

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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4 CUMBERLAND FARMS  
5 1893 CENTRAL AVENUE  
6 APPLICATION FOR FINAL APPROVAL  
7 AND SEQR DETERMINATION

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9 THE STENOGRAPHIC MINUTES of the above entitled matter  
10 by NANCY L. STRANG, a Shorthand Reporter Commencing  
11 on November 27, 2018 at 9:12 p.m. at The Public  
12 Operations Center, 347 Old Niskayuna Road, Latham,  
13 New York

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15 BOARD MEMBERS:  
16 PETER STUTO, CHAIRMAN  
17 BRIAN AUSTIN  
18 LOU MION  
19 CRAIG SHAMLIAN  
20 STEVEN HEIDER  
21 SUSAN MILSTEIN  
22 KATHY DALTON

23

24 ALSO PRESENT:

25 Kathleen Marinelli, Esq., Counsel to the Plannin  
Board  
Joseph LaCivita, Director, Planning and Economic  
Development Department  
Stephanie Bitter, Esq.  
Jim Gillespie, PE, Bohler Engineering  
Charles Voss, PE, Barton and Loguidice

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1                   CHAIRMAN STUTO: Next item on the agenda is  
2 Cumberland Farms, 1893 Central Avenue, application for final  
3 approval and SEQR determination, 5,275 square foot  
4 convenience store with six gas pumps.

5                   Joe LaCivita.

6                   MR. LACIVITA: Nothing at this time, Peter. We  
7 will go right into the project.

8                   MS. BITTER: Good evening. Stephanie bitter for  
9 the record. I'm here with Jim Gillespie from Bohler  
10 Engineering. We are seeking final approval.

11                   The proposal is for 1893 Central Avenue, 5,275  
12 square foot convenience store with a six pump fuel island.

13                   This property will be leased and is in great need  
14 for revitalization. Currently, there is a vacant commercial  
15 restaurant. This project will actually not only demolish all  
16 of the structures, but it will increase the green space to  
17 the site.

18                   That being said, this project is located adjacent  
19 to the recently constructed Aldi's. The proposed site will  
20 have two full access points as well as shared access with the  
21 adjacent land. DOT did approve those access points, I  
22 believe, back in December.

23                   Just to go through where we have been over the  
24 last year: The Zoning Board did review this project and we  
25 received a special use permit necessary because it was really

1 150 feet setback to the residential district.

2 We also received an area variance necessary to  
3 place the canopy in the front of the structure.

4 We were before this Board in June for concept  
5 approval. At that time, we did receive it, but we did have a  
6 question raised relative to the bus stop. Soon thereafter we  
7 met with the Town, DOT, CDT a as well as our team and Barton  
8 and Loguidice to discuss the bus stop, even though CDTA had  
9 submitted a letter. They continue to maintain their position  
10 that they feel that the bus stop and its current location is  
11 the best appropriate location even with this pending project.  
12 I do have Wendy here to collaborate, if necessary.

13 That being said, there are waivers that we are  
14 seeking with this project. This is in the COR district. We do  
15 have this opportunity that you folks have seen this project  
16 before in the COR district and the waivers that we are  
17 seeking are very similar to the project that we have  
18 constructed up the road on Central Avenue, as well as Troy  
19 Schenectady Road. These are concurrent with the layouts that  
20 are there. This building is a little bigger, but it is still  
21 the same layout and waivers that are being sought.

22 The parking and canopy are in the front, so we  
23 need a waiver from that. We have a minimum frontage build-out  
24 and we do need a waiver from that, but we have incorporated  
25 that same fencing structure that we have on the other sites.

1 A maximum setback - we do not need 25 feet, but we feel that  
2 with the canopy and the layout as it is, it is appropriate  
3 for traffic efficiency and we obviously have parking proposed  
4 in the front yard.

5 The one thing different about this project than  
6 the others are those waivers, as we have this residential  
7 district behind.

8 We have met with the neighbors early on and we  
9 have told them that we were going to move the building as  
10 much as possible up front, which as you can see from this  
11 layout, we did. Like I mentioned, you have the advantage of  
12 seeing how this project turns out with these waivers on the  
13 other sites that we have constructed.

14 I will open up to comments or questions.

15 CHAIRMAN STUTO: Lou, do you want to start making  
16 your argument?

17 MR. MION: I was hoping that they would have a  
18 representative here because I don't know whether you going to  
19 be able to answer the questions or not.

20 MS. HOLSBERGER: Joe was at the meeting also. When  
21 he comes back, he can verify.

22 MR. VOSS: No, we were there.

23 MR. MION: I've a few questions that I want to ask  
24 you.

25 During the hours of this location, does the

1 current lane exceed 250 vehicles?

