

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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4 SUNRISE DEVELOPMENT MIXED-USE  
836 TROY SCHENECTADY ROAD  
5 APPLICATION FOR ENVIRONMENTAL SEQR DETERMINATION  
AND FINAL REVIEW  
6 \*\*\*\*\*

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8 THE STENOGRAPHIC MINUTES of the above entitled  
9 matter by NANCY L. STRANG, a Shorthand Reporter,  
10 commencing on May 23, 2017 at 8:04 p.m. at The  
Public Operations Center, 347 Old Niskayuna Road,  
Latham, New York

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

18 ALSO PRESENT:  
19 Kathleen Marinelli, Esq. Counsel to the Planning Board  
20 Joseph LaCivita, Director, Planning and Economic  
21 Development  
22 Michael Tengeler, Planning and Economic Development  
23 Nicholas Costa, PE, Advanced Engineering  
24 Joseph Bianchini, PE, ABD Engineers  
25 Joseph Grasso, PE, CHA  
Larry Vanappledorn  
Joy Tallmadge

1           CHAIRMAN STUTO: Next on the agenda is Sunrise  
2           Development Mixed-Use, 836 Troy Schenectady Road,  
3           application for environmental SEQR determination and  
4           final review.

5           This is a voting item so any members of the  
6           public that would like to speak, there is a sign-in  
7           sheet on the table towards the door. If you could  
8           sign in, we would appreciate it.

9           Joe LaCivita do you want to give an  
10          introductory remark on this one?

11          MR. LACIVITA: Well, I think that we have seen this  
12          project a number of times. It started way back a few  
13          years ago under a different ownership. We are here  
14          tonight for final approval. Just to put a few dates on  
15          the record for this project - August 9, 2016 and then a  
16          revisal on November 1, 2016. Tonight we are here for  
17          SEQR and final approval on the Sunrise Development  
18          Mixed-Use.

19          Joseph?

20          MR. BIANCHINI: I'm Joe Bianchini with ABD  
21          Engineers in Schenectady, New York representing Sunrise  
22          Capital Partners. Jessie Holland is one of the partners  
23          and he is here tonight and also Bob Boucher who is the  
24          architect for the project.

25          Just to refresh your memory a little bit

1           because it's been since last November, there are  
2           three existing parcels that are here. Those three  
3           parcels are under the ownership of Capital Partners  
4           at this point and will be combined once we obtain  
5           final approval into one parcel. The 836 Troy  
6           Schenectady Road is the existing building for DeWalt  
7           and Albany Lift. That building will remain. The 830  
8           and 844 both have single family houses on them. They  
9           will be removed and I think that there are some  
10          garages and outbuildings that will also be removed  
11          as part of this development.

12                 All of the buildings and everything is oriented  
13          to get the maximum passive solar that we can.

14                 Building 2 will be a two-story office building  
15          which will house Sunrise Management facilities and  
16          then the remaining space will be leased out to other  
17          tenants.

18                 In back of that is the apartment building and  
19          that's Building 3. This is a nine-unit apartment  
20          building. I will show you some renderings of the, in  
21          a minute. This is Building 4 back here which is a  
22          12-unit apartment building.

23                 There is parking adjacent to each of the  
24          buildings which matches the codes so that there is  
25          at least two spaces for each apartment and whatever

1 the actual requirement is for the office building  
2 for the Town Code is there.

3 We added one new entrance into the site; Solar  
4 Way which is located opposite Knadler Drive.

5 You may remember on a previous concept plan we  
6 had an entrance only over here (Indicating) in front  
7 of 836. We did meet with the Town and DOT and their  
8 suggestion and requirement was basically to remove  
9 that. So, we removed that from our plan. Likewise,  
10 we will be removing the existing driveways that are  
11 there and then replacing that with a sidewalk to  
12 make the sidewalk and curbing contiguous.

13 Coming in Solar Way you can take a right into  
14 the office building or left where the apartments are  
15 in the back of the building for DeWalt and Albany  
16 Lift and then go all the way back to the apartments  
17 in the back.

