

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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5 CENTURY HILL OPEN DEVELOPMENT
6 3 AUTOPARK DRIVE
7 REVIEW AND CONSIDERATION FOR OPEN DEVELOPMENT AREA
8 FOR REMAINING VACANT PARCELS AT CENTURY HILL
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11 THE TAPED AND TRANSCRIBED MINUTES of the above
12 entitled public hearing
13 BY NANCY STRANG-VANDEBOGART commencing on
14 May 25, 2010 at 7:05 p.m. at
15 the Public Operations Center
16 347 Old Niskayuna Road, Latham, New York 12110

17

18 BOARD MEMBERS:

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

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19 Also present:

20 Joe LaCivita, Director, Planning and Economic
21 Development

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23 Chuck Voss, Barton and Loguidice

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25 Peter Lynch, Esq., First Columbia, LLC

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Chris Bette, First Columbia, LLC

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Clemente Parente, Esq. Wolford Associates

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1 CHAIRMAN O'ROURKE: Thank you all for
2 coming tonight. I know that we have a very
3 busy agenda. Again, I have asked on a couple
4 of occasions earlier, if everyone can ensure
5 that their cell phones are turned off or muted
6 so that there is no disruption during the
7 meeting tonight, it would be appreciated.

8 We have no meeting minutes in the packet,
9 correct, Joe?

10 MR. LACIVITA: That's correct.

11 CHAIRMAN O'ROURKE: So we'll move right
12 onto the first project on tonight. This is the
13 public hearing.

14 Pete, would you read into the record
15 please?

16 MR. STUTO: Notice is hereby given that
17 pursuant to Section 276 of Article 16 of the
18 Town Law, the Town Planning Board of the Town
19 of Colonie, Albany County, New York will meet
20 and conduct a public hearing in the Public
21 Operations Center, 247 Old Niskayuna Road,
22 Latham in said Town of Colonie, County of
23 Albany, New York on the 25th day of May, 2010
24 at 7:05 p.m. for the purpose of hearing all
25 persons upon the approval, modification, or

1 disapproval of a certain open development
2 proposal in the Town of Colonie, County of
3 Albany, known as Century Hill Plaza consisting
4 of 18 acres of land located at 3 Autopark
5 Drive, Latham, New York, dated May 13, 2010,
6 Latham, New York, Town of Colonie Planning
7 Board, Charles J. O'Rourke, Chairperson.

8 CHAIRMAN O'ROURKE: Thanks, Pete.

9 MR. LYNCH: Good evening, Mr. Chairman
10 and members of the board. I'm Peter Lynch and
11 I represent the applicant, First Columbia. The
12 principal, Chris Bette, is here with us
13 tonight.

14 As you know we have applied to the Town
15 Board to designate the 38 acres in question
16 that are all owned by First Columbia, an open
17 development area under Town Law Section 280-A
18 Subdivision 4. Because we have asked for this
19 designation under the Town Law, the Town Board
20 was required to refer the application to this
21 board for its review and recommendations back
22 to the Town Board.

23 Simply put, the roads within the 38 acre
24 area are servicing the office park that is
25 owned and operated by First Columbia. Four of

1 the buildings have already been constructed
2 and are occupied on the northerly end of the
3 38 acres, accessed directly off of Century
4 Hill Drive. As you know, one of the buildings,
5 the Anjio Dynamics office building, has been
6 completed as what we know as 14 Plaza Drive.
7 It's also known as 3 Autopark Drive. Right now
8 we have constructed the roads so as a
9 practical matter if you drive down Century
10 Hill Drive and take a left and go into a
11 southerly direction off of Century Hill, you
12 will go into the extension of that roadway. It
13 is now known as Plaza Drive. It will take you
14 to the westerly terminus of Autopark Drive
15 which then proceeds in an easterly direction
16 to the intersections of Route 9. We're asking
17 the Town Board to give the OAD, open area
18 designation, simply to allow access to this
19 office park by means of easements.

20 The Plaza Drive roadway proffer is
21 actually owned by my client. Autopark Drive is
22 owned by a third party, and we enjoy a
23 recorded easement on that roadway. In
24 developing the balance of the office park as
25 well as servicing the existing office

1 buildings, we have sought this designation.
2 Just for clarification, this is so that the
3 property/owner can continue to develop this
4 site knowing without issue that he can access
5 the park via the easement rights as
6 distinguished from owning the actual road bed.
7 That's the sole purpose of the designation and
8 that's why we're here tonight.

9 CHAIRMAN O'ROURKE: Thank you.

10 Mr. Bette, do you have anything that you
11 wanted to add?

12 MR. BETTE: No. We have been before this
13 board three separate times in the last couple
14 of months talking about our development and
15 the open development area. I think that the
16 board is familiar with what we're trying to
17 accomplish.