2 MS. HOLSBERGER: I'm sorry?

3 MR. MION: The traffic in the current lane - does  
4 it exceed 250 vehicles during the peak hour?

5 MS. HOLSBERGER: I can check really quick. That  
6 was not the question I thought you're going to ask me.

7 MR. MION: I have a few of them.

8 MS. HOLSBERGER: I would say yes.

9 MR. MION: I know what the answer is.

10 MS. HOLSBERGER: I just want to make sure for the  
11 record.

12 MR. MION: Is the traffic being greater than 40  
13 mph?

14 MS. HOLSBERGER: Yes.

15 MR. MION: Volumes - are there 10 or more per  
16 peak hour on that roadway?

17 MS. HOLSBERGER: I'm sorry?

18 MR. MION: Are the bus volumes 10 or more per peak  
19 hour on the roadway?

20 MS. HOLSBERGER: No. The particular route that  
21 stops in front of the bus stop - there are 30 minute headways  
22 which means there's only two buses per hour that would stop  
23 at that site.

24 CHAIRMAN STUTO: Do you mean stop or go by?

25 MS. HOLSBERGER: There are other buses. I would

1 have to check all the routes.

2 MR. MION: For that particular bus stop - it's not  
3 the express.

4 Passenger volumes - do they exceed 20 to 40  
5 boardings per hour?

6 MS. HOLSBERGER: They do not. Based on CDTA, they  
7 have about 30 boardings a day at that site, at that bus stop.  
8 So, it is considered a very viable stop, but it's not one of  
9 their highest in the corridor.

10 CHAIRMAN STUTO: He asked per hour.

11 MS. HOLSBERGER: Yes and I am saying that they  
12 said 30 per day.

13 MR. MION: Average dwell time exceeds 30 seconds  
14 per bus?

15 MS. HOLSBERGER: I mean, the typical is about 30  
16 seconds. Their average is about 30. Obviously, if they stop  
17 and somebody needs to put a bike on where they need special  
18 assistance, it would be a longer period. Typically, the stop  
19 times are approximately 30 seconds, on average.

20 MR. MION: Is there a potential for auto/bus  
21 conflicts?

22 MS. HOLSBERGER: Are you talking at the bus stop?

23 MR. MION: Yes.

24 MS. HOLSBERGER: Yes.

25 MR. MION: What I'm asking you is the criteria

1 they used to put in the darn things in the first place.

2 Again, one of the questions is: Is there a history  
3 of repeated traffic and or pedestrian accidents at the bus  
4 stop location? In that area, I can personally say yes. I  
5 think that she could probably say yes just because of the  
6 nature of what we used to do.

7 Right-of-way - could there be construction of a  
8 bay without adversely affecting sidewalk or pedestrians?

9 I think you would be able to construct one in  
10 front of the new building.

11 The state distances - they really aren't clear  
12 because it's flat.

13 A right turn lane is used by busses as a queue  
14 jumper.

15 MR. HOLSBERGER: At the signalized intersection  
16 adjacent, there is no queue jump.

17 MR. MION: Appropriate bus signal - priority  
18 treatment exists at that intersection. Not there, but  
19 one-tenth of a mile behind.

20 Bus parking at the curb is prohibited. It is not  
21 prohibited.

22 The last one I had is improvements such as  
23 widening or plans for major roadway - - this provides the  
24 opportunity to include the bus they as part of the  
25 reconstruction. They already did that where they re-did

1 Central Avenue.

2 MS. HOLSBERGER: There has been no plans, to my  
3 knowledge, to widen -

4 MR. MION: I have sat there and I have watched and  
5 I know the express bus that is stuck behind a local bus. Even  
6 though they have the right-of-way, I have seen it a number of  
7 times -- fortunately, I have not seen an accident there, but  
8 they pull out. I think I've seen the brakes lock up. I have  
9 seen them go into the center median because cars are just  
10 frustrated and pulling out from behind the bus.

11 My problem is: We had an unsafe situation prior to  
12 doing away with that bay when we did Aldi's. We did away with  
13 that bay because we had to widen the street and CDTA has  
14 decided that they want the bus stop back in front of the  
15 Chinese place and in the street. We have an opportunity right  
16 now to put a bay in, make it at least safer than what we have  
17 now. Now, the potential for accidents and people getting hurt  
18 and people getting killed is enormous. It happens every day  
19 out there. To be quite honest with you, because of the safety  
20 issue, I think your project is fantastic. I really do.

21 Because of the safety issues and using the criteria that CDTA  
22 has put out to establish these bays, even though they say no  
23 they don't want to, I am inclined to vote no based on that. I  
24 have to be honest with you. I have a real concern about that.

