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PLANNING BOARD COUNTY OF ALBANY

TOWN OF COLONIE

CUMBERLAND FARMS
1157 CENTRAL AVENUE

APPLICATION FOR SEQR DETERMINATION
DESIGN CODE WAIVERS AND FINAL REVIEW

THE STENOGRAPHIC MINUTES of the above entitled matter
by NANCY L. STRANG, a Shorthand Reporter commencing
on December 5, 2017 at 7:18 p.m. at The Public
Operations Center, 347 Old Niskayuna Road, Latham,
New York

BOARD MEMBERS:
PETER STUTO, CHAIRMAN
BRIAN AUSTIN
LOU MION
CRAIG SHAMLIAN
STEVEN HEIDER
SUSAN MILSTEIN

ALSO PRESENT:

Kathleen Marinelli, Esq., Counsel to the Planning
Board
Joseph LaCivita, Director, Planning and Economic
Development Department
Michael Tengeler, Planning and Economic Development
Department
Stephanie Bitter, Esq.
James Gillespie, PE, Bohler Engineering
Charles Voss, PE, Barton and Loguidice
Jim McGinn
Wendy Holsberger, PE, VHB
Ross Galloway, First Hartford Realty
Tim Agars
Judy Rosenberger

1 CHAIRMAN STUTO: The next item on the agenda is
2 Cumberland Farms, 1157 Central Avenue, application for
3 SEQR determination, design code waivers and final
4 review, construct a 4786 square foot convenience store
5 and six pump fuel canopy.

6 MR. LACIVITA: Peter, we are just going to get
7 a couple of dates on the record. The project was before
8 the DCC on September 2015. Then, we had sketch before
9 the Board on October 2015. Concept was first sought on
10 September 2016 and then granted March 2017.

11 Stephanie Bitter is here tonight as part of
12 the design team of Cumberland Farms to take us through
13 SEQR and final.

14 MS. BITTER: Good evening. I'm here with Jim
15 Gillespie from Bohler Engineering, Wendy Holsberger from
16 VHG and Ross Galloway from First Hartford.

17 As Joe mentioned, our hope this evening is to
18 get final approval.

19 Just an overview for where we have been since
20 March and to give you a little bit more detail as to
21 the projects: What we are proposing is a new
22 Cumberland Farms at 157 Central Avenue. The size of
23 the store will be 4,794 square feet in size and
24 supported by a six gas pump fuel island.

25 The current owners are 1095 Loudon Road, LLC.

1 As Joe briefly mentioned, they actually
2 started this pursuit for a gasoline station on the
3 site which Cumberland Farms jumped on that concept and
4 made a little bit smaller in size.

5 The parcel is 1.9 acres in size. It is
6 located on the corner of Central Avenue and Reynolds
7 Street. It is in the NCOR zone, so we do have six
8 waivers that we are seeking from you folks this
9 evening.

10 The last time that we were here for concept
11 was in March. At that time, the primary discussion was
12 with the access points. Since then, we have modified
13 the site plan and removed the right-in that was
14 located after Reynolds Street, pursuant to discussions
15 with the Town Planner and the TDE. We felt that was a
16 positive compromise.

17 Wendy did have informal discussions with DOT
18 and received a letter demonstrating their support for
19 this access plan on December 1st which has been made a
20 part of your record.

21 This store, as you are familiar with - the
22 stores that were constructed on Troy Schenectady is
23 the new and improved Cumberland Farms - the colonial
24 design, the stonework, the columns, the Gables - it
25 has been very positively received on both ends of Troy

1 Schenectady Road as they currently exist.

2 There is a depiction of the proposed project
3 that is right before me this evening.

4 To those waivers - there are six - the canopy
5 that we are proposing is in the front of the site. The
6 20 foot max build setback - we are not able to achieve
7 because of this layout.

8 The parking is also on the front, as
9 demonstrated. The front build-out is not attained. As
10 the parking deficiency which we did talk about that
11 concept -- 48 required and 39 proposed which includes
12 the spots at the canopy.

13 The parking area setback, which is on this
14 northern line, is not maintained. We have included
15 justifications in our application.

16 Again, I'll just briefly tell you what our
17 support is for those waivers.

18 This layout has not only been demonstrated to
19 work on the Troy Schenectady sites, but for this site
20 in particular because it is a mixed-use with those
21 residential parcels around it. To put the canopy in
22 the front is obviously beneficial so as to have a
23 buffer from those residences as much as possible. So,
24 with having that canopy in the front obviously the
25 parking is in the front and that setback is not able

1 to be achieved - that maximum setback of 20 feet.

2 Relative to the front build-out, we have
3 placed landscaping in the front and that fence that
4 has been positively received again in those Troy
5 Schenectady stores that demonstrate a build-out of
6 sorts.

7 The parking deficiency - we are requesting
8 39.

9 We did have before you in March banked
10 parking spaces, but they were again back in this area
11 (Indicating). Based on public comment, we wanted to
12 lessen whatever impact that was occurring back here.
13 So, we didn't eliminate those banked spaces.

