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PLANNING BOARD COUNTY OF ALBANY
TOWN OF COLONIE

REVIEW AND ACTION ON FINAL SUBMISSION OF THE PROPOSED
LOUDON SQUARE 399 ALBANY SHAKER ROAD

THE TAPED AND TRANSCRIBED MINUTES of the above entitled
proceeding BY NANCY STRANG-VANDEBOGART commencing on
June 9, 2009 at 7:09 p.m. at the Public Operations Center
347 Old Niskayuna Road, Latham, New York 12110

BOARD MEMBERS:

THOMAS NARDACCI, Acting Chairman
MICHAEL SULLIVAN
GEORGE B. HOLLAND, JR.
CHARLES J. O'ROURKE
TIMOTHY LANE
PETER STUTO, Jr. Esq., Attorney for the Planning Board

Also present:

Joseph LaCivita, Director, Planning and Economic Development
Joseph Grasso, Clough Harbour & Associates
Mike Lyons, Planning and Economic Development
Donald Zee, Esq.
Luigi Palleschi, ABD Engineers

1 ACTING CHAIRMAN NARDACCI: There are a lot of
2 folks here to hear the final submission of
3 Loudon Square, 399 Albany-Shaker Road.

4 Is Joe here from ABD?

5 MR. LACIVITA: Actually Joe is not here, but we
6 do have a representative from ABD.

7 ACTING CHAIRMAN NARDACCI: Okay, ABD is here so
8 we'd like to move that first and go through that so
9 that folks that are here for that project have a chance
10 to be fully heard and then they don't have to wait
11 through other projects.

12 So first, why don't we hear from the team and
13 then our TDE, Joe Grasso, from Clough Harbour will make
14 some comments after this.

15 MR. ZEE: Hello, my name is Donald Zee. I'm here
16 on behalf of the applicant. With me tonight is Luigi
17 Palleschi from ABD Engineering.

18 As the notice has indicated we are seeking
19 project plan approval for property located at
20 399-401 Everett Road/Albany-Shaker Road, right at the
21 end of Everett.

22 The plan that you see before you is conceptually
23 exactly the same as the plan at the time of concept
24 approval with small variation. The variation is that we
25 have moved this curb cut a little bit to the right here

1 (Indicating) to better align itself with Everett Road
2 and thus we've also moved the building a little bit to
3 the right as well. The distance is very nominal and
4 we're not seeking any variances for setback
5 requirements because of the shift of the building. This
6 parcel is 2.37 acres. It is zoned COR. We have
7 approximately 367 feet of road frontage on
8 Albany-Shaker Road.

9 If I may for a second - I'd just like to give you
10 a little bit of history of this because my client has
11 made some dramatic changes, so if you would just bear
12 with me.

13 When we came before this board back in September
14 of 2007, my client came forward with a project which
15 proposed a 4,100 square foot restaurant/retail facility
16 here (Indicating) with an outdoor patio as well as a
17 strip center that was located just below the property.
18 The residential units back here.

19 The site is a little bit unusual in that there is
20 a steep grade. What we were proposing from the parcel
21 to the homes that are existing - there is a substantial
22 grade and a retaining wall that is going to be proposed
23 to be built. The grade differential for the parking lot
24 to the homes up here is approximately 18 feet.

25 At the point in time when we came before this

1 board, there was a large audience here and they raised
2 numerous concerns as did the Planning Board themselves.
3 Some of the issues that the board and the public raised
4 was the restaurant use. There was a concern about food
5 odors brought in, noise, safety, location of the
6 dumpster, the location of the drive through window that
7 we had located here and the location of the building
8 itself.

9 Based on the comments that we heard from the
10 Planning Board as well as from the residents, my
11 clients went back to the drawing board and then we came
12 back with this plan. That was after having a meeting
13 with the neighbors and members of the town on
14 November 11, 2007. We also met with residents at
15 Schuyler Meadows or part of an association. With that
16 we came back with revised plans. One that eliminated
17 the use of the restaurant facility proposed in this
18 area in the front (Indicating) and a bank of
19 approximately 2,100 square feet. We are proposing a
20 medical office and a regular office building; here it
21 is two stories (Indicating). As you can see, we've
22 moved the building away from the rear property line and
23 moved it forward approximately 100 feet forward to have
24 hopefully less impact on the residents. With those
25 changes, we hope to eliminate odors, vermin and some of

1 the safety issues.

2 Some of the other concerns that were raised by
3 the public and by the board were with regard to the
4 height of the poles. I mentioned that the differential
5 between the parking lot to the elevation up here
6 (Indicating) was approximately 16 to 18 feet. The
7 Planning Board had requested that the light poles be no
8 higher than 12 feet and that's what we are proposing.
9 With those 12 foot poles, we had cut-offs so that the
10 lights would be pushed down. We believe that there will
11 be virtually no impact to the residents to the rear.

12 In addition, we had talked about putting
13 landscaping along the rear of the property as well as
14 some fencing.

15 There is an improper note on this plan that was
16 submitted. The note had said that the vinyl fence was
17 going to be tan. There was a discussion at a meeting
18 with my clients and members of the association and they
19 had requested a gray colored fencing. We have no
20 objection to that. So, if this were to move forward, we
21 would modify the note on the plan to show that there
22 would in fact be a gray color fence. I believe that
23 there is a gentleman in the audience who is an
24 architect and is very knowledgeable about visuals and
25 we defer to his judgment. I understand to a certain

1 degree that he is on behalf of the association of
2 residents who live in this neighborhood.

3 With regard to the other items, we were proposing
4 some lights on the building and those building lights
5 are going to be 109 feet off the ground; once again,
6 lower than the 12-foot light poles. Once again, they
7 would have cut-offs and they would be pointed downward.

8 In addition, as I said, the fence that is going
9 to surround the property - and that was one of the
10 conditions that the Planning Board placed in their
11 conceptual approval.

12 There is a differential in elevation from here
13 (Indicating) to the residents here somewhere in the
14 neighborhood of 6 feet. We're talking about putting in
15 somewhat of a six-foot high fence on top of the gray,
16 so that we always have a 12 foot differential. We are
17 putting the lights at 10 feet with the cut-off so once
18 again, we believe that there should be a nominal if no
19 impact from a visual standpoint from the residents to
20 the east.

21 With regard to this plan, there were a couple of
22 comments that were made by the County of Albany as well
23 as the town designated engineer.

24 One of the issues that was raised by the Clough
25 Harbour, the town designated engineer, is the grade of

1 this entrance road. The grade of the entrance road, as
2 we propose it, is 5%. There is a starting point from
3 the intersection that goes approximately 2 to 2½% and
4 then it further goes up to a 5% grade. Now I have to
5 say from my understanding and I'm not a traffic
6 consultant, but I have someone here to talk about that
7 if need be. The grade of Everett Road and the grade of
8 the road at Green Meadow is higher than 5%. The
9 recommendation of Clough Harbour, your designated
10 engineer, is to accept the concept with a 5% grade. Now
11 just so you understand what a 3% grade is versus the 5%
12 grade - for handicap accessibility you are permitted to
13 have an 8^{1/3}% grade because it's one-inch in height for
14 every 12 inches out. So that's a one on twelve slope.
15 Here we are talking about a 5%, so once inch up and
16 20 inches in length. It's really a nominal grade under
17 the circumstances here.

18 The other way to in fact make it a 3% grade is to
19 go in and remove more fill with dirt, which we believe
20 would create a greater impact to the neighborhood in
21 that we would have more truck impact and a lot more
22 site work. We don't think that is the best thing for a
23 project for this area.

24 The second thing that Clough Harbour was looking
25 at was with regard to the necessity of a one car

1 parking space waiver. Because the way that the town's
2 code is written, you look at separate uses that are
3 committed and do a totality of what the parking
4 requirements are. In this case we would be required to
5 have 130 parking spaces. We have in fact the
6 availability of 129, if we treated every unit
7 separately.

8 We believe, as Clough Harbour, that because of
9 the fact that there should be some interplay between
10 the bank as well as the other offices, that the waiver
11 of one parking space is a reasonable waiver, especially
12 in light of the fact that there is proposed a bus stop
13 in this area so not everyone going to this facility on
14 this premises would be utilizing a motor vehicle.

15 One issue that also was raised, and we don't
16 believe it based on our interpretation of the code is
17 that Clough Harbour had asked whether we needed a
18 waiver for the placement of this driveway in this area
19 right here (Indicating). The way that the code is
20 written, it requires a 10-foot setback from the side
21 yard for parking purposes. That's why you see in this
22 area right here (Indicating) that we have the ten foot
23 setback. However, this is not for parking. This is our
24 entry way or our driveway for our drive through window
25 for the proposed bank. We don't believe that a waiver

1 would be required. We believe that we follow the
2 parameters. To determine it otherwise, if you couldn't
3 have a driveway in a side yard or even in a front yard
4 and needed a waiver, how could anybody get access to a
5 site? You have to have some sort of driveway access
6 into it. With a residential perspective, if you have
7 someone with a side load garage, they are often driving
8 along the side of their property and pulling into the
9 site, thus permitting driveway purposes in a side yard.
10 So, we understand that the question was raised. Clough
11 Harbour wanted you to look at that issue, but we
12 believe that we fall within the parameters of the code.

13 A couple of other issues or comments that were
14 raised by Clough Harbour and partly for an aesthetic
15 purpose was that they believe that the landscaped areas
16 here (Indicating), which are only five feet in
17 width, though they are nice to have, would be difficult
18 to maintain the trees and make sure that they live
19 through the future years. They propose combining those
20 so that instead of them being five feet in width, that
21 they be 10 feet in width. We have no objections to that
22 and if this plan were to move forward, once again, our
23 final plans would show the 10-foot landscaped areas and
24 we have consolidated these two and these two
25 (Indicating).

1 There is one other note that is incorrect here on
2 the plan that talks about the hours in which the
3 garbage pick ups are to occur. We would modify it to
4 comply with the requirement of no earlier than 7:00 in
5 the morning and no later than 7:00 at night. That is
6 another note that we would add to this.

7 There was question with regard to the amount of
8 interior landscaped area within the parking lot. The
9 question that was raised by Clough Harbour was whether
10 this landscaped area berm here (Indicating) meets the
11 requirement of the interior parking lot landscape. I'll
12 let Luigi address that.

13 MR. PALLESCHI: Basically the code says that 75%
14 of the island has to be touching the parking. We feel
15 that the island here (Indicating) that Clough Harbour
16 identified as not an interior landscaping - we feel
17 that it is and 100% of the parking pavement is
18 surrounded by the island. Not only that, but in order
19 to park within this area here (Indicating) for parking,
20 it's surrounding the circulation for this parking area
21 here which is in fact, part of the parking pavement for
22 that equation there (Indicating). I do understand that
23 in this corner here (Indicating), the landscaping
24 proposed does not meet that requirement because in
25 fact, if you take the length here, it doesn't meet the

1 75% length requirement that abuts the parking. That was
2 taken out of the equation and with everything else that
3 meets the 75%, we're greater than the required which is
4 a little over 2,500 that's required. I think I equated
5 to 7% or just over 3,000 square feet of internal
6 greenspace within the parking.

