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PLANNING BOARD COUNTY OF ALBANY

TOWN OF COLONIE

LEECE OFFICE BUILDING
1209 TROY SCHENECTADY ROAD
APPLICATION FOR CONCEPT ACCEPTANCE

THE STENOGRAPHIC MINUTES of the above entitled matter
by NANCY L. STRANG, a Shorthand Reporter commencing
on January 9, 2018 at 7:22 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:

Michael Tengeler, Planning and Economic Development
Department
Michael C. Magguilli, Esq. Town Attorney
Scott Price, PE, MJ Engineering
Charles Voss, PE, Barton and Loguidice
Susan Quine-Laurillard
Kevin Bette
Ellen Rosano, Conservation Advisory Committee
Louis Lecce, Applicant

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EXHIBIT INDEX

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1 CHAIRMAN STUTO: Next on the agenda is Lecce
2 Office Building, 1209 Troy Schenectady Road, application
3 for concept acceptance, three-story, 17,949 square foot
4 office.

5 MR. AUSTIN: Ladies and gentlemen, before we
6 get started with her next project it's always good to
7 see people interested in the inter-workings of our local
8 politics here and local government. Sarah Randall is a
9 senior at the Academy of Holy Names. She is here tonight
10 as part of her government class, observing what goes on
11 at our Planning Board meetings that we have.

12 MS. MILSTEIN: Sarah, if you want to set up
13 your, you are welcome to.

14 CHAIRMAN STUTO: Mike, do you have any
15 introductory remarks before we turn it over to the
16 applicant?

17 MR. TENGELER: Very quickly, this is the Lecce
18 Retail Office. It has been before the Board a while back
19 for sketch plan review. It has been a little while since
20 the initial DCC meeting occurred. There is a notice in
21 your packets that has the DCC comments, as well as the
22 letter from Barton and Loguidice, comments from CDTA and
23 all outside agencies.

24 It has been about a year since the initial DCC
25 meeting where these initial comments were furnished.

1 They are here for concept, tonight.

2 I will turn it over.

3 MR. PRICE: Good evening. My name is Scott
4 Price and I am with MJ Engineering.

5 The project before you tonight, as mentioned, is
6 the Lecce development over on 1209 Troy Schenectady
7 Road, which is also known as Route 7. It is located
8 adjacent to the Rite Aid Pharmacy over by the Plaza 7
9 between the two lights.

10 The lot itself is 1.49 acres. It is located in the
11 COR zone which is the commercial/office/residential
12 zoning district. There is a one-way entrance from
13 Route 7 west and to the property. Then, there are two
14 entrances and exits at the rear of the property, which
15 go to a paved asphalt road which provides access
16 between the other medical buildings in the back of
17 Rite Aid over to Rosendale Road. So, all the occupants
18 of the property would have access to Rosendale Road to
19 the light over by Plaza 7 without having to go
20 directly out to Route 7 from the lot, itself.
21 There are 80 proposed parking spaces, four of which
22 are handicap spots. The layout of the parking lot
23 attempts to preserve many of the existing larger
24 trees. We are trying to preserve as many of these
25 trees as we can. Right now the intent is to have the

1 storm water management area back in this corner here
2 (Indicating). The property, itself, in the back corner
3 which is the north westerly corner of the property is
4 actually in the Town of Niskayuna. So, the storm water
5 management pond -- our infiltration area that we are
6 proposing - it kind of goes between the two towns.
7 We are going to be proposing new connections to the
8 Latham Water main out on Route 7, as well as
9 connecting a new service lateral for Pure Waters. So,
10 the site has all of the utilities right there for it
11 to connect it to.

12 One thing to note is along Route 7 there is an
13 existing access easement.

14 There has been some comments -- the COR district
15 requires a 25 foot maximum setback for the building.
16 That actually occurs within that easement, so the
17 building is pushed back a little bit further to
18 accommodate space between the easement and the
19 building itself.

20 CHAIRMAN STUTO: You will be looking for a
21 waiver.

22 MR. PRICE: Right. So, as we progress through
23 the process, we would need a waiver for that, again,
24 which exceeds the maximum based on the zoning district.
25 The second waiver that we would be looking for is the

1 internal islands within the parking lot. Again, our
2 intent was to try to minimize the disturbance to the
3 existing trees on that one side. If we start putting
4 all these landscaped islands in the middle of the
5 parking lot, we are going to start pushing the
6 pavement out further. So, that would be a second
7 waiver.

8 CHAIRMAN STUTO: Do you need all of that
9 pavement? Sometimes we find that the Code calls for too
10 much parking and the owner may find that, as well. We
11 are very interested in banked parking, so if you find it
12 is not adequate, you can construct it at some time in
13 the future.

14 MR. PRICE: That is something that we can look
15 into, as we progress.
16 That's about it.

17 CHAIRMAN STUTO: This has been reviewed by our
18 Town Designated Engineer, Chuck Voss with Barton and
19 Loguidice.

20 Chuck, can you give us your comments on this
21 project?

22 I will also mention that if anybody from the public
23 wants to speak on this, since we are voting, there is
24 a sign-in sheet near the door. Please sign in.

25 MR. VOSS: Thank you, Peter.

1 The Board should all have in their packets our letter
2 of December 6, 2017. It is our concept review letter
3 for the project. I will just go through a couple
4 highlights.

5 I know Scott mentioned a few things. In particular,
6 just to begin with, we are looking at potentially two
7 waivers from the COR design standards.

