

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 \*\*\*\*\*

4 LEECE OFFICE RETAIL  
1209 TROY SCHENECTADY ROAD  
5 APPLICATION FOR FINAL APPROVAL  
AND SEQR DETERMINATION

6 \*\*\*\*\*

7 THE STENOGRAPHIC MINUTES of the above entitled matter  
by NANCY L. STRANG, a Shorthand Reporter Commencing  
8 on November 27, 2018 at 8:25 p.m. at The Public  
Operations Center, 347 Old Niskayuna Road, Latham,  
New York

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10 BOARD MEMBERS:  
PETER STUTO, CHAIRMAN  
11 BRIAN AUSTIN  
LOU MION  
12 CRAIG SHAMLIAN  
STEVEN HEIDER  
13 SUSAN MILSTEIN  
KATHY DALTON

14

15 ALSO PRESENT:

16 Kathleen Marinelli, Esq., Counsel to the Plannin  
Board  
17 Joseph LaCivita, Director, Planning and Economic  
Development Department  
18 Scott Price, PE, M.J. Engineering  
Chuck Voss, PE, Barton and Loguidice  
19 Samantha Chiaro  
Lee Chiaro  
20 Susan Quine Laurillard  
Patrick Quinn, Green Meadows Civic Association

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1                   CHAIRMAN STUTO: I will call the next project for  
2 the record. Leece Office Retail, 1209 Troy Schenectady Road,  
3 application for final approval and SEQR environmental  
4 determination, construct a new three-story 17,949 square foot  
5 office building.

6                   Joe, did you want to say something?

7                   MR. LACIVITA: I just want to get a couple dates  
8 here on the record.

9                   It did come before our Development Coordination  
10 Committee meeting in May 2016. The applicant has been working  
11 through various comments throughout that time. This Board  
12 gave concept January 9, 2018. It is in our Airport GEIS Area,  
13 so mitigation fees will apply on the project to a total of  
14 \$64,830 of which \$25,000 goes specifically to transportation  
15 improvements and the other \$39,500 go to improvements such as  
16 recreation, GIS prep and water usage.

17                   So, again, I will turn this over to Scott.

18                   MR. PRICE: Good evening. My name is Scott Price  
19 in I am with M.J. Engineering. Tonight I am here for the  
20 Leece retail and commercial building. It is located at 1209  
21 Troy Schenectady Road. The applicant, Mr. Leece, is here  
22 tonight.

23                   The parcel is within the Town of Colonie in the  
24 rear corner is partially within the Town of Niskayuna. We  
25 had approached Niskayuna and they have deferred site plan

1 review to the Town of Colonie. They had two conditions. So,  
2 the exiting of the parking lot - they wanted as right-turn  
3 only. That would force everybody to make a right-hand turn  
4 here (Indicating) and coming out to Route 7 at the light. If  
5 they were going west, they would take a right onto Troy  
6 Schenectady Road.

7 The second condition was all storm water  
8 management practices are located within the Town of Colonie.  
9 So, we slid this back and the infiltration basin is now  
10 within the Town of Colonie.

11 The property itself is located in the COR zone -  
12 the commercial/office/residential zone district.

13 There are a couple highlights that I would like to  
14 bring to your attention. The green space coverage for that  
15 zoning is at a minimum of 35%. When we include the banked  
16 parking that we are proposing and the cross lot access - we  
17 are at 35.2%. That does not include the area of green space  
18 easement that is along the westerly property line near Rite  
19 Aid.

20 From the last time that we were here for concept,  
21 the building got pushed back a little bit further. That was  
22 in response to some neighbors' requests about bring the front  
23 of the building in line with the adjacent building which  
24 would be east. So, we have done that. Now, the front setback  
25 is approximately 85 feet. It is 85.1 feet off of Route 7. So,

1 the zoning requirement is a 20 foot max. So, there would be a  
2 waiver request for that.

3 The required number of parking spaces for this  
4 usage is 80. We have 11 parking spaces in the front along  
5 Route 7. Those are banked. We have 69 that are actually paved  
6 and being installed. So, total with the banked would be 80  
7 spots. Again, we are requesting 11 would be banked.

8 Another waiver that we would need would be for  
9 landscaped islands for the rear parking lot. When we shifted  
10 the building back, we were accounting for the area in front  
11 and using some care which means we would have to increase  
12 more parking towards the side which could encroach towards  
13 the trees and we are trying to preserve the green space  
14 easement area. So, we meet the minimum green space with the  
15 overall lot so we are hoping that we can get that waiver. We  
16 also have been in discussions with DOT regarding the one-way  
17 entrance and which utilizes the existing curb cut for the  
18 property as it is now. We have brought the width down to 18  
19 feet.

20 Just recently we had a letter from DOT  
21 conceptually approving the lot design. The date of that  
22 letter - I think Joe Bianchi forwarded it Joe.

23 MR. LACIVITA: I would have to check and see.

24 MR. PRICE: It was within a week. We just got it.

25 So, DOT is satisfied with the layout as it is

1 right now.

2 Another concern that was brought up was Historic  
3 Preservation. Mr. Leece is working with Harken Archaeological  
4 Associates. The Town has received a letter from the DEC  
5 saying that we are in compliance now. So, we can forward that  
6 to Historic Preservation.