7 MR. ZEE: In the event that this board decides
8 that they do want conditional greenspace and does not
9 qualify this area as a greenspace requirement, note
10 that Clough Harbour after doing their analysis about
11 the parking needs - - we show here 129 parking spaces.
12 They said that they would recommend that the board
13 consider going down to 120 parking spaces in their most
14 recent report. If you take the additional 9 parking
15 spaces at 9 by 20, that's 180 square feet and I think
16 that if you add that total up you would be able to
17 comply with the requirement; if the board chose not to
18 qualify that as our meeting the interior parking lot
19 requirement.

20 Those are pretty much the comments that were
21 raised by Clough Harbour. As I indicated, Albany County
22 also raised and submitted a letter. Generally, they did
23 not have any objections to this layout and the roadway
24 design.

25 Although, they did want to point out to this

1 board that currently there is no left hand turn in as
2 you go easterly on Albany-Shaker Road into this plaza
3 and none is really required based on what the traffic
4 warrants. They did recommend that after this project is
5 fully built out and fully occupied that two years
6 afterward there be an analysis done to confirm the
7 previous analysis done by the town and by the county as
8 to whether a turning lane in this area is warranted. We
9 have no objections to participating in that analysis.

10 The question is: How does that analysis get done
11 two years after full occupancy of the premises? I have
12 to say that I've done it in some other type comparable
13 type situations, but it's very unusual after all the
14 approvals to require something. What we had done was
15 have the traffic study analysis done after the one
16 designated by the town based on the recommendations set
17 forth by Albany County.

18 With this project and with projects in this
19 corridor if this project were to be approved my client
20 would be paying substantial, in our eyes, mitigation
21 fees. Those mitigation fees are for traffic
22 improvements and other improvements within this
23 corridor and those are gauged and based on a generic
24 environmental impact statement and an analysis run by
25 the town and now being reimbursed by the developers. We

1 believe that since the analysis was done by the town
2 and its own representatives, which was open to public
3 hearings - full environmental reviews, all done by the
4 town and not by private developers, that in the event
5 that there is a back step change - that there is a
6 turning lane warranted, that's why those mitigation
7 fees are available to in fact, be paid for by such
8 improvements. Those improvements, as I said, would be
9 monies that would be available. I think that my client,
10 based on this project, is paying well into the six
11 figures for the mitigation fees on a project of this
12 scope. We would, however, be agreeable for paying for
13 the cost of that traffic study at that point in time.

14 At the last meeting that we were here, which was
15 April of 2008, Ms. Donovan, Chairperson of the Board
16 had raised a question because Mr. Dzialo, who is the
17 stormwater management person for the town, had raised
18 some questions with regard to stormwater management and
19 he in fact wanted to make sure that various test pits
20 and everything had been done prior to any approval of
21 the project.

22 MR. PALLESCHI: I did speak with John Dzialo
23 today in regards to the infiltration testing. He had
24 thought that we did infiltration testing based on the
25 last meeting and I pointed out to him that the

1 stormwater management report - Fred Dente, the
2 Geotechnical Engineer was out on the site doing several
3 borings down 17 feet and infiltration testing along the
4 infiltrators.

5 We're proposing stormwater management. The
6 infiltration testing, as we talked about it, is per DEC
7 to require one test per 5,000 square feet and that was
8 done by the geotech. Again, as stated before, all sandy
9 soils, ground water was past 17 feet along the front
10 roads where the stormwater infiltrators are. From the
11 bottom of where we're infiltrating ground water is an
12 additional six feet so you've got plenty of the
13 separation distance that you need per DEC standards.

14 After our conversation he was happy with
15 everything and we discussed the stormwater design and
16 the stormwater pollution prevention plan. There were no
17 issues at the time.

18 MR. ZEE: Obviously you don't have a letter from
19 Mr. Dzialo if this project were to move forward
20 tonight. We would have no problems having it
21 conditioned on verification on what Luigi just
22 represented and it would be something to be approved
23 by. We would understand the town's stormwater
24 management representative. We understand that it would
25 be subject to Albany County approval and from DPW.

1 One of the other things that was an issue by the
2 residents when we first appeared was the look of the
3 building that we are proposing. It was commented that it
4 was very commercial and had an institutional look. My
5 clients went back to the drawing board because the
6 residents had indicated that obviously we are in
7 somewhat of a residential neighborhood with the
8 residents in the rear. I would say that
9 Albany-Shaker Road and Everett Road are not residential
10 in character. But we did go back to the drawing board
11 and my client came up with some new designs for the
12 buildings, hopefully making them look residential in
13 nature.

14 This is for the proposal for the bank that we are
15 proposing for the site.

16 With regard to the medical office building, this
17 is what we are proposing: I think that with the details
18 that are added and the character to the roof and all
19 the improvements and the various elements, it does not
20 look really like an institutional block building.

21 That's pretty much our presentation. We're more
22 than happy to answer any questions that the board has.

23 ACTING CHAIRMAN NARDACCI: Thank you, Mr. Zee.
24 Before we get any questions, we're going to have our
25 TDE give us a presentation. Thank you. I know that a

1 lot of accommodations have gone into this project. It's
2 one of the few that we've seen from the start. For some
3 of the newer board members, it's been interesting to
4 follow this.

5 Joe Grasso from Clough Harbour is the Town of
6 Colonie's town designated engineer.

7 Joe?

8 MR. GRASSO: The applicant's representatives did
9 a good job running through a lot of comments that we've
10 had on that. So, I'm not going to go through those. Our
11 review started back in February with the first set of
12 plans that we were provided and we did a review
13 February 6th and then we did another one April 30th and
14 then we did another review, which resulted in
15 resubmission of plans. We issued our comment letter on
16 June 4th and then our last comment letter is dated June
17 5th. Our last comment letter is down to seven issues and
18 those have been talked about as well. I'm only going to
19 talk about this a little bit. I think that it's been
20 outstanding from what we've heard from the applicant's
21 representative tonight.

22 Regarding the storm water review: We have no
23 further comments on the stormwater plan. All of our
24 comments have been addressed and we would expect that
25 based on the applicant's responses that the town's

1 stormwater officer's comments would have been addressed
2 as well. Obviously the application is going to require
3 following site plan action and will require a
4 stormwater permit be issued by the town. So, that
5 department will get another chance to review the plans
6 when that permit is sought.

7 In terms of the off-site traffic improvements and
8 the comments from the county, the applicant's
9 representative said that they thought that a left-turn
10 lane would be required and that it should be paid for
11 by mitigation fees. It's important to note that the
12 mitigation fees are collected from all of the developers
13 within the GEIS area and they go for specific
14 improvements. That left-turn lane is not one of those
15 identified improvements. So, those fees really should
16 not go toward that left-turn lane.

17 MR. LYONS: This project is actually not within
18 the GEIS area. It was within the Everett Road study.
19 There was, nevertheless, mitigation costs.

20 I'm Mike Lyons with the Planning Department.

21 With the completion of Everett Road and the
22 monies the town collected from various developments,
23 having already been used to make our local share of
24 improvements to the intersection of Albany-Shaker and
25 Everett Road as well as other sections of Everett and

1 Exchange/Everett and Sand Creek roughly about a year
2 ago, just before this project received concept
3 acceptance, the town is no longer accepting mitigation
4 costs of this corridor.

5 I don't want you to feel that if you're paying
6 mitigation fees, or look at off-site improvement and
7 weigh that against possible mitigation fees that that
8 may not be collected. We're no longer collecting those
9 fees.

10 MR. STUTO: I just want a point of clarification.

11 I thought that I heard Don Zee say that we were
12 into the six figures with the mitigation fees.

13 Don, did you say that?

14 MR. ZEE: Yes, I did and it was my understanding
15 that when my client first submitted an application, we
16 were advised by the town representative that the
17 mitigation fees were in the six figures.

18 MR. LYONS: Based on the development that was
19 occurring at the time prior to the construction of
20 Everett Road - - do you still want to make the
21 payments?

22 MR. ZEE: My client is not here, but I think that
23 I know the answer.

24 MR. GRASSO: All that said, based on the traffic
25 study that was done for this project, we don't support

1 that left turn.

2 MR. STUTO: If I can stay on that point, Mike,
3 for one more second.

4 The minutes reflect during the concept approval,
5 which was April 8, 2008 - point number one,
6 contribution of appropriate share of mitigating funds
7 consistent with the Everett Road Corridor Study.

8 MR. LYONS: That's correct. After that concept
9 acceptance, the town said that they no longer needed to
10 request the mitigation -

11 MR. O'ROURKE: The town - who is the town?

12 MR. LYONS: I believe that was the Commissioner
13 of Public Works, in regards to the Everett Road
14 Corridor.

15 MR. O'ROURKE: So one person within the town has
16 the authority to make that decision?

17 MR. LYONS: The improvements that were identified
18 in the study area were completed.

19 MR. O'ROURKE: But there were other projects in
20 the works. There are other projects on Everett Road
21 that are going, too.

22 MR. LYONS: The money that had been collected -

23 MR. O'ROURKE: I'm not trying to give you a hard
24 time. I'm just saying that one person has that
25 authority, Mike? The Commissioner of Public Works? Just

1 for my own knowledge.

2 MR. LYONS: I don't know.

3 MR. O'ROURKE: Because it's something that we
4 need to take care of.

5 MR. LYONS: I'm not sure. The Town Attorney
6 possibly might be able to tell you.

7 MR. O'ROURKE: Peter, could you make sure that we
8 get appropriate answers?

9 MR. STUTO: Yes, we will.

10 MR. O'ROURKE: Because there are other properties
11 that are going to be expanding on Everett and if in
12 fact that turn lane needs to happen at some point in
13 time, we're going to saddle the taxpayers? Not as long
14 as I sit on this board.

15 ACTING CHAIRMAN NARDACCI: I'd be curious to know
16 how the corridor project is shut down, too, as far as
17 not collecting anymore. At what point does it say,
18 we're not collecting anymore?

19 MR. LYONS: When the improvements that were
20 identified in the corridor study have been completed
21 and the town's local share has been paid for by the
22 developers. The money will continue to collect but
23 there's nothing to allocate that money towards because
24 the improvements have been made.

25 MR. O'ROURKE: See, herein lies one of the big

1 problems within the GEIS and the updates that we do.
2 The forethought is very lacking. To close a study on
3 Everett Road with all the properties still going in and
4 one at the end going in, if that happened in business,
5 the guy would get fired.

6 MR. LYONS: I think the improvements were made,
7 C.J.

8 MR. O'ROURKE: The improvements as of now but
9 that doesn't mean that we stop collecting mitigating
10 fees.

11 MR. LYONS: Not all of those improvements have
12 been made.

13 MR. O'ROURKE: Even if they do, Mike, there is
14 more property out there. It doesn't say that there
15 isn't going to be additional fees down the road.

16 MR. LYONS: The Everett Road corridor - I think
17 that there's an example of a successful program that
18 instead of burdening local municipalities with the cost
19 of the improvements that are needed based on
20 development, the local developers have to pay for
21 those.

