

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

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5 THE HERTZ RAC EXPANSION  
6 851 - 859 OLD ALBANY SHAKER ROAD  
7 REVIEW AND ACTION ON CONCEPT SUBMISSION  
8 \*\*\*\*\*

9 THE TAPED AND TRANSCRIBED MINUTES of the above  
10 entitled proceeding BY NANCY STRANG-VANDEBOGART  
11 commencing on June 8, 2010 at 8:10 p.m. at the  
12 Public Operations Center  
13 347 Old Niskayuna Road, Latham, New York 12110

10

11 BOARD MEMBERS:

12 CHARLES J. O'ROURKE, ACTING CHAIRMAN  
13 MICHAEL SULLIVAN  
14 ELENA VAIDA  
15 TIMOTHY LANE  
16 PAUL ROSANO  
17 TOM NARDACCI  
18 PETER STUTO, Jr. Esq., Attorney for the Planning  
19 Board

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18 Also present:

19 Joe LaCivita, Director, Planning and Economic  
20 Development

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21 Skip Francis, C.T. Male

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22 Brad Grant, Barton and Loguidice

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1                   CHAIRMAN O'ROURKE: Next on the agenda is  
2 the Hertz expansion, 859 Old Albany Shaker  
3 Road. It's a redevelopment of two parcels for  
4 expanded car rental. This is an 11,500 square  
5 foot office and carwash facility. They are  
6 looking for a review and action on their final  
7 submission.

8                   Joe?

9                   MR. LACIVITA: I'll turn it over to Skip  
10 and he can summarize everything.

11                  MR. FRANCIS: Good evening. My name is  
12 Skip Frances with C.T. Male. We represent the  
13 site engineering for this project. The  
14 architect is Burns and McDonnell from Kansas  
15 City, Missouri.

16                  With me tonight are two representatives  
17 from Hertz. One local operations manager and  
18 also a representative from the Corporate  
19 Office in Park Ridge New Jersey.

20                  In summary, the last time that this  
21 project was viewed by this board was last  
22 summer where we closed SEQRA and were granted  
23 concept acceptance on July 14th. Since that  
24 time I just want to summarize that we have  
25 made two submissions and have had three TDE

1 comment letters to address the plans. We have  
2 advanced since the concept plan. We've  
3 advanced this project through the detailed  
4 engineering phase.

5 With regard to the water connections  
6 dealing with Latham Water District, we have  
7 coordinated with them and the TDE. We have  
8 developed a stormwater management program.

9 We have developed site lighting with cut  
10 off lighting and those details are in the  
11 plans, as well as the lighting plan itself.

12 We have increased the landscaping from  
13 our initial concept plan. We've also added  
14 pedestrian and other amenities like a bike  
15 rack as well. A sidewalk has been added up  
16 front near the bike rack.

17 Over this time frame, the site layout  
18 itself has not changed since the last time  
19 that this Planning Board has reviewed the  
20 project. Through this period, we've worked  
21 closely with the TDE and the town departments  
22 to address each of their reviews. At this  
23 time, we feel that the project is fully  
24 engineered and the TDE and town departments  
25 have concurred with this design with regard to

1 their comments that they have given us so far.

2 The town has received the applicant's  
3 payment for funding the TDE escrow account. We  
4 also understand the GEIS mitigation fees have  
5 been assessed. I believe that they were  
6 assessed in March. CDTC released those to the  
7 PEDD. It's my understanding that at this time  
8 the DPW commissioner needs to yet approve  
9 that. So, it's been done and as soon as we get  
10 final approval on that assessment, our  
11 applicant will be willing to fund.

12 CHAIRMAN O'ROURKE: Joe, what was the  
13 traffic -?

14 MR. LACIVITA: I was looking for that  
15 myself, C.J. I didn't see it in here.

16 CHAIRMAN O'ROURKE: Do you have the  
17 breakdown, sir?

18 MR. FRANCIS: I don't know what the  
19 breakdown is. I know that the total was about  
20 \$8,000 roughly; water, sewer and traffic.  
21 Actually, the breakdown with respect to  
22 traffic is zero because the traffic impacts  
23 were documented in the narrative. The proposed  
24 traffic impacts are less than it would have  
25 been as two separate parcel operations for

1 rent a car facilities.