18 There are utilities there - water and sewer so  
19 we are connecting to the water system. We do have to  
20 come across Route 7 with a water line and then we  
21 have to bring it in and put a fire hydrant back here  
22 which will be a public extension of the water line.

23 For the sewers, we will have two grinder pumps  
24 on the two apartment buildings. They will pump back  
25 to a manhole and then go into the sewer system along

1 Route 7. Storm drainage will be controlled on-site  
2 by catch basins and piping and that will all go to  
3 what's called a bio retention area which filters the  
4 stormwater. It's like a sand filter. There will be a  
5 pond here with a fountain in it. That's near the  
6 apartment buildings. There will be some picnic  
7 benches and so forth around it.

8 Also, as an amenity for the apartments, we do  
9 have an exercise trail which goes all the way from  
10 Route 7 through the site and back out to Route 7.  
11 There will be an exercise station within that.

12 Lighting will be controlled on-site with down  
13 type lighting. With regard to landscaping, obviously  
14 around the buildings we will have foundation  
15 plantings and through the parking lot there is a  
16 green area. There are major street trees along the  
17 road coming in. We are trying to leave several of  
18 the large trees that are there. There are some large  
19 pines along Route 7 and along the property line to  
20 the west. Those will remain, as will some areas  
21 inside the site. We can save some trees here  
22 (Indicating) and on the east side of the site you're  
23 saving trees as a buffer against the property there.

24 In the back of the site off our property there  
25 are federal wetlands back here and then the 100

1 adjacent comes into the site which is basically that  
2 dark green. We are not impacting on that. That stays  
3 as is with the trees that are there. Those trees  
4 will remain.

5 I know that there were concerns about the  
6 neighbors to the back. This is Laura Drive way in  
7 the back (Indicating). From our Building 3 to the  
8 closest house is 500 feet. It's all basically  
9 wetland or the adjacent area so that land will stay  
10 as wetland. It's not really visible because we're  
11 higher.

12 We did do a cross section through here from the  
13 house on the corner to our building and basically  
14 you're looking right through trees. I did take some  
15 pictures out there. You see trees. Those trees are  
16 30 to 70 feet high in through there. In the  
17 wintertime you barely can see anything through  
18 there.

19 Bob, you want to talk a little bit about the  
20 buildings?

21 MR. BOUCHER: Good evening everyone. My name is Bob  
22 Boucher. I am the architect. I think that as I mentioned  
23 before, the project is focused on a high sustainability  
24 component. The buildings that we are constructing or  
25 proposing are all going to employ a high level of

1 sustainability from everything including the interior  
2 environment on the office building as well as the  
3 apartment units. We have employed a lot of solar  
4 techniques in the office building on the Route 7  
5 elevation.

6 First of all we have a very almost communal  
7 connection to the street scape. That will treat the  
8 front of the building and will have the appearance  
9 of the southern elevation on the rear side almost  
10 like an entrance to the building to really have a  
11 strong connection to the street scape. The building  
12 is designed specifically for passive solar gain. All  
13 the glazing and the forms -- this is sort of an  
14 angled form. It is designed off module on the site  
15 plan to again, as Joe mentioned, gain maximum  
16 passive solar collection.

17 All the lighting on the building will be  
18 recessed in these overhangs. It will be diffused. It  
19 will exceed dark sky compliant because it will  
20 filter down on all the pilasters so it will just  
21 direct light and pool around the building. It will  
22 be quite wonderful. On the southern elevation - this  
23 is the passive gain. Again, with deeper overhangs  
24 the element comes out and creates a very sort of  
25 dramatic entryway that's visible from the east side

1 of Route 7 that welcomes visitors to the office  
2 building from the side drive and the apartments in  
3 the back as well. These have the circulation and  
4 stratification towers within them. Again, it's all  
5 based on passive solar principals. They have full  
6 front to back ventilation and the office building  
7 will also have operable windows. In addition of  
8 course the interior environment with the water  
9 saving fixtures - all of those strategies are being  
10 employed as well. This is sort of the visual from  
11 what we see from the exterior.

