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PLANNING BOARD COUNTY OF ALBANY

TOWN OF COLONIE

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BRITISH-AMERICAN PLAZA, PHASE 1  
798 ALBANY SHAKER ROAD

APPLICATION FOR CONCEPT ACCEPTANCE

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THE STENOGRAPHIC MINUTES of the above entitled matter  
by NANCY L. STRANG, a Shorthand Reporter commencing  
on March 6, 2018 at 7:11 p.m. at The Public  
Operations Center, 347 Old Niskayuna Road, Latham,  
New York

BOARD MEMBERS:  
PETER STUTO, CHAIRMAN  
LOU MION  
CRAIG SHAMLIAN  
SUSAN MILSTEIN

ALSO PRESENT:

Kathleen Marinelli, Esq., Counsel to the Planning  
Board  
Joseph LaCivita, Director, Planning and Economic  
Development  
Michael Tengeler, Planning and Economic Development  
Department  
Ryan Weitz, PE, Barton and Loguidice  
Susan Quine Laurilliard  
Heather Wyld, PE, CHA  
Tony Stellato, PE, CHA

1                   CHAIRMAN STUTO: British American Plaza, Phase  
2                   1, 798 Albany Shaker Road, application for concept  
3                   acceptance, three-story office building, 39,000 square  
4                   feet and a three-story 106 room hotel and open  
5                   development area.

6                   Joe LaCivita?

7                   MR. LACIVITA: Peter, this project has a  
8                   long-standing review process with the Town starting back  
9                   in 2006. They received concept and a negative  
10                  declaration back in November 2017, which is still valid.  
11                  While the negative declaration is still valid today,  
12                  there was some site work done during the course of the  
13                  project back in 2015 and 2017 which was the mitigation  
14                  component to the project.

15                  Tonight we are here to review for concept  
16                  acceptance back to the project so that they can move  
17                  forward. There has been a slight change since the  
18                  initial application.

19                  I'm not going to steal anymore thunder from  
20                  Tony or from Heather. So, we will turn it over to  
21                  them to walk us through the project.

22                  MR. STELLATO: Good evening. My name is Tony  
23                  Stellato and Heather Wylde from CHA. I'm just going to  
24                  bridge some of the history. I have been with this  
25                  project since the beginning - since my 30-year-old

1 daughters were in high school.

2 It is a 42 acre site. We have had a previous  
3 concept acceptance, as Joe said. We recently came and  
4 with a proposal for a hotel and office building. That  
5 office building was 25,000 square feet and 2 1/2  
6 stories. The hotel was four stories, 98 rooms.

7 We got into a discussion about a second means  
8 of ingress and egress. In the course of reviewing the  
9 requirements of Joe Bisignano at Fire Services, we  
10 came up with an idea to provide an emergency access  
11 drive to the hotel property in this area right here  
12 (Indicating). We went to the Albany County DPW.  
13 Essentially they gave us the nod to move it ahead in  
14 concept and we have been progressing with that.

15 We got into the process for what it's going  
16 to take to get that emergency access road done  
17 because it requires a break in access on Watervliet  
18 Shaker Road. While both the Legislature, we believe,  
19 and Albany County DPW are supportive, it's going to  
20 take a little bit of time to get a proposal through  
21 the Legislature. That approval will probably lag

22 MS. WYLD: So, as Tony described this is  
23 different than what you saw at sketch plan. So, we are  
24 requesting an open development area to subdivide the  
25 parcel into three lots.

1           The first lot, Lot 1 is the one where the  
2           hotel is located on the southeast portion of the  
3           parcel. Lot 2 is where the office building will be -  
4           more towards the west. The remaining parcel, as you  
5           can see on the big plan - there is extra space off to  
6           the west there - will be Lot 3.

7           The hotel will be a 4.4 acre lot, give or  
8           take. The office is about 5.75 acres and the  
9           remaining parcel is about 30 acres.

10          All three lots will meet the COR area  
11          requirements for the commercial/office district and  
12          are all compliant lots. The reason that we are  
13          requesting the ODA is because there is shared access  
14          across all of the lots. They are not all using their  
15          frontage for access. In addition, the existing road  
16          that connects out to Albany Shaker Road is currently  
17          private and owned by British American. They will be  
18          dedicating that to the Town as part of this project,  
19          as well as an extension to the cul-de-sac to serve  
20          this project.

21          So, the existing and the proposed portion to  
22          the cul-de-sac will be dedicated to the Town. That's  
23          going to be in conjunction with construction of this  
24          project. So, the lot frontage for the three lots that  
25          we are creating won't actually go into effect until

1           that dedication is complete so the ODA allows us to  
2           do all of that at the same time.

3                       So, the hotel, as Tony described, is  
4           currently a three-story building. It's 48,000 square  
5           feet comprising of 106 rooms.

6                       The office has been revised to three stories  
7           for 39,000 square feet. Each building currently has  
8           the required number of parking spaces based on the  
9           use.

10                      The hotel is 108 spaces required and we are  
11           providing 119 just based on the layout.

12                      The office requires 173 spaces and that's  
13           exactly what we are providing. Each one is at its  
14           individual location, so they serve as separate  
15           functioning properties.

16                      We are proving a secondary means of access to  
17           the project from Watervliet Shaker Road, which is  
18           down on the southeast portion of the project here  
19           (Indicating). That, like Tony explained, needs  
20           approval from the Albany County Legislature as well  
21           as DPW.

22                      CHAIRMAN STUTO: That's full access or  
23           emergency access?

24                      MS. WYLD: It will be emergency only. It will  
25           be deeded on each side. So, it will be maintained by

1 British American, emergency access only. So, we have two  
2 gates here on either side of the multi-use trail. That's  
3 the only way that Albany County would agree to the use  
4 of that.

5 That emergency access, however, does benefit  
6 more than just our project. It will serve as a  
7 secondary access, ultimately, to the Hilton Garden  
8 Inn, the country club to the north, as well as the  
9 existing multi-use trail.

10 So, we are also providing pedestrian access  
11 to the multi-use trail from the hotel. This will be  
12 an asphalt path to that multi-use trail, around the  
13 gate area so that the pedestrians have access.