14 The last one is the parking area setback.
15 Again, it is located on this which over here
16 (Indicating) and is also commercial, so we feel that
17 there is limited impact. More importantly, our tanks
18 are located in there - especially since we had to
19 eliminate that right-in. So, it is necessary that we
20 have that encroachment so that we can facilitate those
21 tanks and have the pavement to protect that tank area.

22 The last item is we did incorporate a bench.
23 CDTA had requested that as part of the concept. During
24 that concept meeting there was a discussion about how
25 the store will be 24/7. Again, we are proposing that.

1 We would like to see the store remain 24/7.

2 I think that the Board had asked us to do
3 some investigation as to what the store in the Village
4 of Colonie is. That is 24/7. In speaking to the store
5 manager as well as store employees, it has been
6 positively received to be open at night because there
7 are businesses that have employees that have night
8 shifts that stop at the store for needs. Obviously,
9 there are no other stores that are open at that time.

10 I did mention during concept that because
11 this is an a mixed-use zone, having that store open
12 24/7 is positive for the residents because of whatever
13 nightly needs they may have, they can scoot out to the
14 store real quick. It's better than having the store be
15 dark. We don't feel that there will be a negative
16 impact with it being 24/7. We also don't expect there
17 to be any noise with a 24/7.

18 Also, the lights will be downcast. So, there
19 should not be any light pollution that should be an
20 issue.

21 I don't know if you want to open it up for
22 questions. I have Jim here to talk about the site
23 plan, should there be any direct questions that you
24 have.

25 CHAIRMAN STUTO: We will ask for comment from

1 our Town Designated Engineer.

2 I just want to let the public know that this
3 is a proposed voting item. If you would like to be
4 heard on this item, please sign in on the sign-in
5 sheet on the table near the door.

6 We will turn it over to Chuck Voss from our
7 Town Designated Engineer Barton and Loguidice.

8 MR. VOSS: Peter, thank you.

9 The Board should have in their packets dated
10 November 29, 2017 our final site plan review letter.
11 It is a very short brief letter. We have gone through
12 multiple reviews on this project with the applicant
13 over the last several months from concept right
14 through to first and second preliminary and now final.

15 With the addition of the modifications to the
16 site that Ms. Bitter referred to just recently, we
17 really don't have any additional technical comments of
18 the site.

19 From a utility standpoint, it works very
20 efficiently now that they have the sewer, water and
21 storm water being managed on site as proposed and as
22 per the designs.

23 With the removal of the westerly curb cut
24 onto Central Avenue, the internal site was flipped and
25 some of the amenities inside were flipped.

1 The fuel tanks were moved to the west side of
2 the site. Prior to that, they were on the east side.
3 Now, the storm water systems have ultimately switched
4 back as well. That did not pose any additional
5 technical concerns for us when we looked at those from
6 a utility standpoint.

7 The storm water works efficiently now on the
8 site. That is all being handled subsurface towards the
9 front of the site and there is nothing towards the
10 rear.

11 The parking and the traffic circulation was
12 an issue that I know the Board had early on. We looked
13 at that and we have worked with the applicants and
14 their consultants to look at and find the tractor
15 trailer movements that the Board, I think, was
16 initially concerned with. Now, that flow works much
17 better and diverts the truck traffic primarily onto
18 Central Avenue as the access to the site.

19 Other than that, we did not have any other
20 technical comments. We had some minor details on some
21 filed plans that Jim can certainly address.

22 CHAIRMAN STUTO: What about the parking spots -
23 the parking deficiency? What is your opinion on that?

24 MR. VOSS: On the waiver, we don't have a
25 concern with that, Peter. Typically, the Board has

1 granted waivers from parking for sites like this as well
2 and you have relied on the applicant's determination to
3 understand what the best needs are for parking.

4 CHAIRMAN STUTO: I don't know if I agree with
5 that statement. We have granted waivers, but that's a
6 waiver that we like to look at closely.

7 MR. VOSS: And I think that you have.

8 CHAIRMAN STUTO: And get your opinion.

9 MR. VOSS: My opinion is that the site works
10 well from a parking standpoint. There may be peak hours
11 where you have the site fully utilized in parking. That
12 is not uncommon with a project like this. However, I
13 think if you were to build additional parking to handle
14 maybe the extreme flow situations, he would wind up with
15 a lot of vacant asphalt the majority of the time which
16 would further contribute to the storm water issues. It
17 is a relatively flat site. So, I think that any way you
18 can minimize the surface - the additional surface runoff
19 and additional storm water management issues is better.
20 Certainly the site is large enough to allow for banked
21 parking, if it is certainly needed. Again, you are
22 starting to encroach closer towards the adjacent homes
23 and those types of things. From our traffic standpoint,
24 the 39 spaces seem to work fairly efficiently.