8 One is the front area setback. Again, the reason for
9 that requirement is that there is a 20 foot Latham
10 Water District easement out front. So, there is a Town
11 easement there that really pushes things back off the
12 property line. Certainly, given the proximity to the
13 adjacent sites - the right aid, the medical office
14 building just to the east and west - that setback
15 requirement isn't inconsistent with what we are seeing
16 out there already. So, at the present time we don't
17 have a real issue with that waiver. The other one, as
18 Scott mentioned, is just for parking and requiring a
19 landscaped stalls in the parking lot, given the size.
20 Peter, as you mentioned and I think we would agree
21 that if there is an opportunity to bank parking and
22 down the road if you find a tenant that would need all
23 80 spaces, the Board is pretty flexible in allowing
24 some of that to be banked. So, that would certainly
25 be encouraged. The project is a redevelopment site. I

1 will talk about the trees in a second.

2 The site is currently located in the Airport Area
3 GIS so the mitigation of cumulative impacts will be
4 required, as per the statement of findings. We just
5 want to put that on the record.

6 It looks like the building will be sprinklered,
7 given its size. So, we just want to make sure that the
8 water mains are sized according to those and we will
9 look at that as we get further into that.

10 There is no description of the proposed use other
11 than office. The Board may want just some information
12 on the number of employees and things like that. You
13 have given some rough estimates, but if you could nail
14 that down a little bit more in the future, that would
15 certainly be helpful.

16 Storm water management seems to be adequate, given
17 at this stage. The site is very flat. Again, the back
18 area to the north is relatively flat. It's kind of
19 lawn area right now. It was probably the back lawn for
20 the home that was there at one time. It appears to be
21 suitable, given the soil conditions at this time for a
22 storm water management area. So, we are fairly
23 comfortable with that.

24 We talked a little bit about the access. At this
25 time, we don't disagree that the right-in access, the

1 westbound access off of Route 7 certainly will work. I
2 think that we would discourage a two-way access point,
3 given the proximity to the intersection of Rosendale
4 Road and given the proximity to the Rite Aid driveway
5 that is existing.

6 DOT did make a comment that you should have in your
7 packets about this applicant potentially working with
8 Rite Aid for a mutual access point. That is something
9 that the Board can discuss with the applicant. We
10 certainly would be supportive - the less curb cuts,
11 the better.

12 CHAIRMAN STUTO: Does the applicant have any
13 thoughts on that that they could share with us?

14 MR. PRICE: The thing with this site is there
15 is a paved access road along the back. So, that kind of
16 gives you the interconnection between Rite Aid and the
17 site and the other medical offices on the other side.
18 So, it kind of accesses the same thing.

19 If we look at interconnecting our site with Rite
20 Aid, we might run into some issues -- not issues, but
21 the Rite Aid building is back here (Indicating) so our
22 connection point would be someplace and here which -
23 the trees that we are trying to preserve might be
24 impacted with the connection.

25 CHAIRMAN STUTO: That the only issue? I don't

1 know if I necessarily agree that the back serves the
2 same purpose. They want one curb cut on Route 7. That's
3 what the comments are primarily about.

4 MR. PRICE: About the access from Route 7?

5 CHAIRMAN STUTO: I think so.

6 Right, Chuck?

7 MR. VOSS: Yes, that was DOT's only concern. I
8 agree 100%. The rear access is perfectly adequate. The
9 access road in the back works very well right now for
10 circulation. It is something to think about.

11 MR. SHAMLIAN: The one thing with that is that
12 it's going to end up being a two-way access that will be
13 able to go out onto Route 7 and head west.

14 MR. VOSS: There is a potential for that.

15 MR. SHAMLIAN: Rite Aid is unlikely to give
16 that up.

17 MR. VOSS: We will have them talk to Rite Aid
18 and see.

19 The other issue that we mentioned in our letter is
20 just really kind of a site layout issue.

21 There are some significant old maple trees on the
22 site, as Scott mentioned. I think they are doing a
23 good job of preserving the trees along the west side
24 of the property line. There is some rather large trees
25 in there. There are a few large trees around where

1 the proposed new building is going to go that will
2 certainly have to go to accommodate the building.
3 We did make note about the potential of being able to
4 save one of the other larger trees. At the rear of the
5 proposed building is a 42-inch maple that was kind of
6 back by the dumpster enclosure.

7 Scott, if you were able to bank the spaces or even
8 move a couple parking spaces and that dumpster
9 enclosure further to the north, you might be able to
10 obviously create that open space area - maybe a little
11 patio area or something for the employees of the
12 office where you could also preserve that large tree
13 there. I think it's probably far enough away from the
14 building where you wouldn't really disturb it. It is
15 something to look at. I think it would be a nice
16 amenity for you guys to have a nice large mature tree
17 back there behind the building.

18 As Scott mentioned, the site is fully serviced by
19 utilities now. It is a redevelopment site and this
20 proposed use is certainly consistent with what we are
21 seeing in the district.

22 With that, we are pretty much set.

23 CHAIRMAN STUTO: Can you show us the elevations
24 and talk about the architecture and what you are
25 planning?

1 MR. PRICE: As you can see, it is a typical
2 office building. It is three stories. It kind of fits in
3 with the other office buildings to the east.

