

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

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5 PAESAN'S PIZZERIA & RESTAURANT  
6 1225 CENTRAL AVENUE  
7 REVIEW AND ACTION ON SEQRA  
8 AND FINAL SITE PLAN APPROVAL

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11 THE TAPED AND TRANSCRIBED MINUTES of the above  
12 entitled proceeding BY NANCY STRANG-VANDEBOGART  
13 commencing on September 14, 2010 at 7:04 p.m. at  
14 the Public Operations Center 347 Old Niskayuna  
15 Road, Latham, New York 12110

16

17 BOARD MEMBERS:

18 CHARLES J. O'ROURKE, CHAIRMAN  
19 MICHAEL SULLIVAN  
20 TIMOTHY LANE  
21 ELENA VAIDA  
22 PETER GANNON  
23 PAUL ROSANO  
24 PETER STUTO, Jr. Esq., Attorney for the Planning  
25 Board

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27 Also present:

28 Joe LaCivita, Director, Planning and Economic  
29 Development

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31 Brad Grant, Barton & Loguidice

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33 Daniel Hershberg, Hershberg & Hershberg

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1                   CHAIRMAN O'ROURKE: Next on our agenda is  
2 Paesan's Pizzeria and restaurant at  
3 1225 Central Avenue. It is a 3,352 square foot  
4 pizzeria restaurant. They are looking for  
5 review and action on SEQRA and final site plan  
6 approval.

7                   Joe, anything to bring the board up to  
8 date on?

9                   MR. LACIVITA: Just so the Board knows,  
10 concept acceptance was granted on  
11 March 9, 2010. It's here for final tonight  
12 based on the fact that the TDE and Planning is  
13 satisfied with all the comments that they made  
14 to date, and they have been placed on the  
15 agenda for final.

16                  CHAIRMAN O'ROURKE: Mr. Hershberg, I  
17 would like to tell you that we did get a call  
18 from somebody on Wilson Avenue today and they  
19 are ecstatic that those wretched buildings  
20 have come down.

21                  MR. HERSHBERG: They're finally coming  
22 down.

23                  CHAIRMAN O'ROURKE: Bring us up to speed,  
24 please.

25                  MR. HERSHBERG: Thank you, Mr. Chairman.

1 My name is Daniel Hershberg and I'm with  
2 Hershberg and Hershberg and I'm here  
3 representing Paesan's Pizza.

4 The major concern that we had here had to  
5 do with New York State DOT's approval of  
6 another access on this block. There is a  
7 driveway about five feet in front of our  
8 parcel. We had originally had a driveway on  
9 this side of the parcel, coming down here so  
10 that the parking could be immediately adjacent  
11 to the building (Indicating). DOT said no and  
12 so we moved the driveway over. We have  
13 verified that a box truck can make it around  
14 here and a dumpster truck can make a move  
15 around here. A tractor trailer - Mr. Scavio  
16 says that they will not be coming during times  
17 where there are any cars parked, in which case  
18 a tractor trailer could make it. The only  
19 deliveries that would be made would be about  
20 9:00 in the morning before it opens. We're  
21 restricted on our hours by our variance to not  
22 open for service before 11:00 a.m. and close  
23 by 11:00 p.m.

24 The question of access into the site - we  
25 do have a sign here that says no right hand

1 turns so that the trucks enter and go back out  
2 to Central Avenue. We have checked with the  
3 neighbors and in the past the question was: Do  
4 we want a fence here? It was her opinion, the  
5 last time that I checked, that she still wants  
6 us to put the green screen in and does not  
7 want a fence. She's here tonight and I think  
8 that we can ask her again. She agreed to that.

9 We are planting a screen in here  
10 Indicating). These are actually spruces. We do  
11 have a fairly intense planting plan. I called  
12 for three oaks on the side here. They are  
13 relatively large trees. They asked me to  
14 change it. So, we changed them to crabapples.  
15 This is very intensely planted, even though it  
16 looks small, we have some significant size  
17 growth. Essentially we think that this is a  
18 very nice landscaping plan.