2 I did get a verbal from Mike Lyons on  
3 those amounts and I do know that he has  
4 forwarded those to the commissioner.

5 Tonight we're here to ask for  
6 consideration of final acceptance so that this  
7 project can advance for further permitting and  
8 preparation of contract for bid documents.

9 A couple of the permits that are  
10 remaining are at the Albany County DPW - a  
11 non-utility driving work permit. We have  
12 initiated correspondence and review with  
13 Albany County DPW. They require a final action  
14 from this Planning Board before they can issue  
15 a permit.

16 Other than that, we ask for your  
17 consideration for final acceptance and we're  
18 happy to answer any questions that you may  
19 have on the documents before you.

20 Brad Grant from Barton and Loguidice can  
21 also weigh in as well.

22 CHAIRMAN O'ROURKE: Thank you.

23 Brad?

24 MR. GRANT: It seems as though it was  
25 last summer when we got together. One of the

1 first things that we met with Skip on -- it  
2 was a good idea to go over the conceptual  
3 stormwater management plan for this project.  
4 It is a redevelopment in project. It was  
5 originally looking at redevelopment for  
6 essentially the two parcels. The redevelopment  
7 chapter can apply. Essentially there is less  
8 strenuous requirements for water quality  
9 treatment if it can be proven that you can't  
10 do what the permit would require for a  
11 non redevelopment project. That was true on  
12 the southerly portion of the project. There  
13 was some impervious area there, but there was  
14 also room to the east for what I would call  
15 the full treatment for stormwater management.  
16 There were no underlying limitations from soil  
17 or wetlands or other obstacles that could not  
18 be overcome. One should do the full treatment  
19 which C.T. Male has engineered to our  
20 satisfaction.

21 We have issued a comment letter dated  
22 May 19<sup>th</sup> of the various documents for review. I  
23 believe that comments from town staff were the  
24 second round. They were the most meaningful  
25 from the Planning Department. The town

1           comments at this stage are basically down to  
2           process and procedures that would be needed to  
3           look toward the construction stage. In  
4           general, I'll call this a housekeeping item.  
5           We wanted some additional labeling for  
6           proposed contours on the north side of the  
7           site. It was a little difficult to read. There  
8           were some standard town notes that we would  
9           want to get on the sheet for the site plan.  
10          The applicant will bear the sole  
11          responsibility for insuring that all  
12          improvements are completed and maintained in  
13          accordance with approved plans, specifications  
14          and standards. I know that the CO will not be  
15          issued until all requirements are  
16          satisfactorily completed and the Planning  
17          Department has issued a written authorization  
18          to the Building Department. There is another  
19          on the site lighting which they have carried  
20          through on their lighting plan. There is a  
21          note that reiterates that.

22                 Comments three and four are again  
23          procedural items that the applicant will have  
24          to do to progress to construction. Four has to  
25          do with the RPZ reduced structural zone on the

1 back-flow preventers and the process that they  
2 will have to go through with the town and with  
3 the New York State Health Department.

4 Planning's comments talk about the  
5 mitigation fees, but don't put that dollar  
6 value to it. I don't think that at this stage  
7 that was a known amount.

8 MR. LACIVITA: We have something here  
9 although it's not signed or dated here. We're  
10 looking at about an \$8,248. I can't confirm  
11 that amount because it hasn't been signed off.

12 CHAIRMAN O'ROURKE: I am a little  
13 bothered because here it is final and if the  
14 board acts and moves forward and it's \$8,000  
15 and it should be \$88,000 -- don't look at me  
16 like that, Skip. It has happened; trust me. It  
17 hasn't happened to the good to the taxpayers.  
18 I'm very leery any time I go through my packet  
19 and I ask the question of what are the  
20 mitigating fees and everybody says, I don't  
21 know, but we'll take final though.

22 As I look at it, I just found that credit  
23 will be given for the existing uses, in terms  
24 of the GEIS mitigating fees. It's in the  
25 March 19, 2009 C.T. Male document. It says

1           that the site within the airport area GEIS  
2           study area - mitigation cumulative impacts  
3           will be required in accordance with the GEIS  
4           statement of findings. The credit will be  
5           given for the existing uses.

