

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

3 \*\*\*\*\*  
4 CHIPOTLE MEXICAN GRILL  
5 105 WOLF ROAD  
6 REVIEW AND ACTION ON SEQRA AND  
7 FINAL SITE PLAN APPROVAL  
8 \*\*\*\*\*

9 THE TAPED AND TRANSCRIBED MINUTES of the above  
10 entitled proceeding BY NANCY STRANG-VANDEBOGART  
11 commencing on October 12, 2010 at 8:23 p.m. at the  
12 Public Operations Center 347 Old Niskayuna Road,  
13 Latham, New York 12110

14 BOARD MEMBERS:

- 15 CHARLES J. O'ROURKE, CHAIRMAN
- 16 THOMAS NARDACCI
- 17 TIMOTHY LANE
- 18 LOUIS MION
- 19 MICHAEL SULLIVAN
- 20 PETER GANNON
- 21 PAUL ROSANO
- 22 ELENA VAIDA, Esq., Attorney for the Planning Board

23 Also present:

- 24 Joe LaCivita, Director, Planning and Economic  
25 Development
- 26 Peter Lynch, Esq.
- 27 Michael Tucker, Infinigy Engineering
- 28 Joe Grasso, Clough Harbour and Associates
- 29 Steve Igoe
- 30 Tom Burke
- 31 Bob Alrich
- 32 Francis Murray

1                   CHAIRMAN O'ROURKE: Next on the agenda we  
2                   have Chipotle Mexican Grill, 105 Wolf Road. It  
3                   is a 2,383 square foot fast food restaurant.  
4                   The applicant is looking for a review and  
5                   action on SEQRA and final approval. This is  
6                   presented by Infinigy Engineering and  
7                   Mr. Lynch.

8                   MR. LYNCH: Mr. Chairman, members of the  
9                   Board, I'm Peter Lynch. I'm here with Mike  
10                  Tucker from Infinigy Engineering.

11                  Essentially, since this Board granted a  
12                  waiver back on May 25<sup>th</sup> for the side yard  
13                  setback along this portion of the project in  
14                  concept approval, the only thing that we've  
15                  done with the plan is to complete all the  
16                  engineering details so that we can take action  
17                  with the construction. The plan is the same  
18                  plan that was before you back in May and we  
19                  now know that with Mike working with the Town  
20                  and the Town Designated Engineer, that all of  
21                  the details for the plan now meet your  
22                  requirements and we'd ask your consideration  
23                  for coming before you tonight.

24                  CHAIRMAN O'ROURKE: Joe?

25                  MR. GRASSO: We issued a comment letter

1           dated September 22<sup>nd</sup>. In general, all of our  
2           previous comments had been addressed. It is  
3           another Type II action pursuant to SEQRA and  
4           as such, no SEQRA determination is required.  
5           Our letter incorrectly noted that it's an  
6           unlisted action, but after we confirmed it  
7           with the Town, it's actually a Type II action.

8                         There were some comments issued by the  
9           Planning Department that I would like the  
10          applicant's consultant to discuss. I'm going  
11          to go through those.

12                        The 10-foot buffer of trees will not  
13          remain along the first lane. The 175 feet from  
14          Sand Creek Road does not preserve any trees or  
15          quality or screening with this buffer area.  
16          This consists of dead and dying poplar trees  
17          with vines. If the stand of woods is cleared,  
18          it is recommended that it be cleared and a new  
19          buffer of trees six to seven feet high planted  
20          in a double staggered row.

21                        Do you have a proposed change to the  
22          plans or are you looking to leave those as is?

23                        MR. LYNCH: What Joe is referring to here  
24          is along the easterly boundary line of the  
25          site. East of the proposed access road there

1 are some trees here that we actually did  
2 propose to remove, but also to have  
3 appropriate landscaping put in.

4 MR. TUCKER: Behind the existing building  
5 there are weeds and part of our proposal is to  
6 remove as many of those as we can and plant  
7 along that side.

8 MR. LYNCH: We don't have any problem  
9 doing a landscaping plan along the easterly  
10 properly line here (Indicating). In our  
11 demolition plan we show the scope of the  
12 demolition of the building that was crumbling.  
13 I do want to bring this up (Indicating).