14 The utilities -- we have met recently with  
15 Pure Waters and Latham Water to discuss utility  
16 routing. What was submitted for concept - the  
17 packages that you have has been revised slightly as  
18 we have progressed through those so I'll just kind of  
19 explain what Latham Water and Pure Waters has  
20 directed us to do going forward.

21 The water service to the site will be mostly  
22 public water main. It will connect at a valve up at  
23 the end of the existing roadway, near Hilton Garden  
24 Inn. It will continue through the site, pretty much  
25 following the proposed road. The public watermain

1 will extend up to the hotel and then it will be a  
2 private service into the hotel building itself. This  
3 way it will extend towards the office building and  
4 this way it will stay in the road, public and will go  
5 private into the office building itself.

6 There is also going to be a hydrant near each  
7 building as per the requirements of the Fire  
8 District.

9 There will be easements to the Town through  
10 the private property. Both buildings are going to be  
11 sprinklered for fire protection.

12 The sanitary sewer, per the requirements of  
13 Pure Waters is going to connect to the existing  
14 manhole, also at the end of the existing access road.  
15 That will also follow, pretty much parallel to the  
16 watermain in the proposed road. That will be a public  
17 main to a point. To this intersection here will  
18 continue public to the end of the roadway here  
19 (Indicating). We will have a private service going to  
20 the office building and then there will be a private  
21 service that extends from this intersection point up  
22 to the hotel.

23 Again, we will grant easements to the Town  
24 for those portions of the public sewer main.

25 General location for stormwater management

1 are shown on the plan. We're using infiltration,  
2 extended detention as well as bioretention. And those  
3 will all meet the green infrastructure requirements  
4 as well as water quality and deep flow mitigation.

5 So, conservation of greenspace and wooded  
6 areas on the property has been a major focus as we  
7 develop this plan. Each lot individually does exceed  
8 the minimum requirement of 35%. Lot 1 with the hotel  
9 has 52%. Lot 2 with the office is 71% and the  
10 remaining parcel, Lot 3, is 99% greenspace at the end  
11 of the construction period. So, we have a few deed  
12 restricted conservation areas that are associated  
13 with the project totaling 21 acres of conserved area  
14 that will never be touched.

15 CHAIRMAN STUTO: Who is the recipient of that  
16 deed? You're saying that they already exist?

17 MS. WYLD: Yes.

18 MR. STELLATO: There is a 14-acre piece on the  
19 west end of this site that was deeded conservation area  
20 so it's written into the deed. It's part of the wetland  
21 permit, actually. So, it actually comes from about here  
22 (Indicating). You can't really see the property lines  
23 here.

24 CHAIRMAN STUTO: Doesn't there have to be a  
25 recipient of the conservation easement, like a grantee

1 that has the ability to enforce it?

2 MR. STELLATO: It's not really an easement.  
3 It's a deeded conservation land, so you hold a deed to  
4 the property. There is a written description - there is  
5 a meets and bounds that goes around this thing and then  
6 there is a series of covenants that are attached to the  
7 deed that says this is what can and cannot happen in  
8 this place. Basically, the covenants say passive  
9 recreation, but you can't do anything else in this area.

10 CHAIRMAN STUTO: Okay. That doesn't fully  
11 answer it, but maybe we'll get it later. There is always  
12 a grantor and a grantee. I don't want to get bogged down  
13 on that.

14 MR. STELLATO: There is also a 50-foot wide  
15 buffer that runs along the golf course property that  
16 this property was originally conveyed from the country  
17 club. With that conveyance there was an easement back to  
18 the golf course - 50 foot wide no-clear buffer. It's 50  
19 feet by 3,000 feet so that's three acres.

20 There is also four acres at 625 Sand Creek  
21 Road which is right about here (Indicating) on the  
22 plan and that is a parcel located over by CBA and  
23 that area over there by South Family Drive. It was a  
24 piece of property that had some development pressure  
25 on it. The applicant acquired it and they drew a

1           restricted easement and deed covenants on the  
2           property, created wetlands on it and enhanced  
3           wetlands that were there, planted over a 2,300 trees  
4           and shrubs to create a working wetland. The  
5           construction is complete and it's working  
6           beautifully. It's really a nice feature and really  
7           does a lot to enhance Ann Lee pond and some of the  
8           water features in the area. So, those three areas  
9           together are your conservation covenants.

10                   CHAIRMAN STUTO: Was there cutting down there  
11           to create that?

12                   MR. STELLATO: There was cutting on the  
13           development site, yes. The wetland permit that was  
14           granted required it and it had a deadline for completion  
15           of the mitigation site on Sand Creek Road and also, for  
16           the filling activities that were permitted by the  
17           permit. There are just about two acres of wetlands that  
18           are on this site that were filled under the permit. The  
19           permit was set to expire in September of 2016 so they  
20           started the construction in late 2015. It needed to be  
21           extended into mid-2017 so they go the wetland permit  
22           extended.

23                   It since has been completed and the wetland  
24           permit has been closed out. It was all done under a  
25           grading permit that the applicant pulled from the

1 Town.

2 The Town inspected the stormwater. The  
3 Inspector was out there. It was all done in  
4 conjunction with Town staff.

5 MR. LACIVITA: All though the process, Peter,  
6 about nine acres was disturbed in the overall process.

7 CHAIRMAN STUTO: And other lands were preserved  
8 and wetlands were created with that.

9 MR. LACIVITA: Yes.

10 CHAIRMAN STUTO: Okay.

11 MS. WYLD: The only other thing we want to  
12 touch on is this Shaker Heritage Society. We have been  
13 working with Shaker Heritage regarding both the site  
14 plan, layout as well as the architectural designs. These  
15 are the elevations that we currently have. Tru by Hilton  
16 Hotel here and further down is the office building.  
17 Discussions with the Shaker Heritage are ongoing, but  
18 we've been working with them and they are, at this  
19 point, pretty pleased with the design that we have  
20 incorporated.