4 CHAIRMAN STUTO: Okay, you are not there yet in
5 terms of flow architectural development or the finishes?

6 MR. PRICE: No.

7 CHAIRMAN STUTO: Okay, we will be looking for
8 that.

9 I think Chuck and the department knows what we are
10 looking for. We will hope to see better renditions
11 next time.

12 Are there any members of the public looking to speak
13 on this?

14 MS. QUINE-LAURILLARD: Good evening. My name is
15 Susan Quine-Laurillard. I reside at 83 Ashtree Lane in
16 the Birchwood neighborhood. I am a member of the
17 Birchwood Neighborhood Association and Save Colonie.
18 I first wanted to start my remarks by congratulating
19 Chairman Stuto, Members Shamlan and Heider for your
20 reappointments.

21 I want to also acknowledge that I was very glad to
22 have the early notification of this matter being on
23 the Planning Board agenda for this evening. Luckily,
24 it was earlier than the Thursday before. I just want
25 to say that's a good step in the right direction.

1 Before I begin I want to also make a statement that it
2 is very important for our Town residents to know that
3 the planning process proceeds in an open and
4 transparent manner and that the Planning Board members
5 are provided with all the necessary information and
6 technical advice to make a reasoned and well informed
7 decision. With that in mind, I have the following
8 comments regarding this project.

9 The first comment that I have - I guess the site
10 plan is not up yet -- I want to give to Chairman Stuto
11 - I have the deeds to this property - the Lecce
12 property. I thought that's very important to have
13 these.

14 MR. MAGGUILLI: If you're going to submit any
15 type of documentation to the Board, we just need to mark
16 them for clarification.

17 MS. QUINE-LAURILLIARD: Of course. I have a
18 copy.

19 MR. MAGGUILLI: I guess we can call this
20 Laurilliard 1, Nancy.

21 MS. QUINE-LAURILLIARD: I have three deeds.

22 MR. MAGGUILLI: Would you please provided to
23 the steno first?

24 (Laurilliard 1 was marked for identification.)

25 MS. QUINE-LAURILLARD: It reflects the current

1 property and the chain of, title as well as a deed from
2 the Brownsey family. It's basically all of this property
3 (Indicating). I don't know if the Board is familiar.
4 Like, the Rite Aid property and all the way back. They
5 kind of parceled out this property.

6 MR. MAGGUILLI: Just make a brief statement
7 identifying the document. The only reason that we are
8 doing this is in the event that we get FOIL requests in
9 the future and we are looking to the transcripts and we
10 see that the documentation has been handed up, we would
11 like to be able to make sure that we are identifying the
12 correct document so that we can disclose improperly.
13 That is the only purpose of doing that.

14 CHAIRMAN STUTO: The first of the documents
15 purports to be a deed on the top. I think it's Book
16 1174, Page 1859.

17 The next one purports to be a deed, Book 1943,
18 Page 629.

19 This is another deed. Albany County Clerk, Book
20 1707, Page 43.

21 The last one is a Deed Book 1643, Page 729. I think
22 these are all Albany County -- it is a little
23 confusing because there is a cross between Albany and
24 Schenectady County.

25 MS. QUINE-LAURILLIARD: They were filed. They

1 are the same deeds that were filed in Albany County --
2 they were filed in Schenectady County.

3 CHAIRMAN STUTO: Okay, I think they are
4 adequately identified.

5 MS. QUINE-LAURILLIARD: The reason why I handed
6 those to you is that the first deed from February 26,
7 1999 from the Brownsey family to the developer - the
8 rated property - Columbia Rosendale Group reserved a
9 4,210 square feet green space easement that runs with
10 the land. So, when I looked at the site plan I don't see
11 marked on here where this green space easement is. That
12 is not to be disturbed. Actually, Rite Aid maintains
13 that for that parcel. I don't know if the parking space
14 is -- and just should be marked. Any site plan that is
15 submitted for review should have a recognition of this -

16 CHAIRMAN STUTO: Is the applicant aware of what
17 she is referring to?

18 MR. LECCE: Yes. It is the actual area where
19 the trees -

20 MR. MAGGUILLI: Sir, can you identify yourself
21 for the record please?

22 MR. LECCE: I'm sorry. I'm Lou Lecce; the
23 applicant.

24 The easement is the area where the current existing
25 trees are.

1 MS. QUINE-LAURILLIARD: It's not the mowed area
2 and the back?

3 MR. LECCE: No, it's not the mowed area in the
4 back.

5 MS. QUINE-LAURILLIARD: Well, at least that site
6 plan should reflect the easement and how that relates to
7 what is being done on the site.

8 The other thing that I wanted to mention in that
9 deed is that there is actually a third access
10 available to this parcel. They were granted an
11 easement to use the Rite Aid property access in those
12 deeds. The issue is whether or not they need the Rite
13 Aid curb cut. They would have a right and curb cut on
14 the Rite Aid parcel. So, there would not be a need for
15 that extra curb cut.

16 CHAIRMAN STUTO: Does the applicant want to
17 respond to at least the existence of that?

18 MR. LECCE: Yes, we will wait until she's done

19 MS. QUINE-LAURILLIARD: So, that is also
20 reflected in the deeds and that also runs with the land
21 in perpetuity.

22 CHAIRMAN STUTO: Why don't you address it now,
23 if you are ready to? It is a discrete issue.

24 MR. LECCE: That's not an accurate statement.
25 We have an easement off of the back rear across the Rite

1 Aid. There is an access point from Rosendale Road that
2 runs behind these parcels to the medical center.

3 MS. QUINE-LAURILLIARD: That's true, you do
4 have that easement. There is another one.

5 MR. LEECE: So, we currently owned this road. I
6 purchased the blue house across the street, which is in
7 the Town of Niskayuna. By purchasing that blue house, we
8 now own the road from Rosendale Road, the Amedore parcel
9 which is part of our parcel.