6                     Again, I'm not saying that it doesn't  
7           make sense. We want the redevelopment of the  
8           sites, but if the cumulative impact is in fact  
9           less on those two lots being combined into  
10          one, it doesn't make sense to me that the  
11          traffic portion of the mitigating fees are  
12          being waived. We can't blame that one on Bob  
13          Mitchell.

14                    MR. GRANT: I have not been involved in  
15          that mitigation fee process, to be quite  
16          honest with you. I would have thought that it  
17          would have settled itself out by now.

18                    MR. FRANCIS: In looking at the narrative  
19          under traffic on page four. Let me just  
20          explain the way that we evaluated traffic on  
21          this site. .

22                    The north lot was a National Car Rental  
23          operational facility. The existing Hertz,  
24          operates on the south lot. The existing Hertz  
25          operation has about 340 vehicle trips per day.

1 This is based upon Hertz being right next door  
2 with a slightly smaller operation for  
3 National. We assumed a conservative estimated  
4 amount of 220 vehicles per day. Add those two  
5 together and it came up with our existing  
6 condition of 560 vehicle trips. Now, under  
7 this project, Hertz is going to occupy both  
8 parcels. They are going to expand their  
9 facilities from what used to be 340 trips a  
10 day up to 450 with both lots. The 450 is still  
11 lower than the previous existing uses of both  
12 Hertz and National. Hertz is expanding, but  
13 not expanding enough to supersede or go above  
14 what was there at one time. That's where CDTC  
15 is giving some consideration. It's not  
16 necessarily a credit, but it is less of an  
17 overall impact such that they are not going to  
18 assess any traffic itemization number to zero  
19 for this. This is my verbal account of it but  
20 again, it's not approved and signed but it's  
21 up to the Commissioner to approve -

22 CHAIRMAN O'ROURKE: See, Skip, I have no  
23 reason not to believe what you're saying. In  
24 my packet, I should have had something from  
25 CDTC. You know what I'm saying? Is that

1 reasonable?

2 MR. FRANCIS: That is certainly  
3 reasonable. If it's possible to stipulate that  
4 as a condition upon final acceptance tonight  
5 that CDTC fees are assessed and approved by  
6 the Commissioner, those fees would be paid by  
7 our applicant.

8 MR. NARDACCI: The problem with that is  
9 that we conditioned the concept acceptance  
10 based on the mitigation fees. It's not like it  
11 wasn't an issue. It's something that we  
12 actively talked about and we thought enough of  
13 it because we didn't have the information at  
14 that time to condition concept on this. I just  
15 haven't seen this where we don't have the  
16 numbers and we don't have the accounting on  
17 it.

18 CHAIRMAN O'ROURKE: Skip, we have  
19 developers in here and trust me, they are more  
20 concerned about what their mitigating fees are  
21 because that's part of their budget. They have  
22 to know.

23 MR. NARDACCI: And it's \$8,000 and you're  
24 saying - like C.J. said, how are we to know if  
25 it's \$8,000? It's just a verbal. It could be

1           \$80,000.

2           CHAIRMAN O'ROURKE: I'm going to let the  
3 board speak on it, but for me personally, I'm  
4 not comfortable giving a final on a condition  
5 that we gave you at concept. There were a  
6 couple of conditions on concept. One was  
7 confirming with the Army Corp about the ditch;  
8 if my memory serves me right.

9           MR. GRANT: Correct.

10          CHAIRMAN O'ROURKE: What was on the  
11 mitigating fee impact because of the  
12 redevelopment? I know that the Supervisor had  
13 been working on some redevelopment and  
14 reducing greenspace and mitigating fees and  
15 those things across the board to encourage  
16 redevelopment. But then when we get to this  
17 point where we're at final, it's final. If we  
18 tell you it's \$20, then you pull your wallet  
19 out and give us \$20. If it's \$20,000 the  
20 people sitting in the audience pay. So, I just  
21 think that we have to be careful. I'm just not  
22 comfortable that the board has all the  
23 information that we need to do this tonight.

