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PLANNING BOARD COUNTY OF ALBANY

TOWN OF COLONIE

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ROSETTI OPEN DEVELOPMENT AREA  
4, 6 AND 8 COLONIE PLAZA DRIVE  
OPEN DEVELOPMENT AREA RECOMMENDATION  
TO THE TOWN BOARD

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THE STENOGRAPHIC MINUTES of the above entitled matter  
by NANCY L. STRANG, a Shorthand Reporter commencing  
on December 19, 2017 at 7:47 p.m. at The Public  
Operations Center, 347 Old Niskayuna Road, Latham,  
New York

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

ALSO PRESENT:

Joseph LaCivita, Director, Planning and Economic  
Development Department  
Michael Tengeler, Planning and Economic Development  
Department  
Michael C. Magguilli, Esq. Town Attorney  
Nia Cholakis, Esq.  
Nicholas Costa, PE, Advance Engineering and  
Surveying  
Don Allard

1                   CHAIRMAN STUTO: The next and final project on  
2 the agenda is Rosetti Open Development Area, 4, 6 and 8  
3 Colonie Plaza Drive, open development area  
4 recommendation to the Town Board.

5                   MR. LACIVITA: Peter, while Nick gets ready  
6 here to talk about the project, I will speak a little  
7 bit about what the project has done.

8                   It was before the Town Board for me the  
9 resolution back on October 20, 2016. It was Resolution  
10 464 of 2016 referred here to the Planning Department  
11 and the Planning Board to review the open development  
12 area and make recommendations back to them as such.  
13 The action required of us -- you will see in your  
14 packet a finding statement. The applicant has done and  
15 satisfied all the Town Departments with this proposal  
16 and we are here tonight for a favorable  
17 recommendation.

18                  MR. COSTA: Good evening. My name is Nick Costa  
19 and I am with Advance Engineering and Surveying. We have  
20 prepared the Albany Street ODA plans that were submitted  
21 and we are in front of the Board tonight. This is a  
22 parcel that is located off of Albany Street.

23                  Albany Street is right here on the western  
24 side of the site (Indicating). The parcel does have a  
25 road that runs along the entire frontage which is

1 referred to as the Colonie Plaza Access Road. Colonie  
2 Plaza is located on the eastern side of the parcel.  
3 That is also the boundary line -- well, the municipal  
4 line between the Village of Colonie and the Town of  
5 Colonie.

6 The plaza is fully developed. It has quite a  
7 bit of traffic through this area that accesses Albany  
8 Street. The parcel is partially developed. There is a  
9 building located right at this corner where Colonie  
10 Plaza Road and Albany Street are. There is also an  
11 existing building that has been constructed and there  
12 is a proposed access area - maneuvering area.

13 So, what the application is - is to create  
14 three new parcels - four parcels, and total, including  
15 this one right here (Indicating).

16 CHAIRMAN STUTO: The applicant owns the front  
17 one too, right?

18 MR. COSTA: That is correct. He owns the entire  
19 16 acres. It is a little more than 16 acres. So, the  
20 application is to have an ODA, open development area so  
21 that these three parcels can have access off of Colonie  
22 Plaza Road which has an existing easement that allows  
23 the access to the site.

24 There are utilities that have been brought  
25 over to serve this building right along here

1 (Indicating) that sanitary sewer. There is one storm  
2 water management area right here and one storm water  
3 management area over in this area for these developed  
4 buildings.

5 The site is fairly flat and there are some  
6 wetlands that are in the light blue color. They are  
7 part of a New York State DEC wetland area.

8 We have met with the DEC and we have met with  
9 the Albany Pine Bush Commission and we are here  
10 tonight to have the Board refer it back to the Town  
11 Board for the ODA.

12 CHAIRMAN STUTO: The main reason for this is to  
13 make sure access is ensured because you don't have  
14 frontage on the main road.