25 CHAIRMAN STUTO: It is designed with 39?

1 MS. BITTER: Yes

2 CHAIRMAN STUTO: What does the Code call for?

3 MS. BITTER: Forty-eight.

4 CHAIRMAN STUTO: There are three members of the
5 public that want to speak.

6 Does the Board want to speak, or do we want
7 to hear from the public?

8 MS. MILSTEIN: Hear from the public.

9 CHAIRMAN STUTO: Okay, Jim McGinn?

10 MR. MCGINN: Jim McGinn. I live at 30 CortHELL
11 Street, which is right behind here (Indicating). My only
12 concern and my aunt who lives next door and owns that
13 property -- is the traffic from this entrance. Even
14 though it has a tractor trailer -- whenever Mr. Phillips
15 had it, they had to deliver on Reynolds constantly
16 backing into CortHELL which is the side street right
17 here (Indicating). Then, going back down Reynolds or
18 coming around and going down to Osborne and out. My main
19 concern is this entrance (Indicating).

20 As I indicated, I have been there all my
21 life. The Town of Colonie made Terminal Hardware put
22 concrete posts on their entrance to Reynolds because
23 it was unsafe. Now, you are saying that it is safer
24 with more traffic than what Terminal Hardware had. As
25 I say, I have lived over the top of it.

1 That is most of what my neighbors' main
2 concern is.

3 Getting out onto Central Avenue at rush hour
4 -- if you are going down, forget it. To get across
5 traffic just sucks. They are going to come up, go down
6 Cortwell, go down Osborne and out at the light. We
7 have a school bus stop right there, which is heavy.
8 There are a lot of kids at it.

9 They are 24 hours. When it went to the
10 Zoning Board to get the approval to get their variance
11 to get the gas station, it was stated that it was
12 going to be limited hours. It was not going to be 24
13 hours. Now, they are asking for 24 hours. So, their
14 variance was given under the understanding of limited
15 hours. Then, all of the sudden they are saying that
16 they want to stay open 24 hours.

17 I don't mind the parking. I like this and I'm
18 not sure if it's in here or not, but at the last
19 meeting they said the possibility of storage back here
20 was out there. I wasn't sure about how that could be
21 addressed as to whether they could.

22 I love the building. I love the concept of it
23 being there. It will be nice.

24 As I said, we live right back here
25 (Indicating).

1 The down-lighting was a big issue. They
2 solved that. Any possibilities of putting stuff back
3 there is they are putting stuff -

4 CHAIRMAN STUTO: What is your issue about
5 storage? I'm not sure I understand it.

6 MR. MCGINN: At the last meeting they proposed
7 the possibility of using -

8 MS. BITTER: That was the storm water system
9 there.

10 MR. MCGINN: No, they had talked to possibly
11 using that in the future for storage.

12 MS. BITTER: For the banked parking spaces?

13 MR. MCGINN: Banked parking spaces and storage.

14 CHAIRMAN STUTO: If they store back there, they
15 are violating the law.

16 MR. MCGINN: Okay, and as I said, the traffic.

17 CHAIRMAN STUTO: We'll talk about traffic.

18 Chuck, can you address the issue about the
19 tankers going back into the neighborhood and why we
20 eliminated the other curb cut and so forth?

21 MR. VOSS: Certainly. I think that the
22 applicant's consultant can add to that discussion
23 because they did a detailed traffic analysis.

24 CHAIRMAN STUTO: Okay, we can hear from the
25 traffic engineer.

1 MR. VOSS: They might have the answers to a
2 bunch of questions quicker than I can.

3 MS. HOLSBERGER: For the record, Wendy
4 Holsberger, VHB.

5 So, with the tanks on this site, the trucks
6 for Cumberland's fuel will come in off of Reynolds.
7 They will come here because they off-load on the
8 passenger's side and they will exit here.

9 CHAIRMAN STUTO: They almost have to, right?

10 MS. HOLSBERGER: They can't do it on the
11 opposite.

12 CHAIRMAN STUTO: Do you understand that, sir?

13 MR. MCGINN: Yes, but what about the delivery
14 trucks? I'm talking vendors and everybody else.

15 MS. HOLSBERGER: Again, the pattern is to come
16 off -- we don't see a reason why they would be going
17 back into the neighborhood. There is ample space.

18 CHAIRMAN STUTO: He is saying heavy traffic and
19 they want to make a left-hand turn on Central Avenue,
20 they're going to go through the neighborhood to get to a
21 traffic light. That's what he is saying.

22 MS. HOLSBERGER: Again, it does limit the truck
23 traffic, so it's local deliveries. Certainly the intent
24 is for them to go here. I don't foresee them going in
25 the back. I don't know that delivery trucks would know

1 that there is a signal connection back there. It's not
2 necessarily a route that anyone would really utilize to
3 go through the neighborhood. It's not a comfortable
4 move for a delivery truck, by any means, to go through
5 any neighborhood.

6 CHAIRMAN STUTO: That's not a real engineering
7 answer.

8 MS. HOLSBERGER: Our point is that Central
9 Avenue is the main access that is going to be utilized
10 for the deliveries.

11 As far as an engineering answer, it's more of
12 a travel pattern or path and usually when you cut
13 through a neighborhood, the reason that you cut
14 through a neighborhood is that it's a cut-through
15 route that is easier to get through for a truck
16 through a neighborhood. That's not their typical
17 pattern. That's not where we are seeing them going.