14 There are a row of trees along the west  
15 side of the building that are going to be  
16 removed as part of the demolition and all  
17 their root structure would be impaired, in any  
18 event. We want the visibility from Wolf and  
19 Sand Creek for whatever redevelopment of this  
20 site is. But as far as the landscaping along  
21 the easterly boundary line, we don't have a  
22 problem with that.

23 MR. GRASSO: And there was another  
24 comment regarding sidewalk provisions for  
25 pedestrians along the driveway to Sand Creek

1 Road. During the concept, you represented that  
2 this represents maybe the first phase of what  
3 is contemplated along the east side of the  
4 site and that they do intend to come back at  
5 some point in the future after you market the  
6 west side of the site. So, we didn't feel that  
7 the sidewalk was warranted at this time.  
8 Although, if we thought that we this was going  
9 to be the ultimate development of the site, we  
10 do think that the sidewalk is warranted.

11 Could you comment on that? That was a  
12 comment that was brought up by the Planning  
13 Department.

14 MR. LYNCH: Certainly. As you know, we  
15 have Chipotle with the streetscape on  
16 Wolf Road. Wolf currently has sidewalks and  
17 Sand Creek also currently has sidewalks. So,  
18 for pedestrian access to the Chipotle on  
19 Wolf Road, there is an existing sidewalk.

20 With respect to the internal portion of  
21 the site, the only project that we currently  
22 have on this site is Chipotle. As you can see,  
23 the balance of the 105 Wolf Road - we have the  
24 entirety of 455 Sand Creek Road, which we're  
25 marketing now for complete redevelopment. At

1           this stage, we don't know exactly what that  
2           will consist of, the scope of it, the  
3           configuration, and the location of the  
4           building. So, consequently we think that  
5           putting in sidewalks doesn't make sense.

6                     For example, I don't know if this is  
7           going to be the case, but we may have  
8           buildings that are fronting up on Sand Creek  
9           Road with the sidewalk system directed to the  
10          buildings. At that point, if we think that the  
11          parking or the sidewalk access would be via  
12          Sand Creek and Wolf, we'd have the walkway  
13          directly coming to the buildings, as opposed  
14          to coming through the parking field.

15                    On the other side of the coin, if the  
16          building ends up being back there and there is  
17          an appropriate area for the sidewalk through  
18          the site, then that would be okay, too. The  
19          part that remains is that at this juncture,  
20          the whole idea of the development of this  
21          project was to enable whatever we ultimately  
22          end up with to have access via both Sand Creek  
23          and Wolf Road. At this time, we would ask that  
24          the Board not require a sidewalk on this  
25          access road. Of course the issue would be

1 revisited when we go to develop the balance of  
2 the site.

3 MR. GRASSO: Another comment was  
4 regarding DOT's sign-off. We have received an  
5 e-mail from DOT indicating that they have  
6 looked at the project in concept and find it  
7 acceptable and are prepared to review a  
8 pending application. So, we're all set there.

9 When the project was up for concept, the  
10 Planning Board deemed that there was  
11 sufficient justification for that same parking  
12 in the side yard setback variance. We have  
13 prepared a resolution for the Planning Board's  
14 consideration. Basically, that goes through  
15 the constraints of the site and the fact that  
16 the site adjacent only has minimal green  
17 space. They are trying to provide additional  
18 green space against the 99 parcel, which would  
19 lessen the amount of parking on the other side  
20 in order to fit the adequate parking field.

21 So, we have that resolution per the  
22 Planning Board's consideration. They said that  
23 the Planning Board had already made an actual  
24 resolution during the concept review. We just  
25 didn't have the written resolution prepared at

1           that time. We do have it now. I'll send copies  
2           down. The one with the red is the one that  
3           you're going to read because it has the  
4           correct code reference. We'll save the red one  
5           for C.J.

6           MS. VAIDA: You probably already told me  
7           about that we didn't need to take any action  
8           on SEQRA.

9           MR. GRASSO: A Type II action with the  
10          building size -- that's right.

11          CHAIRMAN O'ROURKE: Tom?

12          MR. NARDACCI: I want to reiterate a  
13          point that I made the last time that I met  
14          about how impressed I was with the  
15          redevelopment plan of this parcel. It's not a  
16          huge site so there are specific challenges  
17          that come into play with redevelopment. Again,  
18          I think that overall they've done a good job  
19          with the redevelopment of sites within the  
20          Town.