15 MR. COSTA: That's right.

16 CHAIRMAN STUTO: You talked about an easement.  
17 I'm not sure if you're talking about the access easement  
18 of that driveway -

19 MR. COSTA: That is correct.

20 CHAIRMAN STUTO: Can you describe the legal  
21 part of that?

22 MR. COSTA: Yes. It is a 50-foot access  
23 easement that runs all along the frontage of the  
24 property that is between the plaza - the owners of the  
25 plaza -

1 CHAIRMAN STUTO: Is that a different owner?

2 MR. COSTA: Yes, it is.

3 CHAIRMAN STUTO: And these parcels all have  
4 access?

5 MR. COSTA: That's correct. They do.

6 CHAIRMAN STUTO: Do you want to shed any light  
7 on that? Have you always had that access there - for a  
8 long time? Can you describe the nature of it? I am  
9 worried about ongoing maintenance, too. You can sell one  
10 or any of the parcels and I want to make sure that  
11 somehow -

12 MS. CHOLAKIS: Nia Cholakis, from Rosetti  
13 Development Companies. When we acquired this property in  
14 2000, we acquired the 4 1/2 acres. In 2014 we acquired  
15 from another organization the building that is zoned as  
16 the Harvey Building located at 4253 and together with  
17 that was an additional 9 acres. So, it was a total of 12  
18 acres. When we purchased that property, it came with a  
19 non-exclusive permanent easement.

20 At the time, the entity that owns that land  
21 was known as WIP Colonie which was the owner of the  
22 Price Chopper and the service center that fronts on  
23 Central Avenue at the intersection of Central Avenue  
24 and 155. I think earlier this year they sold that  
25 property to somebody else. That document, which is a

1 recorded document - I think you guys have reference to  
2 that in your paperwork - is a recorded document. As I  
3 said, it is permanent. It is non-exclusive. It allows  
4 access through the Colonie Plaza to access the main  
5 road on Central Avenue. It also provides for  
6 maintenance.

7 What happens is that the people that own the  
8 plaza - they performed maintenance including  
9 snowplowing, pavement repairs and those types of  
10 things. They, then bill us for a pro rata share of  
11 that and then we pay that.

12 CHAIRMAN STUTO: That's in the recorded  
13 document?

14 MS. CHOLAKIS: It is.

15 CHAIRMAN STUTO: Thank you.

16 Were there any members of the public looking  
17 to speak on this?

18 MR. ALLARD: My name is Don Allard. I'm on the  
19 CAC. I wasn't expecting to speak on this today but to  
20 appoint to the Planning Board -

21 CHAIRMAN STUTO: Are you speaking from the CAC?

22 MR. ALLARD: No.

23 That road is a continual problem with large  
24 scale litter.

25 I called up a Town Board Member yesterday

1           regarding a couch and a mattress and this is about  
2           every six months that they have to go pick up  
3           something.

4                       As far as the maintenance, I am concerned  
5           about that. Maybe that could be tied into whatever  
6           proposal you are doing to make sure that the road is  
7           kept clean on both sides all the way to Price Chopper

8                       MS. CHOLAKIS: I can speak to that, somewhat.  
9           I'm not aware of couches or anything like that. The  
10          building at 4259 is now currently occupied - fully  
11          occupied. So, prior to that, it was not. So, there were  
12          not tenants in the building. There was some debris that  
13          we would find as we were completing the building. I have  
14          not heard that there has been anything out of the  
15          ordinary.

16                      On our property -- we do take care of our  
17          property as far as the road is concerned. The owner of  
18          the plaza takes care of that. Again, if there are any  
19          concerns, we could certainly try to address that. It's  
20          the first that I am hearing about any kind of large  
21          debris.

22                      I was aware that during the course of  
23          construction that people were kind of littering. We  
24          were taking care of that on our property.

25                      MR. ALLARD: Actually, it goes back quite a few

1 years that there has been a problem with beds, desks and  
2 everything you can possibly think of.