18 Typically the Cumberland trucks are not going
19 to be doing that. There is no reason. I don't know why
20 the other trucks and what the reference to other
21 trucks turning around and backing up would be. That's
22 not something that we foresee at this site.

23 CHAIRMAN STUTO: Who do you take deliveries
24 from? You take fuel deliveries?

25 MR. HOLLOWAY: It's all Cumberland Farms.

1 MR. MCGINN: They have beer deliveries. They
2 have soda deliveries. They have chip deliveries.

3 CHAIRMAN STUTO: Is that true?

4 MR. HOLLOWAY: I would have to check on that.
5 Most of the stuff comes by one truck. Coca-Cola, Pepsi -
6 they all deliver to the warehouse and everything is put
7 on a truck and brought to the store.

8 CHAIRMAN STUTO: And you work for Cumberland?
9 What is your name?

10 MR. HOLLOWAY: Ross Holloway.

11 CHAIRMAN STUTO: So, we don't have a definitive
12 answer on that one.

13 MS. HOLSBERGER: The owner was just commenting
14 that - obviously the building is no longer there, but
15 there are garage doors on the Reynolds Street side - on
16 this old structure from Philips Hardware. Obviously, it
17 is not with our concept. Our concept is everything on
18 the site. The deliveries are going to be occurring on
19 the site. There is no Reynolds connection where there
20 was that close proximity.

21 MR. MCGINN: I think that eliminates the issue
22 of parking on Reynolds to make the delivery the way it
23 used to be with Phillips.

24 MS. BITTER: I'm not a traffic engineer, again.
25 Common sense kind of plays a role here that these

1 deliveries are not going to be made at the peak time.
2 They're not going to come in at 8:00 a.m. or 7:00 a.m.
3 when all these people are there because it's going to
4 screw up their delivery and the site is going to be
5 packed with traffic. That is their peak time. The store
6 manager can talk to the delivery trucks as to when they
7 are going to be coming and going.

8 CHAIRMAN STUTO: Chuck, what do you say about
9 all of this?

10 MR. VOSS: In dealing with the Stewart's sites
11 and the other convenience store sites that we have been
12 dealing with, oftentimes what will happen is the manager
13 is concerned in terms of access on a side road -- the
14 managers will prohibit their deliveries from those
15 trucks using the side roads going up and down the side
16 roads. Maybe that's a suggestion that this site could
17 make to their delivery vehicles as they come and go. The
18 reality is that they are all public streets. They are
19 free to use those streets any time. Whether or not they
20 are large trucks or not, unless they are weight
21 prohibited or prohibited and it is enforced by the Town
22 -

23 CHAIRMAN STUTO: Can we prohibit left-hand
24 turns onto the side street?

25 MR. VOSS: As part of this application? I don't

1 think so. I think that is a Town Highway Department
2 Engineering jurisdiction to police. I think you can put
3 that as a condition.

4 MS. BITTER: That was discussed earlier on in
5 part or some by the Board comments. That kind of
6 defeats the purpose of some of the neighborhood use.
7 There are lots of residential streets that are attached
8 to this. So, now if you have a neighbor that stops at
9 the Cumberland Farms on their way home, now they're
10 taking a left onto Central Avenue and another left onto
11 Reynolds Street, which really doesn't serve the
12 neighborhood very well.

13 CHAIRMAN STUTO: They can take a right and then
14 figure it out that way.

15 MR. VOSS: I guess the other thing that you
16 have to weigh is how systemically significant is it that
17 trucks are going to be making those movements? The
18 reality is it's probably not going to happen very
19 frequently with this new site. It may have happened
20 fairly frequently with the old site because they had
21 different types of products on site and many different
22 vendors that had to come in for a hardware store.

23 With this, the applicant has acknowledged
24 that they have basically one, so to speak, vendor that
25 is going to supply that site which is Cumberland Farms

1 - with product and fuel. I think that it is a
2 legitimate concern that you don't want trucks pulling
3 up and there. Cortshell Street is tight.

4 CHAIRMAN STUTO: So, what signs are we going to
5 have?

6 MS. BITTER: As far as any restrictions? There
7 is an existing sign when you get in onto Reynolds Street
8 that does have a weight restriction. So, when that
9 happens, you are only allowed for local deliveries.
10 Obviously, if there is a UPS truck and if you move into
11 a home and you need to have a delivery -- so, it is
12 restricted.

13 CHAIRMAN STUTO: Is there such a sign as no
14 left-hand turns for trucks?

15 I'll ask the Chief.

16 MR. HEIDER: There are truck exclusions, but
17 mind you that as soon as you put that entrance there
18 that makes it part of the neighborhood. So, they could
19 always go to court and say wait a second, we are a local
20 delivery and we were on our local delivery when we went
21 into the neighborhood.

22 Don't get me wrong, I was not here for the
23 whole project. This is the first time that I have seen
24 this. We have seen a similar application and I think
25 we are spending way too much time developing access to

1 sites for the owners without regard for some of the
2 neighborhood people.