7 That's about it for changes since the Board saw it  
8 last.

9 MR. MION: Can I ask a question? You said you make  
10 a left; meaning a left and a right?

11 MR. PRICE: Going into the property?

12 MR. MION: Out.

13 MR. PRICE: We originally had it both going left  
14 and right. The Town of Niskayuna requested that we put right  
15 turn only signs back here to force people to come back. I  
16 don't know the reason for that.

17 MR. SHAMLIAN: They want them to come back to the  
18 plaza rather than go to Rosendale Road?

19 MR. MION: You have a light in both places.

20 MR. PRICE: It was just a recommendation. It was  
21 referred to the Town of Colonie.

22 CHAIRMAN STUTO: How do you take a left onto Route  
23 7? There are a lot of ways in, right? You can take a  
24 right-hand turn in from Route 7 if you are heading west. You  
25 have a second opportunity to take a right-hand turn as well.

1 You can also go to the light and take a right and then go to  
2 the back road and take another right.

3 MR. PRICE: Right.

4 MR. LEECE: We can take a right at the Blue Shield  
5 building and then go the back way.

6 CHAIRMAN STUTO: How about ways to exit? Is there  
7 any exit onto Route 7?

8 MR. PRICE: No, there is no exit onto Route 7. It  
9 is a one way in.

10 CHAIRMAN STUTO: So, if you want to take a left on  
11 Route 7, what do you do?

12 MR. PRICE: You would go out and take a right and  
13 then come out to the light.

14 CHAIRMAN STUTO: Or you can go left where, on the  
15 back road?

16 MR. PRICE: Yes.

17 CHAIRMAN STUTO: I thought you said you couldn't  
18 take a left there.

19 MR. PRICE: No, you can come out of here  
20 (Indicating) and take a left to Rosendale. Niskayuna put in a  
21 referral to you guys that they wanted right turn only.

22 MR. MION: I like it better going in either  
23 direction.

24 MR. PRICE: We all do.

25 CHAIRMAN STUTO: Is that resolved, or do we want

1 to make a change?

2 MR. PRICE: No, it's resolved.

3 CHAIRMAN STUTO: I have another fundamental  
4 question, if I could. The agenda says office building, but  
5 the plot plan says office/retail. Can you clarify that for  
6 me?

7 MR. PRICE: It should all say office/retail  
8 buildings.

9 CHAIRMAN STUTO: Can you describe the uses?

10 MR. PRICE: The first floor is retail.

11 CHAIRMAN STUTO: How many square feet is that,  
12 roughly.

13 MR. PRICE: Roughly one-third of the building.

14 CHAIRMAN STUTO: Those are my questions. Does  
15 anybody else have other questions before we turn it over to  
16 our Town Designated Engineer?

17 MR. SHAMLIAN: Yes. Can you go over the green  
18 space calculations again? I wasn't clear whether or not -  
19 what things you are counting and that 35%.

20 MR. PRICE: The green space calculated at 35.2% -  
21 - it does not account for the area within the green space  
22 easement that is required on the westerly end. So, that's out  
23 of the equation. We did account for the banked. In the front,  
24 if this was built out with a paved access road going across  
25 for that egress/ingress in the banked parking spots - the

1 building and the sidewalks -

2 MR. SHAMLIAN: So, if that is built, you are at  
3 35%?

4 MR. PRICE: We are at 35.2%.

5 MR. SHAMLIAN: So, you are at 40 something right  
6 now?

7 MR. PRICE: Yes.

8 MR. SHAMLIAN: I just wanted to clarify the  
9 direction.

10 CHAIRMAN STUTO: Chief, do you have something?

11 MR. HEIDER: I just have the one comment about the  
12 right in/write out - - or the right-in only. I am in favor of  
13 the project. I like the project. Right-in only only works  
14 when someone doesn't want to take a left.

15 This part of Route 7 is horrible and I can just  
16 see people getting into that left-in turn lane a lot to make  
17 a left hand turn into the right-turn only. I just want to go  
18 on record saying that. If DOT approved it, who am I? All I  
19 know is that they do not work, ever.

20 MR. PRICE: To try to help control that, we put a  
21 little nose out here with the curb.

22 MR. HEIDER: They drive over the nose.

23 MR. PRICE: We put signs in there, too.

24 CHAIRMAN STUTO: Okay, this is reviewed by our  
25 Town Designated Engineer, Barton and Loguidice. We have Chuck



1 Voss here.

2 Chuck, could you give us your comments?

3 MR. VOSS: Sure, Peter. Thank you.

4 As the Board knows, we have looked at this now  
5 quite extensively for several months since the inception at  
6 the DCC meeting. The applicant has undergone several  
7 iterations and moderations of the plan. I think most notably  
8 is addressing certainly sort of the general site layout  
9 questions that the Board had earlier.

10 One of those was the physical position of the  
11 building. If you remember, one of the first plans showed the  
12 building up much closer to Route 7, which was a requirement  
13 of the design standards for the district. However, after some  
14 negotiation and certainly some discussion with this Board and  
15 the adjacent land owner to the east, it was felt that the  
16 re-position of the building further back made more sense. It  
17 was screened a little bit more - that new position. It was  
18 not obstructing views of the adjacent buildings. It certainly  
19 kind of set the tone for a transition between the Bette  
20 building to the east which is adjacent and then the Rite Aid  
21 building to the left which sits back a little bit further on  
22 that corner. It kind of makes a nice physical transition  
23 along that stretch of the road.