25 When I was riding the ambulance, I can't tell you



1       how many people I picked up. Granted, there were hotels there  
2       and they are not there now, but there are still people  
3       walking back and forth over the streets.

4                   MS. HOLSBERGER: The documentation that you  
5       referenced - several times in the different meetings, I  
6       specifically brought that up in the meeting and said that you  
7       had referenced this document that CDTA goes by and what I was  
8       told - and it is in the memorandum that we sent - what was  
9       done after the meeting that we had said that CDTA's response  
10      to my specific question -- because I said, you talked about  
11      this and that's where your questions had stemmed from and it  
12      is in this memo that it was noted that they said there were  
13      no specific written policy that they currently use to  
14      determine a curbside curbside versus a bus pullout.

15                   I'm not denying that you have a document in your  
16      hand and I know just from my experience in the field that  
17      some of their minds set on curbside versus pull-up has  
18      changed and it depends on speeds, volumes and all those  
19      things. It may not be the same as what it was. Part of the  
20      removal of the stop where it was - part of it was the pullout  
21      was in the middle of the intersection. So, when a bus pulled  
22      into that pullout, it was actually blocking the driveway. So,  
23      that was actually fixed.

24                   One of the things that was brought up in the  
25      meeting was versus having a right now - what's called

1       nearside stop or the far side in nearside means it's prior to  
2       the signal and far side is passed the signal. One of the  
3       things that was brought out in the safety study that was done  
4       down that route 5 corridor - - the stop where it is now is  
5       consistent with that safety study because it specifically  
6       talks about having a bus stop being located close to a  
7       signalized intersection where the pedestrian accommodations  
8       are. If we move it, it's going to be more than 300 feet where  
9       right now it is 100 feet from that. That was both DOT and  
10      CDTA.

11                   MR. MION:   Excuse me but if you put that in front  
12      of the Cumberland Farms, that will be 300 feet?

13                   MS. HOLSBERGER:   From the light.

14                   MR. MION:   That's 300 feet in front of the Chinese  
15      place?

16                   MS. HOLSBERGER:   Two where the pedestrian  
17      accommodations are, it's more in the 100 foot range versus  
18      several hundred feet when you go to the other side. Part of  
19      that is the likelihood of people that are using it actually  
20      go to the signals and utilize the pedestrian accommodations.

21                   MR. MION:   Either way, they have to walk. The  
22      whole concept of the way they had it set up is if you are  
23      going west, the bay is on the west side of the lane so when  
24      the light turns red, they can pull out. Now, they block  
25      traffic and not just for the buses but for everybody else

1       that's driving on the street. It's on the east side of the  
2       lane.

3                       They did the same thing on the opposite side when  
4       they put in Carmax. I'm not even sure whether the Town was  
5       involved in that.

6                       MS. HOLSBERGER: Again, the westbound is on the  
7       nearside of the opposite side. So, they are consistent at  
8       that intersection were both eastbound and westbound - - the  
9       reason that stop was moved was because it was in front of the  
10      Burger King which was fully mid-block, but it was not near  
11      any pedestrian accommodations. So, there wasn't a westbound  
12      stop at that signal. It was actually several hundred feet in  
13      front of the old Burger King. Part of that safety study was  
14      to move that back to the signalized intersection. As part of  
15      the safety study as well, the accommodations were upgraded.  
16      There were not crossings on all four approaches and now  
17      there's crossings. There has been a lot of pedestrian  
18      accommodations and upgrades at that intersection that were  
19      part of those bus stops moving. You had asked us to go and  
20      meet with them. We met and Joe was there.

21                      CHAIRMAN STUTO: Joe is not an engineer. That's  
22      not fair.

23                      MS. HOLSBERGER: No, but he was there and he heard  
24      the discussion.

25                      CHAIRMAN STUTO: But his interests were not

1 represented. It really wasn't.

2 MR. MION: I'm not going to take it out on, her  
3 but that's why I wanted a representative here.

4 MS. HOLSBERGER: At the meeting, your concerns  
5 were specifically discussed. I specifically said that you had  
6 referenced a document that, based on your interpretation of  
7 the document, had said that you thought that it should be a  
8 pull-out stop and it should be relocated and there was  
9 discussion by both the Department of Transportation and CDTA  
10 based on what their experiences and where the bus stop was  
11 moved to - the Route 5 Safety Study was talked about and it  
12 was determined, mostly by CDTA and DOT confirmed that they  
13 also - they didn't necessarily have a strong opinion, but  
14 they confirmed with the CDTA summary and what they had said  
15 and their discussion in arguments as to why they felt it was  
16 best to leave it like it is.