19 We do have irrigation on this area that's  
20 going to be planted. We do not intend to  
21 irrigate the back part. We think that the  
22 spruces will do fine in there and we'll leave  
23 the balance of what is in place. So, there is  
24 no reason to irrigate that back lot.

25 We do show a patio here for outdoor

1 eating (Indicating). That hasn't changed since  
2 our concept approval. A question was raised  
3 about screening. Unfortunately, the architect  
4 is on vacation, Lorenzo is in the hospital or  
5 the doctor's office, so I'm stuck filling in  
6 this elevation view, which you probably can't  
7 even see.

8 Actually, from a color standpoint,  
9 Paesan's colors are this black band and a  
10 cream color above and another cream color  
11 below. It's similar to the other Paesan's  
12 pizzas. We do show a screen wall and it's all  
13 mechanical equipment on the roof.

14 If there are any questions by the Board,  
15 I would be happy to answer them.

16 CHAIRMAN O'ROURKE: Brad?

17 MR. GRANT: We submitted to the Town a  
18 comment letter dated September 7<sup>th</sup> including  
19 all the other documents that you have before  
20 you. I won't go into them in detail.

21 In the submittal package, there was a  
22 revised EAF that was in the response letter.  
23 Subsequently, with the e-mail and technology,  
24 we've worked through some of the Town's  
25 responses to the revised EAF that were sent

1 over.

2 I'm not going to go through every comment  
3 unless someone wants to touch on them.

4 I've had several conversations with  
5 Mr. Cunningham. We've been in contact with  
6 Mark Kennedy. I think June 18<sup>th</sup> was the last  
7 letter that I saw from DOT.

8 There were two facets of their approval.  
9 One is the actual driveway and curb cut and  
10 another is the stormwater management plan.

11 I don't know if there has been any  
12 subsequent conversations with Mark Kennedy.

13 MR. HERSHBERG: Strictly by e-mail is how  
14 I communicate with them. They said that they  
15 were pleased that we made their driveway  
16 connection exactly as they had shown it on the  
17 plan. They actually had taken the liberty of  
18 blocking up my map with those driveways and we  
19 followed exactly their layout.

20 We have designed a system to maintain the  
21 stormwater. We originally had talked about  
22 using porous pavement on the site. It turns  
23 out that the groundwater is too shallow at the  
24 site to use it. We're putting a gallery of  
25 pipes underneath the pavement with a catch

1 basin connected in it. We do have some  
2 comments that are in line with the  
3 housekeeping comments from Brad regarding  
4 showing the structures, and access, and  
5 putting caps on each catch basin to prevent  
6 solids from flowing through it. We think that  
7 the system will pass muster. We still have to  
8 apply for a non-highway work permit with DOT.  
9 The stormwater plan has already been submitted  
10 to John Dzialo and I think that they're  
11 satisfied that we solved the stormwater issue.

12 CHAIRMAN O'ROURKE: Because your zoning  
13 variance is due to expire.

14 MR. HERSHBERG: If we get approval  
15 tonight, my guess is that we're going to get  
16 Mark Kennedy to give us our permits and then  
17 we're ready to go. We're definitely ready to  
18 go to get that last building up.

19 MR. GRANT: We were really looking for  
20 DOT to sign off.

21 Current delivery and garbage trucks are  
22 able to make turns within the curbs and the  
23 limits of the parking lot. There is a sidewalk  
24 that goes out towards the back. We had a  
25 couple of comments on that. One was that Mike

1 Lyons spoke of a handicapped ramp at the end  
2 of that.

3 The other comment was that if that could  
4 be pulled back or have a mountable curb - in  
5 particularly it might be more for a tractor  
6 trailer than a smaller truck.

7 MR. HERSHBERG: We're amendable to take  
8 that entire curb and make it a mountable curb.

9 MR. GRANT: It doesn't even have to go  
10 that far to the north.

11 Number 5 was talking about profiles for  
12 the sanitary piping and grease traps. That's  
13 relatively straight forward.

14 Number 8 is provide and notate all  
15 greenspace, including lawn areas that receive  
16 irrigation.

17 It's my understanding that at the last  
18 board meeting that they had already committed  
19 to irrigating a landscaped area.

