

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3
4 *****
5 THE PROPOSED PROJECT OF PAPA JOHN'S PIZZA
6 471 TROY-SCHENECTADY ROAD
7 REVIEW AND ACTION ON PAVEMENT SETBACK WAIVERS
8 AND CONCEPT ACCEPTANCE
9 *****

10 THE TAPED AND TRANSCRIBED MINUTES of the above
11 entitled proceeding BY NANCY STRANG-VANDEBOGART
12 commencing on August 24, 2010 at 7:03 p.m. at the
13 Public Operations Center 347 Old Niskayuna Road,
14 Latham, New York 12110

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

23 Also present:
24 Tom Andres, ABD Engineering
25 Joe Grasso, Clough Harbour and Associates
26 Joe LaCivita, Director, Planning and Economic
27 Development
28 Christian King, Property Owner
29 George Ferris
30 Geraldine Ferris
31 David Mayo, Albany County Legislator
32 Barbara Numrich

1 CHAIRMAN O'ROURKE: First on this
2 evening's agenda we have Papa John's Pizzeria,
3 472 Troy-Schenectady Road. It's a 1,930 square
4 foot restaurant and cooler. This is for review
5 and action on pavement. They're looking for a
6 couple of waivers and it's presented by ABD
7 Engineers.

8 Joe, do you have anything to bring us up
9 to speed?

10 MR. LACIVITA: That pretty much
11 summarizes it, C.J. This is a redevelopment
12 project. There are two existing vacant
13 buildings on the parcel which will be part of
14 the demolition process through the course of
15 review and as the project moves forward.
16 That's the only thing that I have to add to
17 it.

18 CHAIRMAN O'ROURKE: Okay, sir, you have
19 the floor.

20 MR. ANDRES: I'm Tom Andres of ABD
21 Engineers and Surveyors. With me today is also
22 Christian King who is the owner of the
23 property.

24 As you may know, the Mobil across from
25 Keeler - Christian owns that property, also.

1 He also has in the town his corporate offices.

2 A few months ago, Christian was able to,
3 after two or three years of negotiations,
4 purchase this property. I'm not sure if you're
5 all aware where it is. In fact there is a
6 Mobil right across the street on the corner of
7 Old Loudon Road. This would be
8 Troy-Schenectady Road.

9 There are two buildings. The first one is
10 actually very old. They were partially
11 renovated a number of years ago. The one
12 building is actually all stucco.

13 Mr. King is proposing a franchise for
14 this area for the Papa John's. The proposal is
15 to put a Papa John's into the area.

16 The initial discussion was utilizing the
17 existing building. There are two buildings.
18 The other one could have been used. We have
19 looked at a number of issues that it had with
20 this site and decided that at this point, it
21 didn't make sense to do that. It made more
22 sense to demolish it.

23 The site is pretty much all paved. There
24 is a little green along the side. We're going
25 to be asking for a waiver, but that's the only

1 place that's green. Everything else is paved
2 near the building. It has full-access across
3 the whole frontage of the property so that you
4 can pull in from Route 2.

5 The state recently did some curb work
6 here (Indicating) and you can see that here.
7 Basically, there is full-access to this. While
8 it could work, it really just doesn't work
9 well. It's not the layout that Mr. King would
10 like to have for Papa John's. So, we're
11 looking to demo those buildings and create a
12 single tenant building approximately
13 1,900 square feet. We're trying to work within
14 the town's framework of keeping the building
15 close to the road. There is going to be two
16 roads, so that will be an issue that we can't
17 park behind the building because of the two
18 road frontages. That actually creates a waiver
19 that this Board has the ability to grant.
20 Within the zone there is a 15-foot parking
21 setback which we maintain, but there is also a
22 discussion with the development that the
23 parking should be behind the building because
24 of the position of the building, and that
25 makes things a bit difficult.

1 We will have to slightly reduce the width
2 of this green adjoining the commercial
3 buildings to the north of us, but we will be
4 creating some new green areas on Old Loudon
5 Road along with some much needed curb work and
6 improvements of those areas. We've had an
7 opportunity to go out and walk that route with
8 DPW and there seems to be a lot of issues in
9 that area, probably because this was vacant
10 for so long. There are some drainage issues
11 there and some ponding on the existing road.
12 We would at least try to help the town with
13 this because there is no drainage structure
14 with this.

15 The main access, again, is on Old Loudon
16 Road. I'm sure that you've had an opportunity
17 to look at the reviews by the different
18 departments. There was a little concern about
19 Highway, but I think that this is pretty much
20 the only way to utilize the site. There really
21 isn't any other way to come into it.

22 We are having a small outdoor patio area.
23 The zoning will be to have a more pedestrian
24 friendly type of situation. Along with that,
25 we're proposing to construct a sidewalk with

1 frontage. There was some initial discussion
2 with DOT about the sidewalk and I think that
3 there are some components about that and
4 exactly how it works, because you can see the
5 right of way is kind of angular. DOT actually
6 built their improvements on a curvilinear so
7 the sidewalk will stay mostly with DOT.

8 As far as the utilities, we'll be taking
9 out those connections, but we will be able to
10 increase the water connection.

11 As far as stormwater, we have
12 significantly reduced the amount of run-off.
13 All the run-off right now is going out to
14 Route 2 because this was all paved. We will
15 have some run-off to Old Loudon Road. We're
16 looking to have something a little more
17 innovative because we really don't have any
18 place to discharge. So, we are looking into
19 that.

20 That's about it.

21 CHAIRMAN O'ROURKE: Thank you.

22 Joe?

23 MR. GRASSO: We did a review of this
24 project. We started out with the DCC meeting
25 and then we reviewed the concept. We issued a

1 comment letter dated August 5th and I'm going
2 to read off those items.

3 A short EAF has been provided and
4 although the form provides limited information
5 due to its nature, given the small size of the
6 project and the likely lack of significant
7 environmental impacts, the use of a short form
8 seems appropriate for the project. Although we
9 don't see a potential for significant impacts
10 at this time, the Board may wish to withhold
11 making a SEQRA determination until final plans
12 are prepared.