12 CHAIRMAN STUTO: Okay, this has been extensively  
13 reviewed now by the Town Designated Engineer, CHA.

14 Joe Grasso, can you give us your comments on  
15 this project?

16 MR. GRASSO: There is a comment letter in your  
17 packet. Obviously because the project is up for final  
18 site plan condition, it has gone through multiple rounds  
19 of review by our office over the past five or six years  
20 when it was Top Tile. It goes way back. Fortunately, we  
21 have been involved from the start and have been able to  
22 see the project evolve in large response to the comments  
23 that have been provided through the planning process. I  
24 did make a list of some of the things that I think are  
25 important features and Joe did a very good job touching

1 on these things. In terms of the things that we have  
2 seen change, which I think has allowed the project to be  
3 viewed favorably from a planning perspective as well as  
4 our office, you recall that the project has now an  
5 expansion of the residential use which was one of the  
6 initial concerns when the project was just proposed with  
7 one apartment to the rear of the project site. The plan  
8 now is a more unified development plan and it really  
9 does a good job integrating the various land uses. We  
10 thought that the incorporation of the existing retail  
11 building was something that we never thought was going  
12 to be achievable to the project and we commend the  
13 applicant for being able to integrate that property  
14 because it did afford a lot of other things to occur  
15 which we feel had made this a good plan.

16 The parking lots are appropriately broken up so  
17 there is no large expansive parking lot even though  
18 there is quite a bit of development on the site.  
19 Most of the parking lots are to the rear and going  
20 to be screened from view from the Route 7 corridor  
21 and that is something that is discussed in the  
22 Town's design standards.

23 Very often we see stormwater management as a  
24 necessary utilitarian component of site development  
25 plans. Very rarely do we see those stormwater

1 management areas designed as an amenity and this  
2 site does that. We applaud the applicant for not  
3 only doing a good job meeting the stormwater  
4 management requirements but also making it what we  
5 feel is an attractive feature of the development  
6 plan.

7 Like Joe had mentioned, this project site  
8 protects the 100-foot regulated wetland buffer. That  
9 is something that we see in projects sometimes do.  
10 They encroach into that wetland buffer because  
11 permitting by DEC within the buffer is loosely  
12 regulated. That has always been important to the  
13 Planning Board and is a feature of the site.

14 The continuous walking path we think is a  
15 desirable feature for not only the residents but  
16 even the commercial properties up front. That was a  
17 late addition to the plan.

18 From an access standpoint, we're looking at  
19 various land uses that now share one curb cut onto  
20 Route 7. Right now there are three curb cuts out  
21 there that serve the various properties that is  
22 going to be consolidated into one. The applicant had  
23 expressed a lot of concern about losing that  
24 previously proposed one-way in from Route 7 serving  
25 that retail building. Through a meeting with DOT

1 and the applicant and their engineer, they were able  
2 to reach consensus that this is what we feel is the  
3 best access arrangement from the Town and the  
4 state's perspective.

5 This plan does look to replace a lot of the  
6 sidewalk across the frontage of the site so we do  
7 think that is an important pedestrian improvement as  
8 part of the plan.

9 They have eliminated - their map meeting the  
10 frontage build-out requirement of 80%. We had spoken  
11 to that issue previously. We didn't think that was  
12 an appropriate requirement of the plan. You may  
13 recall that there were some concerns brought up at  
14 the last meeting about site distance obstructions to  
15 the properties to the east of this parcel and snow  
16 storage. We thought that the fencing was  
17 incompatible with both the context of the site and  
18 could exacerbate those site distance restrictions.  
19 So, that has been eliminated from the plan and that  
20 is one of the waivers that this plan would require.  
21 So, there is a draft Resolution for your  
22 consideration in your packet regarding that waiver.

