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PLANNING BOARD COUNTY OF ALBANY
TOWN OF COLONIE

MITOLA DENTAL OFFICE
1240 LOUDON ROAD
APPLICATION FOR ENVIRONMENTAL SEQR
AND FINAL APPROVAL

THE STENOGRAPHIC MINUTES of the above entitled matter by NANCY L. STRANG, a Shorthand Reporter, commencing on February 27, 2018 at 7:58 p.m. at The Public Operations Center, 347 Old Niskayuna Road, Latham, New York.

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

ALSO PRESENT:

Joseph LaCivita, Planning and Economic Development Department
Michael Tengeler, Planning and Economic Development Department
Joseph Grasso, PE, CHA
Joanne Niles
Alita Giuda, Esq. Couch White, LLP
Nick Costa, PE, Advance Engineering
David Mitola

1 CHAIRMAN STUTO: Next and final item on the
2 agenda is Mitola Dental Office, 1240 Loudon Road,
3 application for environmental SEQR and final approval,
4 4,100 square foot professional office.

5 Joe LaCivita, did any further introduction for
6 this project?

7 MR. LACIVITA: Just to get on the record,
8 Peter, this is in the OR zone. We had erred and put
9 in concept acceptance. All the documentation that went
10 out from the posting perspective does show final
11 approval and SEQR and that's what we are here for
12 tonight. It is for final approval and SEQR.

13 We have seen this project a couple of times
14 back in December 2015 when it started with DCC. It's
15 gone through several meetings with the Town
16 Departments and the TDE as well as this Board. We have
17 seen it for concept November 1, 2016 and we are here
18 again tonight for final and SEQR action.

19 Nicholas?

20 MR. COSTA: Good evening. My name is Nick Costa
21 and I'm with Advance Engineering and Surveying and we
22 have prepared the documents that have been submitted
23 to the Board for 1240 Loudon Road which is an acre
24 parcel located at the intersection of Fonda Road and
25 Loudon Road.

1 The 1 acre parcel is basically a square spot.
2 It is 200 x 200. It's vacant right now and it has
3 historically been used as part of the Orshan Farm
4 complex.

5 Dr. Mitola purchased the parcel and is
6 proposing to construct his dental office at this
7 location. The site does have all the infrastructure
8 that's necessary to develop the site with the 4,100
9 square foot building. It's a one-story building, as
10 shown on the site plan.

11 Access will be from Loudon Road. There is a
12 traffic light at this intersection. So, the access
13 road will be here and they will be going in and there
14 will be parking for the clients.

15 The water is located out on Loudon Road.
16 Sanitary sewer is located along the bike trail. This
17 is the Mohawk Bike Trail right here that crosses under
18 Route 9. The sanitary is located there and we're going
19 to be connecting to that sanitary sewer line.

20 We're going to do stormwater management on the
21 site. We're picking up the stormwater with catch
22 basins and we're holding it underneath the pavement
23 with chambers and pipes and we're also doing a little
24 bit of a depression here for some further stormwater
25 volume.

1 The site is located in the office/residential
2 zone. It is also located in the conservation overlay
3 district. So, the site does have to comply with 40%
4 conservation requirements. Out of this one acre, 40%
5 of the site has to be conserved. That's what the
6 conservation overlay district requires. The way that
7 we are achieving that is that we are deed restricting
8 a portion of the site. We are also deeding an easement
9 to the Town of Colonie for future access to the rear
10 parcel. That will be right here (Indicating), as part
11 of the construction of this driveway, they are
12 extending the easement all the way to the rear
13 property line.

14 As Joe mentioned, the project was in front of
15 the Board a couple of times so we are here today for
16 final approval. We have worked with the departments
17 and with Joe Grasso, CHA, for getting the project to
18 this point.