13 The applicant is proposing to construct
14 parking lot pavement within three feet of the
15 site property line. As such, a waiver from the
16 Planning Board is required from the 10-foot
17 minimum side yard parking setback requirement.
18 The project narrative cites increased
19 greenspace quantity and quality for
20 compensation of the waiver request. The plan
21 indicates the amount of greenspace will
22 increase from 18 percent to 35 percent of the
23 site, which we consider a substantial
24 improvement. The concept plan, however, does
25 not depict a greenspace or landscaping scheme

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1 any greater than would be typically provided
2 for a commercial site. Assuming the final
3 landscape plan demonstrates that the
4 greenspace will have an aesthetic greater
5 value than typically provided, there will
6 likely be sufficient justification for the
7 waiver.

8 I think that the same could be said for
9 the waiver required for the parking in the
10 front yard. As requested by the town and
11 supported by CHA, sidewalks have been added
12 along Troy-Schenectady Road and Old Loudon
13 Road to the proposed site access drive.
14 However, portions of the site are shown within
15 the road right of ways while other portions
16 are located on the subject parcel. It is
17 preferred that the sidewalks parallel
18 Troy-Schenectady Road and Old Loudon Road be
19 located entirely within the public right of
20 way, so that when a continuous sidewalk system
21 is provided, ownership and maintenance
22 responsibilities can be clearly defined.

23 Based on constraints of the site and
24 right of way, it doesn't appear possible
25 without dedication of additional right of way.

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1 If the sidewalk remains in its current
2 location, ownership and maintenance
3 responsibility need to be clarified and noted
4 on the plan.

5 The Town of Colonie work permit is going
6 to be required as well as New York State DOT
7 highway and non-utility work permits.

8 DOT recommends consideration be given to
9 a cross connection to adjacent properties be
10 evaluated and that permanent easements be
11 established for potential future connections.
12 We support this position and believe that a
13 long-term plan that provides a connection to
14 the east could improve the safety of the
15 traveling public.

16 The consultant reviewed this request and
17 concluded that the cross-connection is not
18 feasible. If the dumpster location was shifted
19 towards the building, we believe an
20 interconnection to the parking area to the
21 east would be possible.

22 The Highway Safety Committee has raised
23 concerns regarding the proposed site access to
24 Old Loudon Road, due to queuing of vehicles
25 southbound on Old Loudon Road. A committee was

1 unable to provide recommendations for
2 modification.

3 Although we share concerns regarding
4 potential conflicts at peak times due to
5 queued vehicles, we believe that the plan as
6 proposed is preferable to direct access onto
7 Old Loudon Road and believe that the property
8 should be permitted to retain a full-access
9 driveway. It should be noted that the
10 applicant proposes to remove one existing wide
11 curb cut along Troy-Schenectady Road and shift
12 the proposed site access onto Old Loudon Road
13 as far as possible from the existing
14 signalized intersection. It does not appear
15 that the trips generated from the project
16 warrants preparation of a traffic impact study
17 or gap analysis.

18 It appears in order to access the site,
19 delivery trucks will either need to back in or
20 out of the site. The applicant has indicated
21 that delivery trucks will occur in the
22 overnight hours with smaller 28-foot long
23 trucks. As such, the Planning Board may wish
24 to restrict delivery hours.

25 Site disturbance is less than an acre and

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1 as such, stormwater pollution prevention plan
2 and coverage under the state's stormwater
3 regulations is not required. However, as
4 requested by the Town's DPW staff, the
5 project's consultant has agreed to explore the
6 use of alternatives of stormwater practices
7 such as porous pavements.

8 Schematic locations of stormwater
9 management areas have been shown on the plans
10 and the stormwater feasibility report
11 identifies infiltration and filters as the
12 proposed means of stormwater management. Test
13 pits will be performed and witnessed by the
14 town, prior to preliminary site plan
15 submittals.

16 Building mounted signage is identified on
17 the plan and building elevations and details
18 and sizes of which are subject to review and
19 coordination with the Town's Building
20 Department.

21 The proposed remanufactured cooler on the
22 northeast side of the building should either
23 be screened with landscaping and/or improved
24 with architectural treatments. Any building
25 elevation should show the locations and means

1 of screening of the proposed rooftop or
2 exterior mechanical HVAC units.

3 Extension of the onsite sidewalks should
4 be considered from the kitchen doorway on the
5 east side of the building. That will lead to
6 the dumpster enclosure.

7 There are approximately five deciduous
8 trees along the common easterly side lot line.
9 These trees should be preserved and protected
10 during construction and additional street
11 trees should be proposed along
12 Troy-Schenectady Road in accordance with the
13 Town's design standards.

14 Location of existing fire hydrants should
15 be shown to verify adequate access for fire
16 protection is available, and future plans
17 submittals should depict proposed lighting
18 pursuant to the NCOR design standards.
19 Lighting should be pedestrian scale, which is
20 required to be in the 10 to 12 foot range.

21 CHAIRMAN O'ROURKE: Thanks, Joe.

22 There were a few things that I had come
23 across, Mr. Andres, if you could help me out
24 with.

25 As Joe mentioned, the sidewalk ROW - what

1 is the plan going forward in terms of that
2 ROW?

3 MR. ANDRES: Instead of going through the
4 process especially in this stage, we would
5 dedicate that over. The state came along and
6 put in a curb and they put an asphalt area and
7 then they put another curb behind it. What
8 we're looking to do is tie another sidewalk
9 into a curb in the back because I don't think
10 that it's appropriate, especially in that area
11 for the sidewalk, to be immediately adjacent
12 to the road. It's better to have that gap
13 between it. The property, I think, was a lot
14 bigger before. There were a lot of takings
15 with the state over the years right through
16 this area and halfway to the area at the
17 sidewalk.

18 CHAIRMAN O'ROURKE: I guess the way that
19 I'm thinking - does it make sense to escrow,
20 Joe?

21 MR. GRASSO: I don't think that they
22 would need to. I think that a sidewalk is
23 important to this area and it seems to fit the
24 use and it could provide benefit. There is
25 pedestrian crossing facilities right there at

1 the intersection. So, I think that the
2 sidewalk, as proposed, takes advantage of
3 that. So, I'd rather not wait. Who knows when
4 the plans are going to come in? I'd rather see
5 the sidewalk now. I think that the detail that
6 needs to be coordinated now - is DOT
7 comfortable with the location shown and are
8 they comfortable with accepting an easement in
9 lieu of a fee dedicated right of way? I don't
10 want the burden of the sidewalk or a little
11 strip of easement to be given to the town and
12 then town then is somehow involved with
13 maintenance between the state and the
14 landowner. If DOT doesn't like the plan, then
15 we would push to say okay, let's push to have
16 entirely within the state's right of way or
17 let's take it out of the state's right of way.
18 We still support the sidewalk being in.