24 The only other notable issues that we saw early on  
25 was the reconfiguration of the driveway. If you remember, the

1 original driveway was full access. Certainly through efforts  
2 of the applicant and DOT, we think that the right-in access  
3 only is much better and I agree with the Chief. It still may  
4 be violated by people who certainly don't obey the law, but  
5 in the current configuration now we think it is a much safer  
6 access point for getting in with the addition of the multiple  
7 access points at the rear of the property as well.

8 Again, just a kind of touch on an issue that the  
9 Board raised earlier: the Town of Niskayuna did respond in  
10 their letter dated April 25, 2018. I would just touch on the  
11 one requirement that Scott had mentioned.

12 They said: established site control at the parking  
13 lot rear access using signage and curbing to require a right  
14 turn only for exiting vehicles. The Planning Board - assuming  
15 the Niskayuna Planning Board - is concerned about adding  
16 traffic to the difficult intersection of Rosendale Road. It  
17 feels that directing traffic to the Colonie traffic light at  
18 Troy Schenectady Road protects the residential property in  
19 which is most affected by this proposal in a safer for  
20 exiting vehicles.

21 So, that was really their rationale. They felt  
22 that there was congestion at that Rosendale Road  
23 intersection.

24 We didn't see anything to substantially support  
25 that position. There was really no traffic analysis provided

1 by the Town and we feel again, as the Board expressed  
2 earlier, that having basically unlimited access at the rear  
3 makes sense. Not all the traffic exiting the site is  
4 necessarily going to go west. It is not all necessarily going  
5 to go east. What's nice is you have the availability of  
6 either going to Rosendale Road or down to the existing curb  
7 cut between the two buildings. So, he gives multiple  
8 opportunities for traffic to flow in and out of the site,  
9 which we certainly agree with. Other than that, the  
10 applicants have done a very extensive job in dealing with  
11 their storm water management.

12 Scott did not mention that one of their key  
13 features of the site of the parking lot is using porous  
14 pavement. We think that is a great alternative for this area  
15 and certainly for those parking lots. We are hopeful that  
16 works well. Under private control and jurisdiction, porous  
17 pavement, if managed properly and maintained, works very  
18 well. It has a very long lifespan. So, we are pleased to see  
19 that being used on the private side.

20 We certainly also agree with the waiver requests.  
21 There is some extensive landscaping on the east side of the  
22 site which will screen the site from adjacent uses. So, we  
23 are not necessarily concerned with the loss of a couple  
24 parking and landscaped areas. Again, the site is fairly  
25 heavily wooded. A lot of the mature trees will remain on

1 certain areas of the site. So, we are pleased to see that.

2 Water is certainly accessible by the site. It is  
3 fully served.

4 There are a couple minor details that we still  
5 need to work out from the engineering side that the  
6 applicants are working on.

7 In my discussions today with Joe from M.J. and  
8 certainly with Scott, we feel that the project is complete  
9 and ready to move forward. We would certainly recommend a  
10 conditional final approval if the Board were so inclined.

11 CHAIRMAN STUTO: Okay, we have a member of the  
12 public looking to speak.

13 Samantha Chiaro.

14 MS. CHIARO: So, we are here from Niskayuna and we  
15 are outcasts, I think.

16 CHAIRMAN STUTO: Not true.

17 MS. CHIARO: This is very exciting. Niskayuna  
18 never gets this rowdy.

19 There is a reason why Niskayuna didn't want the  
20 left turn.

21 MR. CHIARO: We live right here (Indicating). He  
22 was going to put up apartments right here. We bought this  
23 house so he couldn't put them up. We own a house over here,  
24 too. So, you guys obviously plan on going over there. There's  
25 a bunch of office buildings here and everybody is constantly

1 coming out here (Indicating). There is no light. The light is  
2 at the corner. So, everybody pours down Rosendale to avoid  
3 all the traffic on Route 7 when we are trying to leave our  
4 driveway anytime. That's why they didn't want to take a left  
5 out of there.

6 MS. CHIARO: The other thing that we have a  
7 concern about - - so, the parking spaces are here. Our house  
8 is right here (Indicating). We get Rite Aid drive-through  
9 lights right into our kitchen already. This will make it  
10 worse.

11 I guess the parking spots are that way  
12 (Indicating), but I'm just concerned about the retail space.  
13 I don't know it's going in there and the times and all that.  
14 Rite Aid closes at a reasonable time. They have weird hours.  
15 We don't want to look at it. We have been there for years.

16 MR. CHIARO: There needs to be some sort of buffer  
17 between the strip-mall and - - I know you guys are for that  
18 because Colonie likes tax dollars and Niskayuna doesn't. Our  
19 family has owned this property for over 100 years. My  
20 grandfather is one of the biggest property owners in  
21 Niskayuna and it is unfortunate to see it kind of just taking  
22 over in blending that line where residents and commercial  
23 meet.

24 MR. LACIVITA: Do you on the white farmhouse  
25 behind this?

1                   MR. CHIARO: Do, he owned that. He just sold it  
2 and I haven't met the new family yet.

3                   MS. CHIARO: I don't know how he got them to buy  
4 it, but he did. If we could have bought that house, that  
5 would've been good.

