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PLANNING BOARD COUNTY OF ALBANY  
TOWN OF COLONIE

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THE PROPOSED GIBBY'S PLAZA  
175 TROY SCHENECTADY ROAD  
RETAIL STRIP PLAZA WITH DRIVE THRU  
\*\*\*\*\*

THE TAPED AND TRANSCRIBED MINUTES of the above  
entitled proceeding BY NANCY STRANG-VANDEBOGART  
commencing on January 26, 2010 at 7:02 p.m. at the  
Public Operations Center 347 Old Niskayuna Road,  
Latham, New York 12110

BOARD MEMBERS:

- CHARLES J. O'ROURKE, CHAIRPERSON
- THOMAS NARDACCI
- PAUL ROSANO
- TIMOTHY LANE
- PETER GANNON
- MICHAEL SULLIVAN
- ELENA VAIDA
- PETER STUTO, Jr. Esq., Attorney for the Planning Board

Also present:

- Joe LaCivita, Director, Planning and Economic Development
- Kevin DeLaughter, Planning and Economic Development
- Dennis Deeb, Developer

1                   CHAIRMAN O'ROURKE: First on the agenda  
2 is Gibby's Plaza.

3                   We're going to change the format a little  
4 bit. Anybody that's been to Planning Board  
5 meetings in the past - we're going to have a  
6 brief summary from our Planning and Economic  
7 Development Department, then we're going to  
8 turn it over to the developer. After the  
9 developer, if there is a town designated  
10 engineer involved, they will then take the  
11 floor. It will then open up to questions from  
12 the board and after we're through with those  
13 questions, we'll open it to the public.

14                  So, that being said, Kevin can you tell  
15 us a little bit about Gibby's Plaza?

16                  MR. DELAUGHTER: This is a request for an  
17 extension for approval. They were granted  
18 January 28, 2008 for a 9,600 square foot  
19 retail plaza located at 175 Troy-Schenectady  
20 Road. The approval was granted on January 28<sup>th</sup>  
21 and it has expired and they're asking for a  
22 one year extension of that approval.

23                  CHAIRMAN O'ROURKE: Developer?

24                  MR. DEEB: I'm Dennis Deeb and I'm the  
25 owner and developer of 175 Troy Schenectady

1 Road. I'm requesting from the Planning and  
2 Economic Development of the town for an  
3 extension of the approval. There has been  
4 hardship in developing the property. There has  
5 been challenging economic times and everybody  
6 knows that. We would appreciate your patience  
7 and flexibility regarding this.

8 CHAIRMAN O'ROURKE: Mr. Deeb you notified  
9 the Planning Department?

10 MR. DEEB: I notified the Planning  
11 Department.

12 CHAIRMAN O'ROURKE: On what date did you  
13 notify -

14 MR. DEEB: Initially we sent the letter  
15 to the Town of Colonie which was routed to the  
16 Planning Department on September 22, 2009.

17 CHAIRMAN O'ROURKE: It says CC. Did you  
18 send one to the Planning Department as well?

19 MR. DEEB: Actually it was forwarded. I  
20 was the one that gave it to the Town  
21 Supervisor's office. I gave it to Allison in  
22 the Supervisor's office and she forwarded it  
23 to the Planning Department.

24 CHAIRMAN O'ROURKE: That was in  
25 September. See, here is my difficulty and

1            hopefully we can get through this. It's now  
2            the 26<sup>th</sup> of January. Your approval was up on  
3            the 8<sup>th</sup>. It's past the point of being able to  
4            be approved.

5            MR. DEEB: I've had conversations with  
6            the Supervisor's office and Mr. LaCivita.

7            CHAIRMAN O'ROURKE: And I understand that  
8            and I hope that it's no fault -- I mean when  
9            you work with the town developing the project,  
10           who did you deal with?

11           MR. DEEB: Most of the development was by  
12           the prior owner. I bought the property and the  
13           owners had initially brought it through  
14           concept approval and I purchased the property  
15           in September of 2007. All my discussions at  
16           that time were with Mike Lyons.