19 CHAIRMAN O'ROURKE: The front area on
20 Troy-Schenectady Road, as mentioned in the
21 Comprehensive Plan, is actually part of the
22 gateway into the town. I, personally, would
23 like to see some sort of fencing be utilized
24 along that. A wrought iron fence - something
25 along those lines.

1 MR. ANDRES: From the patio area, are you
2 thinking?

3 CHAIRMAN O'ROURKE: Not only that, but
4 carry it around the patio and then around the
5 edge of your landscaping to the edge of the
6 sidewalk to define the project. Again, I'm
7 happy to see someone developing this thing
8 that has sat vacant for 15 years, at least.
9 Just along the frontage -

10 MR. ANDRES: Through here (Indicating)?

11 CHAIRMAN O'ROURKE: Correct. Even closer
12 to the roadway.

13 MR. KING: Somewhere along the tree line?

14 CHAIRMAN O'ROURKE: Something similar
15 that was done further up on Route 9 with Fresh
16 Market - the way that they incorporated some
17 of that. I just think in terms of black
18 wrought iron, aluminum fencing.

19 MR. ANDRES: Like the three foot, so that
20 it's more architectural?

21 CHAIRMAN O'ROURKE: Exactly, more
22 architectural dimension to that. Along those
23 lines, as well, I think that Joe picked up on
24 it. The cooler - I would certainly like to see
25 that certainly tied in because that back is

1 open. There are residences on that backside
2 and there was also a note from your neighbor
3 looking for fencing to the east.

4 MR. KING: As far as the cooler, we met
5 with Mike Rosch. We'll either cover it or
6 architecturally paint it so that it ties right
7 into the balance of it.

8 CHAIRMAN O'ROURKE: And the last thing
9 that I had was the rooftop units. Not only do
10 we want to see screening, but we want the
11 decibel levels - just to make sure -

12 MR. KING: We're not doing a parapet. The
13 units are going to be in the attic. The
14 condensers are going to be placed on the
15 ground, which really insulates that from the
16 balance of the -

17 CHAIRMAN O'ROURKE: Right, the noise from
18 the fan from the condenser - you'll be
19 screening that?

20 MR. ANDRES: Right.

21 CHAIRMAN O'ROURKE: Just get me a decibel
22 level so that the neighbors are fine with it.
23 What we want to see is coexisting between the
24 commercial aspects and the residential
25 aspects.

1 MR. ANDRES: It should be very quiet.
2 You're right in that corner of the building
3 and there will be screening in around that.

4 CHAIRMAN O'ROURKE: It's something that
5 your engineer should be able to provide on the
6 unit, when you decide on what it is.

7 In terms of what was mentioned by Highway
8 Safety, I think that we have to be reasonable.
9 You're giving up 65 feet of frontage and
10 access on a major route and it's the least
11 obtrusive way to get access the site. It
12 would be at that location. Again, I have no
13 difficulty with either waiver and I look
14 forward to seeing this project go forward.

15 I think that's all I had.

16 The SWPPP, Joe - that's going to be
17 worked through our department? I know that
18 even though it falls within that acre, they're
19 not required.

20 MR. ANDRES: Right, we're under the acre
21 so we don't have to go through the whole DEC
22 procedure. We are working with Joe's office
23 and the department.

24 CHAIRMAN O'ROURKE: I just hesitate when
25 I see that the consultant has agreed to

1 explore - explore and find the solution.

2 MR. ANDRES: We've actually already done
3 the test pit. We've had stormwater out there.
4 It's a very difficult site. Right now, it just
5 drains off everywhere.

6 CHAIRMAN O'ROURKE: Are you going
7 underground with the electric - off that back
8 pole?

9 MR. KING: We put our ESO in with
10 National Grid, but we haven't gotten an
11 engineer out there yet. We're waiting on that.

12 CHAIRMAN O'ROURKE: Are you going to have
13 to take the site down?

14 MR. ANDRES: No, it's going to be
15 elevated up. It kind of depends on how you
16 look at it. In some of these areas, this will
17 actually come down a little bit because
18 everything has to work with the telephone
19 grid -

20 CHAIRMAN O'ROURKE: That's what I meant.
21 You're going to have to come down a little
22 bit.

23 MR. ANDRES: Again, a lot of it has to do
24 with the stormwater. We have to have enough
25 depth to get the stormwater into a very

1 shallow area.

2 Mike?

3 MR. SULLIVAN: I had a couple of
4 questions and one of them has been covered, at
5 least partially. That was the fencing. We did
6 receive a note from a neighbor, who owns the
7 business to the north. He requested that there
8 be a chain link fence with a hedge in front of
9 it to keep debris out of his property. He's
10 concerned about paper plates or napkins or
11 whatever blowing into his property. This was
12 along the northern end of the parking lot. The
13 location is from the upper left-hand corner to
14 the upper right-hand corner of your parcel.
15 The property owner is Mr. Stant from Stant's
16 Combustion.

17 MR. ANDRES: Do we have a diagram of what
18 they're looking for so we know specifically?

19 MR. SULLIVAN: They requested a chain
20 link fence with evergreen shrubs.

21 CHAIRMAN O'ROURKE: Joe, can we make sure
22 that ABD contacts them and finds out exactly
23 what they're looking for so that they can work
24 it out?

25 MR. LACIVITA: I'll transfer that e-mail

1 over to Tom and make sure that he has all the
2 contact information.

3 CHAIRMAN O'ROURKE: You're not opposed to
4 this?

5 MR. ANDRES: We certainly show the buffer
6 in there. I'm not sure if it shows a chain
7 link fence there.

8 MR. SULLIVAN: I think that the concern
9 is the debris, and also people cutting through
10 his property and using it as a shortcut.

11 MR. ANDRES: There is no way that you're
12 going to cut through his property.

13 MR. KING: We want to be neighborly. We
14 understand with the residential people, but
15 that particular building is a commercial
16 building and that's literally on our property
17 line. The other thing that I'm thinking about
18 is the snow in the wintertime. When you put
19 fences up, you're pushing snow up against it.
20 We're willing to do anything. If we can reach
21 out to this owner and find out exactly what he
22 wants -- to Tom's point, I don't really
23 understand the request because it's a
24 commercial property.