24          Elena?

25          MS. VAIDA: I was just looking at it. In

1 April of this year from Planning and Economic  
2 Development it's talking about what would be  
3 needed before issuance of final Planning Board  
4 approval. The first item is contribution of  
5 proportionate share of funds for mitigation of  
6 cumulative impacts. It's like the first thing  
7 there. The merger deed - I assume that's been  
8 done.

9 MR. FRANCIS: That's in the process of  
10 being completed.

11 MS. VAIDA: A copy of the Albany County  
12 DPW Highway work permit?

13 MR. FRANCIS: We have initiated review  
14 with the Albany County DPW. In fact, as stated  
15 in my letter dated May 28th for this  
16 submission, the Albany County DPW has provided  
17 correspondence dated April 19<sup>th</sup> in their letter  
18 to us. Proof of Planning Board acceptance of  
19 project due to the requirement for ACPD will  
20 issue a highway permit.

21 So we need action from this board before  
22 they will issue a permit. But it is a permit  
23 that we need to get; yes.

24 With respect to GEIS fees and payment of  
25 that, I understand that we pay those in

1 thirds.

2 CHAIRMAN O'ROURKE: That's correct.

3 MR. FRANCIS: So we have to have final  
4 action by this board first and one-third will  
5 be due upon final acceptance, one-third at  
6 building permit and one-third at CO.

7 CHAIRMAN O'ROURKE: You're right in that,  
8 but once this board grants this final,  
9 one-third of those funds are due. We don't  
10 know what that number is.

11 MR. LACIVITA: I've got to believe that  
12 the number is \$8,248. I looked through the  
13 file here and January 4, 2010 a letter from  
14 the Capital District Transportation Committee  
15 came to Mike Lyons and was CC'd to Bob  
16 Mitchell.

17 In response to your request of  
18 May 13, 2009, CDTC staff has reviewed the  
19 traffic impact of the proposed business  
20 expansion from the perspective of Albany  
21 County Airport FGEIS statement of findings.  
22 The Town of Colonie Comprehensive Plan and  
23 CDTC's regional transportation plan vision  
24 2030. The traffic impact was determined by the  
25 information provided by the applicant, which

1 Skip just read.

2 CDTC's understanding is that the proposed  
3 project involves the construction of a new  
4 administrative vehicle maintenance building, a  
5 new car wash facility and a guard house. The  
6 project proposed is the redevelopment of two  
7 parcels at 851 and 850 Old Shaker Road into a  
8 single Hertz facility. The parcel at  
9 859 Old Albany Shaker Road was formerly used  
10 by National Car Rental and is currently  
11 vacant. The narrative explained that the new  
12 trips generated by the Hertz expansion would  
13 be less than the trip generation from the  
14 former National Car Rental operation. For  
15 these reasons there will be no transportation  
16 mitigation required for this project.

17 That coincides for why we are seeing only  
18 \$8,248 because there is no transportation  
19 component. It looks to be strictly water based  
20 on the use of the vehicle. We are waiting, in  
21 fact, on signed approval from the Commissioner  
22 of DPW.

23 CHAIRMAN O'ROURKE: This is at final. Has  
24 Jack Cunningham been out of the country?

25 MR. NARDACCI: That letter dated May 9<sup>th</sup>?

1 MR. LACIVITA: No, this is actually from  
2 January 4, 2010 and it's in response to Mike's  
3 letter dated May 13, 2009.

4 CHAIRMAN O'ROURKE: Brad, you didn't look  
5 at traffic, so we're taking the applicant's  
6 word.

7 Again, Skip, it's not that I don't trust  
8 you, but I have a responsibility to the  
9 taxpayers.

10 Just so that I'm understanding this  
11 problem, the applicant goes in and says I'm  
12 redeveloping these two parcels. Oh, by the  
13 way, my traffic is less than what used to be  
14 here. He sends it in and then nobody at the  
15 town level looks at it. So, if those numbers  
16 are off

17 MR. GRANT: We looked at the narrative  
18 which had those numbers on it.

19 CHAIRMAN O'ROURKE: Is that reasonable to  
20 you?

21 MR. GRANT: Yes.

22 MR. LACIVITA: That's also the role of  
23 CDTC to take that narrative - they are under  
24 contract by the Town of Colonie as the MPO.  
25 They do that. They make all the assessments on

1 our mitigation fees.