22 MR. O'ROURKE: But Mike, in terms of the
23 build-out, does anybody look at 2020 in the build-out
24 like we look at it in the GIS on Route 9? It's doesn't
25 take a genius to drive down at ten minutes before six

1 and say, hey, there might be additional improvements
2 that we need around here. That's my only point and if
3 we allow only one person within the town to have the
4 authority to make that call to say, we're not going to
5 collect any more mitigation fees, I think that we're in
6 error, as a town.

7 MR. ZEE: Let me say that I understand your point
8 completely. I guess I prefer that my client's project
9 not be in the middle of this interplay. I understand
10 exactly and I believe that if an analysis was done, as
11 you had indicated with some forethought, that someone
12 should have thought about the possibility of that
13 left-hand turn potentially in that area. My client
14 wouldn't be stuck right now with this issue and this
15 collection so that maybe the town should consider some
16 sort of supplement to the original study.

17 MR. O'ROURKE: Mr. Zee, I agree wholeheartedly.
18 I'm not very smart, but I know that your guy has
19 100 grand figured in, right? That's built in to his
20 costs. I'm not saying that we, as a town, should
21 automatically plot that, but at some point we still
22 have to hold the developer to a fair share. That's my
23 only point.

24 If it goes forward and everything is okay, I just
25 want to make sure that legally, Peter Stuto goes back

1 and finds out how somebody has the authority to deem
2 mitigating fees in the works - - one project that was
3 approved conditionally and the developer is expected to
4 pay over \$100,000 for possible improvements, whether or
5 not the entirety of that subject area is improved
6 presently. This is going to impact it after the fact.

7 MR. LACIVITA: C.J., I think that we have to look
8 at that on a different picture because I get a number
9 of calls in the office regarding a lot of the drainage
10 problems with run-off and stuff on the Everett Road
11 corridor. And if Mike is saying that this has been
12 completely done -

13 MR. LYONS: The Everett Road corridor had nothing
14 to do with drainage. It was based on CDTC studies and
15 things like that which identified the level of
16 improvements for various intersections.

17 MR. O'ROURKE: Again, we have a couple of water
18 mains break here too. That's still part of the
19 infrastructure.

20 MR. LYONS: It wasn't on the GEIS. It was a
21 corridor study.

22 MR. STUTO: I'll do a background on that and
23 report back to the board. Before we vote tonight, we'll
24 come up with a way to keep that option.

25 MR. LYONS: The site specific improvements on a

1 roadway such as a left-turn lane into a site or a right
2 turn into a site or other types of improvements that
3 are site specific related - I have to agree with Joe
4 Grasso that those are not covered by mitigations, nor
5 do they earn credits should mitigation costs be
6 required of the applicant.

7 MR. GRASSO: Okay, in answering the questions
8 regarding the application of any type of mitigation fee
9 that this project may be required to support, I think
10 that's a separate issue than the site plan approval for
11 consideration before the board. Like Mike said, there
12 are improvements that this application is going to have
13 to make to support the project requiring building the
14 floor plate of the intersection. There are signal
15 modifications that they have proposed. There is lane
16 striping modifications that they have proposed. The
17 project, as proposed, has not supported the need for
18 that left-turn lane. That's something that Albany
19 County hasn't brought up as a possible future need. I
20 don't think that's something that the town needs to
21 worry about if the county - they've got review and
22 approval authority over this project by issuance of a
23 work permit. If they want to reach some kind of
24 agreement with the applicant regarding any future study
25 or whatever, I think that is beyond the scope of the

1 town's review because based on what they've shown, they
2 don't require any more improvements than what they're
3 willing to build right now.

4 In terms of the landscape islands: They provided
5 a couple of different arguments. They provided an
6 argument regarding the drive through and that shouldn't
7 be considered parking area because that's a drive
8 through and therefore it shouldn't comply with a
9 10-foot side yard setback. Then they also say that this
10 location here is surrounded by parking area therefore
11 it qualifies as one of those interior landscaped
12 islands. So, they're kind of arguing both sides of the
13 fence to support their arguments.

14 We just raised the issue that's something that
15 the Planning Board should really weigh in on. If the
16 drive through area is parking because cars are
17 routinely parked there, then it should meet this side
18 yard setback or require a special waiver if it's not
19 parking area. If it is parking area then it would or
20 would not go into that interior landscaped area and it
21 would just, as they said, just require any increased
22 size of the landscaping interior to the parking lot. We
23 would lose a few more parking spaces to make up that
24 lost landscaped area which we would support and a
25 further reduction in the parking down from 129 spaces

1 proposed down to - we said no less than 120 spaces.

2 All of our other comments, they have adequately
3 addressed. I'd be happy to answer any other questions
4 that the board might have.

5 ACTING CHAIRMAN NARDACCI: Thanks Joe.

6 Like I said, this is a project that we've seen
7 since April of 2008 and it's gone through quite a bit
8 of modification and the developer has gone out of their
9 way to meet with the residents in the neighborhood
10 association and we're just going to go around the board
11 and ask for comments and then we're going to open it up
12 to the residents to say a few words.

13 This is a site that I live not too far away from.
14 It's part of my daily routine. It's always a site that
15 you look at and say, wish this could become something
16 else. There are a lot of challenges here, but it's
17 something that certainly should become something else.

18 With that, Mike, do you have anything that you
19 want to ask?

20 MR. SULLIVAN: I have one question on the
21 parking. With the shift of the building to the right,
22 how much distance is left before the two rows of
23 parking to the right of the office building?

24 MR. PALLESCHI: We didn't shift the parking. That
25 stayed the same. There was some landscaping here and by

1 shifting this over, the building would be abutting the
2 content of the sidewalk.

3 ACTING CHAIRMAN NARDACCI: Thanks.

4 C.J.?

5 MR. O'ROURKE: I have a few.

6 Mr. Zee, in the April 8, 2008 I specifically
7 asked Mr. Bianchine about the amount of fill being
8 removed. He said, well, I don't really know the exact
9 amount. This gentleman here said exactly how many cubic
10 yards of fill would have to come out of the site to
11 give it a 3% grade. That much I remember. It's also in
12 the minutes. I don't know the specific reason that
13 we're going up to 5%. Again, I'm not fluent in legalese
14 yet, but I also caught the back and forth with the
15 calling it parking and not calling it parking when it's
16 beneficial. Again, to me, it's way better than what's
17 there.

18 I like the island the way that it is. If it does
19 encroach, I would say, take some of the parking out and
20 put the greenspace in and make the islands bigger.
21 That's what I would like to see.

22 The other thing is the argument in regard to
23 driveways and those kinds of things. Let's not forget
24 this is a commercial site. So, there are certainly some
25 differences between the requirements within residential

1 versus commercial. So, I just want to make that point.
2 I would be looking for this project to still not
3 exceed that 3% grade because that will lower the whole
4 site which will give a bigger buffer to the surrounding
5 neighborhoods. So, I would be in favor of seeing that
6 and holding the developer to what they presented the
7 board and got concept and saying verbatim the entrance
8 grade will not exceed 3%. So, those were your words and
9 I would expect that this board will hold you to that.
10 If it was going to be between 3 and 5, that's what
11 should have been said when we issued concept.

12 We went on about the traffic which I think is a
13 big difficulty and a big challenge in this area. I
14 certainly understand the neighborhood. Certainly
15 anything better than what VanDeLoo has right there
16 right now. These are beautiful buildings. I think the
17 developer has done a yeoman's job in putting something
18 decent there.

19 With that said, I don't think that we can not
20 expect them and hold them to what we initially gave
21 them concept and had the meetings for. So, it bothers
22 me a little bit that you get to the final and then, I
23 get a little scared when all of the sudden one thing
24 changes - well 3% well, maybe 5%. When I specifically
25 asked about the test pits on April 8, 2008 and I was

1 ensured that they were done and in fact, storm water
2 was all on board, I'm bothered that the developer's
3 engineer has a conversation with him today. From
4 April 2008 to June 2009, unless everybody was out of
5 the country fighting in Iraq, I don't know why we
6 didn't have this discussion before and we don't have a
7 letter from a town employee saying that stormwater is
8 all set. Does that mean that stormwater is all at 5%
9 or 3%? The test pits were 17 feet, so I'd have to ask
10 my engineer friend to do the math for me. How far
11 down - - I mean they're at least 10 feet above Everett;
12 so 7 feet.

13 Joe, how deep would that have to be?

14 MR. GRASSO: I think that the tests are still
15 deep enough to support the design; even if they
16 switched from a 5% entrance grade to a 3%. It's
17 probably going to drop the site maybe a foot. You're
18 talking about a 2% change over 50 feet or so. We're
19 only talking about the entrance. So, it's only going to
20 be another foot. The 17 feet - - the tests were
21 definitely deep enough to support the system.

22 John Dzialo, the stormwater management officer
23 has only reviewed the plan based on that 5% grade. Like
24 I said, he's going to get another crack at reviewing
25 them and any changes to the plans when he goes to issue

1 a permit.

2 MR. O'ROURKE: So what happens if for some
3 reason, there is not the ability to gain the permit?

4 MR. GRASSO: Then he hangs up with trying to gain
5 that permit. He needs to gain that permit to construct
6 the project but you have to understand, just like
7 Albany County Department of Public Works, their permits
8 are separate from the town's planning process. We have
9 to review based on the town's site plan requirements
10 and not certain requirements that may be subject to any
11 future permit or approval that's required.

12 MR. O'ROURKE: Joe, as an engineer, would it be
13 not okay to have a project go through and me not talk
14 to you for a year about something as important as
15 stormwater, in your experience?

16 MR. GRASSO: I know that the applicant's
17 representative has made a lot of effort to coordinate
18 with the town through the process. Specifically how
19 many times have the met with John or whoever - - I
20 think that what they're talking about is they're trying
21 to get a final decision based on final plan changes. As
22 I said, we've done multiple reviews since January of
23 this year. I think that we've done half a dozen reviews
24 and I know that we've generated at least four comment
25 letters on it. John Dzialo may have done an equal

1 number of reviews as well. So, to say that it's
2 inappropriate for him to have a conversation on today's
3 plans -

4 MR. O'ROURKE: Not inappropriate. It just doesn't
5 make sense to me.

6 MR. GRASSO: I know that they've been doing a lot
7 of design work. They supply plans, we provide comments
8 which results in more plan changes to get there. I just
9 know that based upon where we are today, we feel
10 comfortable that the plans are ready for a final
11 determination in front of the Planning Board.

12 MR. ZEE: And if I may with regard to Mr. Dzialo
13 or other agencies that we deal with: I've dealt with a
14 lot of agencies and other communities - not only the
15 Town of Colonie, both state and local agencies and
16 counties. My technical people here, ABD, haven't been
17 in contact with all of the agencies and all of the
18 representatives from those agencies. Everybody's
19 schedule gets busy. Some of the letter came about
20 because we specifically called up the agency and said,
21 please, we know that the town wants a letter. Please,
22 after you have had it for an X number of months, please
23 send a letter. Sometimes the agencies don't do that
24 because that's why I mentioned that it's not uncommon
25 that an approval is to be granted and that it's

1 conditioned upon the issuance of the necessary permits
2 from the Town of Colonie from a technical standpoint;
3 just like it would be subject to the final review and
4 approval of the Albany County DPW and their agencies.
5 So, I don't know of a project that doesn't get in the
6 final approval without other agencies being listed
7 because they are involved in the decision making for a
8 permit.