23 In terms of our comment letter, we touched on a  
24 couple of things already regarding the waiver  
25 request.

1 Joe mentioned the lighting. We did have a  
2 comment. In our interpretation of the cuff sheafs  
3 that were provided for the lighting is that it's  
4 more of a decorative style fixture. Even though  
5 it's down-lit style, we thought that the lamp or the  
6 head of the fixture would be lit entirely. We have  
7 always known that there were concerns about  
8 potential lighting impacts through the trees, which  
9 is an expansive tree corridor to the rear. I've been  
10 out there on Laura Drive and Gerling Drive and there  
11 are certain times during the year when the leaves  
12 are off and you can actually see the lighting along  
13 the Route 7 corridor and that was one of the  
14 concerns that we heard from the Planning Board. Our  
15 concern with that lighting fixture that we saw is  
16 that the heads of all of those fixtures would be  
17 visible through the trees at certain points of the  
18 year. So, our recommendation is to change that style  
19 of fixture to a down-light style where there is no  
20 way to see the luminaire from above the height of  
21 the fixture and that would drastically be reduced.  
22 So, it's not a light spillage thing and it's not a  
23 light glare thing. It's just the visibility of that  
24 lamping within the head. It's a relatively minor  
25 comment in the grand scope of the project but we

1 want to bring it to the attention and we think that  
2 we can resolve that through a discussion with the  
3 consultant of the project.

4 CHAIRMAN STUTO: Do you have a reaction to that?

5 MR. BIANCHINI: I have to talk to my lighting  
6 consultant on that to see what fixtures - we wanted  
7 something that looks nice. I know what Joe is talking  
8 about is just the flat thing that shines straight down.

9 MR. GRASSO: It would not be ornamental, but it  
10 would address that concern about the visibility of the  
11 luminaire - the laminated head that you see with many  
12 decorative fixtures.

13 Now, the Planning Board should consider the  
14 trade-off because this is a residential setting and  
15 sometimes people say I want people to have that  
16 lantern style fixture, I'll call it, even though  
17 you're going to be able to see the illuminated glow.  
18 It's just something that we want to bring to the  
19 Planning Board's attention so that there is no  
20 surprises after the fact.

21 CHAIRMAN STUTO: Well, we are here for final so we  
22 need to resolve this.

23 MR. GRASSO: Exactly.

24 CHAIRMAN STUTO: How does the Board feel?

25 MS. DALTON: I think that there are neighbors here.

1 I would like to hear what they have to say.

2 MR. GRASSO: In terms of SEQOR it's an unlisted  
3 action. The short EAF that was provided describes the  
4 project. The applicant was responsible for preparation  
5 of Part I which we would agreed with all of those  
6 responses. We do not believe that the project is going  
7 to result in significant environmental impacts and  
8 therefore we have drafted a negative declaration for the  
9 Planning Board's consideration.

10 So, there are three things; a waiver regarding  
11 the frontage build-out, a SEQOR determination and  
12 consideration of site plan approval.

13 CHAIRMAN STUTO: We're going to hear from the  
14 residents. We're going to ask them to come up to the  
15 microphone. I will call them in the order in which they  
16 have signed in.

17 Joy Tallmadge?

18 MS. TALMADGE: I think that I can speak loud enough  
19 and I don't need the microphone.

20 MS. DALTON: But our stenographer needs to hear  
21 you.

22 MS. TALLMADGE: I've been against this project from  
23 the very beginning. I live on Laura Drive and when I  
24 look out my side or I'm walking down the street, I don't  
25 want to see an apartment building. I don't want to be

1 impacted by lights which I can see from Route 7.  
2 Granted, those houses aren't nice but I don't want to be  
3 worrying about people running around the neighborhood.  
4 It's ugly. Those buildings are absolutely ugly. They  
5 don't need to be there. It should not have been a  
6 multi-purpose plot to begin with.

7 How many people are going to be living in these  
8 apartments? It impacts people who like to walk along  
9 the creek back there. It impacts the animals that  
10 are back there. There are all kinds of wildlife.  
11 They are going to impact that greatly. I have lived  
12 there for 30-some years. I don't want to see it. I  
13 was here the last time and you might just as well  
14 talk to that table because nobody listens to how a  
15 person who lives in that neighborhood feels. It's  
16 horrible. It is absolutely horrible.