17           CHAIRMAN O'ROURKE: Right, your principal  
18           contact would have been Mike Lyons.

19           MR. DEEB: I contacted Mike through here  
20           and he advised me to send a letter to the  
21           Supervisor's office. It wasn't until the end  
22           of the year that I received direction on what  
23           the process would be. It was obvious at that  
24           point that there would be nothing left for us  
25           to do.

1                   CHAIRMAN O'ROURKE:   Why? See, you're  
2                   leading me right down the main path here.

3                   MR. DEEB:   No, I made the contact. I did  
4                   everything that I had to do. I made subsequent  
5                   calls. I understand what you're saying. I  
6                   don't have a timeline prepared, but I had all  
7                   the documentation that I could get together -

8                   CHAIRMAN O'ROURKE:   Let me explain to you  
9                   the difficulty this board is in now. If the  
10                  Town Board did not adopt a resolution,  
11                  grandfathering in these projects, you wouldn't  
12                  be before us tonight. Does that make sense?

13                  The development projects that went in  
14                  before the Land Use Law changes in 2007 had  
15                  been grandfathered in. Supervisor Mahan made  
16                  the decision for one more year to extend them  
17                  again. So I'm just trying to get to the facts  
18                  in regard to - we sent a letter on  
19                  September 22<sup>nd</sup> to the Supervisor of this town  
20                  and how it's now the 26<sup>th</sup> of January - 18 days  
21                  after your development -

22                  MR. DEEB:   I put it in your hands. I  
23                  would have much rather had this discussion in  
24                  October.

25                  CHAIRMAN O'ROURKE:   In regard to the

1 interest of the town, I want to find out why  
2 it took four months for a letter to circulate  
3 from the Supervisor's office to Planning and  
4 Economic Development to get you on the  
5 schedule before you're expiration date of your  
6 project.

7 MR. LACIVITA: C.J., if I could interject  
8 something here. You all have in your packets a  
9 copy of the original letter from Mr. Deeb and  
10 it looks like it was stamped in  
11 September 25, 2009.

12 Shortly after him sending it to the  
13 Supervisor's office September 22, 2009 and not  
14 knowing that this was actually circulating  
15 within the office, I received an e-mail which  
16 I have here in my packet from Allison dated  
17 November 12<sup>th</sup> regarding this. I then reached  
18 out to Mr. Deeb and we started having  
19 conversations from that point. We actually had  
20 this scheduled earlier to get Mr. Deeb on in  
21 the early part of January. Unfortunately there  
22 were some family concerns or he had to go out  
23 of the area so we made a cogniscent decision  
24 together, understanding that it did lapse past  
25 the provision of the time frame that Mr. Deeb

1 and I did discuss. We could have had it here  
2 earlier and in a timely basis, but for him to  
3 be better served I'd prefer him being here  
4 than not. This board had taken actions before  
5 when we didn't have presence of the developers  
6 and didn't act favorably. Mr. Deeb and I did  
7 have that conversation so I asked him to be  
8 present possibly for this evening. So if there  
9 is any delay or any reason why it went past  
10 the extension time, that was a conversation  
11 that I had with Mr. Deeb.

12 MS. VAIDA: I also wanted to chime in  
13 here. The Land Use Law basically says, as you  
14 know, that the final approval will be valid  
15 for two years. Actually, it doesn't really  
16 specify what the procedure is for requesting  
17 an extension. It just says that it may be  
18 extended for one additional period upon  
19 written request.

20 In looking at the papers that were  
21 submitted, the letter from Mr. Deeb is time  
22 stamped or date stamped by the Planning and  
23 Economic Development Department way within the  
24 time period. So as far as I'm concerned, I  
25 think that he did timely comply with the

1 current Land Use Law in terms of making a  
2 written request for an extension.

3 MR. STUTO: The date of approval is  
4 deemed to be when it's filed with the Town  
5 Clerk. That may give us a little more time.  
6 Anybody know when that was filed with the Town  
7 Clerk?

8 Kevin, do you know?

9 MR. DELAUGHTER: I do not know.

10 CHAIRMAN O'ROURKE: Well, it's usually a  
11 couple of weeks, right?

12 MR. DELAUGHTER: Typically, what's filed  
13 in the Clerk's office is either a letter from  
14 the department following up on the Planning  
15 Board action or the Planning Board minutes.