6                   So, it's just concerning and I would love a fence  
7 on my property line. I wish I had the Stewart's property. We  
8 have a Stewart's across the street, but they are willing to  
9 put a fence up and I just don't want to look at this. I could  
10 see it being two-story and not three.

11                  MR. CHIARO: That would tower over Right Aid.

12                  MS. CHIARO: We have a 1 1/2 story house. I don't  
13 know. I just don't want to look at it. We are the only ones  
14 here for this, I know.

15                  MR. CHIARO: We got a letter - a certified  
16 letter -

17                  MS. CHIARO: We get a certified letter yesterday  
18 from M.J. Engineers yesterday that said the meeting is today.  
19 We had no time. We didn't even know this was going on here. I  
20 know we live in Niskayuna, but it directly affects us. It's  
21 not even a football field away from our house.

22                  MR. CHAIRO: The last parking spot is like 6  
23 inches away from the Niskayuna line.

24                  MS. MILSTEIN: What is your address?

25                  MS. CHIARO: It is 3505 Rosendale Road.

1 CHAIRMAN STUTO: Any other comments?

2 MS. CHAIRO: Yes.

3 MR. SHAMLIAN: Is your house adjacent to -

4 MS. CHAIRO: Can I show you?

5 MR. SHAMLIAN: Sure.

6 MR. HEIDER: This is your house right here?

7 MS. CHAIRO: No, that is the house that somebody  
8 just bought. We are right here (Indicating). Actually, this  
9 is us. That is our driveway.

10 CHAIRMAN STUTO: Okay, we need to move this along.  
11 Thank you for your comments. Does the applicant want to  
12 respond to the concerns there? If I heard them, they don't  
13 want you taking any lefts. They would like a fence and they  
14 don't like the three-stories. Those were the main points that  
15 I heard.

16 MR. PRICE: We can add some more landscaping in  
17 the back corner to try to shield them. They are over here  
18 (Indicating).

19 MR. PRICE: The house that they're talking about  
20 was directly behind our property.

21 MR. LACIVITA: There's a long hedgerow the crosses  
22 in front of it.

23 MR. LEECE: That's correct. They are behind them.  
24 They also have a metal barn building which is about 30 feet  
25 long by 30 feet wide that they store all kinds of stuff in.

1 They have a use permit that they have. I don't know if it's  
2 residential or semi-residential or commercial. I think  
3 they've got two uses on one property back here in Niskayuna.  
4 So, they are actually out here (Indicating). The blue house  
5 is here (Indicating). There's a ravine that goes out into the  
6 river. So, there are no homes behind that blue house that I  
7 sold. They are more behind Rite Aid - is where their property  
8 is. So, to have a fence on our property - what my buffering?  
9 The roadway is still there.

10 CHAIRMAN STUTO: I think she said she wanted a  
11 fence on her property and of fairness, I just wanted to be  
12 addressed.

13 MR. LEECE: They have tremendous screening on the  
14 property, as it currently exists.

15 MS. CHAIRO: You guys on a ride over there and  
16 look at it again.

17 CHAIRMAN STUTO: Are you done?

18 MR. LEECE: Yes.

19 CHAIRMAN STUTO: You are welcome to get up again.

20 MS. CHAIRO: With all due respect, he is a liar.

21 CHAIRMAN STUTO: We're not going to have that.

22 MS. CHAIRO: If you go over there and look at it -  
23 - I can clearly see that red barn that was there before -

24 CHAIRMAN STUTO: If you want to get to the  
25 microphone and speak, I have given you the opportunity but



1       you're not going to call names.

2                   MS. CHAIRO:  If you go over there, I can clearly  
3       see everything that they demolished. We heard it. I can see  
4       it. I can clearly see it. There is no greenery at all. It's  
5       not really his fault.

6                   CHAIRMAN STUTO:  You're talking about the  
7       different project.

8                   MS. CHAIRO:  No, I'm not.

9                   CHAIRMAN STUTO:  You're talking about this parcel  
10      here?

11                  MS. CHAIRO:  Yes, I am. Our houses here and I can  
12      clearly see it. It's right across from the parking lot.

13                  CHAIRMAN STUTO:  You're putting plantings in  
14      there, right?

15                  MR. PRICE:  There are proposed trees and stuff,  
16      yes.

17                  MS. CHAIRO:  Are they going to be as tall as the  
18      buildings?

19                  MR. AUSTIN:  Is it because the leaves are off the  
20      trees?

21                  MS. CHAIRO:  No, it's always that way.

22                  CHAIRMAN STUTO:  We are not going to get into a  
23      messed up back and forth. You get your turn and then they get  
24      theirs.

25                  MS. CHAIRO:  That's fine.

1                   MR. LEECE: Just a response. This is a 40-foot  
2 right-of-way. There is another 100 foot area of land and then  
3 there is their house.

4                   CHAIRMAN STUTO: Yes, but she is saying it's wide  
5 open. Does the Board have any comment?

6                   (There was no response.)

7                   MS. QUINE-LAURILLIARD: Susan Quine-Laurilliard. I  
8 live in the Birchwood neighborhood and I am a member of Save  
9 Colonie.

10                   I believe I was here back in January of this year  
11 on this project. I think it was here for concept and it was  
12 the question about the deeds, the easement and I am glad to  
13 see that it is now reflected on the plan and it is not being  
14 taken into account for the green space.

