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PLANNING BOARD COUNTY OF ALBANY

TOWN OF COLONIE

HOTEL AND RESTAURANT
144 WOLF ROAD
APPLICATION FOR FINAL APPROVAL
AND ENVIRONMENTAL REVIEW

THE STENOGRAPHIC MINUTES of the above entitled matter
by NANCY L. STRANG, a Shorthand Reporter commencing
on May 8, 2018 at 7:36 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
KATHLEEN DALTON
STEVEN HEIDER

ALSO PRESENT:

Michael C. Magguilli, Esq., Town Attorney
Michael Tengeler, Planning and Economic Development
Department
Nicholas Costa, PE, Advance Engineering and
Surveying
Joseph Grasso, PE, CHA
Matthew McDaniel
Tom Burke
Jack Degagne, Darden Restaurants

1 CHAIRMAN STUTO: Next item on the agenda is
2 Hotel and Restaurant, 144 Wolf Road, application for
3 final approval and environmental review. Four-story, 110
4 room hotel and two restaurants totaling 13,452 square
5 feet.

6 Joe LaCivita?

7 MR. LACIVITA: Just to get a couple of dates on
8 the record, we are on tonight for final and SEQR.

9 The project was before the DCC, Development
10 Coordination Committee meeting on November 16, 2016.
11 The Board saw it in sketch plan review on January 10,
12 2017. We offered the project concept on October 17,
13 2017. This is in the airport area GEIS so mitigation
14 fees will be assessed for the project and it is a COR
15 zone district.

16 With us is Nick Costa

17 MR. COSTA: Thanks, Joe.

18 Good evening. My name is Nick Costa and I'm
19 with Advance Engineering and Surveying. With me
20 tonight is also Tom Burke who is the owner of the
21 parcel.

22 As Joe mentioned, this is a site that has
23 been before the Board couple of times - as we went
24 through the sketch plan and concept plan review. We
25 are here tonight to have preliminary final review

1 with you.

2 There has been a lot of work that has been
3 done on the site. We have worked with Joe and his
4 group and also with the Town Departments and getting
5 to this point of the project. The project is located
6 on Wolf Road and Automation and also Cerone
7 Commercial. It's right at the corner of Wolf Road and
8 Cerone Commercial and Automation Lane. The existing
9 parcel is about 6.36 acres in size.

10 The site was previously Lazare Automotive
11 Dealership which was fully developed. So, as far as
12 infrastructure to provide municipal services to the
13 site, they are all there. There is sanitary sewer on
14 all three roads. There is an existing Town of Colonie
15 water system on all three roads and there is also
16 stormwater systems on the site.

17 The site is fairly flat. The existing
18 drainage to the site mostly flows towards that
19 direction of Automation where there is a system that
20 carries the water across the developed portion of the
21 park and out towards the Northway - underneath the
22 Northway and eventually it is tributary to the Shaker
23 Creek.

24 As I mentioned before, we took a look at the
25 site for drainage purposes and that's what we have

1 determined for existing conditions.

2 There are some portions that are tributary to
3 a system that is out here on Wolf Road that is owned
4 by the state. There are some portions that are also
5 tributary to the existing closed drainage system that
6 the Town owns on Cerone and Automation Lane.

7 The applicant is proposing to develop the
8 site with three buildings, remove the existing
9 pavement. The existing buildings that were there
10 previously have already been removed. There are
11 pavements that are still there. Those will be removed
12 and the site will be developed as shown on the site
13 plans. There will be three buildings and a hotel
14 which will be the Hyatt House. It will be four
15 stories and 110 rooms. Then, two outbuildings - a
16 restaurant which we have identified as restaurant a
17 which would be occupied by the Longhorn Steakhouse. A
18 restaurant be which hasn't been identified as to who
19 will operate that. Tom is in conversations with a
20 couple of different operators and hopes to have
21 something determined soon as to who will be going in
22 there.

23 The site did have a couple of driveways that
24 were out to Wolf Road. The dealership access to Wolf
25 Road was in a couple of different locations and also

1 similarly along Automation Lane and Cerone Commercial
2 Drive. One of the improvements of this proposed site
3 plan, as we discussed before, there would only be one
4 access drive off of Wolf Road; one off of Cerone
5 commercial Drive and there are two shown on
6 Automation Lane. We think that's going to help the
7 circulation of traffic throughout this area.

8 As I mentioned before, the site has been
9 designed as far as providing sanitary sewer, water in
10 a major storm water system that will mitigate the
11 impervious area that is being placed on the site.
12 More importantly, it is something that never existed
13 on the site. This, we feel, is going to be a huge
14 improvement to the drainage of the entire area. The
15 site does have areas that are separated. Restaurant a
16 has its own parking area here (Indicating).
17 Restaurant be has its own parking and then the hotel
18 has its own parking, as shown on this.

19 The other thing that has been worked on quite
20 extensively is the landscaping. As you can see, the
21 applicant hired a registered landscape architect to
22 show -

23 CHAIRMAN STUTO: Can you describe existing
24 conditions with respect to vegetation? I think somebody
25 had asked whether the trees around the perimeter were

1 worth saving. Can you respond to that? Also, give us
2 more detail on the landscaping.

3 MR. COSTA: let me talk about the existing
4 landscaping. There is existing landscaping and most of
5 the existing landscaping along Wolf Road occurs within
6 the state right-of-way. We really can't remove those
7 trays. Those are not Tom's trees. They are along the
8 frontage of the property, but they are not his. They are
9 not on the property line. They are substantially out
10 between the sidewalk in the property. There are trees
11 back here (Indicating). There is a row of pines that are
12 along the property line that provide some screening.

13 CHAIRMAN STUTO: How would you describe the
14 condition of those trees?

15 MR. COSTA: I think they are mature trees -
16 large mature trees and it would take a long time if you
17 could plant something to get to that point. They are
18 pines. They are not necessarily the nicest looking
19 trees, but they are large trees. I think that we did
20 have some comments from the neighbors with regard to
21 screening because the building will be four stories in
22 height. I think that even the shadows that are cast -
23 they offer a pretty good screening.

24 There are also some trees along the property
25 line of the property that is owned by Dr. McDaniel. I

1 met with Dr. McDaniel to review the storm water
2 system. There are some trees that kind of meander on
3 the property line. Some of them are on his property
4 and some of them are on Tom's property. Some of those
5 trees are not necessarily the nicest trees. There was
6 an agreement between Tom and Dr. McDaniel that some
7 of them could be replaced.

8 CHAIRMAN STUTO: So, that has not been
9 discussed yet - with the neighbor.

10 MR. COSTA: it has been discussed with me. It
11 has not been discussed with Tom. At the time, Tom was
12 out of Town and I think that there will be some
13 discussions with regard to that between Tom and the
14 neighbor. I mentioned it to Tom and he was agreeable
15 that as this was built, to have some meetings with the
16 neighbor and also talk about possibly putting in a berm
17 and some vegetation - even if it is a small berm. I
18 mentioned to Dr. McDaniel that all of the parking areas
19 will be curbed. That is something that is not there now.
20 That Kerr will protect water from going towards him.
21 That will keep the water on this side. Besides all the
22 catch basins that we are putting in to pick up the water
23 and bring it underground in the stone chambers -

24 CHAIRMAN STUTO: We will get to that next - the
25 storm water detail.

1 MR. COSTA: Let me finish up with the
2 landscaping plan. As you can see, the landscaping plan -
3 there is a lot of trees that have been added to the
4 site. Besides that, there has been a lot of shrubs and
5 other types of plants that fill in between to really
6 give it a - all the green space -- we will have some
7 type of planting that will help mitigate the pavement.
8 It is done in a landscaping style. I'm not a landscape
9 architect. This person is a landscape architect and he
10 has been for a long time and is very talented. I think
11 some of the plants that he has selected - they are very
12 successful in this type of environment.