25 CHAIRMAN O'ROURKE: We did get this last

1 minute.

2 MR. ANDRES: We'll look into this and
3 we'll figure out how to handle it. I'll be
4 happy to reach out to the property owner and
5 discuss it with them.

6 MR. GRASSO: One thing that is important
7 to understand is that this is the area that
8 they're proposing the pavement three feet from
9 the property line. So, unless the plan
10 changes, there is not that much area work.
11 You'll have to come back with a clear
12 definitive plan as to what is going to be in
13 that three foot space. If it's something
14 that's going to be combined on the front line
15 because there is not enough space, obviously
16 have those discussions with your neighbor now.

17 MR. ROSANO: Is there going to be enough
18 room there? I've been there three times. I
19 don't see where you'd have room to put a fence
20 up. I just don't see it.

21 MR. GRASSO: To have a fence and green
22 hedge that's going to be three or four feet
23 tall right up against parked cars, something
24 is not going to survive. That's why we're
25 saying that if the neighbor has that much of a

1 concern, maybe they can work out a deal where
2 maybe -- I don't know. Normally, when we
3 review the plan, we clearly want the
4 landscaping on your site within your site, so
5 that you can maintain it or whatever. In this
6 case, maybe it's got to be right on the
7 property line and it's a hedge that they
8 share.

9 MR. ANDRES: Half of it right now has a
10 good size hedge there.

11 CHAIRMAN O'ROURKE: Well, it's mostly
12 weeds.

13 MR. ANDRES: No, back farther here
14 (Indicating). This is almost a third of the
15 building and they're decent size.

16 MR. GRASSO: So, maybe the fence goes on
17 that line and maybe they just work out a deal
18 and come to us with the details.

19 CHAIRMAN O'ROURKE: I have one thing, if
20 I can just interrupt. Counsel just brought it
21 to my attention because I wasn't aware. If the
22 waivers do pass the Board, we do have to have
23 written findings.

24 MR. GRASSO: Which we will try to draft
25 based on the discussion of the Planning Board.

1 MS. VAIDA: The Board has to show that
2 there is no other practical alternative; you
3 know, with respect to the greenspace and
4 getting the waiver that way.

5 MR. ANDRES: There is a practical
6 alternative and that's that we don't develop
7 an existing site. That's the practical
8 alternative. That's something that the Board
9 could easily put in and not have a greenspace
10 issue. If you don't have the waiver, you don't
11 have the parking here. Then the option would
12 be to utilize the existing. We would have to
13 come before this Board. From the standpoint of
14 the Board, I think that in working with that,
15 it's more than just the greenspace. It's more
16 the ability to redevelop this site.

17 CHAIRMAN O'ROURKE: Right, and it says
18 that. "Necessary in order to secure reasonable
19 development of the site".

20 So, I would tend to agree. I don't have
21 the legal background that Counsel has, but I
22 would say that this was a reasonable
23 development of that site.

24 Would I be wrong in assuming that, Joe?

25 MR. GRASSO: No. The other thing that I

1 would probably comment on if I were trying to
2 generate the findings would be that assuming
3 that the building is a reasonable development
4 plan on the site, and there is less and less
5 out there now, then we look at the parking.
6 The parking is what's creating the need for
7 the waiver and if we cut out the eight or ten
8 spaces on that side, is that reasonable to
9 support the use? I would probably say, no.
10 They're trying to park in accordance with the
11 code. They're not over parking it. Therefore,
12 the alternative is less parking. Because of
13 the lack of shared parking, we support the
14 plan, as proposed.

15 CHAIRMAN O'ROURKE: Thank you.

16 Sorry, Mike.

17 MR. SULLIVAN: I had a few other
18 questions. There was a third building. Has
19 that been removed completely?

20 MR. ANDRES: We did find the foundation
21 of the building when we dug out the other
22 building.

23 MR. SULLIVAN: I thought that there were
24 some remnants there.

25 MR. ANDRES: I should say that we found

1 pieces of it and a few other things over in
2 this corner (Indicating).

3 MR. SULLIVAN: I just wondered if there
4 were any utilities or anything that were
5 serving that at that location.

6 MR. ANDRES: No.

7 MR. SULLIVAN: I know that you were
8 investigating the use of porous pavement. I
9 live very close to this area and my lot is
10 clay. I wonder if you've had any soil test
11 done to see if that's feasible. It's a
12 combination of old debris from the previous
13 buildings that were there. There is a sand
14 layer and then it goes down to a really hard
15 material - hard shale. So, we're probably not
16 looking at pervious pavement. The discussion
17 is out there. There is cross connection here,
18 snow storage here and pipes (Indicating).

19 MR. SULLIVAN: The really large pipes?

20 MR. ANDRES: No, there are going to be
21 very small pipes. It will almost be like a
22 septic deal because we have to have a way for
23 it to all get out because there is no way for
24 us to pipe this. If we had some depth, we
25 could work with it, but there isn't any. It's

1 pretty complicated.

2 MR. KING: We did the testing with DPW
3 and stormwater. You're right, there is a small
4 sand layer there, but it's not a great site
5 from that standpoint. It's because it's been
6 developed so many times over the years.

7 MR. SULLIVAN: I know that I'm definitely
8 on clay and farther north on Old Loudon they
9 put the LaQuinta Hotel in and they put really
10 large pipes underneath the parking lot like an
11 underground detention basin, basically.

12 MR. ANDRES: We've done those in a number
13 of areas. Here we won't have the depth to be
14 able to do that.

15 MR. SULLIVAN: Do you have something that
16 will be feasible?

17 MR. ANDRES: Yes.

18 MR. SULLIVAN: The last item that I had
19 was something that C.J. touched on. It was to
20 have a fence in front to delineate the patio
21 area. I am hoping that it would keep debris
22 and people on the patio. I'm mostly concerned
23 about small children being so close to Route 2
24 and Old Loudon Road. I'd like to have some
25 sort of fence there. It could be more

1 decorative than chain link.

2 MR. ANDRES: I think that what we spoke
3 about is that the patio area is proposed with
4 some shrubs around it. I think that all you
5 have to do is look at Mr. King's copy of the
6 Mobil across from Keeler. That has more
7 flowers than most of the sites in the town.
8 The idea that there is just going to be paper
9 and debris floating around is just not there
10 for Mr. King. There will be someone cleaning
11 it up every morning if there are people that
12 are littering.