2 CHAIRMAN O'ROURKE: Right, on the traffic  
3 portion.

4 MR. LACIVITA: Right, and that's why they  
5 did review it, according to this letter that  
6 is dated. They agreed that the numbers and the  
7 review of the traffic - that no transportation  
8 mitigation is required for the project.

9 MR. FRANCIS: That's been our  
10 understanding, too. It's CDTC's decision to  
11 make a recommendation and their review of our  
12 information as well as the TD that had  
13 reviewed it. Based upon their written  
14 recommendation to the DPW of this town, it  
15 just needs to be signed off. It's an  
16 administrative step at this point. We know  
17 what the counts are.

18 Thank you, Joe, for reading that into the  
19 minutes. I was not aware of the January date.  
20 I thought that it was March.

21 CDTC has reviewed those and concurred  
22 with those as did the TDE. At this point I  
23 would ask you to consider that this be just an  
24 administrative effort. I will go on the record  
25 that we will pay them and the documentation

1 has been made. We're just waiting for the  
2 administrative sign-off by the current  
3 commissioner, at this point. Once that is  
4 done, we'll get the first one-third check in  
5 for the payment as the first third is due on  
6 final acceptance. If that gives the board any  
7 comfort in rendering a final action, you can  
8 put it in as a condition, if you like. I think  
9 that there is ample documentation.

10 MR. LANE: This isn't a real question on  
11 this, but I have a concern. I just wouldn't  
12 want to set a precedent on this. I do have a  
13 concern. I do appreciate what you're saying  
14 though. It is a procedural thing, but that's  
15 the purpose. Otherwise, I don't have any  
16 questions.

17 CHAIRMAN O'ROURKE: Brad, you did get  
18 this April 6<sup>th</sup> memo from Planning?

19 MR. GRANT: Yes.

20 CHAIRMAN O'ROURKE: Contribution of  
21 proportionate share of mitigating funds,  
22 merger deed in accordance with the town's  
23 assessor's office memo.

24 MR. GRANT: I haven't seen the CDTC's  
25 January 4<sup>th</sup> letter or the \$8,248.

1                   CHAIRMAN O'ROURKE: The biggest thing  
2                   that I'm trying to do now is to figure out how  
3                   the town has set up a TDE review process. He's  
4                   missing some. There are things that he should  
5                   have seen because this is from a department  
6                   saying that these items are required prior to  
7                   issuance of final Planning Board approval.  
8                   That's in our packets, but yet there is no  
9                   letter from CDTC. Again, I'm sure what Joe  
10                  read into the record -- Brad, in terms of the  
11                  overall project - it's mainly housekeeping?

12                 MR. GRANT: Yes.

13                 CHAIRMAN O'ROURKE: Mike, what are your  
14                 thoughts?

15                 MR. SULLIVAN: I had no questions on the  
16                 project. I'd like to commend the applicant for  
17                 working so well with the TDE. As far as the  
18                 other items, I understand that we don't want  
19                 to set a precedent. I would agree with that.  
20                 If it's required prior to issuance of the  
21                 final Planning Board approval, we should have  
22                 that in front of us. That's all I had. I had  
23                 no other questions on the project itself.

24                 MS. VAIDA: I also had a question on the  
25                 short environmental assessment form that was

1 filed back last summer, I guess.

2 Have there been any changes or  
3 developments that would change any of your  
4 answers that you gave last summer on this  
5 form? Can you sort of recertify that this is  
6 as accurate today as it was last year?

7 MR. FRANCIS: Yes, we can. Nothing has  
8 changed.

9 CHAIRMAN O'ROURKE: Actually, Brad, I did  
10 have one question. The sewer laterals from the  
11 other building - was there a determination of  
12 what they're doing with those?

13 MR. GRANT: Yes.

14 CHAIRMAN O'ROURKE: So they're all good?

15 MR. GRANT: Yes.

16 CHAIRMAN O'ROURKE: I guess that it  
17 depends on how the board feels about the  
18 mitigating funds. I feel a little bit better  
19 that Joe read into the record that traffic  
20 portion from CDTC.