18 CHAIRMAN O'ROURKE: Chuck, you want to
19 bring us up to speed?

20 Chuck Voss is the town designated
21 engineer that is in charge of this project,
22 for those of you that don't understand who
23 Chuck is.

24 MR. VOSS: Thank you, C.J.

25 What we did as the town engineers is we

1 looked at the application. We also looked at
2 the referral from the Town Board and the
3 meeting minutes from February 25th meeting.
4 They had a resolution dated on February 25th.

5 In addition, we looked at information
6 provided by the applicant. We reviewed Town
7 Law and Town of Colonie Subdivision
8 Law 190-60A as well as New York State Town Law
9 280A Subsection 4. We also met with the
10 applicant twice to discuss the project.

11 I believe that the board has our letter
12 dated May 19th. It's the review letter of this
13 project and I'll just summarize very quickly
14 what the highlights of that letter included.

15 Again, the board's position tonight is
16 referral from the Town Board to look at this
17 application upon its merits and decide any
18 findings of fact associated with the project
19 and then refer that back onto the Town Board
20 for their consideration and review.

21 For the board's pleasure, we'll just go
22 through a couple of points here.

23 The property in question, as we all know,
24 is located in the CO commercial office zoning
25 district. It's a fairly large parcel. Overall

1 there are several large office buildings
2 already developed on the site. The site is
3 accessed, as Mr. Lynch said, by several
4 easements and roadways. There is a 25 foot
5 wide improved road easement to Century Hill
6 Drive from this site just past Anjio Dynamics,
7 and then Autopark Drive also accesses the site
8 from Route 9.

9 There has been recent construction. The
10 Anjio Dynamics building was recently finished,
11 I believe.

12 MR. LYNCH: Yes, a CO was issued.

13 MR. VOSS: That was issued by the town
14 and that was before the board for site plan
15 review. The applicants have demonstrated that
16 they have existing on-site stormwater
17 management with the structure. The site is
18 also serviced by all utilities.

19 At this time, that's about it. Outside of
20 the particular findings - if you like, C.J., I
21 can go through those. We have nine potential
22 findings of fact from this board.

23 CHAIRMAN O'ROURKE: Yes, if you would
24 Chuck?

25 MR. VOSS: First, the area in and around

1 the subject parcel has been previously
2 developed for uses similar to those proposed
3 by the applicant.

4 The applicant is proposing to develop
5 their property in a similar and compatible
6 manner consistent with the existing character
7 of the immediate area.

8 The applicant has demonstrated that they
9 have two existing means via easements of
10 access to and from the site from two separate
11 roads; Century Hill Drive and Autopark Drive.
12 The Planning Board has recently approved
13 construction of a new office building on this
14 site with the access via easement to Autopark
15 Drive. The applicant has built Plaza Drive to
16 the town standards. The parcel is currently
17 serviced by municipal sewer and water. The
18 applicant has expressed a willingness to build
19 and/or approve any existing proposed new
20 access roads to their site and town Highway
21 Department specifications. The applicant has
22 expressed a willingness to alter and/or expand
23 any on-site stormwater management
24 infrastructure to off-site any increased
25 demands generated by the proposed new roads

1 and development.

2 Based on the above information, the
3 applicant's request to establish an open
4 development area for this parcel appears to be
5 reasonable, given the current zoning and the
6 parcel's location and proximity to form new
7 roadways. The applicant's request also appears
8 to have minimal impacts to existing land uses
9 within the general vicinity of the site and
10 will not alter the care for the immediate
11 area, nor will it create incompatible or
12 inconsistent land uses.

13 CHAIRMAN O'ROURKE: Thank you, very much.

14 One thing that I do want to make sure
15 that we get into the record is that obviously
16 the applicant will understand that now if this
17 were to go through at the Town Board level,
18 the GEIS - that roadway would not fall under
19 that. Fees, however, may be assessed depending
20 on traffic use. Again, I just want to go on
21 the record with that.

22 Peter?

23 MR. GANNON: No questions other than I
24 think that it all looks great. The Anjio
25 building as I've said before looks great. I'd

1 like to see some more development consistent
2 with that.

3 CHAIRMAN O'ROURKE: Thanks, Pete.
4 Tim?

5 MR. LANE: Could you explain what the
6 downside would be if this were not granted?

7 MR. LYNCH: The downside of it is - as
8 you have experienced at some of the prior
9 meetings when a block within a commercial
10 subdivision is to be developed and access
11 suitable for a building permit and a
12 certificate of occupancy.