10 I am also a real estate attorney. I don't know any
11 access easements across the Rite Aid parcel. What she
12 is talking about is the 35 foot access which comes
13 from the other subdivision next door to us that was
14 reserved to them for a future connection to Rite Aid
15 from that other parcel of land. So, I am not aware of
16 any access easements that I have across the Rite Aid
17 parcel.

18 MS. QUINE-LAURILLARD: I'm referring to that
19 1999 deed. You can take a look because it's in there.

20 MR. MAGGUILLI: Do you own that easement, as
21 well?

22 MR. LEECE: Yes. If it exists, I own it.

23 MR. MAGGUILLI: So, they are essentially
24 merged. Who is to benefit from the easement originally?

25 MR. LEECE: The Brownseys.

1 MS. QUINE-LAURILLARD: Again, that runs with
2 the land. So, you do have that access point. That's in
3 the '99 deed. I can read that for the record. It says:
4 A permanent easement for ingress and free passage over
5 all driveways to grantors present driveway located on
6 the retained parcel. Said rights-of-way shall be for the
7 benefit and use of grantors and heirs, successors,
8 assigns and/or grantees as such time as the use of
9 grantors adjoining properties is changed from
10 residential used to a nonresidential use. Grantor shall
11 obtain and maintain at all times at their sole cost and
12 expense a policy of insurance for general liability
13 purpose in an amount no less than \$1 million to bodily
14 injury or death and cause the grantee or successors
15 and/or assigns to be an additional ensured.

16 So, this issue about that extra access came up
17 during 2014 Planning Board meeting regarding the
18 Garden Bistro building that is right next-door. There
19 was discussion on the record about whether or not they
20 would be allowed a curb. I believe either Mr. Brownsey
21 or I believe Mr. Bette relayed Mr. Brownsey's
22 statement that he was concerned with the close
23 proximity of the Garden Bistro curb cut, but that he
24 also advised that his property had deeded access
25 easement via the Rite Aid pharmacy curb cut. So, he

1 was okay with the Garden Bistro curb cut, knowing that
2 he could use Rite Aid. So, I just ask that the
3 situation out there with that other curb cut --
4 because obviously DOT is saying they don't want that
5 curb cut there. There is really no negotiation because
6 it's already in the deed. That is my point about that.
7 Also, I just wanted to mention for the record that we
8 have that Route 2/Route 7 corridor study that
9 discourages - for arterial management measures
10 additional curb cuts, especially in this area of Route
11 7.

12 The other thing that I wanted to talk about -- it
13 wasn't even brought up tonight is that Mr. Lecce has a
14 plan before the Town of Niskayuna right now that is
15 pending for a 24-unit apartment complex project. That
16 is not in the record here. It is not in the narrative
17 that was provided on October 19th. Those plans are
18 pending before the Town of Niskayuna. The question
19 there is with that curb cut on Route 7, will that
20 encourage traffic to avoid the light at Rosendale and
21 travel through to the back -

22 CHAIRMAN STUTO: Where are the 24 units going?

23 MS. QUINE-LAURILLIARD: The blue house that Mr.
24 Lecce is referring to that he owns -- so, that has not
25 been brought up tonight. What I want to provide for the

1 record here is the minutes of the Town of Niskayuna
2 Planning Board minutes.

3 MR. MAGGUILLI: We'll mark that as Laurillard
4 2, please, Nancy.

5 (Laurilliard 2 was marked for identification.)

6 MS. QUINE-LAURILLARD: These are from August
7 28, 2017 and October 16 of 2017.

8 CHAIRMAN STUTO: I think that Mr. Leece wants
9 to address the issue of the apartments.

10 MR. LEECE: The project has been tabled.

11 CHAIRMAN STUTO: What does tabled mean?

12 MR. LEECE: It has been withdrawn.

13 MS. QUINE-LAURILLIARD: I would like to speak
14 to that. I spoke to the Assistant Planner in the Town of
15 Niskayuna and he advised me that as of yesterday that
16 the project has not been withdrawn, that it is pending.
17 So, if that is different, then Niskayuna believes that
18 you still have an active apartment complex project
19 over there.

20 MR. MAGGUILLI: Ms. Laurillard, like to hand up
21 your exhibit?

22 MS. QUINE-LAURILLARD: I'm sorry.

23 So, why that is important, also, is that as part of
24 their review of this 24-unit apartment complex, the
25 Town of Niskayuna Planning Board advised Mr. Leece

1 that they wanted him to do a traffic study because
2 they were concerned with the traffic at the corner of
3 Rosendale and Route 7.

4 So, that point being -- there is no traffic
5 analysis submitted or anything in the narrative.
6 Mr. Voss, have you reviewed any traffic impact studies
7 here?

8 MR. VOSS: Nothing has been submitted yet.

9 CHAIRMAN STUTO: Do you expect there to be,
10 Chuck?

11 MR. VOSS: The Board can certainly ask for it.
12 Usually, there is some sort of mild level traffic
13 analysis that comes with a formal site plan application.

14 MS. QUINE-LAURILLIARD: So, you obviously have
15 a Planning Department Planner who has identified
16 concerns with traffic at that intersection of Route 7
17 and Rosendale Road. So, I would urge the Board to look
18 carefully at traffic being generated from this office
19 project.