21 MR. NARDACCI: C.J., can we ask for the  
22 breakdown of the 8,000 number? What does that  
23 mean and where does that come from?

24 MR. LACIVITA: It's only the commercial  
25 water use. It's 1.92 as the cost per unit and

1 the units estimated by Latham Water is \$4,296.  
2 Therefore, we come up with a cost of \$8,238.

3 MR. NARDACCI: And there would be no  
4 other components to that?

5 MR. LACIVITA: There is no recreational  
6 component, no water, the GEIS preparation is  
7 zero.

8 MR. NARDACCI: Just having Joe read that  
9 whole piece from CDTC that fully says that  
10 they agree with the applicant and that the  
11 number is in fact zero for the traffic -- if  
12 that's the only other component, it's  
13 reasonable that's the number. There is an  
14 administrative process where it has to be  
15 signed off by the department head. I've been  
16 very pleased with the whole project, as a  
17 whole. It's a redevelopment project.

18 As C.J. said, we've really spent a lot of  
19 time really trying to push redevelopment  
20 projects and really working with the  
21 applicants and it's a high quality project.  
22 It's a high quality company.

23 I think that said, my personal feeling is  
24 that based on CDTC's letter, I would find that  
25 we could move forward with a condition on this

1 final. Even though I'm not happy that the  
2 condition was already on this and that we  
3 should already have this information. Overall,  
4 I'm okay and I don't want to hold this up,  
5 myself.

6 CHAIRMAN O'ROURKE: No, and I don't want  
7 to hold the applicant up for \$9,000.

8 MR. NARDACCI: I think that precedent is  
9 precedent, but I think that reasonable is  
10 reasonable.

11 CHAIRMAN O'ROURKE: I agree that there  
12 has to be reasonableness. Again, I'm just a  
13 little dismayed again that within our  
14 departments -- if it was their 401K money,  
15 that paper would be in my packet; trust me.  
16 Sometimes when it's the applicant's money, it  
17 doesn't seem to be earth shattering. I will go  
18 forward.

19 How do you feel, Mike?

20 I'm going to just poll everyone.

21 MR. SULLIVAN: I'm not opposed provided  
22 that all TDE and PEDD comments are addressed  
23 and this would be one of them. I would not be  
24 opposed to that being a condition. I can't  
25 speak for the rest of the board.

1                   CHAIRMAN O'ROURKE:   Tim?

2                   MR. LANE:    What is counsel's view?

3                   MR. STUTO:   I think that it would be  
4                   fine.

5                   MR. LANE:    Then I'm okay with it.

6                   CHAIRMAN O'ROURKE:   Elena?

7                   MS. VAIDA:   I agree with Mike that as  
8                   long as the conditions are satisfied that were  
9                   listed in the memos, I'm not opposed.

10                  MR. GRANT:   The TDE comment letter, PEDD,  
11                  and essentially all the other departments need  
12                  to sign off on it. There was a Latham Water  
13                  comment procedurally on the PRZ and I kind of  
14                  reiterated it in my letter.

15                  CHAIRMAN O'ROURKE:   That's not a huge  
16                  thing, though.

17                  I would like for Joe to make a note that  
18                  says if the list says that these items must be  
19                  met prior to final, it shouldn't even hit the  
20                  agenda unless those items have in fact been in  
21                  the package for the board to review. I think  
22                  that's reasonable as well.

23                  That said, I will make the motion with  
24                  the conditions proposed that the TDE comment  
25                  and the PEDD comments are addressed.

1 Do I have a second?

2 MR. NARDACCI: I'll second.

3 CHAIRMAN O'ROURKE: All those in favor?

4 ***(Ayes were recited.)***

5 CHAIRMAN O'ROURKE: All those opposed?

6 ***(None were opposed.)***

7 CHAIRMAN O'ROURKE: Good luck, gentlemen.

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9 ***(Whereas the above entitled matter was***

10 ***concluded at 8:41 p.m.)***

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**CERTIFICATION**

*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.*

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**NANCY STRANG-VANDEBOGART**

*Dated July 7, 2010*