20 Really in the back is the only  
21 substantial grass area. Those trees wouldn't  
22 be required. It's just to provide screening. I  
23 guess it would be the Board's prerogative to  
24 determine whether that has to be irrigated.

25 Number 9 - we often see this from all

1           these comment letters. There is a fire  
2           sprinkler system that was recommended.

3           MR. HERSHBERG: The applicant would  
4           prefer not to sprinkler the building. It's not  
5           required under the current code.

6           MR. GRANT: And 10 was to submit  
7           documents to the Town regarding the merger  
8           deed. That was kind of a hold over from  
9           before.

10          CHAIRMAN O'ROURKE: I don't know that I  
11          would go over all the housekeeping.

12          MR. GRANT: Yes, I know. I'm going to  
13          skip down.

14          Number 11 on the plans was show the  
15          handicap ramp for the Central Avenue sidewalk  
16          at the entrance drive and at Wilson Avenue.  
17          There are some details provided in the plans  
18          for handicap ramps. They are essentially for  
19          different orientations.

20          Number 14 was at the request of the Board  
21          to replace the existing sidewalk in the front  
22          of the property across the frontage.

23          MR. HERSHBERG: The way that the plan  
24          shows right now is it shows coming right from  
25          here (Indicating).

1           MR. GRANT: The plan had mentioned the  
2 truck must turn left at the Wilson exit.  
3 That's basically so we don't have delivery  
4 trucks going through the neighborhood. There  
5 is a note about a sign on that. We should make  
6 sure that it's a large enough sign. We just  
7 want to make sure that it's visible.

8           Sheet C-3 - there was a concern about the  
9 plantings along the rear of the property that  
10 would provide screening of headlights from  
11 cars in the parking lot to the residential  
12 property. Please provide written confirmation  
13 that the adjacent landowner does not want a  
14 fence. This was stated at the last Planning  
15 Board meeting.

16           I don't know if the homeowner was here at  
17 that last meeting -

18           CHAIRMAN O'ROURKE: She was on the record  
19 discussing with Member Lane about the fence or  
20 the trees.

21           MR. GRANT: My package did have a  
22 catalogue of the lighting fixtures proposed  
23 that would be appropriate for the site. We  
24 would just want that verified that there would  
25 be no light pollution spilling over.

1           We had already touched on the review of  
2           the porous pavement.

3           Number 11 - Include some perennials and  
4           perhaps an accent sign at the southern corner  
5           of the property.

6           That came from Mike Lyons' comments about  
7           landscaping.

8           Sheet C-5 - there are stormwater details.  
9           Provide dimensions for the orifice control  
10          structure.

11          Indicate a sign on the doors of the  
12          dumpster enclosure indicating restrictions of  
13          trash pick up. We'd rather not see people  
14          there are 4:00 in the morning. They should be  
15          between the hours of 7:00 p.m. to 7:00 a.m.

16          There was a concern about the rear  
17          elevation that there was some screening put up  
18          and whether that would cover the whole back  
19          and provide screening for the whole back area.

20          There wasn't really a roof plan to show  
21          where those rooftop units would be.

22          Dan, those are going under the building?

23          MR. HERSHBERG: Yes. It has an enclosure  
24          on one area by the roof.

25          At these points right here, there is an

1 enclosure in that area. That will all be  
2 enclosed.

3 MR. GRANT: There was an acceptance  
4 letter for the curb cut.

5 That's all I have.

6 CHAIRMAN O'ROURKE: Paul?

7 MR. ROSANO: Dan, I just have a comment  
8 for you. I prefer that you pronounce it  
9 correctly.

10 MR. HERSHBERG: I'm not? I thought that I  
11 was.

12 CHAIRMAN O'ROURKE: Tim?

13 MR. LANE: The HVAC system - is it going  
14 to be buffered in some way?

15 MR. HERSHBERG: The inside of these walls  
16 will have acoustical panels on them. Brad is  
17 right. We didn't submit the roof plan, but we  
18 will submit it.