20 The other question I had is you mentioned -- the
21 narrative that was submitted has photos of the site
22 showing a house on it. Currently the house doesn't
23 exist there. I had a question. What is the Board's
24 position regarding clearing and grading of a site
25 while matters pending before Planning Board approval?

1 CHAIRMAN STUTO: We have no formal policy that
2 I am aware of.

3 Does anyone know different?

4 MR. MAGGUILLI: Not that I am aware of.

5 MS. QUINE-LAURILLIARD: I was just looking at
6 Section 190.56 of the Land Use Law that says a grading
7 permanent as provided for in this chapter may only be
8 applied for with respect to any proposed site
9 development upon receipt of final site plan approval.
10 So, is an applicant allowed to clear a site while
11 something is not final?

12 MR. MAGGUILLI: It doesn't apply. Let me
13 clarify. At this stage, it doesn't apply. If I
14 understand your question -

15 MS. QUINE-LAURILLARD: They have altered the
16 site before you all have had a chance to review their
17 site plan.

18 MR. MAGGUILLI: In what way?

19 MS. QUINE-LAURILLIARD: They cleared the
20 building -

21 MR. MAGGUILLI: Is this in Colonie or the site
22 in Niskayuna?

23 MS. QUINE-LAURILLARD: In Colonie, I'm talking
24 about the site plan before you.

25 CHAIRMAN STUTO: I don't want to get into

1 debates about this. I don't want to say that it's
2 off-topic, but it sounded like the section that you read
3 talked about when you can get a grading permit. I don't
4 know if this activity has triggered a grading permit or
5 not.

6 MS. QUINE-LAURILLARD: I don't know that,
7 myself.

8 The other point that I wanted to make is that you
9 mention tonight in the Airport Area GIS and that
10 mitigation fees are required. I just want you to know
11 that the mitigation worksheets that are on the website
12 only have 2015 mitigation fees. I would ask the Board
13 that those fees be updated to 2018 dollars, as you
14 review this project.

15 CHAIRMAN STUTO: I think that's an action of
16 the Town Board and I'm not sure where they stand with
17 that.

18 MR. MAGGUILLI: And I'm not sure there has been
19 any change in mitigation fees.

20 MS. QUINE-LAURILLIARD: My last comment is:
21 Has there been a travel demand management program
22 submitted or will it be submitted associated with this
23 office building?

24 MR. MAGGUILLI: What was that?

25 MS. QUINE-LAURILLIARD: It is called a travel

1 demand management program. The reason why I bring that
2 up is the Albany area GIS has that as a requirement that
3 offices prepare a travel demand management program. This
4 came up and was cited in the Cumberland Farms approval
5 where they actually cite that in the CDTC and they state
6 that the Final Generic Environmental Impact Statement
7 for the Albany County Airport area recognizes that
8 without aggressive actions to maximize the use of
9 transit services and other ridesharing options and/or
10 ship and demand from the peak hour limited widening of
11 existing highways would not be adequate to provide
12 future acceptable levels of service. As a result the
13 study recommended a development of a comprehensive
14 transportation management program for this area.
15 I was wondering if one has been done for this area?

16 MR. VOSS: They have not submitted it.

17 MR. MAGGUILLI: It is not the time.

18 MR. VOSS: It will come in with their first
19 preliminary site plan.

20 MS. QUINE-LAURILLIARD: So, you are saying that
21 should be required for this office.

22 MR. MAGGUILLI: No, that is not what he is
23 saying. He is saying that in the event one is necessary,
24 one will be submitted. Let's be clear on the record.

25 MS. QUINE-LAURILLIARD: I think that is all my

1 comments. I guess at this point I would state that I
2 don't believe that knowing the easement is not reflected
3 on the site plan -- the access issue -- that it would
4 not be appropriate for this Board to vote on concept
5 this evening. Thank you.

6 CHAIRMAN STUTO: I will ask the department and
7 Chuck to look at that issue with the applicant. We are
8 not at final. I don't know how we are going to vote
9 tonight, but there is still time to address that issue,
10 I would think.

11 You can address anything that you want.

12 MR. LECCE: I just want the record to reflect
13 that the house that was on the site before had a
14 driveway to Route 7. So, we are not proposing an
15 entrance or exit onto the property that hasn't already
16 been there. It is there. It may be shifted horizontally,
17 but there was one there before.

18 CHAIRMAN STUTO: We will come up with the best
19 access plan, I'm sure.

20 Do we have another person I wanted to speak?

21 MR. BETTE: Hello, I am Kevin Bette and I'm the
22 property owner to the east.

23 Welcome to Colonie, Lou. I've got nothing but good
24 things for your project.

25 I just want to give you some history and maybe help

1 you shorten up some of the issues.
2 As the previous speaker identified, when we did the
3 1207 Troy Schenectady Road building or the Garden
4 Bistro building, DOT had us put our curb cut over here
5 to provide joint access. At the time, we were going to
6 buy this property from the Brownsey family. That is
7 probably why they are referring to the easement which
8 I believe is on the side (Indicating). There is a
9 green space easement. Rite Aid needed extra green
10 space, so they reserved the easement on this property
11 also to protect those trees.

12 At the time, I think even at concept level the
13 Board talked about putting the building back further
14 because Rite Aid is back further. They had us put our
15 1207 building back further because when Chris Connors
16 built the bank building on the other side, everybody
17 realized that one building up front and everything
18 else behind doesn't look so good. So, the streetscape
19 is really what we are worried about.