17 I'm not saying there is a crash history where it  
18 is now. They think it is operating well. I talked about the  
19 backups. I did as much as I could. I definitely express your  
20 concerns that you had brought out in the meetings prior.

21 MR. MION: It's like I said at the last meeting, I  
22 really would have liked to see a representative from CDTA  
23 here so they could take responsibility and go on record for  
24 taking responsibility. It seems like they use it when they  
25 want it and when they want to change it, they don't use it.

1 That's not right. I believe what they did in front of Carmax  
2 is they moved it from the Village to the Town because it is  
3 in front of the bank. The bank is ours.

4 MR. LACIVITA: I can answer that. We don't get any  
5 review on that from the Village.

6 CHAIRMAN STUTO: I don't know if everybody knows  
7 what we're talking about, but we have considered these  
8 pull-over bus bays on Central Avenue several times over the  
9 course of the years. We are not traffic engineers, but nobody  
10 has really given us any engineering analysis or criteria by  
11 which to evaluate where they should be and whether they  
12 should be there or not. So, we put something off-line which  
13 is some ancient traffic book - - I will just say that. It's  
14 an older traffic engineering book and at least there is  
15 criteria there that seems to make sense that you can apply.  
16 We shared that. I am still not a traffic engineer, but it  
17 would be nice to have a traffic engineer to go through the  
18 criteria advocating, at least on our side, to make sure that  
19 it's thoroughly looked at.

20 Let's be honest. You are with the applicant and  
21 you will go whichever way is recommended at the particular  
22 meeting as long as it doesn't go against your interests.

23 MS. HOLSBERGER: I just want to point out -

24 CHAIRMAN STUTO: Let me finish my argument.

25 MS. HOLSBERGER: There are two Cumberland Farms

1 and I have bus stops in front of them both on Central Avenue.

2 CHAIRMAN STUTO: I'm not talking about bus stops.  
3 I'm talking about the bays that are indented.

4 MS. HOLSBERGER: There is one at the 1157, right  
5 up the road.

6 CHAIRMAN STUTO: Was that new or was that  
7 inherited from the old days?

8 MS. HOLSBERGER: That was already there.

9 CHAIRMAN STUTO: When they get a chance to  
10 eliminate one, they eliminate it.

11 Lou lives there and he sees it. He has been an  
12 ambulance guy.

13 When the buses stop there, there is a lot of  
14 traffic on Central Avenue. So, there is only one lane for the  
15 rest of the traffic. So, it blocks traffic. That's the point  
16 from a layperson's point of view. CDTA did some study which  
17 has never been adequately explained to us - at least to me -  
18 and it seems like they're just against the bays. They've  
19 never come here to correct this notion, but they want their  
20 drivers to be able to stop in the right-hand lane and do what  
21 they have to do and not pull off because they don't want to  
22 worry about them coming back in. That's how it seems to us.  
23 Nobody has done the criteria or gone through the criteria and  
24 measured it and done any kind of engineering analysis on it.  
25 You guys have a nice discussion and everything, but I'm still

1 not convinced.

2 MS. HOLDSBERGER: I'm not sure there's a specific  
3 criteria.

4 CHAIRMAN STUTO: He has a book that has specific  
5 criteria.

6 MS. HOLDSBERGER: But I am saying it's true that  
7 there are some pull-outs and they are not. I know just from  
8 my working with CDTA that they definitely don't like to have  
9 pull-outs sometimes because -

10 CHAIRMAN STUTO: CDTA doesn't want to. They have  
11 one constituency: their bus drivers and their passengers.  
12 They don't care about the rest of the traffic.

13 MS. HOLDSBERGER: But they are saying that there are  
14 definitely conflicts between vehicles and busses when they  
15 are trying to pull out and there are cars that are going -

16 CHAIRMAN STUTO: But their position is there is  
17 never an appropriate place to have a bus bay. That's how it  
18 seems to me. They seem to have dominion over this. That's the  
19 end of my statement.

20 MS. HOLDSBERGER: At 1157, for whatever reason we  
21 asked if they wanted it to be pulled out and they said no,  
22 they wanted to keep it.

23 CHAIRMAN STUTO: Okay, if I have seen that, I  
24 don't remember seeing it.

25 MS. HOLDSBERGER: At 1157 the bus bay was kept

1           there because we said at that time -

2                       CHAIRMAN STUTO:  What criteria did you apply? Did  
3           you go to a magic box and an answer came out?

4                       MS. HOLSBERGER:  No.

5                       CHAIRMAN STUTO:  Was there written report?

6                       MS. HOLSBERGER:  It was coordination with CDTA and  
7           DOT. It is the coordination that we're doing here.