17 CHAIRMAN STUTO: Thank you.

18 Larry Vanappledorn.

19 MR. VANAPPLEDORN: I've lived there for 33 years  
20 and I only have a couple of concerns. I have no problem  
21 with the business going in there, but on the back side  
22 of the property - I spend a lot of time in the wetlands  
23 and stuff. I like the animals. The stream coming down  
24 from the Teachers Union building - and it runs into the  
25 mainstream which is all wetlands. Now, wouldn't that

1 stream running into the other stream be considered  
2 wetlands? I would say yes.

3 The other thing is, which I haven't seen except  
4 last spring, this fall and this spring is two bald  
5 eagles. They have been flying around pine trees  
6 right over in that vicinity of that valley. I don't  
7 know if they're nesting around there. I haven't seen  
8 anything. But just seeing that really is a nice  
9 thing to see and I'd like to see more of it.

10 That's the way that I feel. Thank you.

11 CHAIRMAN STUTO: You're pointing to the wetlands.  
12 I'm not sure I understand the point.

13 MR. VANAPPLEDORN: Like I said, I spend a lot of  
14 time over there. I don't know if it was DEC or whatever  
15 - years ago they had it all marked off. They had ribbons  
16 stating where the wetlands were. The whole valley is  
17 basically a wetland. There is that one stream that comes  
18 down that flows into that stream. So, I'm figuring that  
19 one stream that goes into the other is going to impact  
20 one or the other. I don't want to see the pollution or  
21 the sediment -- or what are they going to dig up in that  
22 valley there?

23 CHAIRMAN STUTO: Is there stormwater runoff from  
24 their property; is that what you are talking about?

25 MR. VANAPPLEDORN: Yes, because that is the

1 backside of their property that the stream comes down  
2 through. There is an old car sitting there. There is old  
3 stuff sitting in the ground. It was obviously a dump  
4 back in the early days. Who knows? Something is going to  
5 get disturbed, but that is what I have seen back there.

6 CHAIRMAN STUTO: I'm going to ask the applicant to  
7 talk about their stormwater and their impact - just to  
8 clarify a little bit more.

9 MR. BIANCHINI: There is a stream back here and  
10 then he is correct, there is another stream that kind of  
11 goes off the side of that. That's over here  
12 (Indicating). That's not on our property. We are not  
13 into that or draining into that. Our stormwater  
14 management system consists of a bioretention area which  
15 as I indicated was basically a sand filter. It's like  
16 two and a half feet of sand and gravel underneath that.  
17 Under that is an underdrain and then a liner underneath  
18 that. The water will collect here and in a real heavy  
19 storm it will temporarily pond here. Then, it all drains  
20 out towards the wetlands. The wetlands are all back here  
21 (Indicating), but then what we've got is a diffuser. I  
22 think it's like 60 feet long and the water just leaks  
23 out. It's not concentrated. It goes out over that 60  
24 feet so it disburses it.

25 CHAIRMAN STUTO: And it's already filtered.

1 MR. BIANCHINI: Yes, it's all filtered. All the  
2 water that goes through there is filtered.

3 CHAIRMAN STUTO: I'm not sure if he heard it, but  
4 thank you.

5 Kevin Broad.

6 MR. BROAD: I live at 58 Laura Drive. We purchased  
7 our home four years ago. I could honestly say that I  
8 would not purchase today had this been up and running. I  
9 think that the term was used - you can barely see light  
10 from Route 7. I have a two-year old son who can spot  
11 cars driving by without the headlights on from our  
12 location. So, obviously light would be an issue.

13 I think that safety is a major concern coming  
14 in and out of Route 7. I challenge any one of you  
15 three gentlemen during rush hour to come from the  
16 east and turn left into that development. I wouldn't  
17 want to be the one driving back and forth with my  
18 family multiple times a day. I think that safety is  
19 a concern with the wetlands backing up and having 20  
20 to 100 people living in that area and walking around  
21 the walking path and having it filter down into the  
22 wetlands. We face that wetland area and I wouldn't  
23 want people popping in and out. I think that it's a  
24 big safety concern for myself and my family at this  
25 point and I'm strongly against it. Hopefully you

1 guys will take our thoughts into consideration.