13 As far as the storm water, the storm water
14 system is an underground storm water system. It's
15 very similar to what Dan presented here with the
16 porous pavement. Instead of doing the porous
17 pavement, it would be a conduit to getting the water
18 underground and into the sand and Louise catch basins
19 and piping to take it into voids under the pavement
20 that are composed of stone and plastic chambers to
21 hold the water while the water seeps into the soil -
22 the permeable soils. There are very large systems.
23 There's one very large system here. There's another
24 very large system here and another one here.

25 CHAIRMAN STUTO: Currently existing?

1 MR. COSTA: no, none of this currently exists.
2 There is nothing there now. The site is basically all
3 paved. It just runs towards that corner. So all of these
4 large systems that are right here - we also have to
5 decide an emergency overflow. Our emergency overflow
6 naturally would be to that system because that is the
7 low point. We went a little further and we investigated
8 the possibility of getting into the state system with an
9 overflow. That's actually where we had the overflow. It
10 overflows to the state system on Wolf Road, instead of
11 going to the problem area.

12 CHAIRMAN STUTO: And the elevations work
13 underground, right?

14 MR. COSTA: That's correct. Plus, it is an
15 overflow. We can let the water build up and then if
16 there is something that doesn't function or a more
17 intense storm, that will overflow to the Wolf Road area
18 and not to the problem area that has been identified.
19 There has been a lot of effort put into that. We have
20 gone to two rounds of comments with Joe's office. We
21 also did the department's and we still have a few
22 outstanding items. We have not reply to those, but we
23 have addressed them and we feel comfortable that we can
24 address those comments that Joe has.

25 CHAIRMAN STUTO: Are there any questions before

1 we turn it over to the Town designated engineer?

2 (There was no response.)

3 Again, we have hired CHA and Joe Grasso is
4 representing them.

5 Joe, can you give us your comments?

6 MR. GRASSO: So, like Nick had said we have
7 gone through a few rounds of review of the preliminary
8 final site plan. Our latest letter is dated April 3 of
9 this year which should be in your file. The Town
10 Attorney's office classified this as an unlisted action
11 pursuant to SEQR. The applicant did go through the
12 effort of preparing a full EAF which does a great job
13 describing the environmental setting of the site and the
14 proposed project. The only involved agency involves the
15 Town of Colonie Planning Board.

16 We did draft a negative declaration for the
17 Planning Board's consideration. Obviously, we drafted
18 parts two and three. Part one was provided by the
19 applicant's consultant. If the Board agrees with the
20 findings and has had a chance to review it, that is
21 in the packet for consideration by the Planning
22 Board.

23 The second comment is regarding the waivers
24 from the COR design standards. One is a waiver to
25 allow buildings to be set back greater than 20 feet

1 from Wolf Road. That is proposed for both of - well,
2 all three of the buildings. Primarily, the two
3 buildings closer to Wolf Road are set back a little
4 bit over 30 feet and that's because there are some
5 existing trees across the frontage that Nick
6 described but there is also a 30 foot wide sanitary
7 sewer easement, which the buildings can't encroach
8 upon. That triggers the need for that waiver.

9 There are also waivers sought for parking in
10 the front yard setback of Wolf Road, Automation Lane
11 and Cerone Commercial Drive. The design standards
12 discourage parking in the front yard, primarily as it
13 relates to parking being located between the building
14 and the road, which this plan does not propose. You
15 will see if you take a close look at the site plan
16 that the parking closest to Wolf Road and Automation
17 Lane - it always extends closer to those roads in the
18 proposed building stew. That's what triggers the need
19 for that waiver.

20 The applicant has provided justification for
21 those waivers and we have drafted a waiver findings
22 for consideration by the Planning Board, if you agree
23 with those findings.

24 The project is located in the airport area
25 GEIS study area. So, mitigation and cumulative

1 impacts are required in accordance with the statement
2 of findings. Because this is a redevelopment site,
3 some credits could be given to the discontinuation of
4 the former use. We would actually need additional
5 information regarding the former trip generation from
6 the site in order for credits to be awarded. If that
7 is something that the applicant would like us to
8 consider, we will need that additional data. We will
9 provide our recommendations the Planning Department
10 regarding the final plans in our letter to the CDTC
11 so that they could determine what the appropriate
12 transportation mitigation fee would be for the site.

13 Not in the final plan packet - the
14 applicant's consultant provided our office with
15 substantial landscaping plans which were prepared by
16 a registered landscape architect.

17 CHAIRMAN STUTO: Can you go over number three
18 again? I'm not sure I understand it. What does the prior
19 use have to do with it? Explain that to me.

20 MR. GRASSO: when the GIS was done, it was
21 based on existing roadway conditions on the roadway
22 network. So, when one of those uses that was counted in
23 the existing condition traffic is discontinued and
24 replaced by a new use, we are able to assign a credit
25 based on the trips generated by the former use will

1 offset so that all of the trips on the roadway network
2 are not considered new.

3 CHAIRMAN STUTO: Do we routinely do it that
4 way?

5 MR. GRASSO: Yes, we do. We do it all the time.
6 We do it for water usage as well as traffic. Those are
7 the two big ones. It is a car dealership so it may not
8 be a lot of trips so there may not be a huge credit
9 because obviously we've got some uses here that have
10 some pretty significant traffic for the p.m. peak hour
11 which is the hour that we use to calculate trip
12 generation fees. Nonetheless, there could be one and we
13 want to be fair to the applicant. If they want to seek a
14 credit, then they would need to give us that data that
15 we could analyze and make sure that it's appropriate and
16 fair.

17 So, getting to the landscaping plans - they
18 did a really good job. They were prepared by
19 obviously somebody who's well seasoned in doing
20 detailed landscaping plans. That's something we don't
21 often see come before the Board. The plans were
22 extremely well done and we think we will really see a
23 good job in enhancing the aesthetics of the site. We
24 would recommend that a note be added to the plan that
25 all areas of the site shall be irrigated. It is

1 expected that when you do this detailed landscaping
2 palette that it would be irrigated that we would like
3 that note added. We would just request that those
4 enhanced landscaping plans that we were provided get
5 merged into the final site plans.

6 During the concept to review by the Planning
7 Board the Board expressed a desire to explore shared
8 parking and land banked parking. They are currently
9 providing the required number of parking spaces for
10 each of the uses, as per the Town's parking code. So,
11 this plan does not propose any land banked parking
12 but the applicant did indicate that banked parking
13 would be considered once approved by all the tenants.
14 Obviously, Nick mentioned that one of the tenants is
15 still unknown at this time.

16 Then, the plans have been revised to address
17 the previous concerns that we shared in the Planning
18 Board shared regarding dead-end parking. That was
19 behind the restaurant where Nick is pointing to on
20 the plans.

21 CHAIRMAN STUTO: Do we have any further news on
22 that - banking the parking?

23 MR. COSTA: as Joe mentioned and Joe described
24 we are banking 21 spaces right in this area
25 (indicating). There are eight spaces here and 13 spaces

1 here.

2 CHAIRMAN STUTO: Is that more than we had for
3 concept?

4 MR. GRASSO: Yes, they did not show any banked
5 parking a concept. We had actually made that
6 recommendation when we were reviewing one of the
7 iterations of the plans. We did not pick up that it was
8 actually accommodated in the plans.

9 MR. COSTA: It is, Joe.

10 MR. SHAMLIAN: From the plan that we have, can
11 you show us exactly where you're talking about that you
12 have banked parking?