20 I think your building will look fine. You will do
21 a nice job. I don't think that you need this. I think
22 it would confuse motorists if you have three right-ins
23 only. So, having another one here is somewhat
24 confusing from a traffic standpoint. I am sure that
25 these guys can figure that stuff.

1 Some of the other history on the property though --
2 the house that you removed was one of the oldest
3 structures in the Town of Colonie. It was an early
4 1800's farmhouse. The Brownsey family purchased -- he
5 was a pretty old-timer when we were talking to him.
6 There is also history of artifacts on the site. So,
7 there are some cultural stuff that needs to be looked
8 into.

9 Because they were in the oil business, there are a
10 number of old oil tanks on this site.

11 The main thing that you have to focus on though is
12 the drainage. The drainage doesn't drain very well in
13 this area because you have a lot of clay areas in the
14 soil. I think one of the concerns with a big flat
15 stormwater basin is it overflowing and crossing the
16 road in the back because that has happened before.
17 That is the main exit for a lot of the folks from our
18 park. You can tie into our system. We had a positive
19 system goes out in the back, if you want to go larger.
20 I don't think that doing just an infiltration on a
21 site like this -- infiltration is hard, too, when you
22 have the freeze thaw. The water just loves the roads.
23 I would look into that.

24 This buffer is also pretty important. There are
25 some nice fruit trees that the Brownseys have had

1 there for years, in addition to the maple trees.
2 If you shove everything over here (Indicating) I think
3 you're going to lose the buffer in between there. We
4 would just like you guys to come meet with us and we
5 will work out some nice buffers.

6 As long as all the buildings look very nice -- the
7 Planning Board has worked with British American and
8 the other building on the other side worked out great.
9 We did cross easements. We are very cooperative with
10 all of that. I think that we would just like to meet
11 with you guys coordinate design. Thank you.

12 CHAIRMAN STUTO: Thank you.

13 MR. PRICE: I would like to add to this, that
14 Harkin Archaeological Associates did do a Phase 1 and
15 Phase 2 study on the property. I believe their findings
16 in April 2017 stated something to the effect that
17 development will not affect any significant
18 archaeological deposits and no further archaeological
19 work is recommended. That was addressed.

20 We did do geotechnical testing. Dente Engineering
21 did those. I believe the infiltration rates -- the
22 slowest ones that they found was 21 inches an hour,
23 which is pretty vast. The water table, according to
24 the logs -- there was no water table encountered
25 within 10 feet of the surface. So, there has been some

1 initial testing done at the site. I just wanted to put
2 that on the record.

3 CHAIRMAN STUTO: The applicant would like to
4 say something also.

5 MR. LECCE: To address Kevin's concerns of
6 environmental: We have had the whole site tested. We
7 had 15 foot bores done every 50 feet for the entire
8 site. There were two underground storage tanks that were
9 both removed and certified. The site drains very well.
10 It is virtually all sandy soils.

11 We would be happy to work with Kevin on creating
12 a buffer area between our two properties, but we have
13 addressed all the environmental issues and all the
14 stormwater issues before we got to the table here
15 tonight.

16 CHAIRMAN STUTO: What do you think about
17 pushing the building back?

18 I appreciate all those answers.

19 MR. LECCE: I have no objections to pushing the
20 building back. I just don't want to be behind Kevin's
21 building.

22 I think I reached out to Kevin on this one issue
23 about a year or so ago. I guess his concern was he
24 just wanted us to be consistent with the same setback.
25 He didn't want our building to block his view and in

1 return I don't want his building to block mine.

2 MS. DALTON: Can I ask a question about that?
3 Yours is an office building and Kevin's building is a
4 retail building. Why do you feel that it is as important
5 for your building to be seen as his?

6 MR. LECCE: I do want to restrict my first
7 floor to just office space. I think there is an office
8 retail, I believe -

9 MS. DALTON: I don't believe -

10 MR. LECCE: Yes it is. Currently my law firm is
11 going to take the entire third floor of this building.
12 We are committing to the third floor. We have current
13 tenants who may or may not be retail space. I think we
14 are consistent with the neighborhood and the buildings
15 in the neighborhood.

16 CHAIRMAN STUTO: My point is how the
17 streetscape looks.

18 MR. LECCE: I agree and I would be happy to
19 work with the building next door to work that out. I
20 just don't think that it's fair to push farther back --
21 the views and visibility coming down Route 7 -- again,
22 there is an existing curb cut there that was with the
23 home.

24 The home was an old home, but we had the home
25 demolished. We had the Colonie Historian go through

1 the site and go through the entire home before we
2 applied for a demolition permit. He gave us the green
3 light to be able to demolish the building. There was
4 nothing in the building that was even remotely savable
5 as an old home. The home was removed years ago.

6 The blue house in the back used to be on Route 7.
7 That got moved to another location. The home was
8 looked at by the Colonie Historian before we even
9 applied for a demolition permit.

10 CHAIRMAN STUTO: Thank you.
11 We have representatives from the Colonie Conservation
12 Advisory Committee? Do they want to speak on this?

13 MS. ROSANO: We just wanted to have something
14 clarified.

15 On the site application it says that the green
16 space is 42%. On the concept application it says 46%.
17 So, if someone could please clarify that for us?
18 Also, this site is over the Niskayuna sole-source
19 aquifer. We asked that due diligence certainly be made
20 when the construction is going on to preserve that and
21 prevent any contamination.