21          With regard to the landscaping plan,  
22          there was another issue that I had. There is a  
23          lot of green space on the site. I see some  
24          plantings within the parking lot. That was a  
25          concern that I had just from looking at the

1 Chipotle at the other end of Town. They have a  
2 wide and expansive parking lot it is not  
3 really broken up with green.

4 Could you just walk us through what are  
5 these plantings?

6 MR. TUCKER: We propose a pretty  
7 substantial landscaping plan on both the  
8 frontage of Chipotle and the sides. A lot of  
9 them will basically be deciduous trees. Along  
10 the border near the 99 there are some more  
11 ground covers and lower growth along the  
12 building and along the edge of the property.  
13 We will discuss some further screening along  
14 this side (Indicating) and trying to help the  
15 green space.

16 MR. NARDACCI: Thank you.

17 C.J., that's all I had, thanks.

18 CHAIRMAN O'ROURKE: Thanks, Tom.

19 Paul?

20 MR. ROSANO: Nothing, C.J.; thank you.

21 CHAIRMAN O'ROURKE: Lou?

22 MR. MION: Nothing, C.J.

23 CHAIRMAN O'ROURKE: Tim?

24 MR. LANE: The only question that I have  
25 is in reference to the walls - near the patio.

1           R. TUCKER: There is a small solid  
2 concrete two to three-feet high wall with  
3 brick face to match the buildings.

4           MR. LANE: It will be brick face?

5           MR. TUCKER: Yes.

6           MR. LANE: Okay, because it just shows as  
7 a gray concrete wall.

8           MR. TUCKER: That was actually one of the  
9 comments that was addressed.

10          MR. LANE: That's all.

11          CHAIRMAN O'ROURKE: Thanks.

12          Mike?

13          MR. SULLIVAN: I just had one question.

14          What is the status of the cross connect  
15 between your property and the 99? Has there  
16 been any other discussions with the owners of  
17 the other parking lots?

18          MR. LYNCH: At this stage, based upon the  
19 full discussion of that issue that we had back  
20 on May 25<sup>th</sup>, we don't have any cross connection  
21 proposed for the project. However, on the full  
22 set of plans, specifically on C5, we do show a  
23 potential for a cross connection at  
24 approximately this location (Indicating), in  
25 the event that is something that we're able to

1 accomplish through discussions with 99 and  
2 through our overall redevelopment of the site.  
3 So, we did depict that potential access point  
4 on the plan itself.

5 MR. SULLIVAN: Right, and I have seen  
6 that, but I wanted to ask if it had changed  
7 since that meeting because I strongly  
8 encourage that. I hope that moving forward,  
9 there will be discussions that will continue.

10 MR. LYNCH: We haven't done anything on  
11 that point since May 23rd, other than to show  
12 the potential for the location for it. As I  
13 indicated earlier, just like the sidewalk,  
14 it's very difficult to make any commitments on  
15 the balance of the site until we know what we  
16 actually have.

17 CHAIRMAN O'ROURKE: Peter?

18 MR. GANNON: I'm happy that the islands  
19 were preserved. I think that as you develop  
20 for whatever it is on Sand Creek, that will be  
21 another deterrent to cut through. Right now, I  
22 still have a real concern about the other  
23 arrangement and it being a dangerous turn.

24 Can you just explain the benefit and  
25 theory behind the architectural green wall?

1 It's depicted here on SK5.

2 MR. TUCKER: Unfortunately, our  
3 architectural landscape artist is not here. I  
4 think that it's something that they tried with  
5 two other buildings.

6 MR. GANNON: What does it look like in  
7 real life?

8 MR. TUCKER: From what I understand, it's  
9 so vines can grow up the side of it.

10 MR. GANNON: I thought that at first,  
11 too. I've seen it used in other parts of the  
12 country on retaining walls and stuff like  
13 that. I never heard of it used on a building  
14 that I've come across. I don't think that  
15 we've seen anything like it around here.

16 That's all I had.

17 CHAIRMAN O'ROURKE: I have just a couple  
18 that I just want to clarify.

19 The Clay's demo - that will occur  
20 simultaneously as the other building? I'm  
21 correct in assuming that?

22 MR. LYNCH: Yes, you are.

23 CHAIRMAN O'ROURKE: Any motion that we're  
24 to go forward would make contingent upon that.

25 MR. LYNCH: That's fine.

1                   CHAIRMAN O'ROURKE: Sewer laterals. There  
2 was some issue. Has the engineering been done?

3                   MR. TUCKER: We have and really to  
4 summarize, we're actually running right to a  
5 sewer main from the buildings and tying it  
6 into the existing main to provide future  
7 connections there.