9 If this were a project on a state highway, DOT
10 never issues their permit prior to the local government
11 rendering their final approval because their attitude
12 is that our time is too busy. We don't want to look at
13 conceptual plans. We will talk to them but we're not
14 going to generate any definitive permits until we know
15 that the municipality has approved the project because
16 then we know that we're not wasting our time. I'm not
17 saying that's what Mr. Dzialo is saying. I'm just
18 saying that's the way the process is. Sometimes it's
19 not the most efficiently way but that's what my client
20 has to live with.

21 ACTING CHAIRMAN NARDACCI: Anything else, C.J.?

22 MR. O'ROURKE: No.

23 ACTING CHAIRMAN NARDACCI: George?

24 MR. HOLLAND: What is there left to say?

25 I'd like to comment on two parts of this. First

1 thing is that I'm impressed with what an improvement
2 the redesign is over what was originally presented to
3 us. I'm further impressed by the completeness of
4 tonight's presentation. I think that it's one of the
5 most clearly stated and completely covered that we've
6 had before this board in quite a while. That's all I've
7 got to say.

8 ACTING CHAIRMAN NARDACCI: Thank you, George.
9 Tim?

10 MR. LANE: I wasn't here during the original
11 presentation so I don't know exactly what the changes
12 were that were made between now and then.

13 In looking at it, I only see one dumpster. Is
14 there another dumpster location that I'm missing?

15 MR. PALLESHI: The only location of the
16 dumpster - and there will only be a combined dumpster
17 and it's adjacent to the proposed bank.

18 MR. LANE: So there will be the dumpster located
19 next to the bank and a truck is going to have to go
20 through the drive through to reach it?

21 MR. PALLESCHI: Correct. There is an open island
22 right there to provide access.

23 MR. LANE: There looks like there is a cover over
24 the drive through. Can a truck get under that?

25 MR. PALLESCHI: No, if you look at this parking

1 island over here next (Indicating) to the drive
2 through, right in here the truck would drive up and
3 then come around the circulation area and go directly
4 straight through between the two islands.

5 MR. LANE: So one building is going to be there,
6 no matter who owns that bank. The medical office is
7 going to use the same dumpster. I don't see how that is
8 going to work.

9 Okay, how about snow storage? I don't see any
10 room for snow storage.

11 MR. PALLESCHI: The snow storage could easily be
12 pushed where the fence is located here (Indicating),
13 there is a black aluminum fence proposed on the
14 property line. The snow storage is going to be proposed
15 right along the edge.

16 MR. LANE: That's about all you have and I don't
17 know if that's enough.

18 MR. PALLESCHI: And then over in here
19 (Indicating) and on the top of the island.

20 MR. LANE: So, the snow plow is going to come
21 through the drive through and dump the snow and also
22 down at the end of the driveway on the other side of
23 the parking lot - which is how wide and how long?

24 MR. PALLESCHI: Which?

25 MR. LANE: That space that you've got your finger

1 on.

2 MR. PALLESCHI: Roughly 25 feet by 80 feet or so.

3 MR. LANE: Do you think that's going to be enough
4 for 130 -

5 MR. PALLESCHI: That's not going to be the only
6 area here that you have.

7 MR. LANE: Well, the rest of it is just a
8 retaining wall and a fence and on the opposite corners.

9 MR. PALLESCHI: You've got the same area on the
10 opposite side.

11 MR. LANE: I don't see how that is practical.

12 MR. PALLESCHI: This area here (Indicating).

13 MR. LANE: So you're going to put it up against
14 the property owner's property.

15 MR. ZEE: We would have no problem putting a note
16 on the plans that if there is excess snowfall that
17 within 24 hours of snowfall, if we're not able to place
18 it on the site that we would be obligated to remove it
19 from the site.

20 MR. LANE: Well, yeah, because there is no
21 alternative. That doesn't always work, especially when
22 you have some of the big storms that we get.

23 If you have the snow all pushed to that one
24 corner towards the road, where do you think that snow
25 is going to melt to? It's either going to melt down

1 onto Albany-Shaker and I don't know what the grade is
2 at that point. I'm not really sure but based on what I
3 see when I look directly on it, it looks like it's
4 going to go right down on -

5 MR. O'ROURKE: But Joe, that's part of
6 stormwater, right?

7 MR. LANE: But you're talking about snow melting
8 over a period of time. It just slowly drains and
9 freezes and drains and freezes.

10 MR. O'ROURKE: But isn't that part of the
11 stormwater management?

12 MR. GRASSO: It's actually not taking into
13 account in terms of the calculations only because the
14 systems are only designed for normal rainfall events.

15 MR. LANE: As far as the lighting, on the
16 building itself you would have - - the parking lot
17 itself sits somewhat lower than the properties around
18 it; is that what I understand?

19 MR. ZEE: That's correct. It's approximately 16
20 to 18 feet here (Indicating).

21 MR. LANE: But the building itself is 40 feet.
22 How tall is the building?

23 MR. PALLESCHI: Forty feet. This is a one story
24 bank.

25 MR. LANE: But there's going to be exterior

1 lights on the medical building on that.

2 MR. ZEE: A height of ten feet.

3 MR. LANE: I would like to see the dumpster
4 addressed. I think that you have to have two dumpsters
5 and I don't see how one dumpster is going to work for
6 both facilities. I can see that becoming a problem.
7 Even though it's only a couple of times of year, that
8 will become problematic.

9 ACTING CHAIRMAN NARDACCI: And if they're willing
10 to put a note in the plans that says removal?

11 MR. LANE: Absolutely, yes.

12 ACTING CHAIRMAN NARDACCI: Are there any other
13 questions from the board?

14 Joe or Mike do you have any other departmental
15 comments?

16 MR. LYONS: No.

17 MR. GRASSO: The only other comment that I would
18 raise is regarding Tim's. If we're going to lose some
19 parking to accommodate the additional greenspace within
20 the parking lot, we'll work with them to site a
21 location where it could serve as a location for a
22 dumpster or holding snow storage area too.

23 MR. ZEE: With the point that we have proposed,
24 as I have indicated it's going to be a medical office
25 and the other is conventional office. I believe with

1 the medical office, you wouldn't use the dumpster.
2 You'd have the responsibilities of the medical waste.
3 That would be separate and handled by the tenant. I
4 think that with regard to leasing, there would be
5 certain janitorial services. The garbage will be
6 removed by a service. Those employees are the ones who
7 are trucking it over and not the office workers
8 themselves.

9 There are several office complexes and part of
10 one in the Town of Colonie where we have substantial
11 buildings with just one dumpster.

12 ACTING CHAIRMAN NARDACCI: I would much rather
13 see just one dumpster.

14 MR. LANE: Is the bank going to be a leasing
15 facility?

16 MR. ZEE: No, there is no subdivision here. This
17 is all being proposed to lease. There would also be a
18 common area maintenance expense and that would be the
19 expense that everybody would be sharing on a certain
20 pro rata basis determined by the parties.

21 ACTING CHAIRMAN NARDACCI: What I'd like to do
22 now is I'd like to open it up to the public. I know
23 that there are a number of folks here who have been
24 involved with the project since its inception, have had
25 meetings with the developer, with the developer's

1 representatives and have played a part in shaping the
2 renewed application. So, Mary Alice, you want to start
3 us off?

4 MS. MORGAN: I'd just like to be clear about
5 where things are because it's hard to see exactly
6 what's up here.

7 Just exactly where is that dumpster?

8 MR. PALLESCHI: It's right here (Indicating).
9 It's right next to the bank.

10 MS. MORGAN: So here's where the one dumpster is
11 that's been proposed (Indicating). I can see why some
12 people would be saying that you would need two in that
13 particular place because if you get a medical office
14 building, you might have a considerable amount of waste
15 that is not so much dangerous waste but a lot of paper
16 waste.

17 Further down Everett Road there are a number of
18 buildings that have primarily medical offices. There
19 are buildings that I observe by walking through there
20 that just have one dumpster per building. It may not be
21 needed here if it's not rented for medial purposes.

22 I'm concerned about the impact on traffic. I
23 understand that you're saying that there is no need
24 right now for a dedicated left lane that would require
25 a lot of construction and interruption. I understand

1 that a traffic survey was commissioned and we obtained
2 some of the results which were fairly unintelligible to
3 anyone who isn't a civil engineer or very good with
4 physics. Apparently, there needs to be some changes
5 made because right now I think the figures were
6 something like 57 at one time a day going in and out
7 and a smaller number another time. So it doesn't sound
8 like a lot of cars.

9 It sounds like there needs to be a
10 reconfiguration of the signals at Everett Road which
11 will have a big impact on all of us who live in the
12 area and I think that needs to be further explained and
13 explored.

14 With regard to a build-out of that thing - of a
15 proper left-turn lane eventually into the Loudon Square
16 Development as being something in the future 2 years
17 after full build-out: That could be four or five years
18 from now. I can see it being a big legal issue because
19 we've got the town and the developer involved.

20 So, I think that everybody would agree that needs
21 to be something that needs to be decided so that it's
22 very clear who is responsible. The bottom line is that
23 when something gets old and there needs to be building
24 or improvements, it seems to show up on our tax bills;
25 those of us who pay taxes to Albany County and the Town

1 of Colonie.

2 I do feel that traffic thing should be explained
3 a little bit by whomever - maybe the town designated
4 engineer could explain more on that so that we
5 understand. I understand the changes that were made
6 logically to face the driveways right into Everett
7 Road. Over the past 25 or almost 30 years everything
8 that impinges on their roads such as Albany-Shaker
9 Road, the county has wanted to straighten out the
10 driveways. It does not like to have a lot of driveways.
11 I understand that. But it's going to affect the left
12 turning lane from Everett Road.

13 When you come off of Everett Road, there are two
14 lanes that turn left onto Shaker. That was designed at
15 the corridor improvement, I understand, to allow the
16 traffic to move better. I don't understand exactly how
17 close that's going to be to Shaker Road. Are they going
18 to put stripes or dots or something to indicate where
19 cars are going to go? If they're coming from this way
20 (Indicating) coming east on Shaker Road and heading
21 toward the City of Albany and they want to turn in,
22 that's another left-hand lane. So, right now, that
23 might be a bit iffy because it doesn't allow much time
24 to get anywhere.

25 I would appreciate an explanation of this on our

1 requirement for that left turn movement where it's a
2 separate left only lane. There is basically two allowed
3 movements through that center lane. You can either go
4 straight on Albany-Shaker Road or you can just wait for
5 a gap to take a left turn out of that.

6 Basically, when I say that there are not enough
7 warrants, there is not going to create enough of a
8 significant queue behind those cars that are waiting to
9 make a left. Only because it's a relatively small. The
10 fourth leg of the intersection is only serving this
11 site and when you look at most traffic intersections,
12 they're serving a tremendously high volume of traffic.