13 MR. COSTA: You have a color rendering. That
14 wont show it. It is eight spaces rate here (Indicating)
15 and 13 spaces here. You would have to look at the large
16 scale drawings.

17 MR. GRASSO: So, there are 21 land banked
18 parking spaces, which is consistent with one of the
19 recommendations that we made during the initial review
20 of the preliminary final plans.

21 MR. SHAMLIAN: Nick, doesn't leave much
22 greenery in that island.

23 MR. COSTA: that is correct. It would reduce
24 that.

25 MR. GRASSO: That is because when they

1 reconfigured, they actually added green space and other
2 areas of the site. That's where we felt it would be
3 better to be accommodated across that strip. We thought
4 that was more important have the green space around the
5 perimeter of the site. They are increasing the amount of
6 green space, but so we thought that it was better to
7 keep the parking further away from the perimeter roads.

8 We've got about a dozen other comments that
9 are rather technical that are more for Nick as he
10 works through the final plans.

11 I wanted to make a comment about the drainage
12 because I know there was concerns raised and
13 obviously it's something that we always focus on in
14 our review. The site right now is 77% impervious.
15 There's absolutely zero stormwater management and the
16 concern is the rainfall during rainfall events and
17 then creating temporary ponding both within the site
18 and off-site areas. We commend the applicant for
19 doing such a good job increasing the amount of green
20 space, but really incorporating stormwater management
21 features into the site plan which is really going to
22 do a good job storing the run off and reducing the
23 flows off-site in infiltrating as much as we feel
24 they could possibly do. We are confident that
25 development of the site as proposed is going to

1 reduce the flows off the site and there won't be as
2 much ponding of off-site areas. We don't think there
3 would be any negative impacts of this project on the
4 adjacent property to the west. Actually, we think
5 it's going to be a substantial improvement.

6 Nick did a detailed explanation of reducing
7 the drainage area of water that would go there.
8 Basically, he pushed his grading limit as far as he
9 could to capture all of the runoff that would
10 typically go toward the West and then bring it back
11 into the site and infiltrate it and treat it and
12 discharge it not to the West but out to the DOT
13 system. We think it's a great drainage system design.

14 That summarizes our comments.

15 CHAIRMAN STUTO: We have Dr. McDaniel who is an
16 extra neighbor.

17 MR. MCDANIEL: My name is Dr. Matthew McDaniel.
18 I am the owner of 130 Wolf Road which I believe is west
19 of this parcel.

20 CHAIRMAN STUTO: Can you point to it?

21 MR. MCDANIEL: That's right here.

22 CHAIRMAN STUTO: To me, that south.

23 MR. MCDANIEL: I'm sorry, that's south.

24 My main thing that I wanted to first verify
25 as far as the discussions that Nick and I have had -

1 there is the drainage back in the corner and all the
2 water if I understand the storm system that they have
3 developed - there will be no water running towards
4 Automation and that all the storm water is going to
5 run - be caught and if it is overflow, it's all going
6 to go towards Wolf Road. I just wanted to verify
7 that. That is kind of the discussions that I have had

8 CHAIRMAN STUTO: I don't know if all is the
9 right word.

10 Joe, can you comment on that?

11 MR. GRASSO: Yes, I think that's accurate.

12 Nick?

13 MR. COSTA: Yes, that's correct.

14 CHAIRMAN STUTO: There is still going to be
15 some service water that finds its way back there, right?
16 I know all is a pretty strong word.

17 MR. COSTA: You are absolutely correct. We want
18 to clarify to make sure that everybody is comfortable
19 with it. From this point on, the scary rate here - we
20 are capturing it before goes onto the street with
21 a couple of catch basins. We are putting it into similar
22 underground detention systems.

23 CHAIRMAN STUTO: Is that curbed back there?

24 MR. COSTA: Yes, this is all curbed. The Town
25 requires curbing for all parking areas. It is curbed.

1 The system will infiltrate at that lower
2 points. The rest of it will all go towards Wolf Road.

3 MR. GRASSO: Is there an overflow from that
4 system the ties into the catch basin, if it warrants it?

5 MR. COSTA: Yes.

6 MR. GRASSO: So, there is an overflow
7 connection to that storm line.

8 MR. MCDANIEL: Yes, but it is only this corner.
9 Right now the water that comes from the front of the
10 property is running down over and then onto my property.
11 My understanding of the way that the storm system has
12 been developed, that water is going to be caught. If it
13 overflows, it's going to come onto Wolf Road. Mainly,
14 all this runoff that is existing is going to be stopped.

15 MR. MAGGUILLI: Doctor, do you have any trouble
16 at present with the site and water?

17 MR. MCDANIEL: Yes, I have tremendous issue.
18 The back of my property is already unfortunately in the
19 lowest point. The back of my property will flood. I have
20 pictures that I have submitted to the Town as far as the
21 water running off the property and onto mine. I also
22 have pictures where the water is flooded to the point
23 where there are cars flooded. I've actually had clients
24 drive into the water and I've had one instance where an
25 older client drove into the water and couldn't get out.

1 We had to help get her out of the vehicle. There is a
2 huge issue.

3 On my property the water is draining into
4 this where it is open. With heavy rainfall Automation
5 will flood and water will start to back out and fill
6 into my property. There are three sources of water.
7 One is from my own property. There is the other two
8 where the water is coming off of 140 Wolf Road and
9 then water coming out of the storm sewer from
10 Automation.

11 MR. MAGGILLI: Are you satisfied that what
12 they are proposing is going to help you to some extent?

13 MR. MCDANIEL: I would say that I am very
14 satisfied because it is my understanding that there is
15 not going to be a connection to the pipe the trains onto
16 Automation. I am not an engineer, obviously, but it
17 sounds like they have done a tremendous amount of work
18 trying to divert that water away from me onto Wolf Road.
19 I don't think this is Mr. Burke's responsibility at all.
20 I am still very concerned about the issue of Automation.

21 CHAIRMAN STUTO: Okay, but that is not going to
22 be addressed by this project.

23 MR. MCDANIEL: I understand.

24 MR. COSTA: Just so I understand and I want to
25 make everyone else understand - the water from the site

1 - some of it does go into an end section that connects
2 to that system. Some of it goes right out onto
3 Automation. What has historically happened is that the
4 Automation storm system can take all that flow. The
5 restriction is the culvert that was installed under
6 Automation when this whole site was developed went out
7 to the Northway. That's only a 15 inch pipe. It is
8 taking all of this impervious area and it just can't
9 take it so it backs up. Our thought was because we are
10 taking some of my flow away from it, it will leave some
11 volume for some of the rest of the water. Maybe it will
12 help Dr. McDaniels when water comes in from Automation
13 to flow into that pipe. It may have more capacity.

14 CHAIRMAN STUTO: It sounds like an excellent
15 improvement. I just want to clarify what we are talking
16 about.

17 Do you have more comments?

18 MR. MCDANIEL: I actually have two comments. I
19 do very much appreciate it. They have done a tremendous
20 job trying to address the water situation. My only other
21 concern is just the properties and where the propertys
22 face. I understand some of the Code that says that most
23 of the properties are set back. My concern is the
24 closeness. I understand there is a variance to how close
25 the restaurant is - - and just a little bit compared to

1 the rest of the businesses in that area.

2 CHAIRMAN STUTO: They're not going to be able
3 to see your building as they come down the road.

4 MR. MCDANIEL: That's correct. I'm just worried
5 about the front and the proximity to my property line
6 and the proximity from the frontage in both aspects.

