damaged from a bad storm from those
7 scrub trees. If you like to look at them, you are
8 more than welcome.

9 CHAIRMAN STUTO: Sure.

10 MS. COY: Basically, that's all I have to say. All
11 of us neighbors from number 12 down to number 20 are all
12 in agreement with what we have come up with. So, we hope
13 that the Board will approve it. Thank you.

14 CHAIRMAN STUTO: Thank you.

15 Anybody else on this one?

16 (There was no response.)

17 Any comments from the Board?

18 MR. SHAMLIAN: One of the questions that I have is
19 whether not these two lots should be legally put
20 together into a single lot. You are on the verge of
21 moving forward on 109 with excess parking because of the
22 deficiency on 111. Down the road, with them being
23 separate parcels it could conceivably be an issue. That
24 is something that - if we don't have a discussion about
25 it now - at least with this Board -

1 CHAIRMAN STUTO: Does the applicant response to
2 that?

3 MR. MAFRICI: At this point, if we keep it the way
4 it is proposed we don't know what tenants are going to
5 be in the new facility. We know that there is a
6 deficiency at 111. So, what we would like to do is
7 provide across easements for parking and access over the
8 two properties which would stay if they are not merged.

9 MR. SHAMLIAN: Yes, but that does not completely
10 solve the issues down the road. If down the road 111 -
11 the uses change and the building is torn down, we are
12 still stuck with 109 having excess parking that then 20
13 years from now somebody can use as a basis for keeping
14 that parking when they don't necessarily need it but
15 wanted - because of the easement.

16 MR. MAFRICI: Easement can be expunged. It is not
17 deed restricted.

18 MR. SHAMLIAN: But everyone has to be willing to do
19 that.

20 CHAIRMAN STUTO: An easement is a recorded
21 document. If it is a condition of approval, it's going
22 to be pretty hard to unwind. The two parties cannot do
23 it without the Town. At least, I am envisioning its way
24 you are saying. If it is an easement, it is a recorded
25 document and it would be a condition of approval.

1 MR. MAFRICI: Any change in tenant - obviously, you
2 know more than I do with the zoning in the Town. When
3 there is a change of tenant, specifics get reviewed by
4 the Building Department as provided by us, the engineer.
5 So, at that time it would be appropriate to determine
6 what the needs are for parking and to put whatever
7 restrictions -

8 CHAIRMAN STUTO: If they are separate owners and
9 the guy has recorded easement, he does not have to give
10 it up. Let's think about it for next time.

11 MR. LACIVITA: Right now, we have common ownership
12 on both sides.

13 CHAIRMAN STUTO: Right, but if one gets sold and
14 then a use change is on one of them and we think the
15 parking should be different, the guy on the other side
16 can block it.

17 MR. LACIVITA: I think we asked that question about
18 merging the lots the last time. Kevin, I think you
19 mentioned there was financing wrapped around it.

20 MR. PARISI: There is a financing issue and I don't
21 want to keep talking about it, but it does complicate
22 other things as well. Hopefully there is a solution that
23 everyone will be comfortable with. It's never intended
24 to be sold or changed, but that could happen.

25 MR. AUSTIN: I have a quick question. It says that

1 the retail building is 2,450 but on the plan it says
2 5,022.

3 MR. MAFRICI: The 5,022 is correct. We adjusted the
4 seating area on this accessway and we gained like four
5 or five square feet over the entire building.

6 CHAIRMAN STUTO: Anything else?

7 (There was no response.)

8 Okay, thank you for being responsive to those
9 requests. I'm very happy that you worked so well
10 with the neighbors and they seem to be satisfied
11 with what you have proposed.

12 We still have a couple of questions on some
13 analytics on parking. This is only concept
14 acceptance.

15 Do we have a motion for concept acceptance?

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

17 MR. MION: I'll second.

18 CHAIRMAN STUTO: Any discussion?

19 (There was no response.)

20 All those in favor say aye.

21 (Ayes were recited.)

22 All those opposed, say nay.

23 (There were none opposed.)

24 The ayes have it.

25 Thank you.

1 (Whereas the above entitled proceeding was
2 concluded at 7:12 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 _____