19 CHAIRMAN STUTO: Okay, this has been reviewed
20 by our Town Designated Engineer, CHA.

21 Joe Grasso, can you offer your comments on this
22 project?

23 MR. GRASSO: This project has obviously been in
24 front of the Board before and it's gone through a
25 number of iterations since it was first proposed. We

1 commend the applicant and Nick as their consultant in
2 working with the Town and the Town Departments, being
3 willing to modify the plan to address concerns that
4 have been raised both by the Planning Board as well as
5 the various Town Departments. Also, like Nick
6 mentioned, to comply with what we consider pretty
7 restrictive requirements of the Conservation Overlay
8 District.

9 We are in support of how they are looking to
10 achieve that goal by deed restricting significant
11 portions of the site. The access configuration within
12 that 60 foot restricted easement area is significant.
13 It does provide a fourth leg of the intersection at
14 the intersection of Fonda Road and Route 9. There is a
15 signal there. Obviously, there is nothing on that
16 fourth leg right now. This project will develop that.

17 They have coordinated with DOT on the
18 requirements that add that fourth leg of the signal.
19 The intent is that in the event adjacent lands develop
20 at some point in the future, this 60-foot right-of-way
21 could be used to access adjacent lands. That
22 easement has been crafted at the request of the Town
23 as an easement between the Town of Colonie and the
24 applicant.

25 Because it's in the conservation development

1 overlay zone, there are conservation findings that
2 demonstrate how the project is compliant with those
3 regarding the preservation of 40% of the property and
4 within our letter or attached to our letter are draft
5 conservation findings for the Planning Board's
6 consideration.

7 The DOT has reviewed this throughout the review
8 process. They obviously will have to review the final
9 plans regarding the resignalization of the Fonda
10 Road/Route 9 intersection.

11 I wanted to raise the point regarding the
12 fencing. The plan currently depicts decorative fencing
13 along the project frontage and the northern property
14 line and chain link fencing along the western
15 boundary. Our recommendation is that in keeping with
16 the character of the adjacent agricultural use, we
17 recommend that all fencing be proposed as post and
18 rail.

19 Lastly, the Town Attorney's office has
20 classified this as unlisted action pursuant to SEQR. A
21 short EAF has been provided with the application
22 materials. Involved agencies include the Town of
23 Colonie Planning Board and DOT. We have reviewed the
24 short EAF and it correctly describes the environmental
25 setting and to the proposed project and we have

1 drafted Parts II and Parts III of the short EAF for
2 the consideration by the Planning Board.

3 The project site is adjacent to an active
4 agricultural parcel. So, and agricultural data
5 statement is required, copies of which are included in
6 your packet and have been provided for our review and
7 the Town's review. We feel that documentation is
8 adequate to allow the project to be reviewed and
9 proceed through the process.

10 The project appears ready for final site plan
11 consideration by the Planning Board.

12 CHAIRMAN STUTO: Are there members of the
13 public that want to speak on this one?

14 MS. NILES: My name is Joanne Niles. I just
15 have a couple of questions.

16 How much parking is with this?

17 CHAIRMAN STUTO: We'll get all the questions
18 out first.

19 MR. LACIVITA: Can you put your name and
20 address on the record, please?

21 MS. NILES: Joanne Niles and I'm at 1233 Loudon
22 Road.

23 So, my three questions are going to be the
24 number of parking spaces -- you already addressed that
25 it's a one-story, so there is no expansion on that. Is

1 there going to be a connection to the bike path which
2 is next to that? I want to know about the fourth leg
3 onto Route 9 - if the northbound traffic on Route 9 -
4 is that center line going to be converted? Is there
5 going to be a loss of that because now you're adding a
6 fourth leg to that light.

7 CHAIRMAN STUTO: Do you understand all the
8 questions, Nick?

9 MR. COSTA: Yes.

10 CHAIRMAN STUTO: If you want to have a seat,
11 we'll try to answer them for you ma'am.

12 MS. NILES: What if I have more?

13 CHAIRMAN STUTO: Then you can ask them.

14 MR. COSTA: As shown on the site plan, there
15 are 24 parking spaces scattered through the site.
16 There will not be a connection to the bike path. There
17 is a pretty good elevation difference. If somebody
18 wants to walk down the slope, they certainly can do it
19 but right now, there is quite an elevation difference
20 from the bike path to the parcel. So, it's a slope.
21 It's a walkable slope, but there is not going to be a
22 hard connection. There is no sidewalk and there is no
23 trail.