13 Based on this site it's easy to accommodate
14 traffic from this site because they're at a perfect
15 location. They're the fourth leg of an intersection.
16 So, there are all kinds of capacity into the site
17 without degrading the existing levels of service on
18 these other three approaches. So, it's hard to believe
19 but there will be some traffic and there will need to
20 be some modifications out there but those modifications
21 won't have any significant impact on any of those other
22 movements.

23 MS. MORGAN: How about a left-hand turn coming
24 out of the site? The person going left coming out of
25 that site crosses in front in three lanes of traffic.

1 MR. GRASSO: That's right.

2 MS. MORGAN: So it's going to impact all of the
3 left hand turns there.

4 MR. GRASSO: Only minimally because the volumes
5 coming out of the site are relatively low compared to
6 what an intersection like this geometry can actually
7 handle.

8 ACTING CHAIRMAN NARDACCI: Okay, Mary Alice, does
9 that address what you were talking about?

10 MS. MORGAN: I'll have to wait and see on that
11 because I think that engineers don't live there and
12 they don't know what it's like to try to turn left from
13 Everett Road anytime between 4:00 and 6:00 at night.

14 They may not realize that it's a speedway as soon
15 as that light changes to green at that intersection.
16 The first one in line puts their foot to the metal and
17 the cars shoot through that designated second left hand
18 turn - the inner one and then there is a competition.

19 Statistics don't show it because a lot of the
20 fender benders don't even get the police there. I've
21 seen two, myself, in the past year. A lot of times,
22 it's difficult for those of us living and turning right
23 into Green Meadows Lane for us to get there. I'm just
24 asking you to consider if they need it. If there needs
25 to be a big improvement down the road, there should be

1 some way it's provided for without adding a great deal
2 to everybody's taxes at that time. I just wanted to
3 make it clear that I think that's probably an
4 improvement - what they suggested.

5 I had one other point to make. Mr. Zee made some
6 notes at the beginning. I'm not sure I understood the
7 driveway business about the incline. He said something
8 about 2% and then he said 5%. I thought that he said at
9 the beginning of this 2% as you went into the site and
10 then it was 5%. He said it's not a bad incline because
11 for handicapped access, it needs to be a 1 in 12 and
12 this is a 1 in 8.

13 ACTING CHAIRMAN NARDACCI: I think that's worth
14 having a clarification on just because this is an issue
15 that we've talked about quite a bit recently with
16 another project as well - about inclines.

17 MR. PALLESCHI: It was recommended by Albany
18 County DPW as well - the entrance here (Indicating) at
19 the start of the driveway, approximately 10 to 12 feet
20 is going to be your 2% grade. That flattens it out
21 right there at Albany-Shaker Road. From there, it's
22 going up 5% up to about this portion right in here
23 (Indicating). From this portion here (Indicating)
24 before the sidewalk, it comes back at a 2% grade to
25 meet the handicapped parking requirements. A 5% grade

1 meets ADA for a maximum slope if you're coming up a
2 sidewalk for handicap and that's why we proposed the 2%
3 up to 5% since it stays within the ADA requirements.
4 Again, we flattened the entire parking lot to a 2%
5 grade or less.

6 ACTING CHAIRMAN NARDACCI: Joe, did you want to
7 comment?

8 MR. GRASSO: The only thing that I would like to
9 add is when we look at the traffic studies and the trip
10 generation from the site, we try to optimize the signal
11 timing so we set up phases based on the numbers that
12 we're getting of what we think will create the least
13 amount of impact on the existing conditions. Obviously
14 we care most about the public legs of the intersection;
15 we least favor the private development. If there's
16 going to be a delay, we'd rather have the delay within
17 a private development rather than a public
18 thoroughfare. That's not to say that after projects go
19 in the ground - and this is something that the county
20 eluded to in their letter - sometimes based on the
21 actual uses and the actual timing of the trips coming
22 in and out of the site, we do need to go in there and
23 change the signal phases or sometimes even change the
24 striping to accommodate actual usage.

25 As growth continues to occur over time, the

1 residents should expect that there may be some changes
2 out there to accommodate that and that's what we refer
3 to as background growth. Based on what we are showing
4 here (Indicating) and what I'm describing is what we
5 feel is going to be the best way to accommodate the
6 site, but there are other opportunities to tweak the
7 system out there to optimize conditions at some point
8 in the future. That could involve that the left turn
9 movements out of the site have a dedicated phase for
10 say, 5 or 10 seconds, in case they didn't get a chance
11 to come out with a double left-turn lane. We can only
12 predict so much. Through the system, there are other
13 opportunities for us to go in there and maybe change it
14 down the road.

15 ACTING CHAIRMAN NARDACCI: Would anyone else like
16 to make a comment?

17 Can you give your name and address for the
18 record.

19 MS. BINSSE: My name is Margaret Binsse and I
20 live right next to where the medical building is being
21 proposed. My address is 397 Albany-Shaker Road.

22 This here (Indicating) is also commercial
23 property. I mean when you're talking about the traffic,
24 nobody is looking at this as commercial property. We're
25 just focusing on this right now.

1 You have a little median going into Stewarts.
2 When does that go? If you're going east to west and
3 you're making a left-hand turn into Stewarts, you've
4 got all that traffic going west to east. If this
5 develops into something more, I mean, it's just
6 something to look at. I'm seeing it from over there and
7 nobody is looking at this.

8 MR. LACIVITA: If that ever came, wouldn't there
9 the changes to the road improvement be incumbent upon
10 that development and not this development?

11 MR. GRASSO: The only thing that we could
12 consider would be a possible future cross-connection
13 between the sites so that property could benefit with
14 access to the signal. That's something that obviously
15 the applicant normally would be bound to. We could ask
16 them if they would be open to that.

17 ACTING CHAIRMAN NARDACCI: Instead of dumping
18 onto Albany-Shaker, there could be a cross-connection
19 between the two commercial sites.

20 MR. GRASSO: They would still be entitled to
21 their curb cut out on Albany-Shaker Road. You can't
22 deny them their right to that frontage. But you could,
23 at least, accommodate a cross-connection between the
24 sites so that they have access to the signal. That's
25 really something that you need to request of the

1 applicant.

2 MS. FARRELL: Kerry Farrell,

3 397 Albany-Shaker Road.

4 We also had a couple of other concerns that we
5 would like to address.

6 We had communication with Mr. Crisafulli and his
7 associates in extending the retaining wall. We asked
8 that the retaining wall go completely to the end and we
9 wondered if that would still be possible.

10 MR. PALLESCHI: There is a split-rail fence
11 proposed. Anything greater than 18 inches, you're
12 required to put up a split-rail fence. The retaining
13 wall will go approximately to this point here
14 (Indicating). I think that the agreement was for the
15 6-foot vinyl fencing and that will continue all the way
16 around the property which is 6 feet high here. The site
17 is built long and this will grade up. If the concern is
18 safety coming down the slope, you're going to have the
19 vinyl fencing along the property line.

20 MS. BINSSE: It was suggested in April that the
21 retaining wall would go to this end (Indicating).

22 MR. O'ROURKE: That's not my recollection. You
23 had agreed to that vinyl fence.

24 MS. FARRELL: No, we were clearly talking to the
25 engineer at the Town of Colonie.

1 MS. BINSSE: I talked to John today.

2 MR. O'ROURKE: John who?

3 MS. BINSSE: The stormwater man.

4 MR. O'ROURKE: John Dzialo?

5 MS. BINSSE: He even said that he could see that
6 on the plans to bring that up to here (Indicating).

7 MS. FARRELL: Yes, it was suggested numerous
8 times because they are working on such an incline on
9 Albany-Shaker and we currently do lose a lot of dirt
10 and land that slopes down because of the rain.

11 MS. BINSSE: And on [SIC] Demi Lane, we lose it
12 there now. We're only just going to lose it there too.
13 That was suggested.

14 MR. O'ROURKE: It states that Ms. Margaret Binsse
15 and her daughter, adjacent neighbors at the corner with
16 Albany-Shaker Road expressed concerns over slope
17 stability and how it may impact her property, requested
18 the retaining wall and vinyl fencing be extended and to
19 be extended with additional landscaping to buffer the
20 property.

21 I don't have that with me but I remember that
22 they had changed that retaining wall. You brought that
23 retaining wall how much further?

24 MR. PALLESCHI: I can't remember off the top of
25 my head, but it was significant. What happens though is

1 that if you were extend this retaining wall, the
2 retaining wall serves a purpose. It's to hold that
3 grade and the further down you extend that retaining
4 wall, your retaining wall pretty much goes to nothing.

5 MR. O'ROURKE: Joe, I remember specifically that
6 if you extended it about 25 feet and then you said
7 well, we're going to use that picket fence and then
8 these folks had asked for vinyl and the people in the
9 back asked for vinyl.

10 MR. PALLESCHI: If you look here (Indicating),
11 you can see this is the rear of the building. That
12 stops right here (Indicating). Here is where it was
13 originally, with the concept area here. We extended it
14 further down.

15 Again, at concept level you just get a rough
16 grading. This is the site plan detail where you get to
17 review the final grading and details on drainage.
18 They're grading the site and that's why at the end of
19 that retaining wall it stops there because the
20 retaining wall serves the purpose of holding it.

21 MS. FARRELL: Do you know what the slope would be
22 at the property line here (Indicating)?

23 MR. PALLESCHI: Normally we do one on three to
24 one on four.

25 MR. GRASSO: The plans represent the one on four.

1 The one on four slope is flatter than a one on three. A
2 one on three is a mowable, maintainable slope which we
3 typically permit on commercial sites. Routinely we let
4 them go as steep as a one on three. They're a little
5 bit flatter than that; about 25% flatter. The flatter
6 one is a one on four slope. So, there shouldn't be any
7 issues with them being able to maintain that. There
8 shouldn't be any chance of erosion once the site is
9 constructed.

10 MS. BINSSE: This is also going to be where
11 you're dumping all the snow, correct?

12 MR. PALLESCHI: There won't be any run-off onto
13 the adjacent properties.

14 MS. FARRELL: We also wanted to know if the
15 [SIC] Demi Lane - the front of our house going into the
16 property, is that going to stay as a straight lane or
17 is it going to be a right only? They do play a drag
18 race at that corner for just one car.

19 MS. BINSSE: Mary Alice said whoever gets to the
20 middle, they're gone. It doesn't matter whether they're
21 just passing one car, they're gone.

22 MR. O'ROURKE: Unless it's 5:30 and then there's
23 nowhere to go.

24 MS. FARRELL: So we were curious if it was going
25 to be a right-turn only lane.

1 MR. GRASSO: No, it won't be a right turn only.

2 MS. FARRELL: Is there a reason for that?

3 MR. GRASSO: We need that lane to take the
4 through movement as well.

5 MR. BINSSE: If you have Albany-Shaker northeast
6 coming out of their work, they're all coming up near
7 the two lanes and then you've got half of the people
8 going in the middle of the aisle going west and then
9 you've got these people that need to move.

10 MS. FARRELL: That would be just one suggestion
11 that we would make for safety reasons.

12 MR. GRASSO: So your recommendation would be to
13 make that a right turn only?

14 MS. FARRELL: So that they have their own
15 designated lane to the property. That would alleviate
16 the drag racing a little bit.