8                       CHAIRMAN STUTO:  Yes, but we asked for some  
9           additional analysis on this one.

10                      MS. HOLSBERGER:  It took great effort to get all  
11           those people together. We had DOT and CDTA. We had members of  
12           the Town and we did ask Barton and Loguidice to be there. It  
13           wasn't as if we just had a friendly lunch and said we're all  
14           good here, right? We made sure there was a discussion. We  
15           brought the concern you raised and we were willing to work  
16           with them. They said no, we're fine. DOT said it is fine.

17                      CHAIRMAN STUTO:  Do you disagree? Do you think  
18           there should be a bus bay there?

19                      MR. MION:  I think there should be a bus bay  
20           there.

21                      MR. LACIVITA:  I've a question. How do you trump  
22           the Department of State who actually has oversight - - how do  
23           we, as a municipality, trump that? I guess that's my  
24           question.

25                      MR. MION:  I don't know. I guess that's my



1 question to you.

2 CHAIRMAN STUTO: At least we can have an engineer  
3 fight on our side and say we have gone through the criteria  
4 and this is our report says.

5 MR. VOSS: Peter, that's a good point.

6 CHAIRMAN STUTO: Maybe we should hire traffic  
7 engineers.

8 MR. VOSS: I think that's a higher question for  
9 the Town to take up with CDTA and DOT. I don't think you can  
10 necessarily encumber this applicant with that burden because  
11 it's really not their burden.

12 CHAIRMAN STUTO: I'm trying to heighten awareness  
13 of the situation.

14 MR. VOSS: And I think it's a good question. Why  
15 is there kind of a random policy with regard to CDTA? As Joe  
16 said, CDTA is the regional transit authority that has  
17 jurisdiction over where, why, when and how those bus routes  
18 go in. Now, they are configured in conjunction with DOT. We  
19 can't override their policy, per se. They are the regional  
20 authority.

21 Again, I think you make a good point where you can  
22 question it and say: listen guys, we would like to understand  
23 how this works because we are dealing with projects all the  
24 time on this major route where these major conflicts could  
25 come into play. Please come in and give us an advisory

1 discussion. I think that's entirely appropriate to request.

2 MR. MION: And that's what I asked. I wanted  
3 somebody to come in.

4 MR. VOSS: There may be a very good reason why I,  
5 or Wendy or somebody else just isn't aware when the regional  
6 authorities are going to look at that site and say yes, the  
7 reason we can't put a pull-out there is because X, Y and Z.  
8 We don't know.

9 CHAIRMAN STUTO: If there is any analysis, we have  
10 not seen it.

11 MR. VOSS: That is the point. The Central Avenue  
12 Corridor Study was a massive project that DOT and all the  
13 interested entities did. I would bet that buried in that  
14 analysis are the numbers and the empirical data that you're  
15 looking for to back that up.

16 MR. LACIVITA: Can you find it for us and tell us?

17 MS. HOLSBERGER: I don't know if there's a  
18 specific number for those bus stops, per se. They have  
19 definitely changed over time. They said that. They said that  
20 it changed over time. Their position in their study of what  
21 is done - what the existing stop was and what was changed and  
22 that it's working and there is not a safety issue there and  
23 there's not a concern there and the fact that there are two  
24 buses there an hour and the average time that they stop is  
25 like 30 seconds. So, it's like you were stopping at the red

1 light and if the light turned red, you'd stop about the same  
2 amount of time. That's what I look at. I say when you're  
3 stopping there and you're in that queue, it's no different  
4 than if you were stopping at the light. It's not a massive  
5 inconvenience to the people in the flow versus if they pulled  
6 out and they're trying to pull back in amongst those cars.  
7 There is definitely a conflict. There are definitely  
8 arguments for both sides and how the stops are working. I'm  
9 sure they get complaints from people that the stop wasn't  
10 working or obviously if there was a safety issue that was  
11 happening. They've got somebody here that can help fix that.  
12 They would jump on that opportunity.

13 MR. MION: Where you have an issue is where they  
14 stop at the green light, they back it up and then they load  
15 up and it's red. So, you have missed the light and that's  
16 what causes the problem because people want to get through  
17 the green light. They pull from behind the bus in that queue.  
18 That's where the safety issue is.

19 MS. HOLSBERGER: There is always a balance between  
20 different modes. Whenever you have a priority of a bus versus  
21 having a priority of a pedestrian, the safety studied the  
22 pedestrians were prioritized and given pedestrian intervals  
23 which means the vehicles stopped for longer. So, there is  
24 always a balance with flows and that you're never going to  
25 have a perfect situation where there is no conflict and no

1 one is delayed. The system has to balance itself out.