19 MR. LANE: Because they can tend to be  
20 loud.

21 CHAIRMAN O'ROURKE: Mike?

22 MR. SULLIVAN: My questions have been  
23 addressed; thank you.

24 CHAIRMAN O'ROURKE: Peter?

25 MR. GANNON: Again, I commend the Scavios

1 on the redevelopment of another site that had  
2 become blight in the town. Too bad that they  
3 couldn't have used the existing structure.

4 CHAIRMAN O'ROURKE: I have a couple.

5 First, I did mention the zoning variance  
6 is set to expire. Obviously, it is very  
7 difficult to push our friends at the state.

8 I also have some HVAC screening issues. I  
9 did call because I didn't see elevations in my  
10 packet. Now I understand why. I know that the  
11 building is on Loudon Road, but certainly as  
12 part of anything going forward, I want to see  
13 what the building is going to look like. Maybe  
14 I'm just too far away. I think that I know  
15 what you're talking about in terms of the  
16 parapets. Are they four feet above?

17 MR. HERSHBERG: Actually the center one  
18 is actually five feet, eight inches to the top  
19 of the parapet. This is where the larger  
20 equipment will be.

21 CHAIRMAN O'ROURKE: Again, I just want to  
22 see that in a colored photo. I'm sure that the  
23 other Board members would like to view it as  
24 well.

25 The road frontage that we talked about in

1 concept - I'd like to see the landscape design  
2 finalized with certainly some design  
3 standards.

4 The Board is going to back off of making  
5 you put the sprinklers in, although I highly  
6 recommend that you put them in. If Mr. Scavio  
7 wants to save a couple of dollars, that's  
8 certainly his prerogative. If he puts them in  
9 now and the code changes, it's going to cost  
10 him a heck of a lot less now. I want to go on  
11 the record with that.

12 The irrigation - they did a great job on  
13 Loudon Road. The plants had died in front. I  
14 certainly wouldn't want to see a redevelopment  
15 project of this nature in that corridor -- and  
16 the Supervisor is certainly looking to have  
17 these type projects come through and not do it  
18 justice with a watering system to the tune of  
19 a lot of money. So, let's put the watering  
20 system in, and put the irrigation in, and do  
21 the landscaping appropriately.

22 Other than that, I'm very happy that  
23 Mr. Scavio, in this economic environment, has  
24 decided to invest in the town further and to  
25 buy these properties which are certainly

1 considered blight by many of us. Everyone  
2 knows where these properties are. To put  
3 something in there of this magnitude,  
4 certainly, I commend him for that investment  
5 and belief in the Town of Colonie.

6 Other than that, does anybody in the  
7 audience have questions or comments regarding  
8 this project? Please, we'll keep them project  
9 specific, if we could.

10 MR. GREEN: Al Green. I just have one  
11 quick thing. I know right now that there is  
12 demolition. I just want to make sure that you  
13 keep the property boundaries in check. I  
14 appreciate what you have done, more than you  
15 could ever imagine.

16 CHAIRMAN O'ROURKE: Mr. Hershberg knows  
17 that this Board requires everybody to play  
18 nice. I'm sure that he's going to keep his  
19 applicant in line on the property boundaries.

20 Anyone else?

21 MR. GANNON: C.J., I'd just like to make  
22 one comment. When you go up Loudon Road, it  
23 got me thinking, they had a ton of problems  
24 getting the CO because of some issues with  
25 countertop height. I would just encourage the

1 Scavios and whoever else is involved with the  
2 interior of the building to reach out to the  
3 town. I think that at the time, some of that  
4 was the Town's problem with some  
5 inconsistency, but some of it was the  
6 applicant's problem as well. Let's address  
7 that ahead because I know that these guys want  
8 to move quickly. They've made that clear.  
9 Anything that we can head off down the road  
10 now would be beneficial for everybody.

11 CHAIRMAN O'ROURKE: Mr. Hershberg, I'm  
12 sure that you probably do, but I just want to  
13 be on the record.

14 In terms of the zoning variance deadline,  
15 do you have a plan in place in case?

16 MR. HERSHBERG: My guess is that I guess  
17 I'll have to go back in and redo our zoning  
18 request. I can go in and ask for an extension.  
19 I don't know if they'd grant it or not.