17 MR. GRASSO: We could relook at it.

18 MS. FARRELL: Because that's where Mary Alice
19 gets it on her end because they have to merge into
20 Albany-Shaker and it literally is only for one car.
21 I'll take video if you like. It's for one car.

22 MS. BINSSE: Like you said if you don't live
23 there, you don't know.

24 MS. FARRELL: If you're a courteous driver, you
25 don't do it.

1 I think that the other concern or what we just
2 wanted to follow up on was - if the no food was
3 actually considered to be deeded into the proposal.

4 MR. LACIVITA: They have to come to the Planning
5 Board if there is ever a change in the use that way.
6 It's not in the deed.

7 MS. BINSSE: It's not in the deed?

8 MR. LACIVITA: It's not in the deed.

9 Don, that wasn't a deed restriction for the
10 property?

11 MR. ZEE: It's not in the deed. We haven't even
12 acquired the property yet.

13 MS. FARRELL: Is it true that when people want to
14 change - if they want to have a company come in, it
15 doesn't get proposed to the board anymore?

16 MR. LACIVITA: If it's a food service
17 specifically, it has to come before the board.

18 MS. FARRELL: But all others just come through
19 generally?

20 MR. LACIVITA: It's just a regular change in
21 tenancy.

22 MS. BINSSE: But the tenants are not notified; is
23 that correct?

24 MR. LACIVITA: If a food service comes in, the
25 board will have to act on it and then of course there

1 would be a notification to the residents.

2 MS. BINSSE: I know that's what a lot of us
3 wanted was no food. I'm saying that it says retail or
4 banks. So, food could go in there?

5 MR. STUTO: This is a condition of the
6 conditional approval which says no food service tenants
7 will be allowed on the parcel. So, that's a condition
8 of that approval. If it gets finally approved, it will
9 be a condition of that as well. That's where we are and
10 that's what the record says.

11 MR. QUINN: I'm Patrick Quinn. I live at
12 3 Thistledown Court in Green Meadows. I have three
13 points.

14 I think that it would have been a good idea if we
15 started the meeting or discussion by referring to the
16 fact that the board granted concept acceptance on a
17 motion by member Holland subject to eight conditions;
18 one of which has just been addressed by the counsel. It
19 would have saved us a lot of discussion.

20 I said this last April. Looking at the overall
21 scheme the design has not changed very much, if
22 anything at all since last April 2008. I'm very pleased
23 to say that Mr. Crisafulli was very responsive to the
24 community criticism at that time and I still am.
25 Mr. Crisafulli acts, I believe, in good faith with the

1 community. I was very impressed by his response.

2 Yesterday I spoke with ABD engineers. They called
3 me in response to a call and they said that they would
4 have here a colored diagram indicating the traffic
5 directions and reallocations of the lanes. I do not see
6 that here. I see some lines doubled on the drawings but
7 I don't see a comparison or a current diagram that is
8 understandable by the average resident - a colored
9 diagram which compares the existing and the new. Nor do
10 I see revised sections to the site.

11 We asked specifically last April for sections
12 which enable us to understand grades, heights, lighting
13 interference and fencing. We got that in the last
14 presentation. I have copies at home if they would have
15 helped.

16 MR. ZEE: Before you continue, we do have them.

17 MR. QUINN: I do have a couple of minor concerns
18 because I believe that the property on the whole
19 development has been very much in response to what
20 we've requested.

21 The issue of grades seems to be a little unclear.
22 I'd like to just offer a friendly amendment to
23 something that Mr. Zee said about handicapped access
24 requiring a 1 in 12 slope. That applies specifically to
25 pedestrian and wheelchair access and access to

1 buildings. It is also a maximum and that has existed as
2 a maximum since the committee on employment of the
3 handicapped approved the standard in 1972. Actually it
4 was approved during Gerald Ford's administration. I
5 happen to be a member of the committee so I can cite
6 that chapter and verse on handicap access.

7 By the same token, the grades under ADA, these
8 access slopes are maximum. So, to say that these are
9 the ADA standards or even the prior standards as ideal
10 is far from the truth. These are maximum. In other
11 words, you cannot go any higher than those; which is
12 5%. Our concern with the grade coming out of the
13 slope - not necessarily going in but coming out during
14 days of heavy icing and so on was that excessive grade
15 might cause some accidents.

16 It was made a condition, I believe, that the
17 slope be 3%. To that, the Highway Safety Committee
18 comments: The entrance for that grade will not exceed
19 3% and based on the minimal volume of traffic
20 generated, the applicant would prefer - - well, that's
21 superfluous because the applicant has responded to the
22 second part quite well. I would however point out that
23 the 3% was a condition of approval, as these others
24 were.

25 With regard to the stormwater run-off, we raised

1 a question the last time of volume of run-off from the
2 worst conditions. Perhaps not the extreme conditions
3 but we refer to perhaps one inch of rain and we asked
4 that the volume of water run-off under the worst
5 conditions be correlated with the volume of water
6 acceptable by the receptacles that are supposed to do
7 it. I heard rather fuzzy explanations of the answer to
8 that tonight and that bothers me a little. It's not
9 something that should really stop the project but it
10 must be clarified before construction drawings are
11 finally approved.

12 The left turn issue - I'm still not clear on it.
13 I would love to see those current diagrams, that
14 anybody can understand, lodged in the city offices.

15 With regard to the color of the fence, I hear a
16 contradiction between the two representatives of
17 Mr. Crisafulli. Mr. Zee said that it was going to be
18 gray and the other gentlemen said that it was going to
19 be black. Now there is a hell of a difference between
20 black and gray even with my poor eyesight. So, I would
21 like to know that it's really going to be gray and not
22 black.

23 ACTING CHAIRMAN NARDACCI: Just to interrupt for
24 a moment - he was talking about the fencing along the
25 front yard being black.

1 MR. QUINN: Yes, and I was wondering why the
2 change?

3 MR. PALLESCHI: It's wrought iron.

4 MR. QUINN: Again, I guess we're looking for
5 illustrations.

6 Another question: It was mentioned that this
7 small piece here (Indicating) was 25 by 80 feet. By my
8 calculations, the building is probably 170 feet long.
9 It's just a small matter of capacity because snow
10 removal is important here. I guess it was specified as
11 a condition that the extension of the retaining wall
12 vinyl fencing and landscaped fencing along the Binsse
13 property - that be a condition of concept approval.
14 Therefore, unless there is radical reason to shift that
15 backwards - and I do accept that Mr. Crisafulli has
16 extended the retaining wall considerably - we are aware
17 that as the retaining wall came down the slope that it
18 would be reduced almost to nothing, if conditions
19 remain summer conditions. They don't remain summer
20 conditions all year except in maybe Florida and
21 Arizona; but not here.

22 So these are just a few comments that I think are
23 worth the board's remembering.

24 ACTING CHAIRMAN NARDACCI: Is there anyone else
25 who would like to make a comment?

1 MS. FARRELL: There was just one more that we had
2 a concern about and that is the sign. Is there going to
3 be a sign posted on Albany-Shaker that would represent
4 Loudon Square?

5 MS. BINSSE: And where is it going to be?

6 MR. O'ROURKE: That's a different board.

7 ACTING CHAIRMAN NARDACCI: They'd have to go
8 through the town sign review.

9 MS. FARRELL: Is there something that they are
10 proposing that they can maybe suggest to us so that we
11 have a heads-up? I mean, they designed beautiful
12 buildings, are they going to put something that -

13 ACTING CHAIRMAN NARDACCI: Joe, is there anything
14 here that we can respond to?

15 MR. GRASSO: Unless they have something they
16 would like to share - but often times at this stage
17 they don't even know about a sign.

18 MS. TATE: I'm Judith Tate and I live at
19 46 Green Meadows. I want to be very clear that the
20 finding nature of the no food or the exclusion of food
21 in this building is because of the concept approval.
22 That's the binding nature?

23 MR. O'ROURKE: And as we move forward, it will
24 still be part of that binding.

25 MS. TATE: When the new owners take possession,

1 then what happens?

2 MR. O'ROURKE: Any food ever to come back in
3 there would have to come back before the board.

4 MS. TATE: So if a new owner purchased the site,
5 they could not put a restaurant in the bank building?

6 ACTING CHAIRMAN NARDACCI: No, they could not.
7 They have to come before this board.

8 MS. TATE: And the notification - I have a
9 problem with the notification because apparently the
10 notification goes to the adjacent neighbors and there
11 is something posted on buildings or something? We would
12 ask that the notification be given to the neighborhood
13 association.

14 MR. LACIVITA: The posting process is anybody
15 that is within a 200-foot radius or area of that
16 building gets notified.

17 MR. O'ROURKE: I think that you make a very valid
18 point and I've brought it up before. Because you are
19 201 feet away, there is no requirement for you to be
20 notified and to me that just doesn't seem right.

21 MR. LACIVITA: C.J., you're opening up a can of
22 worms. Do we go 200 feet? Do we go 500 feet? Do we go
23 700 feet? That's a planning process that we have to
24 address internally.

25 ACTING CHAIRMAN NARDACCI: And Joe, I think part

1 of that - - and we've talked about this a number of
2 times on a number of different projects that
3 particularly when the projects of a commercial nature
4 are abutting residential neighborhoods, this is where
5 we always come into this issue and over notification is
6 definitely better process. So, whatever the process has
7 to be - - and I think that notifying the neighborhood
8 association is not too much to ask. I know that you're
9 trying to do a good job, but if we leave it up to the
10 developers to notify people, we're going to get the
11 minimum every time. Maybe not every time, but the
12 majority of the time.

13 MR. BERGER: Miguel Berger, 19 Green Meadows.

14 With all due respect with the issue with the
15 food, I'm in real estate and I understand how things
16 work. This board might say, okay, you have to come in
17 front of the board. The people 10 years from today
18 could be totally different people here. I was wondering
19 if Peter might be able to answer this: If we make this
20 a requirement to get it in the deed -

21 MR. STUTO: I recall at one of the last meetings
22 and I think that Mr. Crisafulli's son was here and the
23 discussion was had: Would the developer consider a deed
24 restriction? He said that he would check and I don't
25 know what the response was on that. You can commit to

1 that. Even though you don't have title now, you could
2 commit to that.

3 MR. ZEE: We will not commit to that. We came
4 before this board initially back in 2007. We are now
5 two years later and the economy has changed
6 dramatically. We have made substantial changes in
7 response to all of the comments.

8 Just remember one very important fact: A
9 restaurant is permitted under the zoning code on this
10 property. That is a legislative decision which is
11 really a Town Board matter. I think that it's really
12 outside the purview of this board.

13 I have to say that when my client initially came
14 before this board, we came before this board
15 immediately after the town did a comprehensive review
16 of its zoning code and the uses prior to my client's
17 application is exactly the same after the zoning
18 analysis is done by the town. So, the zoning for this
19 property has permitted a restaurant use, to my
20 understanding, for over 20 years. So, understandingly
21 people may be upset, but that is a use that has been
22 permitted on this site. My client, trying to be a good
23 neighbor as you have heard, has met with the residents
24 and we've made substantial changes. The economy is such
25 that right now we hope that we're going to have these

1 tenants.