2 MR. SHAMLIAN: The problem with CDTA is they may  
3 have data, but their data is in a vacuum. Their data is based  
4 on moving their buses down the road and not the fact that you  
5 guys are going to have 200 cars come in and out of your  
6 property and the bus stop is maybe not configured properly.  
7 That's the frustration that we have. It's not directed at you  
8 guys.

9 MS. HOLSBERGER: Right, but now that bus stop is  
10 removed from our driveways where all that activity is going  
11 to be. It's 400 feet to the east. If I thought there was  
12 safety issue or there was a concern that I would really bring  
13 it forward because I have those discussions with Cumberland  
14 often where I tell them their access doesn't work and they  
15 need to limit this or restrict this. So, I agree that if I  
16 looked at all this data - - I mean, I worked on the Route  
17 Five Safety Study too so I know that corridor really well.

18 CHAIRMAN STUTO: It's not just safety. It is  
19 efficiency of the traffic.

20 MS. HOLSBERGER: Right, but there is a balance.  
21 There is always a balance. Even if you have a pull-out, there  
22 is a balance because the buses still have to get back into  
23 the system. Yes, obviously CDTA feels that it's more  
24 efficient when they don't have to have that conflict. Also,  
25 that's a high priority bus corridor. That's why the BRT run

1 is there because that's the highest traveled transit corridor  
2 in the Capital District. That is a decision that was made  
3 outside of my jurisdiction by the state and that is a  
4 corridor that really is transit friendly.

5 CHAIRMAN STUTO: Okay, I have forgotten where we  
6 are in the process here.

7 Chuck?

8 MR. VOSS: I will talk fast.

9 The Board has in their packets our final review  
10 letter dated November 21. It's very straightforward. There's  
11 really not much left remaining with the project that we have  
12 any concerns with. There are just some minor comments about  
13 storm water.

14 The applicants did a nice job in complying with  
15 the Town Department comments to date, as well as our prior  
16 comments. Really at this point, there is no outstanding  
17 issues of major significance that we had.

18 I know John Dzialo's office was a little late in  
19 getting comments in, but there will be nothing in there that  
20 will be significant in terms of altering the site or the  
21 layout or the design, per se. I think he might just have a  
22 couple of flow issues. Really with that, we have no  
23 additional issues. The applicants have done a really nice job  
24 in putting together their final set of plans and addressing  
25 all the comments that we had - certainly, with technical

1           comments with the departments. We would certainly be  
2           comfortable recommending a conditional approval.

3                   CHAIRMAN STUTO:   Okay, any other comments or  
4           questions?

5                   MR. HEIDER:   The landscape plan, I just think, it  
6           is a little weak. When you look at it on the left side, the  
7           whole right side going back is nothing. That is, unless I am  
8           missing something. There are no trees, there is nothing.  
9           Normally, don't we require something?

10                   MR. GILLESPIE:   That's because on the side there  
11           is a sanitary sewer easement. So, there are all kinds of  
12           utilities running through here. That was one of the reasons  
13           that we didn't propose any landscaping there.

14                   MR. HEIDER:   But you're putting the parking lot on  
15           top of it.

16                   MR. GILLESPIE:   We might be able to do some low  
17           shrubs. I don't know that we could get anything with a real  
18           root system.

19                   MR. LACIVITA:   Is that the one where we  
20           relocated -

21                   MR. VOSS:   Yes. I mean, all the utilities are only  
22           10 feet off the property line. It's really just kind of a  
23           massive wall that's there that screens that side.

24                   MR. GILLESPIE:   Maybe further in the rear - I just  
25           want to point out that there was a comment or a request for

1 additional landscaping in the rear and we did add six trees  
2 back here to increase that buffer. We are quite a bit of a  
3 distance from that residential area. There will be some  
4 trees.

5 There is an eight or 10 foot vinyl fence along  
6 this whole stretch. We did add some additional trees to  
7 screen the building.

8 MR. HEIDER: What about that left front corner?

9 MR. GILLESPIE: There are four trees proposed  
10 along the frontage. The left front, there is an existing  
11 Maple that's going to remain. There is landscaping at each  
12 corner and all along the frontage. There is the fence with  
13 the stone pillars and there is a mixture of azaleas and  
14 rosebushes all along the front.

15 MR. VOSS: Chief, in that northwest corner right  
16 up by Central Avenue, the maple tree there is pretty mature.  
17 It is a good size tree.

18 MR. HEIDER: I guess what I'm trying to take away  
19 a little bit is that canopy. You have a beautiful building  
20 and a great project, but these gas canopies are all in front  
21 of the buildings and they all need waivers and I think they  
22 need to be hidden to a certain degree.

23 MR. GILLESPIE: Well, this will soften it up. We  
24 have space out those four maples. Obviously, we don't want to  
25 hide the site but this will soften it up - the sense in all

1 this landscaping along the frontage. We are going to berm  
2 that fence up. It will definitely soften it up.