21 Do you want to touch on that anymore?

22 MR. STELLATO: I've met with Starlyn D'Angelo.  
23 She's very supportive of the sites in the building  
24 designs. Actually, the office building is very similar  
25 to what was proposed in 2007. It has been modified a bit

1 for this site.

2 The hotel - Hilton Tru is a new brand. This  
3 will be the third in this area. The hotel brand is  
4 very sensitive to the images portrayed, but they have  
5 made some concessions and the Heritage Society has  
6 asked for some stone treatment.

7 The interior of the hotel is going to have  
8 this feature wall is going to portray Shaker  
9 Heritage. So, they are happy with that. We continue  
10 to work with Shaker Heritage Society and talk with  
11 some of the other applicants in the area that have  
12 adjoining parcels.

13 We're talking about the possibility of doing  
14 some interconnected trails and easements to allow  
15 recreation and potentially some enjoyment of this  
16 parcel. It has some significant upland areas, too.

17 This is not all wetland back here -- there  
18 are a lot of uplands there. There is a lot of nice  
19 property there.

20 CHAIRMAN STUTO: Can you tell us a little bit  
21 about the brand of Hilton Tru? I read something in the  
22 paper, but I don't want to misspeak. Do you know what  
23 the concept is?

24 MR. STELLATO: I can only tell you a little bit  
25 about it. I did the one in Troy. This is the second one

1 that I have done. The market that they are going for - I  
2 think it's younger business travelers. I'm not positive  
3 about that. It's not a full-service hotel. It's very new  
4 and we haven't actually seen one yet. I don't know what  
5 else I can really tell you about it.

6 They are not looking for conferences or that  
7 kind of thing. I hesitate to speak for the brand, but  
8 I would call it a basic services hotel - but upscale  
9 basic.

10 CHAIRMAN STUTO: This has been reviewed by the  
11 Town Designated Engineer, CHA.

12 Ryan, can you help us?

13 MR. WEITZ: Thank you, Mr. Chair. Yes, as you  
14 mentioned, we did take a look at the revised content and  
15 application and issued a letter on that dated February  
16 27.

17 MR. LACIVITA: For the Members of the Board,  
18 their letter got incorporated in our City Works. We  
19 won't be looking for the Barton and Loguidice letter. I  
20 believe it's page 2 or three. You will see it dated  
21 February 27.

22 MR. WEITZ: So, a lot of the discussion and  
23 comments that we had in our letter have been addressed  
24 by a presentation by Tony and Heather this evening. They  
25 have been discussed. So, I would like to go through and

1 just highlight a couple of points and if there are any  
2 other questions about other comments or other issues as  
3 they pertain to the site and the application, I would be  
4 happy to take those.

5 Heather mentioned that the applicant has been  
6 working with the Shaker Heritage Society. We did note  
7 that as the parcel is within the Watervliet Shaker  
8 national Historic District. So, we encourage that  
9 conversation to continue as the project develops.

10 Albany County Planning Board has issued three  
11 recommendations. An initial recommendation was issued  
12 back in November. There was a revised one in December  
13 and then most recently in the plans that are before  
14 you tonight, on February 15 and I believe that is  
15 included in your packet.

16 The recommendation is to modify local  
17 approval to include eight different items which  
18 mainly pertain to the emergency access route and FAA  
19 regulations.

20 As Joe briefly went over at the beginning of  
21 this, a SEQR neg dec was issued in 2007. That follows  
22 through with the property.

23 We did an initial cursory review of those  
24 thresholds in the 2007 neg dec compared to what is  
25 being proposed now and it does appear that the Phase

1 I of this project falls within that previous review  
2 and we understand that the Town Attorney's office is  
3 taking a closer look at that and will advise. At  
4 this time it does appear that SEQR does hold for this  
5 phase of the project.

6 The wetland mitigation was covered fairly  
7 well. So, I won't comment any more on that.

8 Regarding any environmental screenings -- a  
9 lot of those were done for the wetland permit and  
10 SEQR in 2007.

11 The only thing needing some revision is  
12 threatened and endangered species, screenings due to  
13 the time that has elapsed and that is required for  
14 the stormwater permit for the site that will be  
15 needed for the development. So, those will need to be  
16 progressed between now and submission of first  
17 preliminary final.

18 As it relates to traffic impacts and trip  
19 generation, our in-house professional Traffic  
20 Operations Engineer took a look at the trip  
21 assessment letter that was included in the submission  
22 and we concur with the methodology that was used. The  
23 office building follows a standard formula. The  
24 methodology used for the hotel uses some local source  
25 data and it follows a logical methodology and we

1 concur with those numbers.

2 I know that this came up at the sketch plan  
3 meeting. In 2007 Albany County DPW established a  
4 100,000 square foot threshold to take a look at the  
5 intersection at Albany Shaker Road with the roadway  
6 that comes in off of there. During the DCC meeting  
7 that came up and this phase of the project will not  
8 trigger that 100,000 square foot threshold and they  
9 and their comments, which I believe are in your  
10 packet, kind of reserves the right for further  
11 comment as it develops.

12 Basically, I don't want to speak for Albany  
13 County by any means, but the discussion was that if  
14 100,000 square feet comes and goes and there are no  
15 issues with that intersection, they would rather not  
16 see a signal there unless it's really needed due to  
17 concerns that are coming up. They comment that they  
18 will continue to monitor that.

19 Heather went over the meeting when recently  
20 when the applicant came in with Latham Water and Pure  
21 Waters. I reviewed the comments that came out of  
22 those and those are summarized in our letter as well.  
23 The stormwater feasibility study - the practices  
24 proposed there were in concurrence with their  
25 feasibility for the site and we'll look forward to

1 reviewing the application materials as it moves  
2 forward.

3 Those are the main points that I wanted to  
4 highlight for the Board.

5 If there is any questions. I'd be happy to  
6 answer them.

7 CHAIRMAN STUTO: Any questions of this Board?

8 (There was no response.)