2 I have to tell you that Mr. Crisafulli is very
3 frustrated through the entire process. There is no
4 disrespect to Clough Harbour. You have heard that they
5 went through four or five different reviews of the
6 plans. The plans have changed and people have discussed
7 different things from all of your different agencies
8 and then it gets pushed onto your designated engineer
9 who reviews it. That all costs money for my client.

10 MR. O'ROURKE: Understand, too, Mr. Zee that this
11 is outside of all the GEIS. There are no mitigating
12 fees for this parcel. Mr. Crisafulli is a smart guy.
13 so, it's got to work both ways.

14 That being said, if I were buying property, I
15 would not buy it with a deed restriction. It's still
16 America and it fits the zoning and I think that if this
17 board acts and says no food, then it's no food. If it
18 comes back before another board and something happens,
19 then as a community we have to hold them accountable.

20 MR. BERGER: But you know that's unrealistic. I
21 can tell you as a real estate broker -

22 MR. O'ROURKE: No, it is realistic.

23 MR. BERGER: I own my own real estate company and
24 I've been around for 35 years and I always say the
25 wetlands today could be dry land tomorrow. That has

1 happened. I can tell the appropriate boundaries in this
2 neighborhood that if they put a restaurant in there,
3 those values would go down.

4 MR. O'ROURKE: Absolutely.

5 MR. BERGER: So this is a major issue and I
6 cannot see a reversal on things now.

7 ACTING CHAIRMAN NARDACCI: No one here is talking
8 about reversal.

9 MR. BERGER: Maybe next month we'll end up having
10 a meeting about a restaurant. We can talk about the
11 economy because I understand the economy. You, as a
12 board, are responsible to make assurances to the
13 neighborhood.

14 MR. QUINN: Forgive me for speaking again but
15 when I asked for the sections, it was to clarify
16 heights and grades. However, I now notice a radical
17 change from that which was approved April of 2008.

18 At that time one of the key concerns - and we
19 spent a long time on this - - the effect of parking
20 lighting on the residents. We did some studies on it. I
21 am an architect and I tend to understand these a little
22 better than the average person on the street.

23 The condition was that we had fence that reduced
24 the impact of that lighting on the neighbors. The fence
25 that was drawn on the original plans last April was a

1 fence that permitted almost no light through. It was a
2 vinyl vertical fence; six foot high as I recall. The
3 fence now is a split-rail fence which lets all the
4 light through and so the neighbors will all be blinded
5 in their bedrooms.

6 ACTING CHAIRMAN NARDACCI: That's not my
7 understanding.

8 MR. QUINN: That's not a matter of understanding.
9 That's a fact.

10 MR. O'ROURKE: It says 6 foot vinyl.

11 MR. LANE: No, there's a split-rail next to the
12 parking lot and then beyond that is the vinyl.

13 MR. ZEE: There are two fences. One is a
14 split-rail fence and then on the outside there is the
15 vinyl fence.

16 MR. QUINN: I'm sorry. Once again, it wasn't
17 colored in so it wasn't visible. Now, we have two
18 fences; a vinyl and a split-rail fence. Thank you for
19 clarifying that. I do wish that you had colored it in
20 so that we could see.

21 ACTING CHAIRMAN NARDACCI: Anyone else?

22 MS. KNORR: I'm Gloria G. Knorr,
23 426 Albany-Shaker Road.

24 When the dumpsters come, the commercial dumpsters
25 are emptied at a different time as the other houses. On

1 Monday night at 5:00 in the morning the County Waste
2 comes through to pick up garbage. So, if I was living
3 in this house next to that dumpster, I would rather
4 look at the hill and the barn than I would County Waste
5 coming and emptying that dumpster.

6 ACTING CHAIRMAN NARDACCI: In the plans, as was
7 noted by Mr. Zee, there is a restriction on the notes
8 that any truck deliveries and trash pick up could be in
9 between 7:00 and 7:00.

10 MR. ZEE: That was part of the conditions of the
11 approval.

12 MS. KNORR: And being that both my grandparents
13 had barns and farms, what is going to happen to the
14 barn?

15 MR. O'ROURKE: He sold the barn, didn't he?

16 MR. ZEE: He hasn't done anything with the barn
17 at this point in time.

18 ACTING CHAIRMAN NARDACCI: Are there any other
19 comments or questions?

20 MS. ORDWAY: My name is Kathy Ordway. I live at
21 8 Clover Field. I and Jim Kitts are co-directors of the
22 Green Meadows Civic Association and we also have been
23 trying to make sure that all of the neighborhood is
24 notified of any public notice that comes out. We have
25 given Joe LaCivita and anybody else that can e-mail to

1 our e-mail addresses so that any notification can come
2 to us and Jim and I will make sure that it gets to the
3 whole neighborhood. We'd appreciate that notification.
4 We know that it's beyond the simple requirement of the
5 200-foot neighbors.

6 I wanted to ask in looking ahead who is
7 responsible for the property as it exists now? Is it
8 going to be Mr. Crisafulli's responsibility to remove
9 the abandoned cars? When do you think the demolition of
10 the building is going to happen? Is there any timeline?
11 Since we have lived there and look at the property
12 every day and we look for things. When the barn doors
13 were open, we all noticed that. Those barn doors are
14 open and something must be going on. Is there any sense
15 you can give us of the timeline of this project?

16 MR. ZEE: The timeline is all triggered based on
17 two major events - actually three major events.

18 First, is when we receive an approval from this
19 board.

20 Second is when we receive approvals from all the
21 other agencies, such as the Town of Colonie stormwater,
22 county health department, DPW, etcetera.

23 The next event - and we have no answer to this
24 right now - is when we find tenants. Unfortunately, we
25 had several parties that were interested but they have

1 since passed because of the economy and the passage of
2 time, etcetera. So, right now we don't have any
3 tenants.

4 We would anticipate that after a very short
5 period of time of getting all the improvements from the
6 town and regulatory agencies, Mr. Crisafulli will own
7 the property. I do not recall off the top of my head
8 the terms of the contract, but it's to the best of my
9 recollection that most of the materials on site are
10 going to be the responsibility of the current owners to
11 remove.

12 As I said at the initial meeting, we don't have
13 anybody interested currently with regard to the barn.
14 If someone steps forward, we'll handle it at that time.

15 ACTING CHAIRMAN NARDACCI: Would anyone else like
16 to comment or ask a question that has not yet
17 commented?

18 MR. KITTS: I'm Jim Kitts and I live at
19 5 Thistledown Court.

20 I want to thank Mr. Crisafulli. He's worked with
21 us for two years now. I think that we've made a lot of
22 changes since the beginning. There are still a lot of
23 questions that need to be addressed.

24 One of the questions that I had was the looks of
25 the building. We have pictures here. This one

1 (Indicating) is seen from Albany-Shaker Road. Is this
2 what is seen from the properties from the back? It
3 looks nice but I don't have the answer to that.

4 MR. PALLESCHI: This is the elevation all around
5 the building that's showing elevation of the front, the
6 rear and both sides. This (Indicating) is of the bank.
7 Here again are the four elevations of the proposed
8 medical office building (Indicating).

9 MR. KITTS: So the backside and the front side of
10 the medical office building are very similar in looks.

11 MR. PALLESCHI: Correct.

12 MR. KITTS: Just up the street from us we have a
13 tailor that really detracts from Loudonville, based on
14 the looks of it.

15 MR. PALLESCHI: Again, just to make note of the
16 HVAC units, the way that this is designed - how it goes
17 all the way around - the HVAC units are actually in the
18 middle hidden behind these peaks and the hip roofs and
19 all that. So they will be screened 100% on top of the
20 buildings.

21 MR. KITTS: We appreciate that. Our association
22 is interested in enhancement to the neighborhood.

23 That's what we're looking for.

24 We thank you very much.

25 ACTING CHAIRMAN NARDACCI: Is there anyone else

1 that would like to make a comment or ask a question?

2 MR. ST. JOHN: I'm Michael St. John. Half of my
3 property is lined with trees which line the property
4 site.

5 Now, when you dig down five or six feet on that
6 side, all the roots will be removed and the trees will
7 die. Do I have any recourse for when those trees when
8 they die?

9 ACTING CHAIRMAN NARDACCI: I think that's a big
10 question. Can you address the existing tree line?

11 MR. PALLESCHI: The existing tree line that he's
12 talking about pretty much is along the rear of the
13 property and it comes down this way. It's a double row
14 of pine trees and they're beautiful. They're going to
15 provide all the buffer that you need.

16 The retaining wall, what's proposed here, pretty
17 much starts 25 feet back from that property line. So,
18 from the top of the retaining wall you got an 8-foot
19 retaining wall and then again, you're coming up on a
20 one on three to a one on four slope where it buttons
21 off at the top. It will be graded, but not in effect
22 where we're going to be below the roots of those trees
23 and they'll be affected.

24 MR. ST. JOHN: I see an island. If there is a 12
25 or 14 foot pole, my bedroom is going to be lit up?

1 MR. PALLESCHI: No, as Don Zee mentioned this
2 whole site, you have to remember, is going to be
3 flattened out. It's going to be built into the site. So
4 you're 18 feet up here (Indicating). If you come back a
5 2% slope, you've got an 8-foot retaining wall and then
6 you come up on a one on three. You're not even going to
7 see the top of the light. On the side, it's pretty much
8 the same thing.

9 MR. ST. JOHN: The only other comment that I want
10 to make is if a restaurant goes in over there, my
11 property won't be worth much.

12 ACTING CHAIRMAN NARDACCI: Is there anyone else?

13 MR. ATTMORE: Bob Attmore, 46 Cloverfield Drive.

14 I just had a question about the setback. Is the
15 fence right on the property line?

16 MR. PALLESCHI: Yes, it is proposed to be a gray
17 or whatever color vinyl fence is proposed on the
18 property line. There is a stockade fence now. Now that
19 would just be replaced with vinyl fencing.

20 We have been in contact with National Grid and
21 there are power lines that run along the property line
22 here (Indicating). It was told to me that when you have
23 overhead power wires there is a common easement that
24 National Grid can have and that they do need to
25 maintain that. They remove the fencing and it's up to

1 the owner to replace that fencing back. That's common
2 practice as to what my conversation with National Grid
3 was.

4 ACTING CHAIRMAN NARDACCI: Is there anyone else
5 who would like to ask a question or make a comment that
6 has not spoken?

7 ***(There were no other comments from the floor.)***

8 ACTING CHAIRMAN NARDACCI: Does the board have
9 anything additional?

10 MR. LANE: I do have one question. On sheet
11 number four of six on the map the parking analysis -
12 the total required space would actually be 131, rather
13 than what's listed? You have the 128 provided so you
14 would need three spaces.