13 Clearly, Section 280-A of the Town Law
14 Subdivision 1 actually provides that if a
15 street like on Autopark Drive, for example, is
16 a street that is depicted on an approved
17 subdivision plat approved by the Planning
18 Board and filed in the County Clerk's office,
19 then that constitutes sufficient access for
20 the purpose of building permits and
21 certificate of occupancy.

22 Paragraph four of 280-A goes a step
23 further and it just really gives some
24 ratification to the overall concept for the
25 entire area; the 38 acres at issue. For any

1 future development, as well as to service the
2 existing development, the issue of access via
3 easement is essentially put to bed. It's no
4 longer an issue. It doesn't need to be
5 debated.

6 MR. LANE: It doesn't need to be
7 readdressed with each new -

8 MR. LYNCH: Exactly. So that's the
9 advantage of going forward with the
10 designation.

11 MR. LANE: Thank you, very much.

12 CHAIRMAN O'ROURKE: Elena?

13 MS. VAIDA: I don't have any questions,
14 thank you.

15 CHAIRMAN O'ROURKE: Paul?

16 MR. ROSANO: Peter, line five - can you
17 just one more time go over why we're building
18 this to residential standards?

19 MR. LYNCH: The width is not the same as
20 a commercial road. Chris is better at the
21 details of the actual road dimensions.

22 MR. BETTE: The town has basically three
23 road types; a commercial road, residential,
24 and modified residential and modified
25 commercial. Basically the difference in those

1 roads is width. Years ago when we contemplated
2 the start of this project and this road was
3 contemplated, the Town Board recognized that
4 it would add very limited use and very limited
5 truck traffic. So they allowed us to design
6 this road narrower. The travel ways are all 12
7 and 13 feet wide. It's just a matter of 36
8 feet to 32 feet. We built out to 32 feet wide.

9 CHAIRMAN O'ROURKE: I just want to go on
10 the record that although it was granted to
11 town residential standards at 25, the wings of
12 that road in fact are at 32 feet. So, I just
13 want to go on the record with that as well.

14 MR. NARDACCI: I'd just a comment to
15 reiterate some of the things that I've said at
16 previous meetings. We've worked very well with
17 the applicant on the various developments that
18 they made in this area. This parcel off of
19 Route 9 that the Bettas have developed has
20 been high quality. You've brought great
21 companies to the town which means good jobs
22 and that means good tax base and not a burden
23 on the school system.

24 With Anjio Dynamics specifically, here we
25 have a company who was not only looking to

1 leave the area but was actually looking to
2 leave New York State, but you were able to
3 build them a high quality building and they
4 actually stayed in the area. I just want to
5 reiterate my support and the good job that
6 you're doing. I look forward to seeing what
7 you have coming down the pike for job creators
8 in the town. Thank you.

9 CHAIRMAN O'ROURKE: Thanks, Tom.

10 I also won't belabor the point but again,
11 I certainly am all for you owning the
12 infrastructure and not putting an additional
13 burden on the taxpayers and maintaining it to
14 the level that I certainly know that First
15 Columbia will maintain that property. We look
16 forward to, as a Planning Board, working with
17 you as you have the ability to build out this
18 project. I'm absolutely in favor of the open
19 development.

20 We're going to open it to the audience
21 now.

22 Does anybody in the audience have any
23 comments or questions?

24 Yes, sir.

25 MR. PARENTE: Mr. Chairman, my name is

1 Clemente Parente. I represent Wolford
2 Associates, which is an adjoining landowner
3 and owns Autopark Drive.

4 I'd like to make it clear that ultimately
5 if the matter is approved or is recommended
6 for approval to the Town Board, we wouldn't
7 object to that so long that it's conditioned
8 upon this road, Plaza Drive, being accessible
9 to other members of the public, emergency
10 vehicles and people who may travel that road
11 which would be a corridor, taking traffic off
12 of Route 9. We really don't have any objection
13 so long as it's conditioned. My understanding
14 is that it's going to be a private road
15 permitting access to the public either by
16 means of a crossing easement, or just a
17 condition to the approval.

18 I'd like to point out that in January of
19 2009 this board, when it granted its first
20 conditional approval for this project, did so
21 on the condition that it be a dedicated road.
22 We have no issue of it being a dedicated road
23 or not being a dedicated road. However, we
24 would urge the board to recommend approval, if
25 it does so, permitting public access to the

1 road. It would only benefit the area and all
2 property owners in the area on Autopark Drive,
3 south of Autopark Drive and north of Century
4 Hill Drive.

5 CHAIRMAN O'ROURKE: So that we're
6 factually correct in what you're saying here,
7 that road was actually to be built in a
8 presentation from Wolford Associates. So, we
9 have on record Mr. Caponera saying that it
10 would be built by Wal-Mart for Wal-Mart. The
11 application that is before this board tonight
12 is of a private nature. We certainly couldn't
13 expect First Columbia who just built that road
14 and put up that beautiful building to ask them
15 to not receive mitigating funds through the
16 GEIS, right?