3 DOT doesn't want any more curb cuts. This
4 site now - that entrance is designed for traffic.

5 MS. BITTER: DOT's policy is if there is an
6 existing side road, it is their preference -

7 MR. HEIDER: Because they don't care about the
8 neighborhoods.

9 MS. BITTER: Not necessarily because they are
10 still coming to and from the state road, but it is to
11 utilize an existing curb cut -- it is definitely a
12 preferred option. That's what we were doing. We
13 originally did have that right-in access as a potential
14 so that the trucks could come in and that was
15 determined. CDTA had a concern about that with it being
16 an access behind the bus bay.

17 New York State DOT had a concern. That was
18 talked through in detail and it was determined that
19 the use of that small section of Reynolds Street was
20 appropriate for those trucks.

21 CHAIRMAN STUTO: So, did you have another
22 comment?

23 MR. MCGINN: My comment was that the sign is
24 already there. It is just ignored. It was ignored.

25 I am a retired vendor. Vendors deliver to

1 Cumberland Farms. It's not all by just Cumberland
2 Farms. So, there are other vendors that do deliver
3 there. They are going to take the easiest route. It is
4 just the nature of the beast.

5 As you can see here, when she was speaking
6 here they did not want another curb cut.

7 For Philips Hardware, there were two curb
8 cuts on Central Avenue. They are not adding any, they
9 are taking one away and putting an entrance on
10 Reynolds. To get into Terminal Hardware or to Philips
11 Hardware, you came in off Central and out onto Central
12 on both sides of the bus stop. Now they decided that
13 didn't work anymore. DOT decided, but DOT doesn't know
14 the neighborhood as the Town of Colonie does.

15 I will bring up again that way back when you
16 thought it was unsafe when there was a quarter of the
17 cars going through there. Now, with four times the
18 cars, you are saying that it is safe. That's all.

19 MR. LACIVITA: There was parking on Reynolds
20 Street, wasn't there from an access standpoint?

21 MR. VOSS: It was a paved area.

22 MR. LACIVITA: So, you could argue that was
23 that access. It was wide open.

24 CHAIRMAN STUTO: Tim Agars.

25 MR. AGARS: My name is Tim Agars. I live at 42

1 Corthell Street. I live right about here (Indicating). I
2 would like to keep it short.

3 My concerns are very much what Jim had. I
4 just want to basically say that I am reiterating the
5 same thing there.

6 I do like that they pulled this back in and
7 it is a larger area (Indicating). I see that there is
8 some greenery happening here. This whole section is
9 very dead compared to what you even see in this
10 picture down here. There's only about three real trees
11 that are mostly dying. The hardware store, before they
12 were gone, took out a number of them in there.

13 So, my concern is mostly just that this might
14 be an open area and it is a nice buffer, but I'm also
15 going to be able to see right into this back area
16 (Indicating). So, anything that can be done to expand
17 around the greenery there would be appreciated.

18 That's all I have.

19 CHAIRMAN STUTO: Okay, can we talk about the
20 screening towards that side?

21 MR. GILLESPIE: We concentrated on screening
22 this area and then our focus was to maintain the
23 existing vegetation that is there now.

24 CHAIRMAN STUTO: Chuck is there a visual block
25 there?

1 MR. VOSS: In the wintertime, no.

2 CHAIRMAN STUTO: Can we get some more
3 screening? It should not be expensive, but maybe some
4 more plantings?

5 MR. GILLESPIE: I don't see a problem with
6 that. We could put a row of evergreens there.

7 MR. VOSS: Stagger -- maybe some spruce.

8 MR. BITTER: We can work with Joe on that and
9 his recommendations.

10 CHAIRMAN STUTO: Okay we will do that and make
11 sure that it works.

12 Judy Rosenberger.

13 MS. ROSENBERGER: Actually, you said it all for
14 me. In addition to what these two gentlemen said, when
15 Terminal Hardware was there, there had to be at least
16 six tractor trailer trucks a day coming through.

17 I live on Reynolds Street. They came to
18 Reynolds Street and they will find out that there is a
19 lot there that they can turn around and come back.

20 As a result of that happening, the roads have
21 cracked severely over the past few years -- have you
22 noticed that? I agree with both of you and what you
23 have said. My concern is the trucks will eventually
24 know that they can go up Reynolds, turn around and
25 make a second trip back. The roads are cracking badly.

1 I have a four-page letter into several
2 departments regarding this whole issue.

3 There is a beautiful blue spruce tree on the
4 corner of Reynolds and Central Avenue. It blocks the
5 vision as you are approaching Central to make either a
6 left or a right. People can't see. I can't see people
7 coming.

8 CHAIRMAN STUTO: Can you show us which way that
9 is on the map?

10 MR. GILLESPIE: We are relocating them.

11 MS. ROSENBERGER: You going to clear that view?

12 MR. GILLESPIE: Yes.

13 MS. ROSENBERGER: Especially with the bus stop
14 there.

15 MR. LACIVITA: That was one of the things that
16 we addressed when he called the office and we talked. We
17 asked them if they can be located.

18 MS. ROSENBERGER: Yes, and I didn't know what
19 was happening with that. That was important.

20 Other than the delivery trucks -- is the
21 entrance and exit for the residents going to be on
22 Reynolds Street or are you going to change the
23 direction?