8                   CHAIRMAN O'ROURKE: That's where I was  
9 going with it. I'm glad to see that you were  
10 proactive with that.

11                   The cross connection again - I just want  
12 to reiterate my feeling on that. Developing  
13 competitive disadvantages, and depending upon  
14 how you were to develop that property, I don't  
15 expect the applicant to bear any of the costs  
16 in regard to any of that as we go forward.

17                   MR. LYNCH: We understand that.

18                   CHAIRMAN O'ROURKE: As I was out on that  
19 site, those trees off to the right that people  
20 talk about as being the poplars that are dead  
21 on the entranceway - you're going to take all  
22 of them out?

23                   MR. LYNCH: Correct.

24                   CHAIRMAN O'ROURKE: Because they are all  
25 wooden fences adjoining all of those

1 properties except for the first one. As you go  
2 through that, it would be prudent to talk to  
3 that homeowner. Maybe the homeowner is here  
4 and we'll get his input in regard to how we're  
5 going to appropriately screen his residence.  
6 Obviously, we love a full landscape plan. But  
7 again, until you know what you're going to do  
8 with the property, I don't think that it's  
9 fair for this Board to tell you to put  
10 landscaping in. That being said, I'm not sure  
11 if those overgrown arborvitaes are the way to  
12 do it, either. I think that we should ask this  
13 gentleman and certainly as we move forward in  
14 the project, we come up with something to  
15 delineate your project from those homes. I'm  
16 sure that you'd want that to be done, if your  
17 house was that one.

18 MR. LYNCH: The overall concept of what  
19 we develop with this site and the appropriate  
20 buffer between our site and the property to  
21 the east -- it's certainly going to be  
22 agreeable to us.

23 CHAIRMAN O'ROURKE: AT the back of that  
24 building where the guardrail is - is that  
25 building in the back -

1 MR. LYNCH: This right here (Indicating)?

2 CHAIRMAN O'ROURKE: Yes.

3 MR. LYNCH: This is like a big garage.

4 CHAIRMAN O'ROURKE: Does somebody live in  
5 that?

6 FROM THE FLOOR: Well, he stays there  
7 occasionally. No one lives in that storage  
8 building.

9 CHAIRMAN O'ROURKE: I see the masonry  
10 stuff out there.

11 FROM THE FLOOR: He uses it for  
12 construction equipment like bull dozers, junk,  
13 hot water heaters, stoves -

14 CHAIRMAN O'ROURKE: Yes, it looked like a  
15 mess. I think that it would be prudent to do  
16 some sort of screening against that building.  
17 I didn't see any plan. I guess for your own  
18 benefit, certainly, I think that with the  
19 piles of things that are there, I certainly  
20 wouldn't want rodents to start being an issue.

21 MR. LYNCH: Duly noted. We don't want to  
22 be looking at it, either.

23 CHAIRMAN O'ROURKE: I wouldn't think so.  
24 I didn't see anything on the plan, so I wanted  
25 to make sure and bring that up. I don't know

1 who owns the guardrail. I would think that's  
2 probably his property. Again, if you just  
3 think about that going forward.

4 MR. LYNCH: In terms of the timing C.J.,  
5 is that something that should be a condition  
6 of this site plan approval?

7 CHAIRMAN O'ROURKE: I think that it  
8 should be on this one because again, it's  
9 going to sit directly behind the new Chipotle  
10 and I don't think that's the look that -- I'm  
11 sure that it's not the look that the applicant  
12 is looking for.

13 MR. BURKE: I'm Tom Burke and my  
14 intension was to have evergreens along that  
15 rear property line. Unfortunately, between  
16 that property line and this gentleman's home,  
17 it's just commercial property protecting the  
18 home. The evergreens that we talked about  
19 earlier, in conjunction with the overgrown  
20 arborvitaes - we can trim them. It's in our  
21 best interest, of course, to have good  
22 relations with our neighbors and for our  
23 future tenants to have appropriate screening.  
24 That's not an issue for us.

25 CHAIRMAN O'ROURKE: Again, just so we're

1 on the same page, this gentleman's home is way  
2 up at Sand Creek.