24 With regard to the fourth leg, at this time,
25 there are no plans to eliminate that center lane.

1 MS. NILES: I wouldn't think that it would be
2 eliminated. I want to know if it's going to be
3 converted to a -

4 MR. COSTA: No, it's going to remain as it is
5 and people will have to queue into that to make the
6 left.

7 MR. HEIDER: I think the question is: Is that
8 going to become a turn lane?

9 MR. GRASSO: I believe that it's a two-way left
10 turn lane in that section and it will be used as such.
11 So, if you're looking to take a left into the project
12 site and you're headed northbound, you will queue in
13 that lane and not within the two thru-lanes. There are
14 two thru-lanes and then there is a two-way left turn
15 lane on the left hand side, as you're heading north.
16 You will be able to use that two-way left turn lane to
17 access the project site.

18 MS. NILES: Right, because coming south it's a
19 dedicated lane. Who makes that determination?

20 MR. GRASSO: DOT.

21 MR. COSTA: That's New York State DOT. At this
22 time, we have been talking to DOT for the last two
23 years on this project. They have not asked us to make
24 that a dedicated turn lane.

25 MR. GRASSO: And the reason is because the site

1 is a relatively low volume generator of traffic. There
2 is not going to be a lot of traffic. If the road is
3 converted and serves additional development that has
4 more traffic, then it is likely that it could be
5 converted to a left turn lane, just like you see
6 southbound. It's not them, though.

7 MR. COSTA: Not this project and not this
8 application.

9 MR. NILES: I have another question. Is it
10 already a dental office proposal? Is there a client
11 for this, or is that just a thought?

12 CHAIRMAN STUTO: I'll let the applicant answer
13 that.

14 MR. COSTA: We have the dentist here and he
15 will be relocating here.

16 MR. MITOLA: It's just for our practice only.
17 The volume is maybe two or three cars now.

18 MS. NILES: I have nothing else; thank you.

19 CHAIRMAN STUTO: Alita Giuda.

20 MS. GIUDA: Thank you. I'm Alita Giuda with
21 Couch White. I'm here on behalf of David and Andrea
22 Orshan. We thank the Board because this evening some
23 of the questions that we had have obviously been
24 addressed since the last time that this was in front
25 of the Board.

1 We did notice in our comment letter that we
2 submitted last week - we had discussed the change from
3 the proposed access easement to deeding the property
4 to the Town for access. Obviously, deeding the
5 property will give comfort that there is future access
6 for the project. Our concern is the timing of the
7 change. Is the Town going to develop this road
8 themselves? Is a future developer going to have to do
9 it? Is there a cost or a construction obligation? We
10 would want to have a say in that if it is something
11 that would be imposed on my client if their farm
12 operation changes. A future purchaser of the property
13 would want to understand that.

14 Also, since there would be an active dental
15 operation with an access drive, has the Board
16 considered how the access drive will be impacted
17 during the time that property is upgraded to a larger
18 access road in the future?

19 CHAIRMAN STUTO: Can I just ask you a question
20 on the access road? Your client is the landowner that
21 will be accessed by the access road, correct or no?

22 MS. GIUDA: Right now they use a different
23 access way but in the future -

24 CHAIRMAN STUTO: But there is still property
25 behind -

1 MS. GIUDA: Yes.

2 So, we do appreciate that the agricultural data
3 statement was provided. It is very important to look
4 at the impacts because this is and has been an active
5 farm. We want to ensure that we can continue farming
6 in the way that we have and the clients coming to a
7 new dental practice aren't coming in saying hey, there
8 is a farm and it smells, there is noise. We want as
9 little interference as possible on both sides.