7 CHAIRMAN STUTO: What about working together
8 with the trees?

9 MR. MCDANIEL: I am quite open to that. We have
10 had some discussions.

11 CHAIRMAN STUTO: Thank you.

12 Chief, do you want to start the comments at
13 your end?

14 MR. HEIDER: We will start with the trees. I
15 brought this up at the last meeting to have somebody
16 look at those trees. Some of those trees date back to
17 Schulz's greenhouse - those of us who are old enough to
18 remember that. Those Austrian Pines, in my mind, are
19 well past their point of liveliness. I understand what
20 you are saying about the buffering because it would help
21 buffer of the upper level of the hotel.

22 As far as the doctors property, some of that
23 is almost scrub. It's not, but it's planted so close
24 together and it's all grown together. I'm a big
25 believer in less but better quality than just a whole

1 bunch of rows of trees. I would like to see some of
2 it very well pruned or taken out and allow the space
3 to be between them. I think it would aesthetically
4 make the place look better.

5 MR. COSTA: We are going to work with the
6 doctor on that. There may be some areas where we would
7 be able to do -- like I mentioned before, some berming.
8 There is a small amount of space that is available but
9 maybe we could do some burning to further help the idea
10 of the flow going towards his side and plant some new
11 trees to help to some screening and get rid of some of
12 those -

13 MR. HEIDER: Even the ones in front have gotten
14 so big and so gangly. They haven't been trimmed in 30
15 years. Even though they are on state property, they can
16 be trimmed. I remember DeNooyer did his some years ago.

17 MR. COSTA: We will definitely talk to DOT
18 about trimming, because we do want to trim. It hides
19 anyplace for us to put a sign. I'm not sure because if
20 DeNoyer did it, that we are going to be successful. We
21 definitely would talk to DOT about getting permission to
22 trim the trees. Tom and I have discussed that are ready.

23 MR. HEIDER: The only other thing that I had -
24 well, two things. Your access road going in and out -
25 the major one - I would hope that it would have three

1 lane designations in the front. One lane going in, one
2 lane going out in the center for the left. Is that big
3 enough for that?

4 MR. COSTA: I think it's big enough.

5 MR. HEIDER: I don't know if the head of that
6 is big enough or not.

7 MR. COSTA: It is wide enough. I think we made
8 that 32 feet or 36 feet. It could fit three lanes.

9 MR. HEIDER: On the final plan, I would hope
10 that you show that.

11 MR. COSTA: We will look at that.

12 MR. HEIDER: The most important thing to may -
13 restaurant A - I think we talked about it last time. Why
14 can't that be pushed back? As it is - I realize that you
15 are staying within the designation of the Comp Plan, but
16 when you are adjoining and other property and there is a
17 setback of 60 feet, to me it doesn't look better. It's
18 pushed 17 feet within the property line and you have
19 this thing all the way out front. I would like to see it
20 pushed back. You have five parking spots there. You can
21 push that back and create something else.

22 MR. COSTA: I think Tom and Jack can address
23 that comment.

24 MR. BURKE: I guess the wind up of that is we
25 have done everything we can on the site to increase

1 green space, the banked parking, the storm water issues
2 and to do an appropriate landscaping plan that's going
3 to be worthy of the site that is being completely
4 redeveloped and will be the jewel of Wolf Road. There
5 are some things that I can control. There are some
6 things that we need to do in order to do all of those
7 other things. The placement of the building has been
8 something that was in ongoing discussions for many
9 months - almost a year with our tenant. It's been
10 through their Ops people, their real estate people,
11 their executive committee and while it seems like a
12 simple fix - I can understand and am sympathetic to the
13 notion that hey, if we can push it back 10 or 15 feet,
14 that might solve everybody's problems -- we can't do
15 that. It screws up the whole parking field. It puts us
16 back a year with their approval process. I'm way past
17 overdue in gaining my entitlements for the tenant.
18 That's why they are here tonight to watch in action what
19 happens. We don't have any more time. It's fish or cut
20 bait kind of the situation. I recognize that other
21 people have property rights and visibility is important
22 to all of us, but that building is where it is because
23 it was put there by Sherwin Williams 40 years ago. The
24 business is well-established and everybody knows where
25 they are. They are completely visible from the other

1 direction. There is a sign out there. I'm a property
2 owner too and I have rights. I'm already out of
3 conformity with the zoning ordinance and this would put
4 me even more out of conformity. It's just not something
5 that I'm able to do. If we could have done it, we would
6 have done it. There's no reason for me not to do it. If
7 I could develop the site the way we need to develop it
8 and still get the project done -- we just don't have
9 that flexibility. I wish we did, but in order to
10 accomplish all these other great things including the
11 storm water, the landscaping and the banked parking and
12 the increase space in the green space and redeveloped
13 this entire site and increase the tax base -- take a
14 vacant blighted derelict piece of property and put it
15 back to good use. These are some of the hard choices
16 that we are all faced with making. I apologize for my
17 inability to not accommodate that request, but it's just
18 not within my purview. I can't do it. No disrespect.
19 It's just not something that we can do and do everything
20 else, as well.

21 MR. SHAMLIAN: So, you have some banked parking
22 and what we will call the median in front of the hotel.
23 We are talking about five spaces beyond that restaurant
24 A. It sure looks to me like that building could be
25 shifted back, loose five spaces and take five spaces out

1 of the banked area without impacting the operation of
2 that building at all. You're going to have to explain to
3 me in detail why that doesn't work.

4 MR. BURKE: You are missing something. It's not
5 just my decision. It's the decision of the operations
6 and real estate and finance people and the executive
7 people.

8 MR. SHAMLIAN: This has been a pretty
9 consistent theme.

10 MR. BURKE: We have brought it back to them,
11 time and time again.

12 MR. SHAMLIAN: So, you must have pushed with
13 them so they should have provided you with some very
14 specific rationale as to why it doesn't work. That's
15 what I'm asking for, or asked the representative from
16 Longhorn to come up and explain it. I don't understand
17 why it can be shifted back.

18 MR. BURKE: The building can't be moved. It
19 impacts everything from the trash, to the drive lanes,
20 to the balance of the parking on the site. It's not just
21 a matter of losing five spaces. If it's just that, maybe
22 we can take another look or they can take another look.
23 I don't believe that is the limiting factor here. I
24 think other things come into play when you move that
25 building. The trash receptacle moves. Everything moves.

1 MR. SHAMLIAN: Absolutely. It sure does look
2 like there is room to do that.

3 MR. BURKE: Well, I don't have that power.

4 MR. SHAMLIAN: Okay.

5 CHAIRMAN STUTO: I also think that moving the
6 building back, as described - you gave an answer, but it
7 doesn't really address, specifically Craig's comment.
8 Does it really impact the technical infrastructure of
9 the site? To me, it didn't explain it.

10 MR. BURKE: If you move everything back,
11 doesn't cut the spaces off right here? You're losing
12 five -- it looks like you're losing five more.

13 MR. GRASSO: How far back are you looking to
14 push the building back? Is it 20 feet?

15 MR. SHAMLIAN: Sure, we can do 20 feet. That
16 basically moves the building back and it creeps into the
17 parking field.

18 MR. BURKE: Now you are in the drive Lane.

19 MR. GRASSO: No, it doesn't seem like it would
20 push -- if you push it back 20 feet, you're going to
21 impact the five parking spaces. The dumpster enclosure
22 is going to go back to the drive lane. It would maintain
23 the circulation. The dumpster enclosure would go back to
24 the drive Lane by pushing a 20 feet.

25 MR. COSTA: The other thing is that there is a

1 sidewalk.

2 MR. GRASSO: The sidewalk would get eliminated
3 because you wouldn't have parking there. The people that
4 were parking behind the building would just have to go
5 to the sidewalk that runs in the front of the store.