15                   What I did provide back in January was - there was  
16 a referral for this project by the Town of Colonie to, I  
17 believe, the Albany County Planning Board under the General  
18 Municipal Law which requires a project that is within a  
19 certain distance of another municipality to weigh in on the  
20 other municipality's concerns and to coordinate that review.  
21 I believe - and I brought it up at that time - that Mr.  
22 Leece's apartment project was being under consideration by  
23 the Town of Niskayuna and also this project was located  
24 within the boundary of the Town of Niskayuna. They had  
25 required or were going to request that a traffic study be

1 conducted for the intersection of Rosendale Road and Route 7  
2 because they were very concerned about the traffic issues at  
3 that intersection - Rosendale and Route 7. So, as a result of  
4 their review of the project, they sent Joe - I believe you  
5 have a letter in your file, Joe, on that?

6 MR. LACIVITA: That's what I'm looking for.

7 MS. QUINE-LAURILLIARD: I think I asked you to put  
8 that in. It was an attachment to the narrative for tonight's  
9 meeting. The left out is really an important condition that  
10 the Town of Niskayuna does not want for this project. Under  
11 the General Municipal Law, I believe this Board cannot just  
12 decide that you will allow a left-out without consultation  
13 with the Town of Niskayuna. The Town of Niskayuna right now  
14 is on record with Mr. Leece's proposal that this is going to  
15 be a right-out out of that project through the Bette  
16 development next door - Riverhill Center. So, I don't think  
17 under the General Municipal Law that you guys can just all of  
18 the sudden tonight decide that you're not going to require a  
19 left-out without the input from the Town of Niskayuna, which  
20 they have provided and that was an attachment to the  
21 narrative and there has been other letters to the Planning  
22 Department on this question. I have actually contacted the  
23 planners in the Town of Niskayuna to let them know about this  
24 project. So, I don't think you can vote tonight to say we are  
25 going to allow a left-out because you have the New York State

1 General Municipal Law where they were consulted. That is the  
2 condition it would like to see on this project.

3 If Mr. Leece had decided to include his project  
4 within the Town of Niskayuna, they were going to probably  
5 require that as part of their approval because he was in  
6 there jurisdiction and he would've needed a special use  
7 permit. It is all in the narrative that you guys have in  
8 front of you. That's all I want to say.

9 I think if I go back tomorrow and emailed the  
10 Planning Department in the Town of Niskayuna that their  
11 left-out was dismissed by the Town of Colonie Planning Board,  
12 I don't think they would be very happy.

13 That's all I have to say. Thank you.

14 CHAIRMAN STUTO: Thank you.

15 MR. LACIVITA: For the members of the Board, the  
16 April 25 letter that we received from the Town of Niskayuna  
17 actually deferred their rights to review this project to the  
18 Planning Board here in the Town of Colonie.

19 CHAIRMAN STUTO: Do you want to read it into the  
20 record?

21 MR. LACIVITA: If you would like me to, I can.

22 CHAIRMAN STUTO: Yes.

23 MR. LACIVITA: April 25, 2018. Planning and  
24 Economic Development Department, Town of Colonie, 347 Old  
25 Niskayuna Road, Latham, New York. Dear Mr. LaCivita:

1 Following the receipt and review of the plans for the  
2 proposed development at 1209 Troy Schenectady Road at its  
3 regular schedule meeting on April 9, 2018, the Planning Board  
4 of the Town of Niskayuna voted to defer site plan review to  
5 the Town of Colonie. The project had also been reviewed by  
6 the Town's Planning Department and the Conservation Advisory  
7 Council. In its deferral, the Planning Board requested that  
8 the Town of Colonie require the following during its site  
9 plan review process: 1. Establish site control at the parking  
10 lot at the rear exit and use signage and curbing. To require  
11 a right turn only for existing vehicles. The Planning Board  
12 is concerned about adding traffic to the difficult  
13 intersection at Rosendale Road and feels that directing  
14 traffic to the Colonie traffic light at Troy Schenectady Road  
15 protects the residential properties in Niskayuna most  
16 affected by the proposal and safer for exiting vehicles.

17 CHAIRMAN STUTO: Okay, let's stop a moment because  
18 that is the one we are talking about.

19 MR. LACIVITA: Correct.

20 CHAIRMAN STUTO: Are they saying right hands only  
21 on the back of the property? I will let you respond to that -  
22 the applicant, first, and then we will react to it.

23 MR. LECCE: I didn't write the memo or attend the  
24 meetings so I don't know what their intent of that statement

25 -

1                   CHAIRMAN STUTO: You got the letter in your packet  
2                   though.

3                   MR. LEECE: I understand that. It was my  
4                   understanding that they deferred that to this Board, but that  
5                   they would like a recommendation made - - they would like to  
6                   be on the record that they would like to see a right-out  
7                   only.

8                   CHAIRMAN STUTO: So, they're requesting that  
9                   Colonie provide the following, which is right-out only. So,  
10                  they have requested that.