24 MR. HEIDER: That is not going to change.

25 MS. ROSENBERGER: Is there anything that you

1 can do to stop those trucks from traveling through
2 Reynolds Street?

3 CHAIRMAN STUTO: That's what we're talking
4 about. That's our main issue.

5 MR. LACIVITA: One of the things that we looked
6 at was what was existing from the signage perspective
7 now and how do we look at enforcing it. If they can
8 confirm with their vendors and make sure of that, then
9 as this comes to the final approval process, that will
10 be a condition of approval.

11 I have to reach out to Traffic Safety because
12 I don't see anything from them speaking about truck
13 traffic going into the neighborhood. Prior to stamping
14 of the plans or whatever we want to say, I have to
15 reach out to them just to see what recommendation they
16 have for improving the capability of not having trucks
17 going in there. I want to see what is posted as far as
18 a weight restriction and how we can work with that.

19 I do want to go back to the one thing that
20 was brought up about the condition of the ZBA. This
21 was approved back in November or October 2016. There
22 were no conditions placed on this.

23 CHAIRMAN STUTO: I think he was saying that it
24 happened in the discussion and there is no transcript of
25 that, right?

1 MR. LACIVITA: That would be codified into the
2 ZBA conditions. That is typically how they would do it
3 with such a condition.

4 CHAIRMAN STUTO: There is a ZBA transcript in
5 here.

6 MR. BITTER: Right, that was the owner. If I
7 can go back to the turning onto Reynolds. We would be
8 willing to put a sign on the property that stated that
9 trucks cannot take a left hand turn. Obviously
10 internally we will be talking to our vendors. To
11 demonstrate that we are trying to mitigate this the best
12 way that we can, we would be willing to do that. I know
13 that there is signage on Reynolds, but on our site
14 particularly at that access point --

15 CHAIRMAN STUTO: Okay, let's hear from the
16 Board Members.

17 MS. DALTON: I wanted to weigh in on the fact
18 that I am comfortable voting in favor of the waivers
19 specifically because you moved all of the development,
20 if you will, out of that wooded area. So, I think that
21 was a good idea. I am also in favor of adding some more
22 screening there for the neighbors.

23 Then, with regard to the access and the
24 trucks, I think that you can only do what you can do.
25 So, educating your vendors and putting up signs -- at

1 the end of the day, people are going to violate
2 traffic laws. It happens all the time. The best that
3 you can hope for is that you call the police when
4 happens. We can't stop people from turning. We don't
5 have an enforcement action. We have already worked
6 with the Department of Transportation a number of
7 times to try to get the safest access and egress -
8 considering the fact that there is a bus stop there.

9 So, given all of the factors that we had to
10 consider, I really do believe that what we have here
11 is the best that you can do, given the circumstances.
12 So, that's my position.

13 MR. SHAMLIAN: I guess my only question is: Is
14 there a curb that we can put in that would deter trucks
15 from making the left and not cars? Trucks that we are
16 primarily talking about are small tractor trailers. We
17 have seen Pepsi trucks and Coke trucks. We can't stop
18 everything. Is there a curb that is enough of a
19 deterrent for truck, but doesn't preclude a car at
20 enough of an angle that can deter truck traffic?

21 MR. VOSS: There might be some geometry that
22 you can use but to be perfectly honest, a small vehicle
23 can come through just about anything no matter how you
24 design it versus the tractor trailers. You can
25 certainly look for ideas, but certainly bollards closest

1 to the edge would prevent a larger tractor trailer from
2 the swing movement out. Then, you are creating
3 potentially an unsafe situation. I don't know, off the
4 top of my head.

5 MR. SHAMLIAN: What would be the unsafe
6 situation with that?

7 MR. VOSS: Just the geometry because Reynolds
8 Street is not a very wide street.

9 MR. SHAMLIAN: Well, they wouldn't do it again.

10 MS. BITTER: We can certainly look at it. It's
11 not often that you try to restrict certain vehicles, but
12 not another. That can create confusion. If you are
13 building it a certain way and then you put a sign and
14 it's okay for a passenger car to make that turn, that is
15 not a typical design. We can certainly look at it and
16 see if there is a way to do that.

17 I know that Ross was just talking to the
18 Cumberland Farms people while we were talking and they
19 said that they are committed to working with the
20 vendors and making sure they don't make that left
21 turn. That is something they can commit to. Obviously,
22 like you said, you can only do so much. You can talk
23 to them. They have committed to understanding the
24 concerns and their thought is that they are not sure
25 why they would go back there either. They can

1 certainly work with it. We can look to see and we can
2 continue to work with Chuck and see if there is some
3 type of the design. We also have to make sure that
4 design for exiting does not prohibit entering. Between
5 entering cars in the vehicles and snow -- it gets a
6 little tricky.

7 CHAIRMAN STUTO: What would the sign look like
8 they would say no left turns for trucks.

9 MS. BITTER: I can certainly look and see if
10 there is an actual sign that is a standard sign that has
11 some type of a no left and then trucks only or something
12 like that which would be suitable. I can work with
13 Chuck and see if there is a particular sign that would
14 be suitable.