6 MR. COSTA: With 20 feet, it would still be in
7 front of the building.

8 MR. GRASSO: Your front yard setback right now
9 is like 32.

10 MR. BURKE: Why is that such a big deal? I
11 don't even understand it.

12 MR. GRASSO: It is a concern by the Board.

13 MR. BURKE: For what reason? It escapes me.
14 What was the issue?

15 MR. HEIDER: A few members of the Board do not
16 agree with having it be that close to the road,
17 especially an existing area where there are adjoining
18 buildings next-door. That's about as simple as I can put
19 it.

20 MR. BURKE: What was there when it was Lazare?

21 MR. COSTA: There was parking. Actually, there
22 was a display area here.

23 MR. BURKE: Yes, and there was a ramp. The
24 whole big thing with the cinderblocks around it. You
25 couldn't see past that anyway.

1 CHAIRMAN STUTO: I may be hearing a consensus
2 that we favor pushing the building back. Let's hold that
3 issue and let's go to the other ones and get back to it
4 so we don't get jammed up on everything.

5 Chief also brought up to other issues and I
6 want to make sure we don't lose track of them. We are
7 here for final. One is the trees. I'm not sure about
8 the side. Were going to try to work something out
9 with the neighbor. How are we going to have review of
10 that?

11 MR. GRASSO: So, if there is agreement to
12 removing any of the trees on the site between the
13 veterinary office and this project site, we would want
14 those memorialized so that when the plan gets finalized,
15 we know exactly what trees are being removed. Right now,
16 they are showing all the trees to remain. That's what
17 the Planning Department would hold them to.

18 Regarding the trees in the back, I understand
19 your concern about the trees in the back.

20 CHAIRMAN STUTO: I don't understand what you
21 said.

22 MR. GRASSO: Right now the plans show keeping
23 all of those trees. I don't think removing half of those
24 trees negatively impacts the plan from a landscaping
25 perspective. I am supportive of the applicant working

1 with the adjacent property owner.

2 CHAIRMAN STUTO: So are we, but I think I would
3 like to make sure we follow up on that and not let it go
4 by the wayside.

5 MR. GRASSO: No, we can follow up but I don't
6 think we will be able to say tonight that it's trees
7 one, three, five.

8 CHAIRMAN STUTO: I understand that. So, you
9 will come back and make a report.

10 MR. GRASSO: We can do that, yes. I would like
11 the ability to be part of the discussion between the
12 applicant and the adjacent owner and let the Planning
13 Board empower me to make the decision about what trees
14 are able to be removed.

15 The trees in the back, I think, should stay
16 as they are shown on the plan because of the
17 proximity of the hotel to Automation Lane. I think it
18 is important. I understand those Austrian Pines are
19 way past their due, but I still think they provide a
20 fair level of screening and buffering in the back of
21 the hotel and Automation Lane because it is a
22 four-story building. The trees along the frontage - I
23 agree that pruning is appropriate. I think that the
24 applicant is going to be able to work that out with
25 DOT. I don't think that requires review by the

1 planning Board. If it is your intent for the
2 applicant's intent to actually remove some of those
3 trees, again, we would want that memorialized on the
4 plan because if these trees all of a sudden
5 disappear, it's going to be in violation of the site
6 plan.

7 CHAIRMAN STUTO: Is that satisfactory?

8 MR. COSTA: Yes.

9 CHAIRMAN STUTO: The other issue was the
10 ingress and egress. Shouldn't we have a detail on that?

11 MR. GRASSO: I think that it is wide enough.

12 CHAIRMAN STUTO: Shouldn't we have detail on
13 that for final approval?

14 MR. GRASSO: We did not make the comment. It's
15 something that DOT may comment on whether or not they
16 wanted it to be a three lane section. I don't think it's
17 going to change the width of the road to accommodate it.
18 We can follow up. As long as it's not objected to by
19 DOT, we can follow up and make sure that it is shown on
20 the files plans. I think it's a great comment and
21 something that I probably should've picked up on.

22 CHAIRMAN STUTO: We don't have a detail on that
23 section. Am I wrong or right? The only detail is two
24 lanes, in and out.

25 MR. GRASSO: That's right. They are only

1 proposing two lanes.

2 CHAIRMAN STUTO: The right lane is a lot wider,
3 at least on this depiction, then the exit.

4 MR. GRASSO: No, that's a sewer lateral.

5 CHAIRMAN STUTO: Don't we usually get a plan
6 with striping at this point in the process?

7 MR. GRASSO: Well, this is there striping plan.
8 They are not showing any proposed centerline stripes.
9 Once you go to a three lane section, you would do lane
10 demarcations.

11 CHAIRMAN STUTO: Can we get a report back on
12 those details that we just talked about?

13 MR. GRASSO: Yes.

14 MR. BURKE: With respect to the landscaping,
15 someone had mentioned something about ensuring that
16 there was irrigation. We have designed an irrigation
17 system that cost in excess of \$70,000. The system costs
18 that, not just the landscaping. The system alone costs
19 that. I want you all to be assured of the fact that we
20 are spending significant dollars on landscape materials.
21 That's everything from sod, plants, trees, shrubs and
22 then we are spending significant dollars to ensure that
23 all of that is permanently maintained. I know that there
24 was a concern, so I wanted to address it.

25 CHAIRMAN STUTO: We appreciate that.

1 Anybody else want to chime in?

2 MS. MILSTEIN: So, it's Joe making a
3 recommendation to report back and Joe who makes the
4 ultimate decision versus reporting back?

5 CHAIRMAN STUTO: On the landscaping?

6 MS. MILSTEIN: On the landscaping.

7 CHAIRMAN STUTO: I think that he proposed that
8 we entrusted to him, but he is going to report back to
9 us with what the result was.

10 MR. GRASSO: Yes, if the Board decides to take
11 final action tonight, I would just report back on the
12 findings. This is where the final plan ended up
13 regarding these issues.

14 CHAIRMAN STUTO: Landscaping and so far the
15 ingress and egress.

16 MR. GRASSO: Yes, and only those issues.

17 CHAIRMAN STUTO: Do you have any opinion about
18 where the building is set back?

19 MS. MILSTEIN: I like it set back.

20 CHAIRMAN STUTO: Any comments on this?

21 MR. MION: I agree with everything that has
22 been said, especially moving the building back. For some
23 reason because Longhorn wants it and you have Longhorn
24 representatives here, what you have them step up and
25 give us the reason why?

1 MR. DEGAGNE: Good evening. My name is Jack
2 Degagne. I am the site development manager with Darden
3 Restaurants out of Orlando, Florida. Darden Restaurants
4 in this case are the Longhorn Steakhouse.

5 I know we are very far along in the site plan
6 process for final approval here.

7 Again, like Tom had stated, there has been a
8 lot of conversations and negotiations and working the
9 site and the actual building location. I believe at
10 one time we even moved the building, for visibility
11 purposes, went from kind of a mirror image to get the
12 door exactly where it's located on the plan. So,
13 there has been a lot of discussions and he is correct
14 in saying in reference to Longhorn Steakhouse, the
15 executive team - they all have approved this site
16 plan which has been submitted. I believe it was
17 previously submitted on the last - one of the first
18 submittals to you. So, at that point being that I
19 haven't seen anything in reference to moving the
20 building until I just heard about it tonight, I'm
21 thinking again, like Tom had stated, we are down the
22 road. In Darden's eyes, this is the acceptable plan
23 that they are thinking is going to get built.