11                  MR. LEECE: They requested that, absolutely.

12                  MR. LACIVITA: For us to review such a request,  
13                  yes.

14                  MR. HEIDER: Are we bound by that?

15                  MR. LACIVITA: Chuck brought up a point and I will  
16                  let him speak to that.

17                  MR. VOSS: As a Planning Board Chairman in my own  
18                  community, we have run into situations where we don't always  
19                  agree with a County referral - GML 239 R or F referral  
20                  process. That is the official process where the county will  
21                  make comments back to our Boards and say - we have the  
22                  following things that we would like you to make a condition  
23                  of your approval. You can consider those certainly and you  
24                  can certainly override those conditions. There is an override  
25                  provision where there is a super majority vote of your Board

1 to override any county request or provision made through the  
2 GML 239 referral process.

3 Kathy, correct me if I am wrong, but that also  
4 pertains to any additional communities under which  
5 jurisdiction has been advocated to a moral majority board, if  
6 you will. So, in this case the Town of Niskayuna has made  
7 that recommendation to this Board that you consider no left  
8 turns out. This Board has the jurisdictional authority over  
9 the project. The Town of Niskayuna Planning Board has  
10 abdicated their control of the project and so through that  
11 239 referral process, if you will, this Board can consider  
12 Niskayuna's request or you cannot consider Niskayuna's  
13 request. I would say barring any legal prohibition that Kathy  
14 knows about, this Board has the ability to certainly consider  
15 that condition and accept it or not.

16 MS. MARINELLI: I would say that I agree with  
17 Chuck and that he accurately expressed with the intent of the  
18 law was and I think this Board has the authority to consider  
19 Niskayuna's request and make its determination either way.

20 CHAIRMAN STUTO: Do we need a super majority?

21 MS. MARINELLI: I think, yes.

22 MS. MILSTEIN: Also, the letter itself that it is  
23 a deferral that the Planning Board requested the Town of  
24 Colonie require the following. So, the letter itself is  
25 saying it's basically a request and not a condition of.

1                   MR. LACIVITA: Albany County further supports the  
2 deferral in its December 21, 2017 notification to the Town.  
3 It says the ACPB, Albany County Planning Board recommendation  
4 deferred to local consideration and then their advisory,  
5 meaning their commentary, are none.

6                   CHAIRMAN STUTO: Let's open up the discussion on  
7 the issue. How does everybody feel about either acquiescing  
8 to the request or not acquiescing to the request? Any  
9 opinions?

10                  MR. AUSTIN: My opinion is if you make both exits  
11 right-out and make one exit. Why have two exits going out?  
12 Rearrange the parking in the back and have one exit. Going  
13 back to what the Chief said, many times right-outs mean  
14 nothing.

15                  MR. HEIDER: Anybody else can go out that road.

16                  MR. AUSTIN: This is true. Right, they can. So,  
17 what's to stop anybody else from going out that way?

18                  MR. HEIDER: It's also not a public road. So, it  
19 would not be enforceable by any authority.

20                  CHAIRMAN STUTO: So, you're inclined to have the  
21 left-hand turn as well.

22                  MR. HEIDER: I think not everybody is going to  
23 turn left. From a traffic standpoint, the more you can  
24 disperse the traffic over places - - I am not a Traffic  
25 Engineer, but the more you can divert the traffic across the



1 landscape, the better off you are. To be honest with you,  
2 somebody who wants to head to Niskayuna is not going to turn  
3 right because of the two-lane road. All these cars are taking  
4 a left and they're going to turn right because a sign tells  
5 them to? It's not going to happen.

6 CHAIRMAN STUTO: Anybody else?

7 MR. MION: I think it should be left and right.

8 MR. AUSTIN: I agree.

9 CHAIRMAN STUTO: Okay, well we've given that due  
10 deliberation. Any other comments?

11 MR. QUINN: Mr. Chairman, would you entertain a  
12 question of clarification?

13 CHAIRMAN STUTO: Sure.

14 MR. QUINN: My name is Patrick Quinn from Green  
15 Meadows. I don't live there, but I understood from past  
16 meetings of the Board that it is a requirement of the Board  
17 the developers give adequate and appropriate notice to  
18 residents of their intention to build. I heard tonight  
19 someone say that they only got one days notice from the  
20 engineers. Am I misunderstanding the Board's position?

21 CHAIRMAN STUTO: Do you want to address if notice  
22 was adequately set?

23 MR. LEECE: I would have to check, but everything  
24 was sent out.

25 CHAIRMAN STUTO: You have to address the Board.

1 She said she got the letter yesterday.

2 MR. LEECE: Right, but I don't know if the post  
3 office - - it was certified mail, but if nobody's there, they  
4 make another attempt and another attempt. So, I don't know -

5 CHAIRMAN STUTO: Do we have an affidavit?

6 MR. LACIVITA: We do. We have an affidavit signed  
7 by Joe Bianchini, 11/19/18 it was notified the same date by a  
8 Deborah Waldorf. We received this copy of the submission  
9 November 19, 2018. We did have a holiday in there.

10 CHAIRMAN STUTO: When did they say they mailed it?

11 MR. LACIVITA: It was a significant time frame.  
12 They were mailed and received on November 19. I've a  
13 certified letter stating such.

14 CHAIRMAN STUTO: Any other comments or questions?

15 (There was no response.)