9 Okay, we will hear from the public.

10 Don Allard with the Conservation Advisory  
11 Council.

12 MR. ALLARD: My name is Don Allard and I'm with  
13 the Town of Colonie CAC.

14 The CAC recommends to the Planning Board the  
15 following: I'm going to mentioned this one and you  
16 may not have heard it before. This is to consider  
17 electric charging stations for vehicles at this  
18 project. We will probably be recommending this much  
19 more in the future. Every manufacturer of vehicles  
20 has an electric car now and I think that in the next  
21 five years we're going to see a much higher  
22 percentage of e-cars on the roads. So, seeing as it's  
23 an office facility and a hotel, we'd like you to  
24 consider suggesting that to the developer.

25 CHAIRMAN STUTO: Do you have anything to

1 provide to educate us on that?

2 MR. ALLARD: I don't at this time, sir. It's  
3 something that we might be able to work on with you.

4 CHAIRMAN STUTO: Okay.

5 MR. ALLARD: The CAC would request that the  
6 Planning Board have the developer submit landscaping  
7 plans on their final submission.

8 Along with that, we would encourage the  
9 removal of ash trees found at the site during the  
10 development due to the inevitability of the Emerald  
11 Ash or basically it's full blown in the Town of  
12 Colonie now. So, within three to five years they are  
13 going to be dead. So, if you find Ash trees, take  
14 them down.

15 Along with that we would like you to consider  
16 leaving a substantial wildlife corridor in place. Now  
17 that we have the new plans, I would suggest if you  
18 look at this area right in here and try to keep that  
19 as treed as possible -

20 CHAIRMAN STUTO: Which area?

21 MR. ALLARD: Here (Indicating). This has been  
22 mitigated quite a bit already - the buffer. With this  
23 new plan, if somehow this area here could remain treed  
24 to maintain a wildlife corridor, I think that would be  
25 helpful.

1                   Also, we are supportive of the developer's  
2                   considering using porous pavement for the road and  
3                   the parking lot.

4                   CHAIRMAN STUTO: Okay, we're going to try to  
5                   get some comment on all of those issues; thanks.

6                   MS. WYLD: Do you want me to respond to some of  
7                   them?

8                   CHAIRMAN STUTO: Yes.

9                   MS. WYLD: So, the electric vehicle charging  
10                  station actually is a standard of the Hilton brand, so  
11                  we will be incorporating those as we progress the plans.  
12                  We also plan on incorporating some of the office  
13                  buildings.

14                  CHAIRMAN STUTO: Can you educate us a little  
15                  bit? Everybody reads stuff here and there.

16                  MS. WYLD: I don't know a lot about them; I  
17                  will be honest with you. I know that they are Level 2  
18                  charging stations. That's my understanding.

19                  CHAIRMAN STUTO: So, which cars?

20                  MS. WYLD: I really don't know any more than  
21                  that.

22                  CHAIRMAN STUTO: Does our department know  
23                  anything about these?

24                  MR. LACIVITA: Our standard comment is for a  
25                  Level 2 and you will see that from the DCC all the way

1 through. We have them at several sites within the Town.

2 CHAIRMAN STUTO: What kind of cars are those;  
3 the Prius, I assume.

4 MR. LACIVITA: The Prius - that type of car.

5 CHAIRMAN STUTO: Maybe we can get someone to  
6 come in and talk about electric cars.

7 MR. LACIVITA: We actually did that through the  
8 CDTC. There was a whole presentation on it. I can take  
9 that and give that to you so you can see it.

10 MR. WYLD: It is definitely becoming more  
11 common.

12 With regard to the landscaping plan, that is  
13 something that we are continuing to develop and will  
14 provide with the first preliminary submission.

15 Regarding the ash trees, we can certainly  
16 address that issue, as well.

17 Preserving the wildlife corridor - you're  
18 pointing out this area here and that is existing  
19 wetland area. The reason there is an existing culvert  
20 that was placed as part of the wetland mitigation  
21 project, as well to allow for this road connection  
22 here.

23 Anything that you see - the base aerial image  
24 here is not being disturbed. The green color will be  
25 cleared, graded and replanted but this corridor that

1           was pointed out here really is going to remain as it  
2           is today. We don't plan on disturbing that area. Most  
3           of it is protected wetlands already.

4                   MR. STELLATO: That culvert that was installed  
5           - it's been installed as part of the filling program. It  
6           will allow the passage of wild life. The bottom of the  
7           culvert is natural. It's a pretty large culvert.

8                   MR. ALLARD: How large is it?

9                   MR. STELLATO: I'm not going through there.  
10          It's large.

11                   CHAIRMAN STUTO: It's rectangular?

12                   MR. STELLATO: It's elliptical.

13                   MS. WYLD: The other comment was regarding  
14          porous pavement. We have since been out to do additional  
15          soil testing. Contrary to what most of the soils are in  
16          Colonie - the sandy material - the site does not include  
17          a lot of those. We have done geotechnical infiltration  
18          testing. There is an area that we are intending to use  
19          some infiltration practices where there are some good  
20          infiltration rates. However, the majority of the site  
21          will not really allow for that. So, we had intended on  
22          using porous pavement. Unfortunately, it's really not an  
23          option based on the existing soil conditions. We are  
24          going to try to incorporate as many green  
25          infrastructures practice with the infiltration as much

1 as we possibly can.

2 CHAIRMAN STUTO: Okay, I think you hit them  
3 all.

4 MS. WYLD: You're welcome.

5 CHAIRMAN STUTO: Any other members of the  
6 public want to speak on this?

7 MS. QUINE-LAURILLIARD: Good evening. I'm Susan  
8 Quine Laurilliard. I'm a resident of the Town of  
9 Colonie, as you know and also a member of Save Colonie,  
10 a partnership for planning.

11 I have a number of issues and concerns which  
12 I hope have been addressed already by the Town DCC  
13 committee, Planning Staff and Town Designated  
14 Engineer for this project. Both of the answers to my  
15 questions that I'm going to ask tonight are already  
16 in your packets this evening. We have already had an  
17 opportunity to consider the issues as part of your  
18 review.

19 The first comment I want to make - I do have  
20 the two aerial photos showing the site. They look  
21 different than what is shown here. It is the before  
22 and after. You can see in the before it was an  
23 entirely wooded site. In the after it shows limits of  
24 clearing. So, I want clear - I want that as part of  
25 the record tonight.