3 Linda Murphy from the Town Board is here  
4 right now.

5 I think three years ago I said something to  
6 you on that, right?

7 MS. CHOLAKIS: Again, the building was  
8 constructed on spec. It was not completed until recently  
9 - until this year. So, now it's fully occupied. It has  
10 been occupied since the summer. I don't know if you have  
11 seen a decrease in that over the course of the summer.

12 MR. ALLARD: No. As I said, I just called the  
13 police yesterday.

14 MS. CHOLAKIS: We will certainly look into it.

15 CHAIRMAN STUTO: Can you address the Board?

16 MS. CHOLAKIS: Sure, absolutely.

17 CHAIRMAN STUTO: Are there any comments or  
18 questions?

19 (There was no response).

20 We have a Resolution in front of us, which is  
21 the open development area Resolution. It is really a  
22 recommendation to the Town Board. It also can  
23 implement rules inside of it. It talks about  
24 maintenance of the property. I'm just going to suggest  
25 that when we get to that, that we make sure that the

1 Town Attorney reviews the easement that the  
2 applicant's attorney referred to.

3 MR. LACIVITA: So, we will make that number  
4 six, Peter?

5 CHAIRMAN STUTO: I think that we can doctor up  
6 five. We will give the entire Resolution to the  
7 stenographer to put in.

8 If you could read the title and the now  
9 therefore, one through four and we will have Mike read  
10 five.

11 MR. LACIVITA: Special rule of the Planning  
12 Board setting conditions and limitations and  
13 recommending establishments of an open development area  
14 for number 4, 6, and 8 Colonie Plaza Drive A/K/A 4253  
15 and 4259 Albany Street, Town of Colonie, pursuant to  
16 Town Law Section 2B - a period now, therefore be it  
17 resolved, that the Planning Board recommends the open  
18 development area as requested by the applicant to be  
19 approved in all aspects subject to the following  
20 conditions: One, the address of the parcel must meet  
21 required 911 communications, and be it further resolved  
22 that any further changes to be recommended to the open  
23 development area including but not limited to additions,  
24 demolitions, structural, subdivision and/or change of  
25 use must comply with all applicable Town of Colonie

1 processes and approvals, and be it further resolved that  
2 a hold harmless and indemnity agreement shall be entered  
3 into with the Town, protecting the Town and any  
4 liability in connection with the access and maintenance  
5 of the roadway to the subject property, and further be  
6 it resolved the granting of an open development area  
7 does not relieve the applicant from compliance with all  
8 other underlying industrial zoning list of permitted  
9 uses, requirements or applicable environmental, building  
10 and land use requirements, and further be it resolved  
11 that number five -

12 CHAIRMAN STUTO: We will have Mike to that one.

13 MR. MAGGUILLI: For number 5 I would like this  
14 language included here. The owner of the proposed three  
15 parcels, their heirs, assigns and successors in interest  
16 shall be fully responsible for all maintenance including  
17 but not limited to keeping the parcel free and clear of  
18 all debris and garbage of any type in nature and for the  
19 upkeep required improvements, snowplowing, etcetera, of  
20 the private drive which abuts and provides access to the  
21 subject property.

22 CHAIRMAN STUTO: You may also add that  
23 paragraph 5, subject to Town Attorney approval so that  
24 you can review the easement document?

25 MR. MAGGUILLI: Sure.

1                   CHAIRMAN STUTO: Any discussion by the Board,  
2 or any other suggestions.

3                   (There was no response.)

4                   Do we have a motion on this Resolution?

5                   MR. SHAMLIAN: A make a motion

6                   MR. MION: Second

7                   CHAIRMAN STUTO: Discussion?

8                   (There was no response.)

9                   All those in favor, say aye.

10                  (Ayes were recited.)

11                  All those opposed?

12                  (There were none opposed.)

13                  The ayes have it.

14                  Thank you.

15

16                  (Whereas the above entitled proceeding was  
17 concluded at 8:01 p.m.)

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CERTIFICATION

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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