16 Anybody on the Board want to comment on this  
17 project?

18 MR. SHAMLIAN: Building elevations?

19 MR. PRICE: The building elevations are the same  
20 as back in February.

21 MR. SHAMLIAN: No offense, but I don't remember  
22 what they look like.

23 MS. MILSTEIN: Are there any three-story buildings  
24 near that area?

25 MR. PRICE: The Sunmark building which is the

1 building over from Mr. Bette's building.

2 MS. MILSTEIN: It would be Sunmark.

3 MR. PRICE: Well, the Rite Aid - I don't know how  
4 tall that is.

5 MR. SHAMLIAN: Do you have any - - that's pretty  
6 rudimentary. I will be honest with you, I'm not enamored with  
7 what I see. I like the project, so I won't vote positively  
8 with that elevation before us.

9 MS. MILSTEIN: This is final. So, what I want to  
10 see is what you propose the designed to be because once we  
11 say yes and it changes - - I would expect that when we come  
12 to final, we would see with the final project will look like.

13 MR. LACIVITA: We don't have to vote on the  
14 elevations today. If you like the project -

15 CHAIRMAN STUTO: That's fine, but that's an extra  
16 step that didn't have to happen, don't you agree? These were  
17 not in our packets.

18 MR. LACIVITA: They were in the prior packet.

19 MR. PRICE: Even if they were, they are not a  
20 finished product.

21 CHAIRMAN STUTO: Anything else?

22 (There was no response.)

23 Where are we on SEQR?

24 MR. VOSS: It is an unlisted action. The Board has  
25 in their packets a SEQR recommendation, a Part II and a neg

1 dec.

2 CHAIRMAN STUTO: Can you walk us through that,  
3 please?

4 MR. VOSS: Sure.

5 The recommendation was issued by the Town  
6 Attorney's office in conjunction with our office. The  
7 requested approval is an unlisted action. Based on that fact  
8 and the attached EAF, the Board determines that the action  
9 will not have a significant effect on the environment.

10 We can walk through Part II of the 11 questions,  
11 if you would like.

12 CHAIRMAN STUTO: No, I see the part two questions,  
13 one through 11.

14 Does everyone have that in front of them?

15 (All Board members confirmed.)

16 They all indicate no or small impact may occur.

17 Does anybody else need any further elaboration on  
18 that?

19 (There was no response.)

20 So, we don't need you to read everyone.

21 MR. VOSS: Then I just go through the  
22 determination of significance.

23 The project involves the construction of a  
24 three-story, 17,949 square foot office and retail building on  
25 a 1.49 acre redevelopment site and a commercial/office/retail

1 district. This use is permitted in the district.

2 The project will cause a change in the density of  
3 the use. Because of the fact, no significant impact is  
4 expected.

5 The project will create a minimal demand for  
6 emergency services. There will be a minimal impact to the  
7 school system. Property taxes are expect to offset any  
8 additional increase in cost associated with the services. The  
9 project is expected to create construction related jobs which  
10 can be considered a positive impact.

11 Because of the low intensity of use and the direct  
12 access onto a major road, no significant impact of  
13 transportation systems is expected.

14 The project will utilize existing municipal sewer  
15 and water infrastructure.

16 Although the project will result in a physical  
17 change to the site, given the size of the project, the amount  
18 of green space and mature trees preserved, no significant  
19 impact on land or resources is expected.

20 The development of the project site with pavement  
21 and buildings will inherently result in an increase in storm  
22 water runoff. The applicant has prepared a SWPPP to ensure  
23 that run off during construction and long-term will not  
24 create off-site impacts, both in terms of quantity and  
25 quality. The storm water management system for the project

1 has been designed to provide pollutant removal, reduced  
2 channel erosion, prevent over-bank flooding and safely  
3 control extreme flood events.

4 Then, we can just go to the negative declaration.

5 For reasons determined of non-significance, the  
6 lead agency has reviewed the application, site plans, project  
7 description and all supporting documentation and conducted  
8 such further investigation of the project and is an  
9 environmental effects as the lead deemed appropriate. Based  
10 on this review, determine that the action will have no  
11 significant effect or impact and an environmental impact  
12 statement is therefore not required.

13 CHAIRMAN STUTO: Do we have a motion on that  
14 negative declaration?

15 MR. MION: I will make a motion.

16 MR. AUSTIN: I will second.

17 CHAIRMAN STUTO: Any discussion?

18 (There was no response.)

19 All those in favor, say aye.

20 MS. DALTON: Aye.

21 MR. MION: Aye.

22 MR. AUSTIN: Aye.

23 MR. SHAMLIAN: Aye.

24 MS. DALTON: Aye.

25 MR. HEIDER: Aye.

1 CHAIRMAN STUTO: Aye.

2 All those opposed, say nay.

3 MS. MILSTEIN: Nay.

4 CHAIRMAN STUTO: We have one nay.

5 With respect to the main question which is for  
6 final site plan review, subject to all the conditions stated  
7 that the Board and we can specify any other ones we need to -  
8 stated by the Board, by the Town Departments and by the Town  
9 Designated Engineer.

10 Do we want to specify any of the conditions?

11 MS. MARINELLI: I think we need to indicate -  
12 maybe by a separate vote on the terms so that we can indicate  
13 whether there is a super majority under the General Municipal  
14 Law.