10 Finally, we heard the discussion about the
11 fencing requirements. We support that, as the fence is
12 the best method to allow the farming operations to go
13 forward in kind of keep anything they may be doing
14 with crop work separate from the dental operation.
15 Thank you for that, as well.

16 CHAIRMAN STUTO: In terms of open questions, I
17 think the access road -- can you just talk about that
18 little bit? We will flush out some of the particulars.

19 MR. COSTA: The access road that is being built
20 by Dr. Mitola will be an access road that will access
21 this building. That's all that is. In the future -

22 CHAIRMAN STUTO: Is it deeded to the Town or an
23 easement?

24 MR. GRASSO: An easement is being conveyed from
25 the applicant to the Town of Colonie with the intent

1 that it would be provided as a dedicated right-of-way,
2 if ever requested by the Town of Colonie and no cost
3 to the Town. Like Nick said, the access road is being
4 constructed to serve this project. There is adequate
5 area - 60 feet is the Town's standard. That's why we
6 took the most conservative approach to make sure that
7 we didn't need additional acreage. It is likely that
8 the road would need to be widened or reconstructed in
9 order to serve the Town road, if it was going to see a
10 lot of traffic. If it was just going to see another
11 office building of this size, it could probably stay a
12 24 foot wide access road.

13 CHAIRMAN STUTO: She just asked who is going to
14 pay for the construction of that.

15 MR. GRASSO: If there are improvements required
16 in the future, it would be the responsibility of
17 whatever project triggered the need for those
18 improvements.

19 CHAIRMAN STUTO: The agricultural data sheet -
20 did we talk about that?

21 MR. GRASSO: Yes, it was included in your
22 packets. It does include basic information regarding
23 the project and the adjacent farm operation. It is a
24 requirement of the project review because the adjacent
25 farm is located within an agricultural district. We

1 appreciate their comments. It is important that the
2 applicants understand that they are developing a piece
3 of property next to an active farm operation with the
4 sights and sounds and smells and use of chemicals that
5 go along with that. It was something that was brought
6 up early on in the review process. I think it was
7 talked about at every step. So, I think there is a
8 full awareness of the Planning Board's part as well as
9 the applicant's part of the knowledge that there is an
10 active operation. The operation has certain rights to
11 continue farming in the future. That's what we hope.

12 CHAIRMAN STUTO: It seems like a very simple
13 piece of data, but she is contending that we have to
14 consider that in our approval. So, I think we should
15 get it on the record.

16 MR. COSTA: Again, the description of the
17 proposed project - it's the name of the applicant and
18 the location. Then, it talks about the description of
19 the proposed project which is an acre site. It is a
20 proposed office building in an approximate area of
21 4,100 square feet. It is one lot. It is in accordance
22 to the office residential zoning of the Town of
23 Colonie. We list the adjacent owners which is what we
24 gather from the tax map information.

25 CHAIRMAN STUTO: Does anybody have any

1 questions on that?

2 (There was no response.)

3 Did we answer all your questions that were
4 open?

5 MS. GIUDA: Yes, thank you

6 CHAIRMAN STUTO: Thank you.

7 Any other comments from the public?

8 (There was no response.)

9 From the Board; any comments or questions?

10 (There was no response.)

11 Do we have a motion for final approval?

12 MR. GRASSO: We still have to do SEQR.

13 CHAIRMAN STUTO: Okay, SEQR.

14 MR. GRASSO: SEQR would be first and then we
15 would go through the Land Use Law and conservation
16 findings because it is a conservation development
17 overlay district.

18 We talked about SEQR before. It is an unlisted
19 action, so a short EAF is sufficient. We have drafted
20 Parts II and Parts III of the EAF for the Planning
21 Board's consideration.

22 Part I is the project description and
23 environmental setting and that is completed by the
24 applicant.

25 Part II is the responsibility of the lead

1 agency. That's for you to get into the impact
2 assessment.