3 MR. BURKE: I understand exactly where he  
4 is.

5 CHAIRMAN O'ROURKE: So, it's two separate  
6 issues that I saw.

7 MR. BURKE: That whole rear property line  
8 is something that needs to be addressed in its  
9 totality.

10 CHAIRMAN O'ROURKE: There is no question,  
11 and I think that the property that you have  
12 will be a home run. It's certainly better than  
13 what's there.

14 Those were the issues that I had.

15 Anybody in the audience?

16 MR. ALRICH: What is the existing green  
17 space of the property now? I didn't hear that.

18 MR. LYNCH: The current green space is  
19 34.4 percent. The green space - again, this is  
20 105 Wolf Road is 29.8 percent.

21 MR. ALRICH: Who determines that these  
22 trees are dead? Is that you or the Town?

23 I'm on the Conservation Board.

24 CHAIRMAN O'ROURKE: It actually came from  
25 the Planning and Economic Development

1 Department. So, I'm not sure exactly who made  
2 the determination or who is the resident  
3 botanist in the Planning and Economic  
4 Development Department.

5 MR. ALRICH: When I go back to the Board,  
6 they'll want to know about the trees on the  
7 property and they'll want to know why he wants  
8 to cut the trees down.

9 MR. GRASSO: That's not an accurate  
10 interpretation. I think that what he had said  
11 was that he thought that the area should be  
12 cleaned up and the dead or dying vegetation be  
13 removed. He gave options to either save the  
14 existing vegetation or to clear it up to the  
15 property line and plant new trees, as was  
16 discussed with the Planning Board. That's what  
17 the applicant seems to want to do.

18 CHAIRMAN O'ROURKE: And after being at  
19 the site, I think that's reasonable.

20 MR. MURRAY: Francis Murray,  
21 211 Sand Creek Road.

22 That property in the back is nowhere near  
23 his property (Indicating). However, that area  
24 that's in proximity of the high school - it's  
25 going to get used as a cut-through. They're

1 going to cut through there. It's dark and it's  
2 a roadway. With the basketball games at night,  
3 it's going to get used that way.

4 CHAIRMAN O'ROURKE: I have no problem  
5 with them wiping all the trees off the sides.  
6 That would really clean it all up, but the  
7 noise level coming back off of Wolf Road is  
8 going to go up quite a bit for me.

9 MR. LANE: That's a good point.

10 MR. IGO: When [SIC] Vinsanto applied for  
11 it, they were going to put a four-foot berm  
12 all the way down and then a six to eight-foot  
13 fence on top of it. I was fine with that. That  
14 gave me a 10 to 12-foot blockage from the  
15 noise coming over. That was all landscaped.

16 MR. LYNCH: I understand that proposal  
17 was simply a reuse of the Clay's building.  
18 We're exploring a number of different uses  
19 where you could potentially use a two or three  
20 story office building. Frankly, if we  
21 accomplish that, the barrier from Wolf Road  
22 would be eliminated by virtue of that  
23 building. I don't know that we're going to do  
24 that at this point. We're exploring and  
25 talking with various tenants. I think that at

1           this point, because we don't know potentially  
2           what we are going to do there, we're not  
3           really willing to berm the building on the  
4           east side. We are willing to do the  
5           appropriate landscaping at this point  
6           (Indicating). It may very well be an academic  
7           exercise on sound if we develop the site that  
8           way.

9           MR. IGO: Once you clear those tress,  
10          that's going to affect me probably for another  
11          two to three years.

12          MR. BURKE: We could cut those trees down  
13          without doing any of this. There is currently  
14          a big office building here. This existed as  
15          commercial use for the parking lot here. I  
16          guess you kind of got used to having no  
17          neighbors.

18          MR. IGO: Yes, but when you knock down  
19          all those trees, the noise is going to come  
20          right over.

21          MR. BURKE: I'm sure that it does, but  
22          those trees necessarily have to be removed in  
23          order for us to market and potentially develop  
24          this site. This whole site has to be  
25          considered. So, regardless of the building

1 here and some of the trees that are located  
2 back in here (Indicating), those trees have to  
3 go.

4 CHAIRMAN O'ROURKE: And we've already  
5 said that's reasonable. Let's everyone be  
6 reasonable. Would you be opposed to putting up  
7 the wooden stockade fence that is already down  
8 on many of the properties? Would you put a  
9 six-foot stockade fence up? It's about 40  
10 feet.