20 MS. VAIDA: All that's going to say is  
21 that our approval will have to be contingent  
22 on that continuing to be valid.

23 MR. HERSHBERG: I'm not certain. DOT has  
24 been tough to pin down to give us that  
25 approval in writing. Although, Mr. Cunningham

1 and myself have both talked a number of times  
2 to the people at DOT, and we think that the  
3 access situation has been determined. That  
4 might put us over the deadline.

5 MS. VAIDA: My understanding is that you  
6 just have to get the building permit.

7 CHAIRMAN O'ROURKE: But you can't get the  
8 permit until DOT is resolved.

9 MR. HERSHBERG: With regard to the  
10 housekeeping comment, you already have the  
11 plans addressing those. The only issue is the  
12 DOT approval of the stormwater.

13 MR. GRANT: In talking about the  
14 build-out, the use of annuals must be  
15 provided -

16 CHAIRMAN O'ROURKE: That's why I said  
17 it's going to be contingent upon this Board  
18 approving that landscape plan. So, I'm going  
19 to make that a contingency as well as the  
20 elevations. I need to see those elevations.  
21 I'm sure that the rest of the Board is  
22 interested in them as well.

23 Joe, I don't see a SEQRA documents.

24 MR. LACIVITA: There should be one.

25 CHAIRMAN O'ROURKE: This is an unlisted

1 action.

2 MR. LACIVITA: It was prepared by Rebekah  
3 Kennedy.

4 MS. VAIDA: I actually had a question on  
5 that because we have the short form already  
6 filled out by Mr. Hershberg - actually, last  
7 year.

8 MR. LACIVITA: We moved SEQRA approval to  
9 final. Rebekah actually took Mr. Hershberg's  
10 and merged it to hers.

11 MS. VAIDA: She actually didn't, but  
12 that's what I'm suggesting that we do. Again,  
13 he can probably affirm that there have been no  
14 changes that would affect his responses.

15 MR. HERSHBERG: On the short form, all  
16 the responses would be identical.

17 MR. GRANT: Rebekah did fill that out.

18 CHAIRMAN O'ROURKE: Do I have a motion  
19 that the determination based on the  
20 information and analysis above - that the  
21 proposed action will not result in any  
22 significant adverse environmental impacts and  
23 provide attachments as necessary for the  
24 reasons supporting this determination?

25 MR. LANE: I'll make a motion.

1 MR. GANNON: Second.

2 CHAIRMAN O'ROURKE: All those in favor of  
3 accepting the SEQRA?

4 **(Ayes were recited.)**

5 CHAIRMAN O'ROURKE: Opposed?

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

7 CHAIRMAN O'ROURKE: The SEQRA is duly  
8 accepted.

9 Mr. Hershberg is also looking for an  
10 action on the final site plan approval.

11 I will make a motion contingent upon  
12 meeting the Town Designated Engineer's  
13 outstanding comments, as addressed in the  
14 September 7, 2010 letter and any Planning and  
15 Economic Development Department comments, as  
16 well as the elevation being approved and the  
17 landscaping plan along Central and Wilson to  
18 be approved.

19 MR. SULLIVAN: Valid zoning in place?  
20 They need an extension for their waiver.

21 CHAIRMAN O'ROURKE: Yes, and contingent  
22 upon that variance being in place, as we go  
23 forward.

24 Did I miss anything else, Joe?

25 MR. LACIVITA: No.

1 CHAIRMAN O'ROURKE: Do I have a second on  
2 that motion?

3 MR. GANNON: Second.

4 CHAIRMAN O'ROURKE: In favor?

5 ***(Ayes were recited.)***

6 CHAIRMAN O'ROURKE: Opposed?

7 ***(None were opposed.)***

8 CHAIRMAN O'ROURKE: Good luck  
9 Mr. Hershberg. Get that building down  
10 tomorrow, will you?

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15 ***(Whereas the proceeding concerning the***

16 ***above entitled matter was adjourned at***

17 ***8:37 p.m.)***

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