13 As far as kids, we're promoting a certain
14 amount because we're putting in bike racks as
15 we assumed some of the neighborhood kids will
16 be there, but the parents have to be
17 responsible.

18 MR. SULLIVAN: Yes, but it is very close
19 to Route 2. I'd like to have some sort of
20 barrier.

21 MR. ANDRES: I think that his barrier
22 will provide that.

23 MR. SULLIVAN: Okay, as long as there is
24 something there. That would alleviate some of
25 my concerns. Thank you. That's all I had.

1 MR. KING: C.J., we could do something
2 similar with what they did at Fresh Market, if
3 that is acceptable to the Board.

4 CHAIRMAN O'ROURKE: I'm only one member.
5 I love that look, and in the Comprehensive
6 Plan we talk about the gateways and trying to
7 spruce those up. I think that they did an
8 outstanding job with that and worked closely
9 with members of the Board. We certainly will
10 poll the Board if you'd like and see how the
11 other members feel about it.

12 Tim?

13 MR. LANE: You had touched on the fact
14 that if there were a fence on one side, based
15 on the neighbor's request, you have problems
16 with your snow storage and I agree with that.
17 I'm not sure that would be a very aesthetic.
18 That being said, you don't have a lot of space
19 for snow storage.

20 MR. KING: We'd have to store it back
21 over in there (Indicating). We will be doing
22 all of our own plowing and maintenance, so if
23 we need to take out a load, then we take out a
24 load. We have a full maintenance department
25 with out other businesses. We will be

1 maintaining this property ourselves. We deal
2 with that all the time. Obviously we don't
3 want to because it's cost.

4 MR. LANE: The lighting will be low
5 lights?

6 MR. ANDRES: We actually put it on this
7 plan based on the comments that came from
8 preconcept. We are showing 150 watt, 12 foot
9 high so we're keeping it pedestrian - we have
10 a light here and here (Indicating) and then
11 there will be some small lights on the
12 building. They'll all be shoe boxed down.

13 MR. GRASSO: Is there any kind of
14 lighting theme that's already out there in
15 other developed properties?

16 MR. KING: No. The building that we were
17 talking about earlier has building lights all
18 around the building. They're the ones that are
19 \$25 from Home Depot. I think that we'll be
20 coming up with something for the lighting
21 package for the building.

22 MR. GRASSO: Does the Planning Board have
23 a sense if they would rather have more of a
24 historic type of lighting as opposed to more
25 of a commercial?

1 MR. LANE: But the box is kind of plain
2 to me. To see something a little more artistic
3 would be nice. We're only here because you're
4 supposed to be talking about preliminary
5 things.

6 MR. GRASSO: As this does move forward in
7 the final, I think that he would like the
8 feedback now so that he brings forth a plan
9 that reflects those things.

10 CHAIRMAN O'ROURKE: Obviously, I think
11 that the more decorative lighting would be
12 great and within certain cost parameters for
13 the applicant. I honestly think that it's a
14 great corner. I think that it would behoove
15 the applicant to do those extra type things on
16 that corner. Architecturally significant, I
17 think, works well.

18 MR. NARDACCI: I was going to ask you
19 about lighting. It's a gateway and it's
20 something that we should treat as such. This
21 isn't Fresh Market. I wouldn't expect you to
22 go through the expense.

23 CHAIRMAN O'ROURKE: That said, it's
24 significant because it's redevelopment.

25 MR. KING: Do we know the use for

1 lighting in the parking lot?

2 MR. ANDRES: I think that we can work
3 with the architect with something and we might
4 end up doing a shoebox type of thing.
5 Remember, we'll have a fully lit canopy.

6 MR. LANE: I noted that we're restricting
7 the refuse pick up during daytime hours.

8 MR. KING: Our operations are generally
9 10:30 to 11:00.

10 MR. LANE: But a lot of owners like to
11 get in early.

12 MR. KING: There are certain areas where
13 they come later. We don't have an issue with
14 that.

15 MR. LANE: I don't have any other
16 questions.

17 CHAIRMAN O'ROURKE: Lou?

18 MR. MION: I'm going to pass to my
19 colleague to my right here. We have just about
20 the same questions.

21 MR. ROSANO: I have a couple of questions
22 and they're not important for tonight, but I
23 just wanted to address them.

24 That cluster of trees that you're showing
25 there in the parking lot. The one I'm talking

1 about is the one that's closest to the
2 building. What are we talking about and how is
3 that going to affect the line of sight? I'm
4 trying to get out of your parking lot and
5 people are coming around the corner.

6 MR. ANDRES: It's not a cluster of trees.
7 There is one tree that -

8 MR. ROSANO: No, the rendering that shown
9 there.

10 MR. ANDRES: We're supposed to be looking
11 at the rendering of the building. Sometimes
12 the architects take liberties with the
13 landscaping. There is one tree, and then these
14 are smaller shrubs (Indicating).

15 MR. ROSANO: Just as we go forward and
16 we're talking through this - it's going to be
17 tough enough getting out of there. We have to
18 have a complete line of sight.

19 MR. KING: I'll just make sure that we
20 mitigate any type of sight line.

21 MR. ROSANO: I just wanted to go there
22 now and get that out there. Thank you.

23 MR. NARDACCI: I have a few brief points.
24 Just to reiterate, please talk to that
25 neighbor that had taken the time to e-mail Joe

1 with their concern. I'm sure that you guys can
2 work it out. Just report and let us know how
3 you make out.

4 It's on our packets for consideration
5 pending and I'm sure that you know in regards
6 to SEQRA - the Board has taken the position
7 that the Board will not consider SEQRA at
8 concept going forward. That's something that's
9 not just tonight, but it's a practice that we
10 started about 10 months ago. It's a short form
11 and if it's a type 2, it's something that we
12 would consider towards final.

13 We've seen other pizza places turn out
14 really nice as redevelopment projects. With
15 the rendering that we're looking at, I'm glad
16 that you took the time at concept to provide
17 us with a color detail of what you're looking
18 to do with the building. It's interesting and
19 it's architecturally interesting. It's
20 something that's not just an old structure.
21 You're taking some time with it
22 architecturally, which I think is to be
23 commended.