15 CHAIRMAN STUTO: What's your envision in your
16 mind right now?

17 MS. BITTER: There certainly is the circle with
18 the X and that says trucks and no left turn. Then, you
19 would place the placard underneath. There are the
20 add-ons that go with it that you can say trucks. So, it
21 is saying no left and it has the trucks on it or
22 passenger cars or something like that.

23 CHAIRMAN STUTO: So, you are committed to a
24 sign and you're going to look at the geometry?

25 MS. BITTER: Yes.

1 CHAIRMAN STUTO: Sir, did you want to say
2 something else?

3 MR. MCGINN: Coming out of Colonie Center there
4 is a sign on their property that says buses only
5 left-hand turn. That type of sign does exist. The buses
6 go up and people are not supposed to go up Central
7 Avenue.

8 MS. BITTER: So, it's the no right turn except
9 buses on that sign that he is referring to. It's the
10 same circle with the X that we are talking about. Then,
11 it has an addition that says except buses.

12 MR. GILLESPIE: I know that we were talking
13 about Phillips and probably all their deliveries with
14 those garage doors with the truck parking facing this
15 way unloading. Their easiest route was to go through the
16 neighborhood. Our deliveries are all going to happen
17 over here (Indicating). The fuel deliveries are going to
18 happen here. Our delivery door is here. So, everyone is
19 either going to back in here and unload. This should be
20 a very difficult movement. This is not a natural
21 movement to try to take a left across the canopy and all
22 the traffic in here to go out Reynolds. The easiest and
23 most logical route is just straight out to Central. It
24 just makes sense that this would very rarely happen for
25 our deliveries.

1 MR. LACIVITA: Living near that Cumberland
2 Farms on Swatling - that same type of movement that Jim
3 just explained -- they are going out to Route 2. They
4 are not coming onto Swatling Road with all these
5 delivery trucks. They are backing in, doing what they
6 have to do and getting out to the easiest route. I am
7 there a lot, so I can see it happening.

8 CHAIRMAN STUTO: Anything else from the Board?

9 MS. ROSENBERGER: For the truckers that choose
10 to ignore that sign, is there any way that -- there are
11 a lot of children. As you said, it is a narrow road.
12 There are a lot of children on that street. Is there any
13 way that we could reduce the speed limit on the road?

14 MR. HEIDER: That is the designated speed
15 limit, Townwide.

16 MS. ROSENBERGER: These trucks do not go slow.

17 MR. MCGINN: It is a matter, again, of
18 enforcement. That's all it is. With the sign for the
19 tractor trailers - it is there, but it was ignored. It
20 is a matter of enforcement.

21 MR. HEIDER: My guess is that if we were to
22 have public comment six months after this is built,
23 you're going to be complaining not about the trucks but
24 the cars.

25 MR. MCGINN: That's another reason with the

1 school bus being on the corner of Corthell and Reynolds
2 that at peak times, which is 7:00 in the morning and
3 3:00 in the afternoon -- you have parents that are
4 parked on the corner -

5 MR. HEIDER: That is not necessarily the right
6 thing.

7 MR. MCGINN: I understand that, but getting the
8 cars to the neighborhood is the main concern. It is the
9 traffic in the neighborhood. Yes, you do have an option.
10 Your option is to have them not have the entrance on the
11 Reynolds. It's not completely out of your hands. That is
12 my point. After it is built, yes, it is out of your
13 hands. I understand that you don't have enforcement
14 capabilities. Then, we are calling and bothering the
15 Colonie cops because of traffic when they have many more
16 important things to be doing than to be sitting on the
17 Reynolds because people can't pay attention to the sign
18 that is already there.

19 MR. HEIDER: They don't mind.

20 CHAIRMAN STUTO: We are going to go through the
21 environmental and that are going to take a vote and see
22 where the votes fall.

23 Chuck, can you walk us through the
24 environmental?

25 MR. VOSS: Sure. You have before you the SEQR

1 recommendation provided by the Town Attorney's office. I
2 will just go through the first section quickly.

3 The requested approval is an unlisted SEQR
4 action. We recommend based on the attached EAF,
5 environmental assessment form, that the Board
6 determine that the action will not have a significant
7 effect on the environment. That was signed by Rebekah
8 Kennedy of the Town Attorney's office.

9 Attached is the notice of determination of no
10 significant environmental effect. This is a negative
11 declaration in accordance with Article 8 of the State
12 Environmental Quality Review Law, the conservation law
13 and the Statewide Regulation Act under 6NYCRR Part 617
14 the lead agency which is the Planning Board has
15 received an Environmental Assessment Form in
16 connection with the proposed action described below in
17 the lead that:

18 1. That the said proposed action will result
19 in no major impacts and therefore will not have a
20 significant effect on the environment; 2. Therefore an
21 Environmental Impact Statement is not required to be
22 prepared with respect to said action. This notice is a
23 negative declaration for the purposes of the Act.