1                   CHAIRMAN STUTO: Do you have more than one  
2 thing to submit?

3                   MS. QUINE LAURILLIARD: Yes, I do.

4                   CHAIRMAN STUTO: Do you have one for the  
5 applicant, by chance?

6                   MS. QUINE LAURILLIARD: Yes. So, I guess my  
7 question is on that is -

8                   CHAIRMAN STUTO: Do you know the years?

9                   MS. QUINE LAURILLIARD: I understand from the  
10 information that I received and is stated tonight is  
11 that the clearing took place in 2015 and 2016. So, the  
12 aerial that I have is prior to that. It shows that the  
13 entire site was forested. Now we have the other photo  
14 that shows where the clearing is. You can't really see  
15 on these aerials. I don't know if the applicant provided  
16 an aerial showing of the clearing that has taken place.  
17 I'm not sure and I would ask the Planning Board to make  
18 a further inquiry as to whether or not the clearing that  
19 is shown there was required as part of the Army Corps of  
20 Engineers wetlands permit that they obtained in order to  
21 -- for the wetland filling for this project and also for  
22 the wetland filling that occurred for the construction  
23 of the Hilton Garden Inn. So, they were required to do  
24 wetland mitigation for the Hilton Garden Inn project and  
25 also this project. That mitigation was done at their

1 choice in the water shed. They looked around the area,  
2 according to the information that I had and located the  
3 wetland mitigation project on Sand Creek Road. So,  
4 that's why that site is on Sand Creek Road. It was a  
5 wetland mitigation site for the filling in for the  
6 Hilton Garden Inn - the wetland there and also this  
7 current project. So, I would just ask that the Planning  
8 Board look into and do a further inquiry as to the  
9 extent for the clearing that took place there was that  
10 it directly related to that wetlands mitigation project  
11 or was extra clearing done to kind of -- it looks like  
12 the clearing that I've shown you there on that aerial is  
13 where that proposed office building is going to be. So,  
14 I don't believe that there are any wetlands over there.  
15 I would just ask the Planning Board to take a look at  
16 that.

17 CHAIRMAN STUTO: Tony, do you have any response  
18 at this time or no?

19 MR. STELLATO: If you look at the top  
20 photograph, it's older than the bottom photograph. My  
21 guess it was some time in 2017 and yes, the limits that  
22 are cleared there are consistent with what was shown on  
23 the grading plan that we submitted to the Town and the  
24 wetland filling plan that was part of the wetland  
25 permit. So, yes, you're right, this area over here is

1 roughly consistent with where the hotel is and there was  
2 a wetland in that area that we filled.

3 MS. QUINE LAURILLIARD: So, is that the two  
4 acres of wetlands that have been filled in there?

5 MR. STELLATO: The total of the wetlands was  
6 two acres.

7 MS. QUINE LAURILLIARD: So, that's a two  
8 waiver -

9 MR. STELLATO: I don't know what the size of  
10 that area is but in order to get the wetlands to drain -  
11 in order to fill the wetlands and make them sustainable  
12 upward, we had to fill beyond the limits of the  
13 wetlands. The grading was more than two acres. I forgot  
14 what the grading permit was for. It was somewhere around  
15 five acres. It was necessary to grade beyond the limits  
16 of the wetlands so we didn't create a wetland on top of  
17 the old wetland.

18 Then, there was a borrow site up higher on  
19 the site and that's this area over here. There was  
20 some good sandy gravel up there and that was the  
21 material that the contractor used to fill the  
22 wetlands with. He used some from the mitigation site  
23 and some from this area and that was all shown and  
24 noted on the grading plan that we submitted was all  
25 part of the split.

1                   It was all inspected by out SWPPP Inspector.  
2                   We did SWPPP inspects for two years out there. We had  
3                   the Town inspector out there as well, but everybody  
4                   at the end walked the entire site and agreed that  
5                   what was done what was on the plan and it was  
6                   completed in accordance with the firm requirements.

7                   MS. QUINE LAURILLIARD: So, I understand that  
8                   but what I don't understand is how that is juxtaposed  
9                   against Chapter 177 of the Town Code that requires an  
10                  applicant for approval to designate on their plans where  
11                  major trees are. I believe none of that ever went before  
12                  the Town - or this Planning Board, I should say. You had  
13                  concept that had expired by that time and yet you  
14                  proceeded with the grading permit. I would just ask the  
15                  Planning Board to take a look at that.

16                  CHAIRMAN STUTO: What Section of the Code?

17                  MS. QUINE LAURILLIARD: I'm looking at Chapter  
18                  177 of the Town Code. That's the tree ordinance that we  
19                  have.

20                  I just want to address 190-56 of the Code C6  
21                  and that talks about that you can't get a grading  
22                  permit until you have final approval. So, I don't  
23                  know how this all works. I would ask the Board - if  
24                  there needs to be direction to Planning and other  
25                  staff - to the Planning Board as to what should

1           happen in this situation - I mean nobody came to the  
2           Planning Board. I'm looking at minutes from 2007 and  
3           2010 and there was no application to this Planning  
4           Board for permission for a grading permit or  
5           anything. So, they just kind of went and did this  
6           outside of the Planning Board process even though  
7           they are in the process. I think that would be  
8           something that you may want to take a look at. That  
9           was my comment there.

10                   The other question that I had was references  
11           made to the Albany County Planning Board review.

12                   Unfortunately, the last meeting was February  
13           2018. Usually, for the prior meetings we can review  
14           the minutes online. We weren't able to see the  
15           minutes from the February meeting.

16                   I know, Ryan, you mentioned that there were  
17           eight items that they had listed. I was wondering if  
18           you could read that into the record or if that could  
19           be incorporated into the record - the Planning Board  
20           record. I don't know what the eight conditions were.  
21           I know that one of the conditions from the November  
22           2017 meeting was that they were concerned about the  
23           proposed emergency access road because it involved  
24           Albany County owned property and the issue of whether  
25           or not that would be precedent setting for future

1 development and developers seeking to use County  
2 owned land for private purposes. The other question  
3 and other concern I had was they could not approve  
4 this because they were concerned about the density of  
5 the proposal and the increased traffic on roads  
6 entering and exiting the site. At that time I think  
7 that the project had the four office buildings and  
8 the hotel. So, it was a different project.