15 CHAIRMAN STUTO: Which do you suggest we do first?  
16 The site plan?

17 MS. MARINELLI: Yes.

18 CHAIRMAN STUTO: Okay, so we will postpone that  
19 motion and we will keep that in abeyance for now.

20 Do we have another motion to allow left hand turns  
21 out the back of the property, notwithstanding the GML  
22 recommendation from the county and also from the Niskayuna  
23 Planning Board?

24 MS. DALTON: So, we have an entity weighing in  
25 against the left-hand turn; Town of Niskayuna, the county,

1 Save Colonie, the residents -

2 MR. LACIVITA: The county did not.

3 CHAIRMAN STUTO: We have a letter from the Town  
4 Planning Board to please defer to that request.

5 MS. DALTON: So, there is one request, two  
6 requests, three requests.

7 CHAIRMAN STUTO: Well, they are an individual.

8 MS. DALTON: I get it.

9 CHAIRMAN STUTO: And I'm not sure of Save Colonie  
10 took a vote or whatever.

11 MS. QUINE-LAURILLIARD: I'm from the Birchwood  
12 neighborhood. I am a resident of the Town of Colonie and I  
13 live in the Birchwood neighborhood. That's the reason why I'm  
14 really here about it.

15 MS. DALTON: So, we have just heard a number of  
16 concerns about a left-hand turn. I want to go back to it if  
17 there is any mitigating condition that could be provided to  
18 some of the residents. They suggested that might be helpful.  
19 If we are allowing a left-hand turn, is there some shielding  
20 for headlights or any of that? I just want to make sure  
21 there's not something that we can do that we could mitigate  
22 what is happening with regard to the impact on the property.

23 CHAIRMAN STUTO: I don't have any ideas, unless  
24 you want to talk about the landscaping plan.

25 MR. PRICE: When a cars pulling out of this



1 parking lot, whether it's going left or right, the lights are  
2 facing in this direction. When it goes left, the light sweep  
3 is going to go this way but we don't have the topography here  
4 to see - it just sits up higher. Are the headlights actually  
5 hitting them? Can we add some more landscaping here? Yes, but  
6 it's not going to affect cars turning in.

7 MR. VOSS: Maybe the other thought to answer your  
8 question - the hours of operation - - this facility and this  
9 site are probably going to be less limited than like the Rite  
10 Aid site. Rite Aid is open much later than what you are  
11 proposing, especially with the office component. Certainly  
12 this time of year, you're going to get a light sweep at four  
13 in the afternoon or 5:00 in the afternoon because it's dark.  
14 In the summer months, you're probably not having as much  
15 traffic coming off of this site as you would, say, the Rite  
16 Aid site or the adjacent office buildings. I haven't been out  
17 there in light conditions to look at it, but just from a  
18 practical standpoint I think it might be slightly less.

19 The only other thought I would encourage the Board  
20 - - kind of what the Chief was saying - it's tough to  
21 mitigate access onto a public right-of-way, if you will, when  
22 everybody else in the neighborhood is literally using that as  
23 a thru-street or as an official route. You can certainly ask  
24 the applicant.

25 MS. DALTON: I just wanted to ask the question so

1 that we covered the bases. So, we considered whether or not  
2 there were ways to mitigate that impact and unfortunately, in  
3 this particular case there isn't.

4 MS. MILSTEIN: Do we know what retail is going in  
5 there?

6 MR. LEECE: Not yet, no.

7 MS. MILSTEIN: So, you don't know if it is a  
8 restaurant or a store?

9 MR. LEECE: We don't know at this point.

10 CHAIRMAN STUTO: Kathy, what number constitutes a  
11 super majority?

12 MS. MARINELLI: Five, plus one. Are we voting on  
13 both of them?

14 CHAIRMAN STUTO: We agreed to to, right?

15 MR. LACIVITA: Yes.

16 CHAIRMAN STUTO: Okay, any other questions on that  
17 one?

18 (There was no response.)

19 Do we have a motion to vote affirmatively  
20 approving left-hand turns out the back of the property?

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

22 MS. DALTON: I'll second it.

23 CHAIRMAN STUTO: Any discussion? (There was no  
24 response.)

25 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 - a motion and  
6 a second have already been made. Were there any other  
7 particular conditions that you want to talk about? The  
8 elevation and has to be brought back in.

9 Just so the applicant knows, this really doesn't  
10 give us much to look at. I don't know if we have any other  
11 specific comments on it, without the architecture of it. It  
12 doesn't show the materials. There are no color changes. There  
13 is no detail, which would normally get. The department and  
14 Chuck can help you with that. So, you can probably come back  
15 for a quick update on that. At least you can break ground, if  
16 you need to because the footprint is the same.

17 On the condition that they bring back the  
18 elevation, are there any other particular conditions besides  
19 those mentioned?

20 (There was no response.)

21 We already have a motion. Any discussion?

22 (There was no response.)

23 All those in favor, say aye.

24 MS. DALTON: Aye.

25 MR. MION: Aye.

1 MR. AUSTIN: Aye.

2 MR. SHAMLIAN: Aye.

3 MR. HEIDER: Aye.

4 CHAIRMAN STUTO: Aye.

5 All those opposed, say nay.

6 MS. MILSTEIN: Nay.

7 CHAIRMAN STUTO: We have one nay.

8 (Whereas the above entitled proceeding was concluded at

9 9:04 p.m.)

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CERTIFICATION

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

Dated: \_\_\_\_\_

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