17 MR. PARENTE: I'm not saying that they
18 shouldn't receive mitigating funds. That's not
19 my quarrel.

20 CHAIRMAN O'ROURKE: Sir, it's their
21 decision to say that we're not going to accept
22 mitigating funds to build a road. We built the
23 road out of our pocket and they're asking the
24 Town Board on a resolution for this board to
25 hear that open development. So, that's really

1 what concerns this board tonight is what they
2 have before us. We don't have any standing in
3 my opinion to condition that, or we wouldn't
4 be conditioning them with funds to build a
5 road. They built a road.

6 MR. PARENTE: I would suggest that you do
7 have a referral seeking a recommendation. I
8 would suggest that you do have that.

9 To clear the record, the January 27, 2009
10 meeting of the Planning Board - and this is in
11 the minutes available on the town website, was
12 a First Columbia project. Mr. Caponera was not
13 present at that meeting.

14 CHAIRMAN O'ROURKE: That's correct. This
15 was a different meeting, sir. There have been
16 many meetings.

17 MR. PARENTE: I just want to make clear
18 that I wasn't referring to a different
19 meeting. I was referring to a meeting where
20 the first approval for this project was
21 granted. In the meeting it was granted upon
22 obtaining dedication to the road. Now, what I
23 want to make clear is that is different. Now
24 there isn't going to be a dedication of the
25 road.

1 I just suggest that the purposes be the
2 same. If it's an open development area, it
3 should be conditioned upon the whole public
4 being permitted to use that road. I would
5 suggest that it's in the interest of all to
6 have people be permitted to use that corridor
7 which would be parallel to Route 9 for
8 numerous reasons including reducing the
9 traffic burden in the area. That's all I'm
10 suggesting.

11 CHAIRMAN O'ROURKE: Thank you.

12 Is there anyone else in the audience that
13 would like to speak on this project?

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

15 CHAIRMAN O'ROURKE: At this point I would
16 be looking for a motion to approve with no
17 conditions back to the Town Board -- do you
18 want to read this?

19 MR. STUTO: Sure.

20 If I may, Mr. Chairman, I'd like to just
21 point out a couple of incidental conditions
22 that were on file. Those were that the hold
23 harmless and indemnity agreement need to be
24 entered into with the town protecting the town
25 from liability in connection to the access to

1 the subject property. That satisfactory proof
2 demonstrates to the town that the property
3 owner has legal right of way or easement to
4 access the central property.

5 CHAIRMAN O'ROURKE: Yes.

6 MR. STUTO: This resolution, if the board
7 would like to consider - special rule of the
8 Planning Board: Setting conditions and
9 limitation and establishing an open
10 development area at Century Hill Plaza, Town
11 of Colonie, pursuant to Section 280-A of the
12 Town Law. Whereas a request for an open
13 development has been made to expand commercial
14 office uses at Century Hill Plaza, Town of
15 Colonie, and whereas the development area
16 proposed at Century Hill Plaza would have no
17 direct access to an improved street or
18 highway, and whereas the Town Board has
19 referred this matter to the Planning Board for
20 advise, and whereas Section 280-A of the Town
21 Law provides that the Town Board may establish
22 an open development area within the town where
23 permits may be issued for the erection of
24 structures to which access may be given by
25 right of way or easement; upon such conditions

1 and subject to the limitations as maybe
2 prescribed by special rules to the Planning
3 Board. Now therefore be it resolved that the
4 Planning Board offers advise and prescribes a
5 special rule setting forth the conditions and
6 limitations on the establishment of an open
7 development area at Century Hill Plaza as
8 follows: A hold harmless and indemnity
9 agreement will need to be entered into with
10 the town protecting the town from liability in
11 connection with the access to the subject
12 property. Next, satisfactory proof must be
13 demonstrated to the town that the property
14 owner has legal right of way or easement to
15 access the subject property. This resolution
16 shall take effect immediately and shall be
17 transmitted to the said Town Supervisor and
18 members of the Town Board.

19 CHAIRMAN O'ROURKE: All those in favor?

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

21 CHAIRMAN O'ROURKE: All those opposed?

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

23 CHAIRMAN O'ROURKE: Mr. Bette, Mr. Lynch,
24 good luck.

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*(Whereas the proceeding concerning the above
entitled matter was adjourned at
7:27 p.m.)*

CERTIFICATION

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

11
12
13
14 _____
15 ***NANCY STRANG-VANDEBOGART***

16
17 ***Dated June 2, 2010***