24 So, from an operation standpoint - the one
25 thing as far as operations, your dumpster area in the

1 back is an enclosed area. They do that for employee
2 safety, for one. So, it is a gated area. So, when you
3 think of it, it is part of the building in one
4 respect. Yes, you have your building but it is tied
5 to it so anything you do to the building, the
6 dumpster area doesn't change shape. It might change
7 shape a foot here or there but basically it goes
8 along with the building. When I look at this plan
9 right here as far as in the sense of moving it, I see
10 just by moving this 15 feet that was discussed -

11 CHAIRMAN STUTO: It was 20.

12 MR. DEGAGNE: I see easily 10 parking spaces
13 that in theory could disappear or not be recoverable as
14 far as in a reshape. I know that again would be another
15 concern to Darden in reference to this project.

16 Again, what Tom has said is very true in the
17 sense that there has been a lot of work on this
18 project for well over a year in reference to coming
19 up with this final solution. I look at it and say
20 it's a beautiful piece of property. As far as its
21 location, design, the parking field, the final
22 product, the landscaping -- we are very big on
23 landscaping. I do know around the building that we
24 don't just put in the minimum as far as around the
25 building. When you walk up as a customer for the

1 first time when that opens up, you're going to think
2 that the landscaping has been there for a while. They
3 really are excited about going there. The appearance
4 of their building - we like the building as far as
5 this location because it's a beautiful building. We
6 want everybody to see it. We are very excited about
7 going there.

8 To summarize, there has been a lot of
9 negotiation as far as coming up with this final
10 design that is acceptable to Darden and to Longhorn.
11 Thank you.

12 MR. MION: Are you telling me that this is the
13 first time that you've heard this - moving the building
14 back?

15 MR. DEGAGNE: That is correct. I haven't
16 personally heard it. Now, whether or not - I can't speak
17 for Tom and whether or not he has had discussions
18 before, but this is the first time I've heard about the
19 actual building moving back 20 feet.

20 MR. BURKE: You're here in place of Doug [sic]
21 Chinowski because he couldn't be here. That's why.

22 MR. DEGAGNE: Okay.

23 Doug [sic] Chinowski is the Senior Real
24 Estate Director. So, I don't want to put words into
25 anyone's mouth but I'm pretty sure that Doug - if

1 there has been discussions, he has looked at this
2 plan and said this is what we want. I talked to Doug
3 today. There was no conversation about moving the
4 building. That never came up. I can tell you that.
5 I'm quite confident that Darden is looking at this
6 project for final approval and respectfully requests
7 that it be approved as submitted.

8 CHAIRMAN STUTO: Thank you.
9 Anybody have any comment?

10 MS. DALTON: It is unfortunate that the person
11 who dealt with the issue could not be here when my
12 understanding is the only reason that they sent someone
13 here tonight is to talk to us about this issue. So, I am
14 sorry that they paid for your airfare because you
15 couldn't address the question that was presented to you
16 and have been presenting all along.

17 MR. BURKE: I can tell you what they have told
18 me. I'm not inside the teepee Longhorn, but when you
19 talk about visibility, they want visibility. The further
20 they go back, the further they are away from being seen.
21 They are off the street. That is a big concern. A big
22 concern was losing any parking. I have said this to you
23 before. There is a model that they use in terms of how
24 they want to have parking laid out and where parking
25 needs to be. Originally, the building was in the middle

1 of the lot and it moved and it moved in it moved.

2 MS. DALTON: So, they want the parking is close
3 to the building as possible.

4 MR. BURKE: Yes, that's correct. Convenient
5 parking - close proximity to the building, unobstructed,
6 visible, safe. So, there are business reasons. Again I
7 am not privy to these. I'm the messenger. I am the rope
8 in a tug-of-war. It's not like I actually have an
9 opinion about this because if I could give it to you, I
10 would.

11 MS. DALTON: No, you certainly were articulate
12 about the difficult position that you are in. I
13 appreciate that.

14 MR. BURKE: I get my marching orders and I have
15 to do what I can for my end-user. I thought that with
16 the curb cuts and increasing green space and making
17 improvements to the storm water and that it's done
18 regarding my neighbor's problem and what he has -
19 solving that. There is so much I can do but there are
20 things that are out of my control, as well.

21 MS. DALTON: I hear you.

22 MR. BURKE: I thought that this was a great
23 redevelopment project. I'm sorry that it has to come
24 down to haggling over 10 or 15 or 20 feet where a
25 building goes. I hate to see the baby get thrown out

1 with the bathwater.

2 MR. MION: Just so you know, I can understand
3 and appreciate that they want visibility but also
4 because of their visibility, they are infringing on
5 another businesses visibility. There are visibility
6 issues on both sides of the fence.

7 MR. BURKE: You are really not going to gain
8 anything. That building is still going to be blocked.
9 Unless I completely do not build anything here, you are
10 not going to see that building. You are not going to see
11 it. Everybody knows where Sherwin-Williams is and the
12 vet. There is a sign. It is completely visible from the
13 other way.

14 MR. SHAMLIAN: It may not be there forever. By
15 blocking visibility - it's not blocking just the
16 visibility of the doctor's office and Sherwin-Williams.
17 It is everything that may come after that, as well.

18 MR. BURKE: There are buildings up and down
19 Wolf Road that you can't see.

20 MR. SHAMLIAN: There are, but you are in a
21 brand-new building -

22 MR. BURKE: There are places inside of Colonie
23 Center that you can't see and that you have to go inside
24 to find.

25 MR. HEIDER: I have one question. Does Darden

1 also on the Olive Garden?

2 MR. DEGAGNE: Yes.

3 MR. HEIDER: How far back is the Olive Garden
4 from Wolf Road? Does anybody know?

5 MR. BURKE: I have no idea.

6 MR. HEIDER: It's probably about 80 feet.

7 MR. BURKE: It was built about 40 years ago. It
8 is freestanding. It has nothing to do with this.

9 MR. COSTA: There's one parking aisle - drive
10 aisle. That 60 feet.

11 CHAIRMAN STUTO: And a little bit of
12 landscaping.

13 Do you have more questions? Go ahead.

14 MR. SHAMLIAN: Signs - what about signs?

15 MR. COSTA: We are showing a project sign right
16 here (Indicating). That would be the main project sign.
17 It would be a monument sign.

18 MR. BURKE: For all the users.

19 CHAIRMAN STUTO: I want to ask a question of
20 Joe and Counsel.

21 I don't know if I am prepared to vote on it
22 with final with not knowing where the building is
23 going to end up. Maybe I would like to digest it a
24 little bit more. What is your opinion on doing the
25 environmental review? Will moving the building change

1 the environmental review? Will it invalidate the
2 SEQR? I like to get to the environmental review. It
3 seems like we have done - I would at least like to
4 get that part done, if possible.

5 MR. GRASSO: Nothing would need to change. I
6 would think that if the building had to get shifted back
7 and you lost those five parking spaces and you wanted to
8 keep the parking count the same, we would swap out and
9 use the other five of the land bank spaces for that.
10 There would not be any chance of the parking data. If
11 you wanted to do the environmental review to move
12 forward, you could.

13 CHAIRMAN STUTO: Do we have to even do that?

14 MR. GRASSO: No.

15 CHAIRMAN STUTO: Can we increase the parking
16 spaces in a different spot?

17 MR. GRASSO: That's really up to the applicant.

18 CHAIRMAN STUTO: From a SEQR perspective.

19 MR. GRASSO: No. The amount of parking is
20 documented in the SEQR form, based on this plan. That's
21 why I bring this up. If you start to change the parking
22 count, then it needs to be reflected on the SEQR form.

23 CHAIRMAN STUTO: Can we put a range on the SEQR
24 form?

25 MR. GRASSO: No. It's already documented based

1 on this plan. I would not let that stop -- the Board
2 often makes a SEQR determination when they approve the
3 final plans.