15 MR. PALLESCHI: They are required for 130 on
16 sheet four.

17 MR. LANE: What's required is 131. It's 68, 53
18 and 9. I get 131.

19 MR. PALLESCHI: Okay, 131.

20 MR. LANE: And what's provided is 128.

21 MR. ZEE: From the point in time with this plan
22 or the discussions with the town designated engineer
23 with regard to utilizing -

24 MR. LANE: Still, it has to be corrected on the
25 map.

1 MR. ZEE: This isn't the final map.

2 ACTING CHAIRMAN NARDACCI: Are there any other
3 questions?

4 MR. SULLIVAN: I had a question about the parking
5 as well.

6 Joe, did you mention that it could be reduced to
7 120?

8 MR. GRASSO: Based on the different types of uses
9 and the ability to share parking, we support a
10 reduction no less than 120. That's our recommendation.
11 We know that there are some other comments out there
12 regarding landscaping islands and snow storage that we
13 think that would further reduce the amount of parking
14 on this site.

15 ACTING CHAIRMAN NARDACCI: Mr. Zee, would you put
16 in the notes about the snow removal? If we act on this
17 tonight, we'll have to act on a parking waiver.

18 My final comment is that having pretty much been
19 through this since the get-go starting in September of
20 '07 and with the new board of January of '08, I know
21 that there has been a lot of back and forth. I know
22 that the developer has done quite a bit to talk to the
23 neighbors and that the neighbors had quite an impact on
24 this project.

25 From our standpoint, it's always tricky when you

1 deal with commercial projects that abut residential
2 neighborhoods, particularly on busy roads like
3 Albany-Shaker so there are a lot of things to consider
4 here. We try to do the best that we can to satisfy as
5 much as we can of residential comments. While we can't
6 satisfy everything, we try the best that we can to do
7 what we can to mitigate any negative impacts. I think
8 that with this project, partially that a lot of changes
9 have been made.

10 The fact that this board has worked with the
11 developer to not have a restaurant on site - I
12 understand that there are some folks in the audience
13 that would like to see it in the deed. There are
14 certain things that we can't impose on the developer
15 and that's something that we cannot impose. What we can
16 do is all that we can which is make sure that no
17 restaurant goes on the site without having to come
18 before this board. Now, while it would be nice to say,
19 look, you never have to worry about it forever is not
20 the reality of the situation. So, I think that we've
21 tried to do all we can to really mitigate the impacts.

22 I live in the neighborhood. This is a part of my
23 daily routine. Stewarts is part of my routine. People
24 speeding along Albany-Shaker - I understand that. I
25 think that what we have proposed here is a lot better

1 than what's there and what zoning actually allows for.
2 We've tried to do the best that we can to keep down any
3 negative impacts.

4 I think that the grading on the site and bringing
5 the lights down is very important and to make sure that
6 lights aren't cascading.

7 Preserving the tree line is very important and
8 working to fence off in conjunction with what the
9 neighbors wanted is important as well. So, I hope that
10 from my standpoint - and I know from Jean's
11 standpoint - we try the best that we can and other
12 board members to hear your concerns and to hold the
13 developer accountable to what you're talking about. We
14 appreciate you coming here tonight as well as everyone
15 giving their input because it's very important to hear
16 that and to make that play into our decision.

17 MR. O'ROURKE: I would like to make a motion to
18 approve contingent upon a couple of things.

19 First, that the snow removal be planned. I think
20 that it's fair that within a 24-hour period if there is
21 no room on site - which is kind of vague and I don't
22 know of a better way to word it - that it must be
23 removed from site.

24 The second is that all the conditions on the
25 conditional approval on the concept are met to include

1 the 3% grade, which again is to lower the site another
2 foot for the residents in the area.

3 MR. STUTO: I think that was in the minutes and I
4 don't think that it was in the conditions as they were
5 enumerated. I may be wrong about that but you can make
6 that a condition now - the 3% grade. It's in the
7 discussion, but I don't think that it's in the
8 conditions that are explicitly listed at the end.

9 MR. O'ROURKE: I'd like to make it a condition of
10 this approval and I also would like to put something in
11 because in terms of the waiver for parking and to
12 increase that waiver down as low as 120 as our town
13 designated engineer eluded to - to ensure that any
14 interior green spaces are taken care of.

15 MR. LANE: I think that if you reduce that
16 parking you could increase your storage space. That
17 would be very helpful.

18 ACTING CHAIRMAN NARDACCI: There is a motion
19 made.

20 Mike?

21 MR. LYONS: I just had a question. A couple of
22 the things that were discussed would be a connection to
23 the property to the west for the future; if that
24 commercial property were to be redeveloped. There was a
25 discussion as to whether a cross-access would be made.

1 MR. GRASSO: A cross-access easement. That was a
2 note that I had, too. That requires a decision by the
3 board.

4 ACTING CHAIRMAN NARDACCI: Mr. Zee, is that
5 something that you would consider?

6 MR. ZEE: We would consider it. There are things
7 that I want to make sure about because now you're
8 talking about reducing the waiver of parking down to
9 120.

10 I would assume that the only areas that we would
11 be looking to place that cross-easement area would be
12 where we are having parking spaces. If we are then
13 going to reduce the number of parking spaces, I don't
14 want us to be substandard by way of the approval.

15 MR. GRASSO: The way that we would work that is
16 that obviously, that cross-access connection would have
17 to come back before the Planning Board and they would
18 be able to review your parking at that time and be able
19 to support a further reduction of it.

20 MR. ZEE: We would grant the easement. We would
21 obviously want the other party to share in the cost of
22 constructing the cross-easement access. I think that
23 with your permission as a board that we would like to
24 sit down with a representative of the town because in
25 the future we need someone from a liability standpoint

1 to talk about having some sort of insurance on the
2 cross-connection aspect of it all. I just think about
3 liability purposes and also thinking about entering
4 into a cross-maintenance agreement as well. I just want
5 to have the fundamentals of that understood that we
6 have no problems with it, but I think that the items
7 that I'm asking for, Peter, are things that attorneys
8 would ask for. Otherwise we have no problems with it.

9 MR. LYONS: The other thing was the stacking for
10 the drive through aisle was considered parking area,
11 which that is covered under the parking stats - or is
12 it considered pavement and therefore subject to the
13 setback? The board has to make their decision with
14 regards to the interior greenspace or with regards to a
15 waiver of the pavement setback and on the side
16 property.

17 MR. O'ROURKE: Well, we just gave him additional
18 space reduction. So, fix the greenspace.

19 MR. GRASSO: Our recommendation would be not to
20 count it towards interior landscaping.

21 MR. ZEE: If we are treating this as parking,
22 there are two items there.

23 First is the greenspace requirement and the
24 second one is whether we can be granted a waiver from
25 using this driveway within ten feet of the property

1 line.

2 MR. LYONS: Because stacking is covered under the
3 parking regulations of the land use code. So, we
4 consider it a form of parking.

5 MR. LANE: So you still need a waiver.

6 MR. STUTO: So there is a side setback waiver.

7 MR. LANE: So is that a separate motion?

8 MR. STUTO: No, that's part of the same motion.

9 MR. O'ROURKE: Yeah, I can make the same motion
10 as conditioned.

11 MR. STUTO: Don, did you want this conditioned
12 upon a satisfactory explanation of the mitigation which
13 I'm going to research and come back to you with?

14 MR. O'ROURKE: That would have been my third
15 point.

16 MR. LANE: I'll let Joe read it back

17 MR. LACIVITA: I had five points. One was the
18 snow removal. If a fair amount climbs up that needs to
19 be removed in a 24-hour period; it should be removed.

20 Also, the satisfactory condition of the April 8th
21 minutes be addressed.

22 There is the cross-access easement that needs to
23 be addressed. But we also have to consider the other
24 party funding those changes or improvements and so on.
25 I think that you have to talk the legalese in figuring

1 that out.

2 There is also the waiver for the side yard
3 setback for the parking and the stacking.

4 Then I have one was the - - I think I may have
5 missed it.

6 ACTING CHAIRMAN NARDACCI: The parking.

7 MR. LACIVITA: No, the one that Peter mentioned.

8 MR. STUTO: Satisfactory explanation of the
9 statuses and mitigation of fees. You also have the 3%
10 grade.

11 MR. O'ROURKE: Which is also part of those
12 conditions. That's why I didn't go through them one by
13 one.

14 MR. LACIVITA: That's all part of the eight
15 conditions.

16 MR. STUTO: Where is that in the eight? It was in
17 the discussion, but it wasn't in the minutes.

18 MR. O'ROURKE: I thought it was in the minutes.

19 MR. STUTO: It in the discussion of the minutes
20 and then they list out eight specific conditions at the
21 end.

22 ACTING CHAIRMAN NARDACCI: It's not one of the
23 eight conditions, but it's in the discussion. So, we
24 should incorporate that into that.

25 MR. O'ROURKE: So incorporate that as a separate

1 condition to the other eight conditions.

2 MR. STUTO: And the increasing of the internal
3 greenspace. I don't know if that's part of the parking
4 waiver.

5 MR. O'ROURKE: So, Joe, you will work with them
6 in terms of that reduction in the parking?

7 MR. GRASSO: Yes.

8 MR. LACIVITA: What is the dumpster issue that
9 Joe was addressing?

10 MR. GRASSO: Tim raised a comment about the
11 office building having a dumpster in close proximity to
12 that building. Then there were some board members that
13 felt like the dumpster should all be consolidated into
14 one location, so I just had a question as to where we
15 ended up. Do we need one larger consolidated that's
16 more proximate to both buildings? Is the current
17 location acceptable? Is the size acceptable?

18 ACTING CHAIRMAN NARDACCI: Joe, what is your
19 recommendation on that?

20 MR. GRASSO: I really think that the office
21 building should have a dumpster. In terms of
22 recyclables, you generally have your own recyclable
23 container now. That area is relatively small.

24 ACTING CHAIRMAN NARDACCI: I think that the
25 reason that the dumpster is on this side was in

1 consideration of discussions with the neighbors.

2 MR. LANE: If you place it on the east side of
3 the building, is it even going to be visible because of
4 the grade?

5 MS. BINSSE: First, he's moved the building over
6 so that it's closer and now we're going to have the
7 dumpster next to us.

8 ACTING CHAIRMAN NARDACCI: No, leave the dumpster
9 alone.

10 MR. LANE: I don't see how it's going to be just
11 one dumpster, but okay.

12 MR. O'ROURKE: I'll make a motion with the set of
13 conditions.

14 ACTING CHAIRMAN NARDACCI: Okay, there's been a
15 motion with a set of conditions. Is there a second?

16 MR. HOLLAND: I'll second the motion with all the
17 conditions.

18 ACTING CHAIRMAN NARDACCI: Okay, George.
19 All in favor?

20 ***(Ayes were recited.)***

21 ACTING CHAIRMAN NARDACCI: Any opposed?

22 ***(There were none opposed.)***

23 ACTING CHAIRMAN NARDACCI: I have to abstain from
24 this project as I did during the concept not because
25 I've done work directly with Mr. Crisafulli, but

1 because I have done work on a project of his through
2 another client. I just want to make that clear. I have
3 to abstain from this vote.

4 Okay, the vote was carried.

5 Thank you very much and thank you for coming in
6 tonight.

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(Whereas the proceeding concerning the above
10 *entitled matter was adjourned at 9:07 p.m.)*

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CERTIFICATION

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

NANCY STRANG-VANDEBOGART

Dated June 20, 2009