11 MR. IGO: There is my property and then  
12 there is a road that is vacant that is used as  
13 a consideration for going back there. Once  
14 those trees all come down, I don't want the  
15 fence on my side. When the last plans come  
16 out, the best thing was that I had a 10-foot  
17 buffer from that -

18 CHAIRMAN O'ROURKE: Sir, are you going to  
19 pay the taxes on the 10-foot? You have to be  
20 reasonable.

21 MR. IGO: I am being reasonable. This  
22 didn't seem to be a problem the last time.

23 CHAIRMAN O'ROURKE: This gentleman owns  
24 this property. He pays his taxes and he's  
25 going to develop the property. He's willing to

1 work with you and I have a big stick up here  
2 and I can help. We can be reasonable together,  
3 but you have to be reasonable. I think that  
4 you have to think about what reasonable is. A  
5 berm is not reasonable. This isn't a  
6 residential development.

7 MR. IGO: You guys seemed to like it last  
8 time.

9 CHAIRMAN O'ROURKE: I wasn't on the Board  
10 then.

11 MR. BURKE: There was a 7,000-plus square  
12 foot bar and restaurant proposed for this site  
13 at that time. That's not what I'm proposing.

14 MR. IGO: I know what you're proposing.

15 MR. BURKE: That's why you don't need the  
16 berm now. If and when we develop that site, we  
17 would certainly take a look at that. It's  
18 inappropriate at this point in time, given the  
19 fact that we have a 2,300-square foot building  
20 up on Wolf Road with a 360-foot back yard with  
21 nothing in it.

22 MR. IGO: Then leave all the trees up on  
23 this side (Indicating).

24 MR. BURKE: This needs to be cleared in  
25 order to market it and to put this road

1 through.

2 MR. LYNCH: The vegetation that's  
3 currently there is very unattractive.

4 CHAIRMAN O'ROURKE: I've been up there.  
5 You're absolutely right. I don't dispute that.

6 MR. LYNCH: We have no problem putting in  
7 appropriate landscaping along this as part of  
8 the approval.

9 MR. BURKE: We wanted to put in six to  
10 seven foot arborvitaes in.

11 CHAIRMAN O'ROURKE: Right, double spaced.  
12 That's what you're going to do?

13 MR. BURKE: Yes.

14 CHAIRMAN O'ROURKE: For the length of his  
15 property?

16 MR. BURKE: For the length of his  
17 property.

18 CHAIRMAN O'ROURKE: I think that's  
19 reasonable.

20 Anybody else on the Board in regard to  
21 that?

22 ***(There was no response.)***

23 MS. VAIDA: Peter, I think the only other  
24 issue was the easement document. I was just  
25 discussing whether or not we actually need to

1 have you file. I know that you did draft a  
2 declaration.

3 MR. LYNCH: Elena and I talked about the  
4 reciprocal easement today and I drafted a  
5 document and provided it to her. Tom Burke  
6 owns both 105 and 455 Sand Creek Road. At the  
7 meeting the issue was how do we make sure that  
8 the owner of this site, in the event that  
9 there is a change of ownership at Sand Creek,  
10 retains the access rights. So, I developed a  
11 reciprocal easement agreement for egress and  
12 ingress over the roadway to be constructed on  
13 the site. Mike Tucker, when he did his final  
14 plans for this, delineated a 30-foot wide  
15 roadway to the site. We do have it on the  
16 plan. We can put it as a condition on the  
17 plan, and we would submit the reciprocal  
18 easement agreement if you wanted us to do that  
19 as a condition of site plan approval. There's  
20 no problem with that at all.