24 I do agree with C.J. and like his idea.
25 Take the fencing that they did at Fresh Market

1 and see how you can incorporate that into the
2 corners, like you said, ornamentally. It's
3 just a nice feature. That's basically it.
4 You're taking the time and redeveloping the
5 site.

6 You're increasing the greenspace and
7 that's something that wasn't mentioned from
8 18 percent to over 35 percent, which is a huge
9 benefit. You have a site now that you're going
10 to add a lot more green. When you come back
11 for final, I would like to see you submit a
12 landscaping plan. I'd like to see details,
13 once you talk to those neighbors and find out
14 exactly what you're going to plant. I'd like
15 it if you could walk us through it at final.
16 What are you planting and what is it going to
17 look like? If you could come back with
18 renderings, that would be great.

19 MR. ROSANO: Just one more question. We
20 touched upon deliveries briefly. How many will
21 there be?

22 MR. ANDRES: Tuesday and Saturday.

23 MR. ROSANO: Thank you.

24 CHAIRMAN O'ROURKE: Just how far is the
25 sidewalk proposed to go down Old Loudon?

1 MR. KING: It will be to this curb here
2 (Indicating). We will have the handicapped
3 access there. There is a pretty good sized
4 ditch there so really, this is really the
5 logical spot for now.

6 MR. GRASSO: DOT, in their follow-up
7 letter that they issued via e-mail, they had
8 questioned the terminus on the east side of
9 the site. You're going to loop that sidewalk
10 on the east side of the building?

11 MR. ANDRES: Actually, I think that this
12 sidewalk is being eliminated and this is going
13 to come around the back. That was your
14 suggestion and I think that makes a lot of
15 sense.

16 MR. GRASSO: That brings me to my next
17 point. I would think that if you tried to
18 eliminate that sidewalk, DOT may have a
19 problem with that sidewalk to nowhere. They
20 raised that in their follow-up e-mail
21 correspondence.

22 MR. ANDRES: We did have that discussion
23 at the DCC meeting with DOT about putting the
24 sidewalks in and not putting them in. I think
25 that the general consensus was that it

1 probably made more sense to put them in. The
2 sidewalk to nowhere is a fact. If they object
3 to that, then we can just go back to an escrow
4 and not put it in.

5 MR. ANDRES: I've talked to Mark Kennedy
6 at DOT and I'm looking to put them in now
7 because I don't want to dig my place up
8 somewhere down the road. I'd rather do it now.
9 It is a transition along the pavement, but you
10 could then walk from there. I think that we
11 discussed this in the DCC meeting. There is a
12 ditch along the side of the road.

13 MR. KING: When we put in the Mobil gas
14 station in 1997, we put the two sidewalks in
15 to nowhere. We would like to do it the way
16 that we have it proposed. I'd like to put the
17 sidewalks in now versus later. That's the
18 right way to do the project. We're already out
19 there doing the work. It's going to cost a lot
20 more if we do it after the fact. I don't think
21 that we want people walking back to our
22 service door.

23 MR. ANDRES: We actually have the service
24 door access this way (Indicating). I think
25 that Joe's comments were appropriate. We have

1 eliminated that. We don't want it to come back
2 to the dumpster. We don't want someone to walk
3 back there and think that they're going to get
4 into the building.

5 CHAIRMAN O'ROURKE: Anyone in the
6 audience like to speak on this project?

7 MR. FERRIS: My name is George Ferris and
8 I own the building just around the corner. The
9 obvious reason that I'm opposed is because I
10 own a pizzeria. The proposal of two pizzerias
11 right across the street - I don't see why we
12 need another one. I do agree with the idea that
13 they are rebuilding the property. That
14 definitely needs to be done. There has been a
15 lot of history on that corner up there. My
16 father has been up there for 30 years and I
17 know that corner pretty well.

18 The pavement up there is pretty shaky to
19 build on. They said that they weren't going to
20 pave. I don't know about that.

21 As far as building, it just sounds like
22 there isn't enough room up there.

23 MS. FERRIS: I'm Geraldine. I'm George's
24 wife. I guess we had talked and spoke to some
25 people in the town, too. We're concerned

1 because we both grew up here. Our parents have
2 been here and our children are here. This is
3 our life. Another pizzeria on that corner - it
4 will be the forth pizzeria that's come in
5 three years.

6 CHAIRMAN O'ROURKE: Again, ma'am,
7 unfortunately, as long as I sit here, it's
8 still America and this gentleman is investing
9 his money. If that's what he chooses to build
10 against your competition, that's what this
11 country is about, in my opinion. If he wanted
12 to put a car dealership next to Mr. Nemith,
13 that would be his right, as long as it meets
14 the zoning. This property meets the zoning. He
15 is looking for two small waivers for that
16 property and it meets the zoning of the town.
17 He's willing to pay taxes.

18 You're going to pay your taxes, right?

19 MR. KING: We already pay taxes.

20 CHAIRMAN O'ROURKE: Unfortunately, you're
21 in competition and I understand and it's
22 difficult being a small business owner. I'm
23 one, as well. When you have to go up against
24 the big guys, sometimes, it's not fun. There
25 are always some different things about small

1 businesses that make them succeed. I'm sure
2 that you'll find the ingredients that you need
3 to continue operating your business.

4 MS. FERRIS: My concern isn't in the
5 competition. Papa John's was here two years
6 ago and went out of business. My concern is to
7 have this and in a year or two it will be
8 vacant again. Papa John's didn't succeed in
9 the town. That's one concern.

10 The other concern that I brought up to
11 the town is that my husband and I looked into
12 this property 10 years ago. We were told by
13 the Town of Colonie that we could not put a
14 restaurant in -- no food establishment,
15 whatsoever.

16 Four years ago, a person tried to put an
17 Asian restaurant in there and was also told
18 that there could be no food establishment on
19 that corner. The reason was because of square
20 footage or something. It was too close to the
21 residential. So, we're a little upset with the
22 way that things have been done. Somebody big
23 comes in and everything is now okay.

24 CHAIRMAN O'ROURKE: I'm sitting here to
25 tell you that would never happen under my

1 watch.

2 MS. FERRIS: It did happen.

3 CHAIRMAN O'ROURKE: Honestly, whoever is
4 giving you the information in the Town,
5 unfortunately hasn't been forthright.