2 CHAIRMAN STUTO: Thank you.

3 MR. CONANT: Hi I'm Bob Conant. I live at 814 Troy  
4 Schenectady Road which is just on the other side. It's  
5 this property right here (Indicating).

6 I would make a note just in terms of the  
7 lighting - I appreciate what the Town Engineer had  
8 mentioned about the fixture. I know that New York  
9 State United Teacher's Union changed out all their  
10 bulbs in their parking lot to LEDs and it gave a lot  
11 of glare the first few days and then I ended up  
12 getting used to it. Their fixtures are up pretty  
13 high and they are all downward facing. There is a  
14 lot of spill over into my yard. I live on Route 7  
15 and I kind of expect that.

16 I know that this will add more light in the  
17 area, but there is also a lot of screening in terms  
18 of the trees.

19 I personally am not opposed to it. I understand  
20 the decorative versus the downward facing of the  
21 lights. I'm fine with either one. I'm in favor of  
22 the proposal. I understand my property is  
23 potentially downstream and it could end up being  
24 commercial as well and change to something along  
25 these lines. I'm being realistic. It's not a

1 residential area, in general, in terms of single  
2 family dwellings. In 100 or 150 years from now it's  
3 going to be changing over. It's the Route 7  
4 corridor. That's all I have to say.

5 CHAIRMAN STUTO: Thank you for your comments.

6 Okay, we'll open it up to the Board and we  
7 won't forget about that light issue.

8 MS. DALTON: I did have a question about the  
9 waterline. You said that it was going to have to be  
10 under Route 7?

11 MR. BIANCHINI: Yes. The main waterline on Route 7  
12 is on the north side. So, we have to directionally bore  
13 underneath Route 7 and bring it up over here  
14 (Indicating) and bring it into the site.

15 MS. DALTON: Do you have to close down the road to  
16 do that?

17 MR. BIANCHINI: No. It's all done underground. With  
18 a directional bore, you dig a hole on each end.

19 MR. GRASSO: The reason why that is required is so  
20 you don't have an open trench across the road. You'd  
21 either have to shut down traffic or have long-term  
22 settlement issues.

23 MS. DALTON: Our traffic is already unbearable. If  
24 you were to even take down one lane at a time when you  
25 did it, I can't imagine what that would do to the

1 traffic on that road now at those peak times.

2 MR. BIANCHINI: They will set up work ahead signs  
3 and all those typical signs that they have, but they  
4 don't have to close down any lanes to do it.

5 MS. DALTON: As for the lighting -- anything that  
6 you can do to keep us from seeing that, would be  
7 appreciated.

8 MR. BIANCHINI: This is the fixture that we had  
9 proposed. It's more of a residential style.

10 CHAIRMAN STUTO: How many locations would those be  
11 in? All over the place?

12 MR. GRASSO: There is a lot of them.

13 MR. BIANCHINI: There is probably 20-some odd  
14 lights there. They are eight foot high poles with a  
15 fixture on top. You can get them the other way but they  
16 are flat and not as attractive.

17 MR. GRASSO: But it's that glow. Even though it's  
18 down-light style and not the light is up on the head,  
19 they have modified things over the past 20 years to  
20 address that. It will still be an illuminated glow.

21 MR. LACIVITA: You should look at the lighting that  
22 was used at the mosque on Route 2. It's a cone that  
23 comes down and doesn't diffuse more than probably seven  
24 feet from the center pole. It's a location that I sent  
25 someone else. It's phenomenal. It just illuminates the

1 sidewalk into the parking area and then it diffuses  
2 after that.

3 MR. BIANCHINI: We'll look into that.

4 CHAIRMAN STUTO: Does the board have a consensus on  
5 that?

6 MR. MION: I agree with what both Joes said. I  
7 think that out of consideration for the public -

8 MR. BIANCHINI: That's fine.

9 CHAIRMAN STUTO: So, you'll work it our subject to  
10 TDE and the departmental approval.

11 MR. AUSTIN: If we have an architect here and he's  
12 interested in designs, maybe he'd like to design a  
13 light.

14 MR. BIANCHINI: We could do a solar light up there.

15 MS. TALLMADGE: You can make your comments but you  
16 don't have to live by it.

17 MR. AUSTIN: But if it is designed correctly, then  
18 I think it would be appropriate. You can see this is  
19 very limited. There is either a potentially very  
20 attractive fixture rather than some flattopped fixture.