9 Ryan, I don't know whether they just read  
10 what they told you in February -- the applicant in  
11 February.

12 CHAIRMAN STUTO: Okay, we'll think about that.

13 MS. QUINE LAURILLIARD: The other questions I  
14 had was on the greenspace. That kind of ties into the  
15 fact that this is called the Phase I of this project.

16 I know that you talked about that there will  
17 be three subdivided lots. You gave the greenspace  
18 calculations for Lot 1 and Lot 2. Then, you mentioned  
19 that there is going to be 99% greenspace on Lot 3. I  
20 would ask that you confirm tonight whether or not  
21 there is going to be development on Lot 3. Since this  
22 is the Phase I of something you're doing on this  
23 site. So, is that going to be developed?

24 CHAIRMAN STUTO: Let's get all the questions  
25 out first.

1 MS. QUINE LAURILLIARD: So, that is my question  
2 there. Is that really 99% open space? This is Phase III.

3 Finally, the other point that I wanted to  
4 make is - and we've made this repeatedly that the  
5 Town's Comprehensive Plan requested that there be an  
6 open space inventory included with the town and that  
7 it should be developed pursuant to that Comprehensive  
8 Plan and that hasn't been done. I was wondering if  
9 this applicant and the Planning Department have  
10 looked at what is the amount of open space remaining  
11 in the Town of Colonie that is in private and public  
12 ownership. That could be looked at as far as the loss  
13 of any open space on this project site.

14 I also want to talk about the status of the  
15 Albany Airport Area GEIS update and how that relates  
16 to this project. As we know, the Airport Area GEIS is  
17 in the process of being updated. It's from 1990. How  
18 is that going to be taken into account as you review  
19 this project?

20 The other comment I want to make has to do  
21 with the Airport Area GEIS mitigation fee payments.

22 At the sketch plan meeting for this project  
23 there was reference the fact that this project  
24 applicant was going to be paying 2015 mitigation  
25 fees. My question is: Have those mitigation fees

1           been updated? It's now 2018 and the SEQR findings for  
2           the Albany Area GIS require that mitigation fees be  
3           updated every two years, taking into account  
4           inflation factors. I'm just concerned that - I don't  
5           know the basis for why the 2015 mitigation fees are  
6           going to be assessed for this project and not updated  
7           fees because we are now in 2018.

8                         CHAIRMAN STUTO: What is your source for that  
9           quote?

10                        MS. QUINE LAURILLIARD: At sketch plan - there  
11           was a discussion at sketch plan meeting about the 2015 -  
12           using the 2015 mitigation fees.

13                        I want to talk a little bit about - as was  
14           mentioned this was a phased project and how this  
15           relates to looking at the overall development of this  
16           entire 24 acres - 42 acres. This is Phase I. What is  
17           contemplated for the remaining part of this  
18           development which could tie in with the Albany County  
19           Planning Board comments about traffic impacts. I  
20           believe that the Board should look at the entire  
21           42-acre site and what is proposed there. I think that  
22           we have a clue that the Town will be taking a  
23           dedication to the road. I don't know what purpose it  
24           is. It seems like the road just serves right now the  
25           hotel and this office building. Is this road going to

1 be extended and become a Town Road for the other part  
2 of the parcel that is going to be developed?

3 I also wanted to note that I believe British  
4 American had another development proposed at 33  
5 British American Plaza and how does that relate to  
6 their developing this site as well. There is another  
7 development proposal in the vicinity for an office  
8 building.

9 Finally I just want to note for the record  
10 that on November 11th Save sent a letter to  
11 Supervisor Mahan and the Town Board asking - raising  
12 an issue about the appearance of Clough Harbour as  
13 the applicant's consultant before the Planning Board  
14 where Clough Harbour serves as a Town Designated  
15 Engineer and we sent that letter on November 11th and  
16 we haven't received a response from the Supervisor or  
17 anyone from the Town regarding that issue. As a  
18 result, this morning we sent a copy of the letter to  
19 the Town Ethics Board and we will wait to see what  
20 they have to say about this issue. I just wanted to  
21 note that for the record.

22 Those were my comments.

23 CHAIRMAN STUTO: We'll try to address them.

24 I do want to say for the record that I said  
25 our TDE was Clough Harbour and it's not. It's Barton

1 and Loguidice - to the extent that has bearing on  
2 that question.

3 We'll try to go back to the top.

4 Can you summarize the County Planning Board's  
5 comments?

6 MR. WEITZ: I would be happy to, Mr. Chair.

7 I'm reading from the Albany County Planning  
8 Board notification recommendation date of February  
9 15, 2018. I will skip over the comments and just go  
10 right to the recommendation, if that's alright.

11 The recommendation is to modify local  
12 approval to include:

13 1. A review by the Albany County Department  
14 of Public Works for design of highway access  
15 assessment of road capacity and drainage for County  
16 Route 151 and County Route 157.

17 2. Approval by the Albany County Legislature  
18 for an emergency access road agreement across the  
19 right of way for County Route 151.

20 3. Approval by Albany County DPW for design  
21 of emergency access road.

22 4. Review by the New York State Department of  
23 Transportation for design of highway access drainage  
24 and assessment of road capacity for state Route 155.

25 5. A notice of intent files with the New York

1 State Department of Environmental Conservation  
2 affirming that a Stormwater Pollution Prevention Plan  
3 has been prepared and is being implemented, or a  
4 submission of Stormwater Pollution Prevention Plan  
5 that is consistent with the requirements included in  
6 the New York State Department of Environmental  
7 Conservation, SPDES, a general permit for stormwater  
8 discharges for construction activities that disturb  
9 more than one acre of land.

10 6. Review by the Albany County Department of  
11 Health for temporary residence required permits.

12 7. There should be a shared driveway access  
13 agreement including a maintenance agreement  
14 referenced in the deeds for all involved properties.