4 CHAIRMAN STUTO: So, coming recommend that we
5 do the SEQR now?

6 MR. GRASSO: Yes, do with the final plans.

7 CHAIRMAN STUTO: Would the applicant like us to
8 get through with the SEQR, at least right now?

9 MR. BURKE: He's on the phone calling the
10 powers that be to see who he can raise and what he can
11 do. I don't think they're going to go 20 feet. They may
12 go 10 or 15. He doesn't seem to think that's going to be
13 an option.

14 MR. LACIVITA: I am just looking at that 10
15 feet adjustment and that takes you about halfway through
16 that back parking. There still is a lot of circulation.
17 Losing the sidewalk in bringing your green space -- you
18 would be about halfway into the parking and back, Tom.
19 Then, you would lose about five spaces, possibly.

20 MR. BURKE: Yes, if you go 10 feet, you lose
21 five spaces. I think that's what he's trying to push for
22 now.

23 MR. LACIVITA: That's about what I am looking
24 at just doing a brief calculation here.

25 MR. BURKE: So, if that satisfies the Board, I

1 think his emailing and texting and calling -

2 MR. SHAMLIAN: You've got the sidewalks and
3 greenery and where the parking spot is here is where the
4 line he comes the 20 feet.

5 MR. LACIVITA: I'm trying to leave half of that
6 parking space there, Craig, as green space. Move
7 everything back and shifted where you can at least save
8 some green space in the back and you're not losing a lot
9 of green space.

10 CHAIRMAN STUTO: Well, this is a decision the
11 Board has to make.

12 What is your opinion on that, Craig? If you
13 move it back 20, you don't lose any parking - is that
14 what you're saying?

15 MR. SHAMLIAN: As soon as you move it back 10
16 feet, you lose the five spots. Aesthetically from the
17 road and from the property next door, 20 feet sounds
18 like a reasonable number because it doesn't really
19 impact anything else that I can see where that they have
20 explained.

21 CHAIRMAN STUTO: Okay, let's start the SEQR
22 review. Can you walk us through the SEQR?

23 MR. BURKE: You're going to lose the sidewalk
24 for all these people were parked back here. They now
25 have no sidewalk to walk on.

1 MR. SHAMLIAN: But those spots are not directly
2 behind the building.

3 MR. BURKE: No, those spots are not, but all
4 these spots are (Indicating).

5 MR. SHAMLIAN: But the door right there. There
6 is a sidewalk that goes -

7 MR. BURKE: Not anymore. Not when you push it
8 back.

9 MR. SHAMLIAN: The sidewalk can continue to go
10 to edge of that parking - to the edge of the driveway.
11 You're not changing that. You're just shortening it.

12 MR. BURKE: Maybe I'm not understanding. If you
13 take this entire building and move it back 20 feet, you
14 lose -

15 MR. SHAMLIAN: The sidewalk that runs along the
16 north side of the building, continues to run on the
17 north side of the building.

18 MR. BURKE: Yes, and blocks the drive lane.

19 MR. SHAMLIAN: It stops at the edge of the
20 drive lane

21 MS. DALTON: The walkway will still start at
22 exactly the same place that it starts now. You simply
23 won't have that bump.

24 MR. SHAMLIAN: So, you won't lose the green
25 space and the sidewalk and put the dumpster out here

1 where this is.

2 MR. BURKE: If they approve it. I'm fine. I
3 don't care.

4 MR. GRASSO: How about we consider conditioning
5 the approval on it moving back and if the applicant
6 can't work it out with Darden, then they come back.

7 CHAIRMAN STUTO: That's okay with me.

8 MR. BURKE: They're not going to approve it
9 with a 20 foot setback.

10 MR. GRASSO: Just to try to get something
11 productive out of the meeting, let's do a conditioned
12 approval on it moving back 20 feet. And if the 20 feet
13 doesn't work, and you can make it work with Darden after
14 consideration, then you come back to the Board and the
15 Board reevaluates.

16 MR. DEGAGNE: I threw out a number here earlier
17 - 15 feet. Is there a chance that you would look at it
18 with 15 feet? I'm just asking.

19 MS. DALTON: Can I ask you a question before we
20 answer that question? You kinda had me sold on the fact
21 that you have business reasons for having those five
22 spots closer to the building. That gives you a
23 competitive advantage. I get that. Being visible gives
24 you a more competitive advantage. I guess there are
25 others.

1 MR. DEGAGNE: That hasn't changed.

2 MS. DALTON: If you move 15 feet instead of 20,
3 you lose your parking spaces anyway. So, now I'm not
4 sold on the competitive advantage.

5 MR. DEGAGNE: I do have an answer for that.
6 Part of it is why I don't want to go with 20 is thinking
7 about on the backside of the building. Whatever we do, I
8 still want landscaping. I'm very very concerned about
9 the landscaping around the building and just taking a
10 building and shoving it 20 feet. That might -- that's
11 why I am more open to approval with the idea that we
12 will work with staff and come up with an amenable
13 solution.

14 MS. DALTON: So, you want to keep the sidewalks
15 around the building?

16 MR. DEGAGNE: Yes.

17 MS. DALTON: And just move that parking area?

18 MR. DEGAGNE: Right. If we can keep it to just
19 losing five parking spaces and see by looking at it --
20 I'm just not sure. I've got a great background on this
21 and we can look at it, that's why I'm just looking for
22 flexibility to where if you said a solid 20 feet, I'm
23 very concerned about landscape and the look on that side
24 of the building.

25 MS. DALTON: The other thing that I would agree

1 with you about is to keep that back piece - the green
2 space in the sidewalk -- it doesn't prove the safety
3 from people walking from the far left so you have that
4 sidewalk in the back of the building.

5 MR. DEGAGNE: I agree with you 100% for us,
6 although every restaurant has a rear, we do everything
7 we can to make sure that fourth elevation or the rear
8 elevation looks good. I think that by moving it back 20
9 feet, I think we are locked in and I am concerned about
10 that.

11 As far as with the Real Estate Director -
12 that's the nice thing about phones these days we work
13 24/7. I got him on the phone and we are willing to
14 look at that from the standpoint of working with you
15 to see what we can do on that. So, I respectfully
16 request that option of being able to work with staff
17 to see exactly where that falls.

18 MR. GRASSO: Nick, can you make sure the
19 distance from the building to the drive lane - just so
20 the Board knows how much room is back there?

21 MR. DEGAGNE: What happens with 15 feet is that
22 I end up losing just five cars. Then, I gained 3 feet of
23 landscape on the back of the building.

24 MR. SHAMLIAN: We understand that. That's a
25 good reason why some flexibility is warranted. I know

1 that I am okay with the flexibility on that.

2 MR. DEGAGNE: We'll do it.

3 CHAIRMAN STUTO: Okay, between 15 and 20.

4 MS. MILSTEIN: If you can do 20 - the
5 presumption is 20 but you have to justify it if it's
6 going to be less than 20.

7 MR. DEGAGNE: Between 15 and 20 -- I represent
8 Darden and landscape in this case and I would like to
9 see only losing five cars and then gaining landscape at
10 the back of the building.

11 MR. GRASSO: The dimension from the back of the
12 building to the drive lane?

13 MR. COSTA: It's 33 feet.

14 MR. DEGAGNE: And you have a 5 foot or 6 foot
15 sidewalk.

16 MR. GRASSO: No, there will be a sidewalk
17 there.

18 MR. DEGAGNE: That's what I'm saying.

19 MR. GRASSO: So, if you push it back 15 or 20
20 it's going to be either 13 feet or 18 feet. If you want
21 18 feet of landscaping, then the building is going to go
22 back 15 feet.

23 MS. DALTON: The benefit presented by providing
24 that walkway from the parking spots on the far left I
25 think outweighs moving that.