3 There were a couple of other items. I just want to  
4 make sure that were okay. There was that landscaping in the  
5 back.

6 There was a request for the columns. This is the  
7 one on Troy Schenectady Road. It's very nice. These are 50  
8 foot on center. We are proposing 40 foot on center here  
9 (Indicating). So, the columns will be closer together and  
10 that is proposed here. There was a request that these be  
11 spaced at 20 foot on center. I just want to make an argument  
12 to the Board that we would rather match the Aldi next-door  
13 which is 40 foot on center. That's why we did that. So, this  
14 is going to be a continuation. It is our opinion that we  
15 think it's going to look odd that the columns are double - -  
16 20 foot on center is going to be double the columns then all  
17 along the frontage of Aldi's. So, that's the reason we  
18 proposed it. We just wanted to run it by the Board.

19 MR. LACIVITA: Did that come back at the DCC level  
20 on the onset of this? I have never seen not followed through.

21 MR. VOSS: Yes, I didn't see that either, Jim.

22 MR. GILLESPIE: It was in the letter.

23 MR. LACIVITA: Might've been part of the early  
24 comments.

25 CHAIRMAN STUTO: We are okay with 40, that's what



1 I'm hearing.

2 MR. VOSS: Yes, 40 would be consistent.

3 MR. GILLESPIE: Also, there was a request to move  
4 one tank out of the green space. The reason that we don't  
5 want to do that is because if we put these tanks in line, the  
6 fuel truck isn't going to have to actually - - the fill pipes  
7 are all together right here so he can easily park and fill  
8 both these tanks and get out in one movement. It's very  
9 efficient. It is less time. If they are not in line, he would  
10 actually have to disconnect - - you have to move the truck.  
11 He can't just run a hose wherever he wants.

12 MR. LACIVITA: Can you show the movement with the  
13 truck? Just do it with your finger coming in and then  
14 dispersing.

15 MR. GILLESPIE: Sure. So, it's out of the way.

16 CHAIRMAN STUTO: Are you okay with that?

17 (All Board Members agreed.)

18 Okay, we are okay with that.

19 Any comments before we go on to the SEQR?

20 MR. SHAMLIAN: Can you just go over the  
21 landscaping again in the rear? I was going to ask some of the  
22 same questions. And also, along the property line?

23 MR. GILLESPIE: Again, this is the sanitary sewer  
24 easement. The storm water detention area needs to be  
25 maintained. So, we are limited to what we can do here. We're

1 going to keep as much of this as we can. There is an 8 to 10  
2 foot vinyl fence that runs all along here. There is more  
3 landscaping in this area as well. There are existing trees as  
4 a buffer.

5 MR. SHAMLIAN: Not on your property though.

6 MR. GILLESPIE: No. I'm just pointing it out  
7 because there is more than what is shown there. So, we added  
8 six additional maples just along here. There are arborvitaes  
9 all along this delivery and trash enclosure area. There's  
10 another tree and some shrubs here. The building itself kind  
11 of provides a pretty massive buffer in of itself. There's  
12 really no noise or activity back here. This would just be  
13 kind of a visual thing to soften the building.

14 MR. HEIDER: Can you intersperse some evergreens?  
15 Here's what happens: For six months of the year were going to  
16 look at this gray matter. They can actually see it from the  
17 neighborhood where the evergreen would help.

18 MR. LACIVITA: Can you throw a couple of white fir  
19 in there along the way?

20 MR. SHAMLIAN: I think you can put several more  
21 trees along behind the building.

22 MR. LACIVITA: How many maples do you have there?

23 MR. GILLESPIE: Six.

24 MR. LACIVITA: Can you do 4 to 6, at least?

25 MR. SHAMLIAN: I understand the sewer situation on

1 the Aldi side, but if you could do parking on it then you can  
2 plant trees on it. I think you need to get some trees over  
3 there.

4 MR. LACIVITA: I will have to run that by DPW. We  
5 have a hold harmless for the pavement, but I can work on the  
6 trees.

7 MS. BITTER: I'm not putting words in these  
8 people's mouths. I sat at the dining room table and looked at  
9 the site and you have to appreciate that this building now is  
10 back here and is all pavement.

11 CHAIRMAN STUTO: Can you walk us through the  
12 environmental, Chuck?

13 MR. VOSS: Sure.

14 As with the last one that you have in your packet,  
15 this is an unlisted action. Part two we have filled out and  
16 all of the boxes were checked no, or small impacts. So, we  
17 have those. We have a determination of significance which  
18 again we went to the issues of the project. I can read those  
19 quickly just for the record.