6 MS. FERRIS: There were letters sent out
7 to the local people.

8 CHAIRMAN O'ROURKE: I would love to get a
9 hold of one of those and find out where it
10 originated, because within the zoning in the
11 Town of Colonie, since they changed the zoning
12 in 2007 -

13 MS. FERRIS: So it went to less?

14 CHAIRMAN O'ROURKE: Joe, do you know if
15 the zoning in this particular parcel changed
16 in the rezone in 2007?

17 MR. GRASSO: It definitely changed
18 because the NCOR is the new zone that the Town
19 established.

20 CHAIRMAN O'ROURKE: Right, I understand
21 that. I meant the use - the ability for the
22 use.

23 MR. GRASSO: The previously allowed use
24 was restricted for restaurants.

25 CHAIRMAN O'ROURKE: This is the zoning

1 that was passed by the prior administration
2 that this is an appropriate use for this newly
3 created zone since 2007.

4 MR. GRASSO: It had changed.

5 MS. FERRIS: Because two places have been
6 turned away.

7 MR. GRASSO: Yes, understood.

8 MS. FERRIS: My other concern is the
9 dumpster. We had a business there, so we know
10 about the dumpster. Dumpsters tend to bring
11 animals. Where would the location of the
12 dumpster be?

13 MR. ANDRES: In the back here
14 (Indicating).

15 MS. FERRIS: So, near the residential?

16 MR. ANDRES: This is all commercial. This
17 is a commercial building and it has, I
18 believe, two apartments in it.

19 MS. FERRIS: That's where we are. That's
20 why I know that area. Where your dumpsters are
21 is closer to the residential.

22 MR. ANDRES: I think that from observing
23 it, there is a dumpster right out behind. I'm
24 assuming it's been used by the pizza place.

25 MS. FERRIS: Right, that would be us.

1 MR. NARDACCI: The dumpster that you're
2 proposing will be masonry enclosed dumpster.

3 MR. ANDRES: Right, matching the building
4 construction.

5 MS. FERRIS: How will deliveries come in?
6 Off Old Loudon on Saturday?

7 MR. FERRIS: I think that you mentioned
8 earlier that you proposed the fence right here
9 (Indicating). Basically the whole back of the
10 restaurant will be fenced in.

11 CHAIRMAN O'ROURKE: No, the whole front.

12 MR. FERRIS: And what about the back?

13 MR. NARDACCI: That's just for
14 aesthetics. The adjoining property owner,
15 Stants, had requested a fence. Because of the
16 three-foot setback, there is a concern that it
17 might not work. So, the applicant has agreed
18 to talk to that property owner and see if they
19 can come up with an amicable agreement.

20 MS. FERRIS: Will there be a fence on the
21 inside?

22 MR. NARDACCI: There isn't one proposed.

23 MS. FERRIS: So, what is the proposal for
24 deliveries coming in and out?

25 MR. ANDRES: They will be in on off-hours

1 and the truck size will be small.

2 MR. NARDACCI: Is that your property to
3 the east?

4 MR. FERRIS: Yes.

5 MR. NARDACCI: What is the buffer between
6 this parcel and that property to the east?

7 MR. ANDRES: There are existing trees and
8 we were proposing some additional trees.

9 MR. NARDACCI: There are existing trees
10 that you're gong to leave.

11 MR. ANDRES: There are existing trees
12 that are here and there is a large tree here
13 (Indicating). This will be a masonry enclosure
14 (Indicating) and we'll have buffering there.
15 It might be along the rear.

16 MR. NARDACCI: That was one of the
17 engineer's comments that you retain those
18 existing trees that are there along the east
19 side. If there is additional buffering that
20 you think is required, it's a good time to say
21 that.

22 Is that something that you think is
23 necessary in addition to those trees? What
24 kind of buffering would you like to see there?

25 MR. FERRIS: The trees would probably be

1 fine.

2 CHAIRMAN O'ROURKE: Anyone else?

3 MR. MAYO: I'm Dave Mayo. I know most of
4 the people here. As the Chairman just said,
5 this is a narrative. It's really not fair.

6 If you go to the red light there - and I
7 don't know how many people have been there,
8 but you can take a baseball and hit three
9 pizza places right now. You say that it's
10 America and competition - but it's not.
11 Dominoes and any other chain restaurant, they
12 can offer two for one pizza - \$6 large pizza
13 and they can do that for a year. That can
14 drive down business for the other places. I
15 know that we need the tax dollars.

16 Can you tell me about the ingress and
17 egress?

18 MR. ANDRES: This site will all be closed
19 off (indicating) and this will be open. Cars
20 will be able to go in this way and go out like
21 that.

22 MR. MAYO: I believe the Chairman also
23 said something about peak hours. I don't know
24 if you're familiar with the area, but it's a
25 nightmare getting in and out of the Mobil. The

1 traffic backs up for a half mile. It will be a
2 nightmare.

3 How many parking spaces are there?

4 MR. ANDRES: There are 19.

5 MR. MAYO: I just think that you're going
6 to be sitting there for a half hour. I don't
7 think that it's fair competition.

8 CHAIRMAN O'ROURKE: Thank you.

9 MR. KING: Mr. Chairman, could I just
10 make a comment?

11 CHAIRMAN O'ROURKE: Sure.

12 MR. KING: I'm a locally owned and
13 operated business. I'm not corporate. I grew
14 up here and opened my business here. I'm not
15 some big guy coming in and looking to make
16 money. I'm a local guy.

17 CHAIRMAN O'ROURKE: Thank you.

18 Yes, ma'am.

19 MS. NUMRICH: My name is Barbara Numrich
20 and I'm a resident of Old Loudon Road and I'm
21 just going to mention something on a
22 completely different note. I've always felt
23 bad about Latham because Latham didn't really
24 have anything historical. It has lots and lots
25 of commercial areas.

1 That is the original Latham Corners. It
2 used to be like a little town store and a
3 hotel that was across the street. When they
4 started improving that building, they knocked
5 down all the annexes to the buildings and it
6 started looking nice when they redid that. I
7 thought gee, maybe they're going to make this
8 nice.

9 I just wanted to say that I feel bad that
10 you're kind of taking away the history of
11 Latham Corners. I know that people own the
12 property and they can do what they want with
13 the property, but Latham itself doesn't have
14 really any historical significance. It's all
15 stores and I just don't know if the Town of
16 Colonie looked into that site or doing
17 anything with that site because it is the
18 original Latham Corners.