1 MR. GRASSO: Okay so when we do this: when I
2 push the building back 15 feet and keep a 5 foot
3 sidewalk and then we will keep 13 feet of landscaping.
4 Does that sound good?

5 MS. DALTON: Yes, it does to me.

6 MR. GRASSO: Does that sound good to you?

7 MR. DEGAGNE: Yes.

8 MS. MILSTEIN: I don't like how this is just
9 being thrown together with some kind of negotiations,
10 without seeing this and visualizing this whole thing.

11 MR. DEGAGNE: I can explain it to you as far
12 as -- hopefully I'm good at pictures. If you look at
13 your plan - basically, if I lose those five parking
14 spaces, that's 18 feet. I want a five or 6 foot sidewalk
15 back here (Indicating). So, now got that landscaping.
16 With only losing five, I take this area and I am able to
17 rework the dumpster area to be able to work with this
18 area - if I just have to move it 5 feet or whatever
19 orientation wise to get the perfect angle approach for
20 your garbage trucks.

21 Then, this back area - I've got a lot of
22 ability to put some nice landscaping in that back
23 area. That's it. I'm losing five spaces. The building
24 comes back, but I am able to gain some landscaping
25 and work with the building.

1 CHAIRMAN STUTO: Okay, I am hearing the two are
2 acceptable on my right. I am okay with it.

3 MR. GRASSO: I think that it's pretty
4 straightforward. You're shifting the building back 15
5 feet. You're going to have 13 feet of landscaping, 5
6 foot sidewalk and then a drive lane. We're going to
7 relocate those five parking spaces as part of the bank
8 parking.

9 MR. COSTA: No I don't think we need them. I
10 think we just lose those five spots.

11 CHAIRMAN STUTO: Okay, let's go through SEQR.
12 Do you want to make a statement? Can you start walking
13 us through SEQR?

14 MR. GRASSO: If you give me a minute, I want to
15 edit the parking count.

16 So, Part II is what we have drafted. It is
17 the identification of potential project impacts. The
18 first one is the impact on land that the project
19 would involve the construction and physical
20 alteration of land surface. The answer is yes and to
21 know or small impact would occur to all of the sub
22 questions.

23 The second is impact on geological features
24 which is no.

25 Impact on surface water was no.

1 Impact on groundwater was yes with no or
2 small impact is expected to occur for all the sub
3 questions.

4 Impact on flooding was no - no negative
5 impact.

6 Impact on air was no.

7 Impact on plants and animals; no.

8 Impact on agricultural resources is no
9 because there are none.

10 Impact on aesthetic resources - there are no
11 triggers or thresholds, so the answer is no.

12 Impact on historical and archaeological
13 resources is no because there was none identified
14 through the study.

15 Impact on open spaces and recreation which is
16 no.

17 Critical and environmental areas which is no
18 because there is not applicable to the site.

19 Impact on transportation which would be yes.
20 No or small impacts are expected to occur for all of
21 the sub questions.

22 Impact on energy is yes with no or small
23 impact expected to occur.

24 Impact on noise, odor or light was yes with
25 no or small impact expected to occur.

1 Impact on human health was no.

2 Consistency with community plans is no
3 inconsistency.

4 Consistency with community character - the
5 answer is no. There is no consistency with community
6 character.

7 So, that's how Part II was completed.

8 Part III is the actual determination of
9 significance. The summary statement is that this
10 project will result in no significant adverse impacts
11 on the environment and therefore an environmental
12 impact statement need not be prepared. Accordingly,
13 this negative declaration is hereby issued.

14 CHAIRMAN STUTO: Okay, do we have any
15 discussion on the environmental impacts?

16 (There was no response.)

17 Thank you for that review.

18 MR. GRASSO: I would just like to state for the
19 record that I don't have part one as part of my packet
20 the parking count will be reduced by five cars.

21 CHAIRMAN STUTO: Joe has also cited a
22 determination of no significant impact.

23 Do we have a motion on that?

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

25 CHAIRMAN STUTO: Second?

1 MR. SHAMLIAN: Second.

2 CHAIRMAN STUTO: Any discussion?

3 (There was no response.)

4 All those in favor, say aye.

5 (Ayes were recited.)

6 The ayes have it.

7 With respect to the main question which is
8 for final site plan approval, subject to the
9 conditions set forth by the Town Departments, also
10 set forth in the all the waivers -

11 MR. GRASSO: There will be waivers, yes.

12 CHAIRMAN STUTO: Sorry, let's do this first.

13 MR. GRASSO: I'm just going to change the name
14 of the applicant right now. It's Colonie Real Estate
15 Holdings and it's not going to be changed to 1476 Route
16 9, LLC.

17 Whereas the applicant has proposed
18 development of the hotel into restaurants. The
19 applicant is requesting a waiver from the Town of
20 Colonie Land Use Law -

21 CHAIRMAN STUTO: Can you just do the title -
22 now therefore be it resolved? I will ask the
23 stenographer to put the entire Resolution.

24 MR. GRASSO: Resolution of the Burke Hotel and
25 Restaurants, 144 Wolf Road Land Use Law Waiver Findings.

1 Now therefore be it resolved that the Board
2 hereby finds that the extent of the requested waiver
3 is not considered substantial; and be it further
4 resolved, that the Board finds the applicant has
5 established there are no practical alternatives to
6 the proposed waiver that would conform to the
7 standard and that the waiver is necessary in order to
8 secure reasonable development of the project site;
9 and be it further resolved, that the Board hereby
10 issues a waiver from the maximum front building
11 setback of 20 feet from Wolf Road; and be it further
12 resolved, that the Board hereby issues a waiver from
13 the prohibition of parking and drive lanes in the
14 front yard setback; and be it further resolved, that
15 these waiver findings be in it a condition of site
16 plan approval of the application and be kept in the
17 project file in the office of the Planning and
18 Economic Development Department.

19 CHAIRMAN STUTO: Do we have any discussion on
20 this resolution?

21 (There was no response.)

22 Do we have a motion on the Resolution?

23 MS. DALTON: I will make a motion.

24 MR. SHAMLIAN: I will second.

25 CHAIRMAN STUTO: Any discussion?

1 (There was no response.)

2 All those in favor, say aye.

3 (Ayes were recited.)

4 All those opposed, say nay.

5 (There were none opposed.)

6 The ayes have it.

7 With respect to the main question before the
8 Board which is final site plan approval subject to
9 the conditions set forth by the Town departments,
10 subject to conditions set forth by the Town
11 Designated Engineer, subject to the conditions
12 discussed in set forth by the Planning Board,
13 including specifically but not limited to the
14 landscaping which we are giving discretion to the
15 Town Designated Engineer and the PEDD Department head
16 which is Joe LaCivita - that's on the landscaping.

17 With respect to the egress and ingress -
18 subject to the same review and also subject to the
19 building a being pushed back 15 feet, subject to
20 final review by the Town Designated Engineer and the
21 head of the PEDD Department, do we have a motion?

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

23 CHAIRMAN STUTO: Do we have a second?

24 MR. HEIDER: Second.

25 CHAIRMAN STUTO: Any discussion?

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(There was no response.)
All those in favor, say aye.
(Ayes were recited.)
All those opposed, say nay.
(There were none opposed.)
The ayes have it.
MR. COSTA: Thank you.
CHAIRMAN STUTO: Thank you, very much.

(Whereas the above entitled proceeding was
concluded at 7:50 p.m.)

CERTIFICATION

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I, NANCY L. STRANG, Shorthand Reporter and
Notary Public in and for the State of New York,
hereby CERTIFY that the record taken by me at the
time and place noted in the heading hereof is a true
and accurate transcript of same, to the best of my
ability and belief.

Dated: _____

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