20 The project involves the construction of a 24/7  
21 gas station and convenience store with six fuel pumps and  
22 elevated canopy and utilities, landscaping and storm water  
23 management. The site is approximately 2.26 acres and is  
24 located in the commercial office residential district. The  
25 use is permitted. The project is a redevelopment project and

1 will cause a change in the current density of the land-use.  
2 Because of the type of use, no significant impacts are  
3 expected.

4 The project will create minimal demand for  
5 emergency services. There will be minimal impact to the  
6 school system. Property taxes are expected to offset any  
7 additional increase in cost associated with the community  
8 services. The project can be expected to create construction  
9 related jobs, which can be considered a positive impact.  
10 Because of the low intensity of use and the direct access  
11 onto a major road, which is New York State Route 5, no  
12 significant impact on transportation systems is expected. The  
13 project will utilize existing municipal sewer and water  
14 infrastructure. Although the project will result in a  
15 physical change to the site, given the size of the project  
16 and the green space preserved, no significant impact on land  
17 resources is expected. Development of the project site with  
18 pavement and buildings will inherently result in an increase  
19 of storm water run-off. The applicant has prepared a SWPPP to  
20 ensure that run-off filtering long-term will not create  
21 off-site impacts both in terms of quantity and quality. The  
22 storm water management system for the project has been  
23 designed to provide pollutant removal, prevent over banked  
24 flooding and safely control extreme rain events.

25 Therefore, the reasons of determination are the

1 lead agency has reviewed the application, site plans, product  
2 description and all supporting documentation and conducted  
3 such further investigation of the project in its  
4 environmental effects as the lead agency has deemed  
5 appropriate. Based on this review, the lead agency has  
6 determined that the action will have no significant effects  
7 on the environment. An Environmental Impact Statement,  
8 therefore, will not be required.

9 CHAIRMAN STUTO: Do we have a motion on the  
10 negative declaration?

11 MS. DALTON: I will make the motion.

12 MR. AUSTIN: Second.

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

14 (Ayes were recited.)

15 All those opposed, say nay.

16 (There were none opposed.)

17 The ayes have it.

18 The main question before the Board is for final  
19 site plan approval.

20 MR. LACIVITA: Peter, I'm sorry, the waiver  
21 findings?

22 CHAIRMAN STUTO: Okay, go ahead.

23 MR. LACIVITA: There is a Resolution before the  
24 Board. Resolution for Cumberland Farms, 1893 Central Avenue,  
25 land use wavier findings.

1 I'm just going to jump through the whereas where  
2 it says the applicant is requesting for waivers; 190.42A,  
3 1-A; 190.42A, 1B; 190.42A, 1C2 and 190.42A-3A which is the  
4 parking, the building setback, the maximum foot buildout of  
5 80% and the proposed new parking in the front yard.

6 I will jump right to the resolve that we typically  
7 do.

8 Now therefore be it resolved that the Planning  
9 Board hereby finds that the extent of the requested waivers  
10 is not considered substantial and further be it resolved that  
11 the Board finds the applicant has established that there is  
12 no practical alternatives to the proposed waivers and would  
13 conform to the standards and that the waivers are necessary  
14 in order to secure reasonable orderly and safe development of  
15 the project. Be it further resolved that these waiver  
16 findings will be conditioned upon the site plan review of the  
17 application and be kept in the project file at the office of  
18 Planning and Economic Development.

19 CHAIRMAN STUTO: Are there any questions on that?

20 (There was no response.)

21 Do we have a motion?

22 MR. AUSTIN: I'll make the motion.

23 CHAIRMAN STUTO: Second?

24 MS. DALTON: Second.

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

1 (Ayes were recited.)

2 All those opposed, say nay.

3 (There were none opposed.)

4 The ayes have it.

5 The main question before the Board is for final  
6 site plan approval subject to Town Department conditions,  
7 Town Designated Engineer conditions, conditions placed by the  
8 Board including the landscaping comments.

9 Are there any other specific conditions that we  
10 want to call at them?

11 (There was no response.)

12 Do we have a motion?

13 MR. HEIDER: I'll make the motion.

14 CHAIRMAN STUTO: Second?

15 MS. AUSTIN: Second.

16 CHAIRMAN STUTO: Any discussion?

17 (There was no response.)

18 All those in favor, say aye.

19 MR. MION: Aye.

20 MS. DALTON: Aye.

21 MS. MILSTEIN: Aye.

22 MR. HEIDER: Aye.

23 CHAIRMAN STUTO: Aye.

24 All those opposed?

25 MR. SHAMLIAN: Nay.

1                   CHAIRMAN STUTO: We have one nay.

2                   (Whereas the above entitled proceeding was  
3 concluded at 9:47 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  
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