21 MR. BIANCHINI: We'll take a look at what Joe  
22 suggested.

23 CHAIRMAN STUTO: Any other comments from the Board?

24 MR. MION: Around your stormwater management pond.  
25 Will there be a fence or something else around there?

1           MR. BIANCHINI: We hadn't anticipated putting a  
2 fence around it; no.

3           MR. MION: My concern would be if you had children  
4 in there, you wouldn't want them to be playing around  
5 there if there were water in there.

6           MR. BIANCHINI: There will be water in this pond  
7 all the time. These slopes around are gentle slopes and  
8 the slopes going into the pond will be gentle. We wanted  
9 the pond there as a feature.

10          MR. MION: I get what you're saying. Who are you  
11 going to rent to?

12          MR. HOLLAND: They are market rate apartment. So,  
13 it would be people who qualify to pay the rent. There  
14 are one, two and three bedroom apartments but this is  
15 not going to be a deep lake.

16          MR. BIANCHINI: It's like four feet deep.

17          MR. MION: That's enough to drown.

18          MS. MILSTEIN: People who know that they are going  
19 to be looking at that are going to see the pond. They  
20 can make their decision whether they want to take the  
21 risk if they have children that there is an open pond.  
22 There are plenty of open ponds in this area and if they  
23 want to take the risk of liability, they can take the  
24 risk of liability.

25          MR. HOLLAND: We're trying to make it not look like

1 water retention and then give them a nice feature.

2 MR. MION: I am just suggesting as a safety point.  
3 I do agree with the aesthetics of what you are saying.

4 CHAIRMAN STUTO: Any other comments?

5 MS. TALMADGE: Okay, they have this pond. You make  
6 people who have swimming pools have fences. Why can't  
7 there be a fence around the pond? You make people who  
8 have a swimming pool in their yard -

9 CHAIRMAN STUTO: Okay, we'll address that.

10 Joe, do you have any recommendations on that  
11 and does the Code require a fence?

12 MR. GRASSO: It does not.

13 CHAIRMAN STUTO: Do you have an opinion on it?

14 MR. GRASSO: In private facilities where you're  
15 trying to make the stormwater management basin an  
16 aesthetic feature like this type of development plan, we  
17 don't recommend a fence. When we are looking at a Town  
18 owned facility and a large residential neighborhood -  
19 when people aren't understanding whether or not there is  
20 expected to be water there or how it's going to be  
21 controlled, in those instances, we do support use of a  
22 fence. Not all stormwater management areas should be  
23 fenced.

24 MS. DALTON: My understanding is that there is  
25 going to be a fountain in there, right?

1 MR. GRASSO: Yes.

2 MS. DALTON: So, it's not like you're going to miss  
3 it.

4 MR. HOLLAND: No, and I think that the intention  
5 is, again, to make it as a natural setting as possible.  
6 That's what we are trying to do is make it as attractive  
7 as possible.

8 MS. DALTON: Given where you've got it - and I've  
9 said this before. I recognize that you've gone through a  
10 lot of iterations. I do appreciate that you tried to  
11 incorporate our comments into your iterations.

12 Like my neighbors, I have a natural  
13 disinclination to think that this belongs here.  
14 Unlike some of my neighbors, I do recognize that you  
15 have made huge efforts to try to accommodate some of  
16 our concerns. So, for that, thank you.

17 CHAIRMAN STUTO: Any other comments from the board?

18 (There was no response.)

19 I will make my final comment.

20 I echo lot of what Kathy said. You have made  
21 great strides in improving this in a lot of ways.  
22 Some of it was to the benefit of the neighbors and  
23 some of it was to the benefit of the rest of the  
24 town including the traffic in and out, visuals,  
25 closing down the openings to Route 7 and also the

1 visual of the architectural -- I think it's going to  
2 look good. I guess that's a subjective opinion.