15 8. Review by the FAA form 7460-1 available  
16 from FAA.gov and notification to the Albany Airport  
17 Authority for FAA FAR Part 77 aeronautical impact  
18 notification for temporary construction related and  
19 structural incursions within the prescribed Runway  
20 Approach Surfaces.

21 An advisory recommendation following that  
22 "the Town should determine if all of the parking  
23 spaces are needed for the proposed uses and if not,  
24 banked parking should be encouraged."

25 That's signed by Michaela Sweeney, Senior

1 Planner with the Albany County Planning Board.

2 CHAIRMAN STUTO: Who did they suggest on the  
3 banked parking - to review that?

4 MR. WEITZ: That the Town should determine if  
5 all are needed and if not, to bank some of it.

6 CHAIRMAN STUTO: To me, none of those sounded  
7 insurmountable except the banked parking is a good one  
8 to get on the record and discuss. Do you disagree?

9 MR. WEITZ: No, I concur with that conclusion  
10 that they are technical in nature.

11 CHAIRMAN STUTO: Do you want to talk about  
12 banked parking for a second and the possibility of that?

13 MR. STELLATO: Sure. We are providing what the  
14 Code requires -

15 CHAIRMAN STUTO: We do offer the banked  
16 parking.

17 MR. STELLATO: I think that previously when we  
18 had the office building and the hotel put together on a  
19 site, I think that made sense because there was the  
20 shared parking.

21 CHAIRMAN STUTO: Okay, I can see that you're  
22 not going to agree with banked parking, but can we look  
23 at that between now and final with our Town Designated  
24 Engineer?

25 MR. STELLATO: Yes.

1 MR. WEITZ: Yes, we can take a look at that.

2 CHAIRMAN STUTO: Let's see if we can possibly  
3 do that.

4 MR. STELLATO: You do get my point though that  
5 now that we separated the -

6 CHAIRMAN STUTO: Yes, they can't share it.

7 MR. STELLATO: There is less opportunity for  
8 banking.

9 CHAIRMAN STUTO: Right, and less opportunity  
10 for sharing between the two properties.

11 Greenspace on the third parcel and the 99%  
12 figure.

13 MR. STELLATO: We don't show any development on  
14 the future parcel. In the original concept plan and the  
15 SEQR neg dec all show the additional development. That  
16 SEQR neg dec still evaluated all the potential impacts.  
17 We are not asking this Board for any approval of  
18 anything that we don't know what it's going to look  
19 like.

20 Yes, obviously the applicant wants the  
21 continued development to the thresholds that they  
22 original proposed but they don't have tenants for  
23 anything beyond this right now. So, we don't know  
24 what that's going to look like. We just didn't feel  
25 that it was appropriate to ask for concept on

1 something that we are not prepared to go to final.

2 CHAIRMAN STUTO: Right, but it will reduce the  
3 greenspace once you develop it.

4 MR. STELLATO: Absolutely.

5 CHAIRMAN STUTO: The Comprehensive Plan and the  
6 tie-in with the open space initiative and the catalogue.  
7 I don't know if you could talk about that.

8 MR. LACIVITA: We have been talking about that,  
9 Peter. While Mike Wilte [sic], Chuck Voss and I as well  
10 as the Town Attorney's office have been looking at all  
11 the various easements and lands that we have acquired  
12 that way, so we are building that.

13 Hopefully at the time that we adopt the  
14 updated Comprehensive Plan we will be able to add to  
15 it a short-term plan working through identifying all  
16 the open space both private and not private.

17 CHAIRMAN STUTO: And that ties into a couple of  
18 GEIS questions.

19 MR. LACIVITA: Yes, she had a question in her  
20 comment about the 2015 -

21 CHAIRMAN STUTO: Before you get to the rate  
22 sheet, how does the GEIS update fit in with this? I know  
23 that it fits in with the Comprehensive Plan because the  
24 GEIS is on hold, in a sense, until the Comprehensive  
25 Plan gets completed.

1 MR. LACIVITA: That's what I was going to say.  
2 That is actually the last document that we are going to  
3 update. So, it's going to take a component of the Albany  
4 Shaker Road Corridor Study - whatever was identified  
5 there with it and also the Comprehensive Plan and that  
6 gets pulled into the GEIS recommendations.

7 CHAIRMAN STUTO: And there is potentially some  
8 discussion on open space, as an additional item from  
9 what the GIS already discusses. We're not sure what's  
10 going to be done first, the GEIS or the final here;  
11 right?

12 MR. LACIVITA: Correct.

13 CHAIRMAN STUTO: How about the 2015 rates?

14 MR. LACIVITA: The 2015 - as it says, every two  
15 years we update it. We are in the process with DPW.  
16 We're aggregating the numbers now and we're looking at  
17 how to move forward. We're trying to get that done for  
18 the first quarter of 2018. That was something that mike  
19 Lyons was specifically working on until he left,  
20 unfortunately. So, we're trying to kick that back in.

21 CHAIRMAN STUTO: So, you expect that in the  
22 next month or two?

23 MR. LACIVITA: Actually, this project would  
24 actually have to be 2018 dollars because you don't lock  
25 into - by the time 2018 dollars come, this won't even be

1 at final. So once we stamp plans, whatever is locked in  
2 at that time.

3 CHAIRMAN STUTO: She asked about - what do you  
4 plan for the other two phases, given that you have 42  
5 acres here. If you can go over how many acres this one  
6 takes up - this phase?

7 MR. STELLATO: The first question is: The  
8 office development - the hotel is kind of a stand-alone  
9 thing. The development on the remainder of the parcel  
10 will just continue this theme and be separate office  
11 buildings. It really is going to be tenant driven. The  
12 size of the buildings is going to depend on whether it's  
13 one tenant or multiple tenants, whether it's one  
14 building or three buildings.

15 CHAIRMAN STUTO: What percentage of the  
16 build-out would you say this is - of the 42 acres?

17 MR. STELLATO: The original project was 300,000  
18 square feet of office. This is 39,000 and the hotel is  
19 48,000. So, less than one-third.

20 CHAIRMAN STUTO: How does this tie into the  
21 other British American project?

22 MR. STELLATO: I don't know that it necessarily  
23 does except that they're owned and managed by the same  
24 entity. We are not working on the other project so I'm  
25 not familiar intimately with it. British American is in

1 the business of developing, building and managing office  
2 buildings.