22 CHAIRMAN STUTO: A related question on green
23 space -- some of that green space where the easement is
24 I believe is accounted toward the Rite Aid.

25 MR. PRICE: I think some of the issues are that

1 the rear of the parcel is in the Town of Niskayuna. So,
2 there is an overall site grouping of numbers and then
3 there are numbers for the area within the Town of
4 Colonie. So, I think that is the discrepancy.

5 CHAIRMAN STUTO: About the green space easement
6 issue? Is that accounted for by the drugstore?

7 MR. PRICE: That, I would have to look into.

8 MR. LECCE: I am not sure.

9 CHAIRMAN STUTO: I don't think that we can
10 double count it. I think we have to look into that.

11 MR. TENGELER: At the additional DCC meeting
12 dated November 2016 one of the comments from the
13 Division of Engineering -- comment three was: Please
14 provide a copy of the green space easement for
15 evaluation. So, this is something we are going to have
16 to look into.

17 In the comments that were initially made, Mike
18 Lyons actually spoke about it at that time.

19 CHAIRMAN STUTO: Okay, so we are going to have
20 to resolve that.

21 MS. QUINE-LAURILLARD: I think that's a very
22 good point that you bring up about the green space.
23 When Rite Aid received its minor site plan approval in
24 their -- this was probably back circa '97 or '98, I
25 couldn't find the site plan filed with the Albany

1 County Clerk's office. I have actually asked the
2 Niskayuna Assistant Planner to look in their files
3 because it is a joint Niskayuna/Colonie property. So,
4 I think you are going to have the look in your files
5 to see how that happened.

6 The issue of the green space is if they had a
7 deficiency in their green space on that site and they
8 are borrowing from the Brownsey site, and now it's
9 being eliminated -- then I don't know if this is like
10 a Macy's reserve parcel situation where then you have
11 to compensate for the loss of green space because it
12 was attributed to the Rite Aid not having enough green
13 space when it was built.

14 CHAIRMAN STUTO: We understand the issue.

15 MS. QUINE-LAURILLIARD: I just want to make
16 sure and I want to clarify that for the record. Okay,
17 thank you.

18 CHAIRMAN STUTO: Anybody else from the public
19 want to be heard?

20 (There was no response).

21 From the Board?

22 (There was no response.)

23 Chuck, do you have anything to say?

24 MR. VOSS: No, but we will certainly research
25 the easements. That is one of the requirements that all

1 the easements are put on their site plans. On a concept
2 you don't always see all the easements. Certainly, it
3 sounds like there are some substantial easements there.
4 We will watch for those.

5 CHAIRMAN STUTO: We will start on the other
6 side.

7 Kathy?

8 MS. DALTON: So, first of all I read these
9 documents and not once did I see the word retail. I am
10 going to encourage you please that when you do your
11 narrative. For example, it's a 25,533 square feet
12 office building. So, when I read through the submission,
13 everywhere it is referred to as an office building. So,
14 I think that if you are planning to do any kind of
15 retail there, that really needs to be culled out. I
16 know that it is zoned possibly for retail, but it is not
17 mentioned anywhere.

18 Furthermore, in the elevations it doesn't look
19 like a retail building either. So, that did not tip me
20 off. I would encourage you that when you give us
21 updated elevations that it be clear that you intend to
22 have retail here. Given that you are planning to have
23 retail here, when I was thinking through the impacts
24 on traffic, I specifically thought to myself while
25 it's an office building, people will be coming in

1 during the morning and out in the afternoon and if
2 you've got retail, you've got more people coming in
3 and out. So, I am going to ask for the traffic study.
4 I think you need a traffic study under the
5 circumstances. I probably thought you needed one
6 before, but I think it definitely calls for it.
7 Also, I have an email here that we got from the
8 Planner at the Town of Niskayuna who indicated that
9 she was asked and her staff were asked to look at the
10 water basin - essentially the drainage and
11 infiltration. It indicates here that there is not a
12 lot of information on the plans right now to really
13 make good comments.

14 I would encourage you or whomever is responsible
15 to get that information that they have asked for and
16 get it to them, especially in light of what Kevin just
17 said about the fact that you might want to share what
18 he has already developed and link into it. I think
19 that makes all the sense in the world.

20 Those are my initial comments. Thank you.

21 CHAIRMAN STUTO: Lou?

22 MR. MION: I don't have anything.

23 CHAIRMAN STUTO: Brian?

24 MR. AUSTIN: I just want to say thank you to
25 Mr. Bette for coming out tonight and his willingness to

1 work with Mr. Lecce on the whole project. I think the
2 issue with the additional curb cut - it has been brought
3 up multiple times. With the Rite Aid possibly being an
4 access point for the office building -- I think that was
5 possibly brought up. Maybe Mr. Leece could work with Mr.
6 Bette and possibly having a combined access point for
7 his property. I am just thinking out of the box here.
8 I'm not sure if that's something that would really work.
9 You would have to go toward the back of the property to
10 access yours.

11 Moving the building back, also, is a good idea but
12 I understand your concern. I agree that the front
13 street scape should be relatively equal. I think
14 that's a good idea -- across the whole road.
15 It is a good project but it does need some more work.
16 We are on our way.