3 There is going to be an impact to the back. I  
4 think we have done our best to minimize that. They  
5 are not encroaching on the wetlands. They are not  
6 encroaching and the buffer to the wetland. I think  
7 that it has vastly improve over a long period of  
8 time with a lot of hard work. They've been paying  
9 taxes and for a long time. It is zoned correctly for  
10 what they are trying to do. That's my humble  
11 opinion.

12 If there is no further comment, we will move  
13 on to the action on it.

14 MR. GRASSO: The first action item should be a SEQOR  
15 determination. There is a short EAF in your packets.  
16 Part one was completed by the applicant. It describes  
17 the environmental setting of the project and the  
18 anticipated environmental impacts.

19 Part II is a series of questions that are  
20 asked regarding the level of impacts, all of which  
21 would be considered either no impact or negligible  
22 impact.

23 Part III - the Planning Board - which is the  
24 lead agency regarding the action. It is the  
25 determination of significance. The neg dec

1           signifies that based on the information in the  
2           analysis above and all of the supporting  
3           documentation that the proposed action will not  
4           result in any significant adverse environmental  
5           impacts.

6           CHAIRMAN STUTO: Any comments or questions on that?

7           (There was no response.)

8           Do we have a motion on the negative  
9           declaration?

10          MR. MION: I will make that motion.

11          MR. AUSTIN: Second.

12          CHAIRMAN STUTO: Any discussion?

13          (There was no response.)

14          All those in favor say aye.

15          MR. MION: Aye.

16          MR. AUSTIN: Aye.

17          MR. MION: Aye.

18          MR. SHAMLIAN: Aye.

19          CHAIRMAN STUTO: Aye.

20          All those opposed, say nay.

21          MS. DALTON: Nay.

22          CHAIRMAN STUTO: We have one nay.

23          The ayes have it.

24          MR. GRASSO: There is a Resolution on the waiver of  
25          findings. There is one waiver that is required and that

1 is related to the 80% minimum frontage build out and I  
2 will paraphrase the Resolution in your packets.

3 Whereas the applicant is requesting a waiver  
4 from the Town of Colonie Land Use Law under design  
5 standards for the commercial office residential zone  
6 related to the 80% minimum frontage build out, be it  
7 resolved that the Board hereby finds that the extent  
8 of the requested waiver is not considered  
9 substantial.

10 And be it further resolved that the Board finds  
11 the applicant has established that there are no  
12 practical alternatives to the proposed waiver that  
13 would conform to the standard and that the waiver is  
14 necessary in order to secure reasonable development  
15 of the project site.

16 In be it further resolved that the Board hereby  
17 issues a waiver from the minimum frontage build out  
18 of 80%.

19 This would be upon a condition of site plan  
20 approval.

21 CHAIRMAN STUTO: I will ask that the stenographer  
22 put the entire Resolution into the record.

23 To have any discussion on that one Resolution?

24 (There was no response.)

25 Do we have a motion?

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

2 MR. AUSTIN: Second.

3 CHAIRMAN STUTO: Any discussion?

4 (There was no response.)

5 All those in favor, say aye.

6 (Ayes were recited.)

7 All those opposed, say nay.

8 (There were none opposed.)

9 The ayes have it.

10 With respect to the primary question before us  
11 which is for final approval - final site plan  
12 approval with the conditions set forth in the TDE  
13 letter and the Town comments and also specifically  
14 about the lighting that is going to be approved  
15 shortly between the applicant, TDE and the Town  
16 Department, do we have a motion?

17 MR. MION: I will make that motion.

18 MR. AUSTIN: Second.

19 CHAIRMAN STUTO: Any discussion?

20 (There was no response.)

21 All those in favor say aye.

22 MR. MION: Aye.

23 MR. AUSTIN: Aye.

24 MR. MION: Aye.

25 MR. SHAMLIAN: Aye.

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CHAIRMAN STUTO: Aye.

All those opposed, say nay.

MS. DALTON: Nay.

CHAIRMAN STUTO: I do hear one nay.

The ayes have it.

(Whereas the above entitled proceeding was  
concluded at 7:20 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 \_\_\_\_\_