3 MR. LACIVITA: This is speculative building or  
4 a tenant building?

5 MR. STELLATO: No, this is not a speculative  
6 building. The only speculative about this project is  
7 this building has a commitment for 25 or 26,000 square  
8 feet and if that tenant has a potential future need, but  
9 that is not determined. So, in the short-term, that  
10 surplus of office space in this building may be leased  
11 to a third tenant, to be determined. It may not be fit  
12 out.

13 CHAIRMAN STUTO: Okay, anything else from the  
14 Board so far?

15 (There was no comment.)

16 Anything else from the public?

17 (There was no response.)

18 Okay, what do we do next? We have an  
19 application for concept. We also have a open  
20 development area -

21 MR. LACIVITA: The open development area -  
22 Peter, let me ask a quick question on that. As the  
23 comment was made to address - you have the ODA  
24 recommendations before you. Is the Planning Board  
25 amenable to adding a sixth item maybe addressing the

1 Albany County comments - either adding them or making  
2 sure that they are addressed as we go through the  
3 requirements?

4 CHAIRMAN STUTO: I don't mind that. We normally  
5 do the ODA with final, don't we?

6 MR. LACIVITA: No, at this point SEQR was done.  
7 This has to go forward in order for them to go forward  
8 and go into final. They are asking for the ODA so the  
9 Town Board can actually move them forward. We do them  
10 both ways.

11 CHAIRMAN STUTO: The SEQR is done.

12 MR. LACIVITA: Yes.

13 CHAIRMAN STUTO: Let me ask you on the six  
14 point - we can either make that part of - well, they are  
15 not going to get final until they hear from them, so I  
16 don't see any need to stick it in here. We can make a  
17 general comment.

18 MR. LACIVITA: We can wrap it in our Planning  
19 comments, during the course of the review.

20 CHAIRMAN STUTO: Okay. So, you want to take up  
21 the open development area?

22 MR. LACIVITA: Yes.

23 CHAIRMAN STUTO: Can you read the title and  
24 then the now therefore be it resolved?

25 I will ask the stenographer to put the

1 entire Resolution into the record.

2 MR. LACIVITA: This is entitled Special Rule of  
3 the Planning Board for setting forth final use for  
4 recommendations and the establishment of an open  
5 development area at 798 Albany Shaker Road, Town of  
6 Colonie pursuant to the New York State Town Law 280A.

7 Now therefore be it resolved that upon  
8 consideration of the above statements and findings,  
9 the Planning Board recommends that the request for an  
10 open development area, pursuant to Town Law 280A for  
11 708 Albany Shaker Road be approved in all aspects  
12 subject to the following conditions: Be it resolved  
13 that.

14 1. Rights of egress and ingress for the  
15 properties be set forth in perpetuity and legally  
16 binding reciprocal access easements that include  
17 provisions to continue maintenance of roadway so that  
18 automobiles and police and all emergency vehicles can  
19 safely access at all times and that the easements  
20 must be filed to include a provision making each  
21 address or tenant of the subject parcel jointly and  
22 severally liable for the maintenance of the roadway,  
23 that the easement be made a part of the legal  
24 description of the deed to be reported for each  
25 parcel, that any future changes to the recommended

1 ODA or open development area including but not  
2 limited to additions, demolitions structural or site  
3 changes subdivision and a change in use must comply  
4 with all applicable Town of Colonie processes and  
5 approvals and that the hold harmless and indemnity  
6 agreement must be entered into the Town of Colonie  
7 protecting the town from the liability in connection  
8 with access to the subject parcel.

9 CHAIRMAN STUTO: Let's talk about 6 again. The  
10 county Planning Board reviewed this because of the  
11 emergency access?

12 MR. LACIVITA: Well, it's frontage on their  
13 Town road and they need to review that.

14 CHAIRMAN STUTO: Was that the limit of their  
15 review?

16 MR. LACIVITA: No, they looked at everything.  
17 They look at the whole conceptual plan - the plan that  
18 was presented for Phase I. They were with us at DCC as  
19 well.

20 CHAIRMAN STUTO: It seemed like all those  
21 comments all had to do with the emergency access.

22 MR. WEITZ: Mr. Chair, under Section 239M of  
23 the General Municipal Code, any project that is within  
24 500 foot of state county highway or other owned lands -  
25 the County Planning Board reviews -- they reviewed the

1 entire application and those were the modifications that  
2 they recommended. Yes, they did primarily pertain to  
3 that emergency access road and the FAA review.

4 CHAIRMAN STUTO: Those things are not going to  
5 go by the wayside. They are obviously going to be  
6 incorporated into the remainder of our review. I don't  
7 think that we need to amend this.

8 Does anybody disagree?

9 (There was no response.)

10 Any discussion on this Resolution?

11 (There was no response.)

12 Do we have a motion?

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

14 MR. SHAMLIAN: I'll second.

15 CHAIRMAN STUTO: Any dicussion?

16 (There was no response.)

17 All those in favor, say aye.

18 (Ayes were recited.).

19 All those opposed, say nay.

20 (There were none opposed.)

21 They ayes have it.

22 Thank you.

23 With respect to the other question before  
24 us which is concept review for this project, do we  
25 have any discussion?

1 (There was no response.)

2 This is concept acceptance and it's not an  
3 approval. It doesn't bind the Town to any future  
4 action. It's obvious subject to all the comments,  
5 Town Designated Engineer comments, other Town  
6 Department comments and any other pertinent  
7 governmental comments that we receive, including the  
8 County Planning Board.

9 Do we have a motion for concept acceptance?

10 MR. MION: I'll make a motion.

11 MR. SHAMLIAN: I'll second.

12 CHAIRMAN STUTO: Any discussion?

13 (There was no response.)

14 All those in favor, say aye.

15 (Ayes were recited.)

16 All those opposed, say nay.

17 (There were none opposed.)

18 They ayes have it.

19 Thank you.

20

21 (Whereas the above entitled proceeding  
22 concluded at 7:52 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