16 MR. DEEB: I have a letter from the Town  
17 of Colonie which summarizes, but I believe  
18 that it was contingent upon site revisions  
19 which were subsequently done and submitted. I  
20 have a document that was from Mike Lyons  
21 stamped March 5, 2008.

22 MR. STUTO: Thank you.

23 CHAIRMAN O'ROURKE: Thank you.

24 Tom?

25 MR. NARDACCI: I don't have anything,

1           thank you.

2                   CHAIRMAN O'ROURKE:   Paul?

3                   MR. ROSANO:   Nothing.

4                   CHAIRMAN O'ROURKE:   Elena?

5                   MS. VAIDA:   I don't have a problem with  
6           this at all. I don't think that it's his fault  
7           that it didn't get before us.

8                   CHAIRMAN O'ROURKE:   Tim?

9                   MR. LANE:   In consideration to what  
10          occurred and also in light of the economic  
11          climate I think that it's all perfectly  
12          understandable.

13                   CHAIRMAN O'ROURKE:   Mike?

14                   MR. SULLIVAN:   I just had a question and  
15          it may be for Kevin, actually.

16                   In the plans for the building, it shows a  
17          connection to a future town road. Are there  
18          any plans for that or is that a paper road at  
19          this point?

20                   MR. DELAUGHTER:   That is actually part of  
21          a planned development district. We have it in  
22          the review process known as Swatling Acres.  
23          That road would be developed with that  
24          project. I'm not sure exactly what the status  
25          is of that right now. We have plans in for

1 review.

2 MR. SULLIVAN: Okay. It would go out  
3 behind K-Mart and come out onto Swatling?

4 MR. DELAUGHTER: Yes.

5 MR. SULLIVAN: Okay, thank you.

6 MR. DEEB: I can go a little further on  
7 that. On the site plan it shows future  
8 entrances on that road.

9 CHAIRMAN O'ROURKE: Right. Once the town  
10 accepts the offer of dedication on that road,  
11 you're closing the Route 7 - if my memory  
12 serves me.

13 Peter?

14 MR. GANNON: Mr. Deeb, I just have a  
15 quick question. In your letter to Supervisor  
16 Mahan, you propose an indefinite extension of  
17 the grandfather provisions.

18 Maybe this is a question for my  
19 colleagues on the board.

20 MR. STUTO: It's a one year extension  
21 under the Land Use Law.

22 MR. GANNON: Is there any provision or  
23 protection in there that prevents a new owner  
24 from gaining those provisions if Mr. Deeb  
25 decides to walk away from this project?

1 MR. STUTO: If he sells it, the new owner  
2 will have the benefit of a one year extension,  
3 if that's what you're asking.

4 MR. GANNON: The new owner gets the same  
5 benefit?

6 MR. STUTO: Yes.

7 MR. NARDACCI: C.J., before we take a  
8 vote, I want to make a quick statement.

9 On this project I had previously  
10 abstained because of a conflict of interest.  
11 An architectural firm that is a client of my  
12 public relations firm had done some work on  
13 this project and I had abstained. Tonight I'll  
14 also be abstaining.

15 CHAIRMAN O'ROURKE: Okay, thank you, Tom.  
16 Do I have a motion from the board?

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

18 CHAIRMAN O'ROURKE: For the extension, we  
19 have a motion.

20 MR. LANE: Yes, for that one year  
21 extension.

22 CHAIRMAN O'ROURKE: Do I have a second?

23 MR. ROSANO: Second.

24 CHAIRMAN O'ROURKE: Second from Paul  
25 Rosano.

1 All those in favor?

2 *(Ayes were recited.)*

3 CHAIRMAN O'ROURKE: Opposed?

4 *(There were none opposed.)*

5 CHAIRMAN O'ROURKE: Good luck Mr. Deeb.

6 MR. DEEB: Thank you.

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9 *(Whereas the proceeding concerning the*

10 *above entitled matter was adjourned*

11 *at 7:13 p.m.)*

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