21 MS. VAIDA: That would be great.

22 MR. ROSANO: Once Clay's has been knocked  
23 down and that's all been leveled out and put  
24 on the market, do you have any plans for any  
25 temporary barrier to keep people from Sand

1 Creek Road and the bank from using your  
2 parking lot and keeping them off your  
3 property?

4 MR. BURKE: Some sort of construction?

5 MR. ROSANO: That's what I'm saying.

6 MR. BURKE: Yes, we will.

7 MR. LYNCH: We do have to keep the  
8 roadway open. We're not going to allow them to  
9 turn in.

10 MR. ROSANO: Thank you.

11 CHAIRMAN O'ROURKE: Anyone else?

12 ***(There was no response.)***

13 CHAIRMAN O'ROURKE: Do you have any  
14 conditions, Joe?

15 MR. LACIVITA: The only condition that I  
16 had C.J. was the demo of Clay's to be  
17 included.

18 MR. LYNCH: That's already represented on  
19 this plan.

20 CHAIRMAN O'ROURKE: And the easement  
21 declaration.

22 MR. GRASSO: Because the plans don't  
23 represent any easement across the back, I can  
24 work with the applicant. Obviously, it's a  
25 contentious issue and it sounds like we're

1 going to get another bite at the apple when  
2 they come back for another building. Is it all  
3 right with the Planning Board if I work on  
4 just landscaping proposed across the back?

5 CHAIRMAN O'ROURKE: Yes.

6 MR. GRASSO: That can be a condition.

7 CHAIRMAN O'ROURKE: Yes, just a condition  
8 to meet the TDE follow-up.

9 MR. LANE: Is there any suggestion on the  
10 sidewalk?

11 MR. GRASSO: We didn't support it going  
12 in at this time only because we think that the  
13 road will probably have to change locations.

14 CHAIRMAN O'ROURKE: Put it in and  
15 jackhammer it out.

16 MR. GRASSO: Yes.

17 CHAIRMAN O'ROURKE: Resolution - Chipotle  
18 Mexican Grill, 105 Wolf Road, Land Use Law  
19 waiver of findings. Whereas Thomas J. Burke,  
20 the applicant has proposed the redevelopment  
21 of the office building on a 1.34 acre parcel  
22 of land at 105 Wolf Road, Town of Colonie,  
23 Albany County, New York, the project will  
24 involve construction of a 2,382 square foot  
25 stand along Chipotle Mexican Grill and the

1 demolition of approximately 9,211 square feet  
2 of existing office space along with associated  
3 site improvements, and whereas the applicant  
4 is requesting a waiver from the Town of  
5 Colonie Land Use Law Article 10  
6 Section 190-47g of the Land Use Law related to  
7 the side yard parking setback, and whereas the  
8 Town of Colonie Planning Board, the Board, may  
9 waive these standards to the extent deemed  
10 necessary in order to secure reasonable  
11 development of the site, and whereas the  
12 proposed reduced setback along the western  
13 property line provides for an increased buffer  
14 along the eastern property line where parking  
15 for the adjacent parcel has been constructed  
16 within a few feet of the property line, and  
17 whereas the proposed layout maintains the  
18 existing curb cut location conformance with  
19 the side yard setback could require a curb cut  
20 to be shifted to the east closer to the  
21 existing curb cut of the adjacent property,  
22 and whereas it is understood that  
23 redevelopment projects present unique and  
24 challenging difficulties such as working with  
25 existing site constraints, increased

1 demolition, and removal costs and minimizing  
2 destruction to adjoining property owners, the  
3 vast majority of the project has been designed  
4 in accordance with the COR district design  
5 standards. Therefore, the Board has determined  
6 that the waivers necessary in order to secure  
7 reasonable development. And now therefore be  
8 it resolved that the Board hereby issues a  
9 waiver from the 10 foot minimum to a six foot  
10 parking setback from the side property line,  
11 and be it further resolved that these waiver  
12 findings be a condition of the site plan  
13 approval of application and be kept in the  
14 project file in the office of the Planning and  
15 Economic Development Department.

16 Do I have a motion on that resolution?

17 MR. NARDACCI: I'll make a motion.

18 MR. MION: I'll second.

19 CHAIRMAN O'ROURKE: All those in favor?

20 **(Ayes were recited.)**

21 CHAIRMAN O'ROURKE: Opposed?

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

23 CHAIRMAN O'ROURKE: And we are looking  
24 for a motion on final approval on this  
25 project. Do I have a motion?

1 MR. NARDACCI: Motion.

2 MR. ROSANO: Second.

3 CHAIRMAN O'ROURKE: All those in favor?

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

5 CHAIRMAN O'ROURKE: Opposed?

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

7 CHAIRMAN O'ROURKE: Good luck gentlemen.

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9

10 ***(Whereas the proceeding concerning the above***

11 ***entitled matter was adjourned at***

12 ***9:00 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.*

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**NANCY STRANG-VANDEBOGART**

*Dated November 8, 2010*