17 CHAIRMAN STUTO: Susan?

18 MS. MILSTEIN: I don't have anything.

19 CHAIRMAN STUTO: Craig?

20 MR. SHAMLIAN: I am going to echo a couple of
21 things from some people on the Board.

22 First of all, I think you did identify the retail.
23 It says retail and it's a storefront. They are big
24 packets.

25 I think the building should be moved back a little

1 bit and it should be consistent.
2 Clearly, the curb cut issue needs to be worked out.
3 I'm sorry but I don't think that it needs a traffic
4 study. Even with retail on the bottom, it is 5,000
5 square foot of retail. That's not going to generate
6 that much traffic.

7 CHAIRMAN STUTO: Chief?

8 MR. HEIDER: I'm moving in the same direction.
9 Don't get me wrong, we always look for traffic numbers
10 and traffic information but I'm not sure if the traffic
11 study is warranted.

12 I am concerned about the right-in curb cut. Even
13 DOT somewhat questioned not having a right-out. I
14 don't know if it is a space requirement. You don't
15 need 20 feet if you going to do a right-in only. The
16 way that you show the curb cut in front, I could see
17 people coming east on Route 7 and wanting to make a
18 left-hand turn in there.

19 It has been a pet peeve of mine - all these
20 right-ins and right-outs only. They are only as good
21 as that somebody who makes a left-hand turn into it. I
22 think that it has to be as pronounced as could be - a
23 right-in only. I personally don't see why if you going
24 to allow that, you can't have a right-out.
25 Niskayuna's recent questions about the traffic coming

1 out onto Rosendale so to alleviate that -- it will
2 allow people to go back out west on Route 7 out of the
3 front. I actually think that needs to be worked out
4 design wise.

5 I think if you looked at the banked parking spots
6 -- you have the two sides both on Mr. Bette's side as
7 well as on the other side you have 10 or 15 spots, I
8 could see that they are easily being banked because
9 that's a lot of blacktop.

10 CHAIRMAN STUTO: Chuck, do you have anything to
11 say before I sum up and try to bring a resolution -

12 MR. VOSS: No.

13 CHAIRMAN STUTO: I think a lot of issues were
14 raised. I think this is a viable project. I don't see
15 any insurmountable problems that can't be worked
16 through.

17 The question, as I see it is: Is it ready for
18 concept approval? The open issues are being access,
19 the green space issue with the easements and where is
20 the green space going to be. We're going to end up
21 pushing the building back. The retail maybe needs to
22 be clarified a little bit more and the banked parking.
23 So, the project is maybe potentially going to look
24 different.

25 Do we want to vote on concept tonight and then get

1 an interim report before final and get an update on
2 where the concept is, or do we want to send them back
3 and look into these issues and come back for concept?

4 MS. DALTON: Peter, I would just say out of
5 courtesy to the Town of Niskayuna who was asking for
6 more information -- we asked them to comment and they
7 asked us for more information. I think that we should
8 give them the opportunity before we vote.

9 MR. VOSS: Kathy, just to note though, we won't
10 see designed stormwater facilities until first or second
11 preliminary. That is a ways off.

12 MS. DALTON: Yes, but we did reach out to them
13 and we did ask them to take a look for concept. They got
14 back to us and asked for more information on concept. I
15 think that it is appropriate to give them the
16 information that they asked for.

17 CHAIRMAN STUTO: How does the rest of the Board
18 feel? I have no problem voting today.

19 MS. MILSTEIN: There are possibilities of
20 having Mr. Lecce and Mr. Bette get together so we can
21 come up with a better plan and have a better concept.

22 CHAIRMAN STUTO: Or we can vote and maybe we're
23 not ready for concept tonight.

24 Somebody would have to make a motion for concept.

25 MR. HEIDER: I will make a motion for concept.

1 CHAIRMAN STUTO: Second?

2 MR. AUSTIN: Second.

3 CHAIRMAN STUTO: Any discussion?

4 You are arguing against.

5 MS. MILSTEIN: I just think we're not ready. We
6 are close, but we are not there yet. I would like to
7 see more -- especially the green space issue that we
8 have.

9 MR. MION: And there could be a better way of
10 doing it and with the two gentlemen getting together to
11 work it out might change the whole look.

12 MR. AUSTIN: I think you have the willingness
13 from Mr. Bette. That is important because he has a lot
14 of history on the property. So, he could really help you
15 with that in moving forward on the project. I think the
16 two developers working together is definitely something
17 that you don't always see.

18 CHAIRMAN STUTO: I think that it is going to
19 end up in the same place, either way.

20 MR. MION: I agree.

21 CHAIRMAN STUTO: So, we're going to take a
22 vote. On the motion before us, subject to all the
23 conditions here and -- concept is an acceptance, it is
24 not an approval. So, it is not anything that is a final
25 decision. That is conditioned upon all of the comments

1 from the Board and the departments and the Town
2 Designated Engineer. So, we are taking a vote on it.
3 All those in favor of concept at this point, say aye.

4 MR. AUSTIN: Aye.

5 MR. HEIDER: Aye.

6 CHAIRMAN STUTO: Aye.

7 MR. SHAMLIAN: Aye.

8 CHAIRMAN STUTO: All those opposed?

9 MS. DALTON: Nay

10 MR. MION: Nay

11 MS. MILSTEIN: Nay

12 CHAIRMAN STUTO: It appears that the motion for
13 concept passes 4/3.

14 I would request - ask Chuck - if we can bring these
15 folks back before final. Does the applicant have any
16 objection to that? Tell us where we are with these
17 issues.

18 MR. LECCE: No.

19 CHAIRMAN STUTO: Okay, thank you.

20

21 (Whereas the above entitled proceeding was concluded
22 at 7:55 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
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NISKAYUNA, NY 12309