3 There is a series of 11 questions regarding
4 will the proposed action create a material conflict
5 with adopted land use plan or zoning; will it result
6 in a change in the intensity of these lands; will it
7 impair the character or quality of the community;
8 would it have an impact on environmental
9 characteristics that cause the establishment of a
10 critical environmental area; what result in an adverse
11 change in the existing level of traffic or affect
12 existing infrastructure for mass transit, biking or
13 walkways; will it create an increase in the use of
14 energy and will it impact public/private water
15 supplies or public/private wastewater treatment
16 utilities; will it impact the character or quality of
17 important historical, archaeological and architectural
18 or aesthetic resources; would it result in a change of
19 natural resources; would it increase the potential for
20 erosion, flooding or drainage problems and would it
21 create a hazard to environmental resources or human
22 health.

23 We go through an analysis based on the
24 information within the project record and we had
25 determined that no or small impact would occur for

1 each of those items. Based on that, it does appear
2 like a negative declaration pursuant to SEQR is
3 appropriate.

4 So, we have drafted Part III which is an actual
5 determination of significance that says based on the
6 information and analysis above and any supporting
7 documentation that the proposed action will not result
8 in any significant adverse environmental impacts.

9 That's up for the Planning Board's
10 consideration.

11 CHAIRMAN STUTO: Does anyone have any comments
12 or questions on that discussion?

13 (There was no response.)

14 Do we have a motion on that negative
15 declaration?

16 MR. MION: I will make a motion

17 MR. AUSTIN: Second.

18 CHAIRMAN STUTO: Any discussion?

19 (There was no response.)

20 All those in favor, say aye.

21 (Ayes were recited.)

22 All those opposed, say nay.

23 (There were none opposed.)

24 The ayes have it.

25 Onto the Land Use Law conservation findings.

1 MR. GRASSO: Whereas pursuant to the Town of
2 Colonie Land Use Law regarding overlay districts, the
3 Planning Board shall issue conservation findings for
4 projects located within the conservation overlay
5 district; and whereas the applicant's current proposed
6 plan conforms to the density requirements of the
7 conservation development overlay districts, and
8 whereas the Planning Board has determined the property
9 has areas worthy of deed restriction to provide a
10 buffer for the adjacent agricultural use and to
11 provide a future access connection to the adjacent
12 parcel, and whereas the proposed development has
13 provided deed restrictions of over 40% of the
14 unconstrained lands within the project site in the
15 form of deed restricted areas along the northern and
16 western property lines adjacent to the agricultural
17 use and a 60 foot wide access easements.

18 Now, therefore be it resolved that based on the
19 Planning Board review of the site plan application and
20 conservation analysis, the Planning Board determines
21 that the project complies with the requirements of the
22 conservation development overlay district.

23 CHAIRMAN STUTO: Any comments or questions on
24 that?

25 (There was no response.)

1 Do we have a motion?

2 MR. MION: I will make a motion.

3 MR. AUSTIN: Second

4 CHAIRMAN STUTO: All those in favor, say aye.

5 (Ayes were recited.)

6 All those opposed, say nay.

7 (There were none opposed.)

8 The ayes have it.

9 And unto the main question before the Board
10 which is for final approval of this project, subject
11 to all the conditions placed upon it by the Town
12 Departments and the letter and in the statements of
13 the Town Designated Engineer and any comments by the
14 Board, do we have a motion?

15 MR. AUSTIN: I will make that motion.

16 MR. HEIDER: I will second.

17 CHAIRMAN STUTO: Any discussion?

18 (There was no response.)

19 All those in favor, say aye.

20 (Ayes were recited.)

21 All those opposed, say nay.

22 (There were none opposed.)

23 The ayes have it.

24 Thank you.

25 MR. COSTA: Thank you.

1 (Whereas the above entitled proceeding was concluded
2 at 7:15 p.m.)
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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.

NANCY L. STRANG

Dated _____