24 The reason for this determination of
25 non-significance are as follows: The lead agency has

1 reviewed the application, site plans, project
2 description and all supporting documentation and
3 conducted such further investigation of the proposed
4 project and its environmental effects that the lead
5 agency has deemed appropriate based on its review,
6 that the action will have no significant effects on
7 the environment and therefore an Environmental Impact
8 Statement is not required.

9 CHAIRMAN STUTO: Do we have a discussion on
10 that negative declaration?

11 (There was no response.)

12 Do we have a motion?

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

14 MR. HEIDER: Second.

15 CHAIRMAN STUTO: Discussion?

16 (There was no response.)

17 All those in favor of declaration say aye.

18 (Ayes were recited.)

19 Those opposed, say nay.

20 (There was none opposed.)

21 The ayes have it.

22 Do we have a waiver Resolution?

23 MR. VOSS: We have a waiver Resolution. You
24 should have that in front of you. I can go through
25 that, as well.

1 CHAIRMAN STUTO: Can you read the title and
2 then everything after the resolved?

3 We'll ask the stenographer to enter the
4 entire resolution to the record.

5 MR. VOSS: Resolution for Cumberland Farms,
6 1157 Central Avenue, Land Use Law Waiver Findings.

7 Now therefore be it resolved that the Board
8 hereby finds that the extent of the requested
9 individual waivers is not considered substantial; and
10 be it further resolved that the Board finds that the
11 applicant has established that there are no practical
12 alternatives to the proposed waivers that would
13 conform to the standards and that the waivers are
14 necessary in order to secure reasonable, orderly and
15 safe development of the project site; and be it
16 further resolved that the Board hereby issues a waiver
17 from the prohibition of new parking and canopies
18 within the front yard; and be it further resolved that
19 the Board hereby issues a waiver from the 80% minimum
20 frontage build-out; and be it further resolved that
21 the Board hereby issues a waiver from the maximum
22 front building setback of 20 feet; and be it further
23 resolved that the Board hereby issues a waiver from
24 the minimum parking requirement to allow 39 on-site
25 parking spaces; and be it further resolved that the

1 Board hereby issues a waiver from the minimum parking
2 area setback requirement to allow the northern
3 property line parking setback of 6.5 feet; and be it
4 further resolved that these waiver findings be a
5 condition of site plan approval of the application and
6 be kept in the project file in the Office of the
7 Planning and Economic Development Department.

8 CHAIRMAN STUTO: Any discussion on that
9 Resolution?

10 (There was no response.)

11 Do we have a motion?

12 MS. DALTON: I'll make that motion.

13 MR. MION: Second.

14 CHAIRMAN STUTO: Discussion?

15 (There was no response.)

16 All those in favor, say aye.

17 (Ayes were recited.)

18 All those opposed, say nay.

19 (There were none opposed.)

20 The ayes have it.

21 Okay, the main question before the Board is
22 for final site plan review with all the conditions set
23 forth in the meeting today -- we will discuss this
24 because I know this is not a resolved issue -- with
25 the sign that says no left-hand turns, with the curb

1 cut on Reynolds, with a sign that says no left-hand
2 turns -- what other conditions did we put onto this?

3 MR. VOSS: Landscaping in the back

4 CHAIRMAN STUTO: More landscaping in the back -
5 balsam -- subject to approval by Joe and Chuck;
6 exploring better geometry for trucks taking a left-hand
7 turn, subject to review and approval by Joe LaCivita and
8 Chuck Voss.

9 MR. LACIVITA: In talking to Highway Safety
10 about some type of improvements for looking at the
11 signage for Reynolds.

12 CHAIRMAN STUTO: Okay, we will make that a
13 condition as well.

14 That is the motion. Does somebody want to
15 make that motion?

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

17 MR. SHAMLIAN: I'll second.

18 CHAIRMAN STUTO: Do we have any discussion on
19 that motion?

20 (There was no response.)

21 In fairness to the neighbors, I am prepared
22 also to vote positive with the signage, with all the
23 mitigation that is there. I think the redevelopment of
24 the site is good. I hope I'm making the right
25 decision. I hope the signs actually work. I hope the

1 review by the staff has some impact. I am prepared to
2 vote in the positive with those conditions, myself.

3 Anybody else want to make a statement?

4 MR. HEIDER: I just want to say one thing. In
5 my past experience with the Police Department -- I was
6 not being flippant in saying -- you have to understand
7 they don't mind. The only way that they know and how
8 they can comment on further proceedings as if they get
9 input from the residents. So, if it becomes a problem,
10 that is what they are therefore and that's what you
11 should do. I was not being flippant.

12 CHAIRMAN STUTO: Thank you.

13 If there is no further discussion, we will
14 take a vote.

15 All those in favor, say aye.

16 (Ayes were recited.)

17 All those opposed, say nay.

18 (There were none opposed.)

19 The ayes have it. Thank you, very much.

20 MS. BITTER: Thank you, very much.

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22

23 (Whereas the above entitled proceeding was concluded
24 at 8:05 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.

Dated: _____

NANCY L. STRANG
LEGAL TRANSCRIPTION
2420 TROY SCHENECTADY RD.
NISKAYUNA, NY 12309