19 CHAIRMAN O'ROURKE: Thank you.

20 Yes, sir.

21 MR. CONSTANTINE: My name is John
22 Constantine. Are you the original franchisee
23 that came in before?

24 MR. KING: No.

25 CHAIRMAN O'ROURKE: Anyone else?

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

2 CHAIRMAN O'ROURKE: Anyone from the Board
3 have additional comments or questions?

4 MR. GRASSO: C.J., I had one more. In our
5 comment letter - I know that this is off the
6 topic, but in our comment letter we brought up
7 the possibility that there would be a cross
8 access connection between this site and the
9 property to the east that was brought up in
10 DOT's letter. We noted that based on the plan
11 and the location of the dumpster, basically it
12 will eliminate the potential for that
13 connection to go in. I know that we have
14 addressed this issue when you have competing
15 businesses and unfair competitive
16 disadvantages. I just wanted to throw it out
17 there to know whether or not it's something
18 that we shouldn't pursue or that the Planning
19 Board thought that we would continue to
20 purpose as Tom works on final plans.

21 CHAIRMAN O'ROURKE: On this project, I
22 think that it's absolutely not necessary.

23 MR. GRASSO: Okay, anyone else on the
24 Board think differently?

25 MR. LANE: I agree with that.

1 MR. GRASSO: Okay.

2 MR. NARDACCI: C.J., I have just one
3 final comment to the neighbors and Mr. Mayo.

4 We appreciate you taking the time to come
5 out and talk to us and express concerns and to
6 the residents your opinions on the issue. I
7 want you to know that we're listening. The
8 Board has done a good job of listening and
9 trying to resolve the things that we can.
10 We're in a situation where the zoning changed
11 in 2007 and this is a conforming use.

12 The applicant is spending a lot his own
13 money to try to do a really nice job to make
14 it look architecturally right in redeveloping
15 a parcel that's been unused for a long time. I
16 support this application, but I don't do it
17 belittling your opinion. I do it because we
18 have some rules and we have laws that we have
19 to follow. This is one where I do understand,
20 being a small business person, the concerns of
21 what happens if other places go out of
22 business. It's something that we don't want to
23 see.

24 I wanted you to know that I appreciate
25 you taking the time out of your lives to come

1 down here and express your concerns. I just
2 wanted you to know where I was coming from. I
3 intend to support moving this forward. I don't
4 do it without thinking about what you're
5 saying.

6 CHAIRMAN O'ROURKE: Me, sitting as
7 Chairman, I would certainly hope that
8 everybody on this Board would view each
9 project in its own light and in its own merit
10 under the guidelines that we are - to use
11 within the law of the Town of Colonie. So,
12 certainly I appreciate your comments, Tom. I
13 would certainly hope that everybody on this
14 Board would look at each project
15 independently.

16 MR. NARDACCI: I think that we do and I
17 think that we have a history of proving that.
18 I think that we shouldn't belittle people's
19 opinions. I don't.

20 CHAIRMAN O'ROURKE: No, and certainly I
21 think that as a Board we have been known to
22 listen more than is probably necessary at
23 times to certain projects. I appreciate your
24 input.

25 Yes, Paul?

1 MR. ROSANO: One last thing - you're not
2 the only people that didn't know the Town had
3 been rezoned in 2007. It's probably the
4 biggest secret that ever happened in the Town
5 of Colonie. I can attest that in the next few
6 weeks, there is a ton of people that are going
7 to be talking about how things got done under
8 the former regime in the Town of Colonie. We
9 can't do anything about that, obviously.

10 MR. FERRIS: Well, if we knew, we might
11 have had a chance to purchase that property
12 ourselves.

13 MR. ROSANO: I know. Trust me, I know.
14 There is really nothing that we can do, but
15 follow the rules and regulations and sometimes
16 it doesn't feel good, but we do feel for you.

17 CHAIRMAN O'ROURKE: These gentlemen are
18 looking for two separate waivers. One is a
19 setback waiver and the second is parking in a
20 front yard waiver.

21 On the setback waiver, do I have a motion
22 from the Board?

23 MR. NARDACCI: C.J, I'll make a motion.

24 CHAIRMAN O'ROURKE: I'll second.

25 All those in favor?

1 **(Ayes were recited.)**

2 CHAIRMAN O'ROURKE: Opposed?

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

4 CHAIRMAN O'ROURKE: You have your setback
5 waiver.

6 On the front yard parking waiver on
7 Old Loudon Road, do I have a motion from the
8 Board?

9 MR. NARDACCI: Motion.

10 MR. LANE: Second.

11 CHAIRMAN O'ROURKE: All those in favor?

12 **(Ayes were recited.)**

13 CHAIRMAN O'ROURKE: Opposed?

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

15 CHAIRMAN O'ROURKE: And lastly on the
16 concept, as presented tonight, are there any
17 movers with anything attached?

18 MR. NARDACCI: I'll make a motion and I
19 would attach the conditions set forth in the
20 engineers - by CHA and their comments, as well
21 as the suggestions of the ornamental fencing
22 along the front.

23 CHAIRMAN O'ROURKE: Increased lighting
24 and landscaping plan?

25 MR. NARDACCI: Right. We'll see that

1 landscaping and lighting plan and the
2 correspondence from that neighborhood.

3 CHAIRMAN O'ROURKE: Did I miss anything,
4 Joe?

5 MR. LACIVITA: The only other thing that
6 we talked about was the cooler on the side of
7 the building, but that is within CHA's Item
8 11. The air conditioning units that we talked
9 about are going to be within the attic.

10 CHAIRMAN O'ROURKE: Except the condenser.
11 Do I have a second on Tom's motion?

12 MR. MION: I'll second.

13 CHAIRMAN O'ROURKE: All those in favor?

14 ***(Ayes were recited.)***

15 CHAIRMAN O'ROURKE: Opposed?

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

17 CHAIRMAN O'ROURKE: Good luck. We look
18 forward to seeing you back in a timely
19 fashion.

20

21

22 ***(Whereas the proceeding concerning the***

23 ***above entitled matter was adjourned***

24 ***at 8:09 p.m.)***

25

CERTIFICATION

1
2
3
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 **NANCY STRANG-VANDEBOGART**

15
16
17 **Dated October 3, 2010**

18
19
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21
22
23
24
25
Legal Transcription

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