

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

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THE PROPOSED PROJECT OF  
DIBELLA'S OLD FASHION SUBS 2 WADE ROAD  
REVIEW AND ACTION ON SEQRA  
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THE TAPED AND TRANSCRIBED MINUTES of the above  
entitled proceeding BY NANCY STRANG-VANDEBOGART  
commencing on September 28, 2010 at 7:06 p.m. at  
the Public Operations Center 347 Old Niskayuna  
Road, Latham, New York 12110

BOARD MEMBERS:

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

Also present:

- Joe LaCivita, Director, Planning and Economic  
Development
- Bruce H. Secor, PE Stantec Consulting
- Greg Barkstrom

1                   CHAIRMAN O'ROURKE: First on the agenda  
2 this evening, we have DiBella's Old Fashion  
3 Subs, 2 Wade Road.

4                   There are a couple of questions that I'd  
5 like to go over first before we actually get  
6 into this. There is actually nothing provided  
7 in the Land Use Law to review an action and to  
8 modify prior final approval.

9                   Who is representing the applicant?

10                  MR. SECOR: Bruce Secor with Stantec  
11 Engineering.

12                  CHAIRMAN O'ROURKE: How are you, Bruce?

13                  In regard to this, did you have  
14 additional meetings with the Planning and  
15 Economic Development Department?

16                  MR. SECOR: Only up to the date of the  
17 approval. At the time that this had final  
18 approval, we had already lost TGI Friday's as  
19 a tenant. Obviously, we had to come back when  
20 we had a new tenant. So, this is the case.  
21 We're here coming in for a site plan approval.

22                  CHAIRMAN O'ROURKE: Herein lies the  
23 difficulty. Again, I was part of that Board  
24 that voted against that. The Land Use Law is  
25 pretty particular in regard to site plan

1 amendments. I guess it's going to depend on  
2 how the Board feels, whether or not this is a  
3 substantial change from what was approved at  
4 that time.

5 The section out of the Land Use Law that  
6 I will read is Section 190-56(L).

7 "Site Plan Amendments: The site plan may  
8 be amended by filing an application with the  
9 Planning Board for a site plan amendment prior  
10 to the completion of the development  
11 authorized under the approved site plan. If  
12 the Planning Board finds that such proposed  
13 amendment is consistent with the terms of any  
14 applicable special use permit approval, or if  
15 no special use permit is required and does not  
16 represent a substantial change from the  
17 approved site plan, the amendment shall be  
18 approved. If the Planning Board determines  
19 that the proposed amendment is consistent with  
20 the terms of the applicable special use permit  
21 approval or if no special use permit is  
22 required but is a substantial change from the  
23 approved site plan, it shall follow the  
24 procedures for site plan approval contained  
25 above.

1           If the Planning Board determines that the  
2 proposed amendment is inconsistent with the  
3 terms of any special use permit approval, it  
4 shall consider the application to be one for a  
5 special use permit amendment and proceed  
6 pursuant to this chapter."

7           Unfortunately, there are a couple of  
8 other things that I saw in it. Again, let me  
9 just start by saying that I love the project,  
10 with a couple of exceptions. I'm just not sure  
11 that it meets the law as stated.

12           MR. SECOR: If the Chairman would permit  
13 us, I'd like to make the presentation to the  
14 Board to show that we think that it's a minor  
15 change and that it is consistent with the  
16 previous approval.

17           CHAIRMAN O'ROURKE: Right, and that's  
18 what I'd like to do, but I wanted to be up  
19 front with you and go on the record and say  
20 look, there is an issue here that I think that  
21 we need to work through together and I just  
22 wanted to know what contact, if any, there may  
23 have been from the time that there was final  
24 approval with the Planning Department until  
25 today.

1           MR. SECOR: When we got a new tenant, we  
2 came in and sat down with the Planning  
3 Department and we were following up on the  
4 previous approval. We now have a tenant that  
5 we would like to bring in and -

6           CHAIRMAN O'ROURKE: Who did you meet  
7 with?

8           MR. SECOR: Mike Lyons. He said put  
9 together an application and we'll bring it  
10 before the Board. That's basically where we  
11 are.

12          CHAIRMAN O'ROURKE: Again, certainly in  
13 fairness, I want you to do the presentation -

14          MR. SECOR: We were aware that there was  
15 a change.

16          CHAIRMAN O'ROURKE: So you were aware of  
17 the new Land Use Law.

18          MR. SECOR: Yes, and that's why I said we  
19 made minor modifications. We started off with  
20 that. We feel that it is a minor modification  
21 and we do feel that it's appropriate for the  
22 Land Use Law.

23          CHAIRMAN O'ROURKE: Okay, the floor is  
24 yours, sir.

25          MR. SECOR: Thank you.

1           These are the same drawings that were  
2           submitted to the Board in the package. I'm  
3           just going to start with the original site  
4           plan.

5           There was a medical office building here  
6           of about 12,000 and some square feet  
7           (Indicating). Part of the site already had  
8           access to Wade Road with two curb cuts. The  
9           intersection of Wade Road and Route 7 had been  
10          reconstructed by the Town about four or five  
11          years ago as part of the extension project. We  
12          had a brand new intersection to work with.  
13          This previous site plan - this was an exit  
14          only. In discussing things with the Planning  
15          Department and with the State Department of  
16          Transportation, we ended up moving this main  
17          entrance to get it further away from the  
18          intersection. That's just a quick history.

19          The plan that was approved by the Board  
20          had the Chipotle's restaurant and there is  
21          Route 7 and Wade Road (Indicating). Again, the  
22          only modification that we had to make was some  
23          striping which was already in the master plan  
24          that the Town had prepared for Wade Road. That  
25          would show the continuation of the shared turn

1 lane down to the traffic circle down by Avis  
2 Drive. We had a proposed TGI Friday's. This  
3 was a larger traffic generator than what we  
4 are proposing now. There was more parking  
5 required.

6 When Friday's fell out of being a tenant,  
7 we said we still want to develop the site. The  
8 curb cuts are in and all the utilities are in,  
9 the stormwater management system is in, and  
10 Chipotle's is up and operating and this seems  
11 to be a very successful site. As we were doing  
12 this work, the State of New York was doing  
13 this work on Route 7. After our client had  
14 purchased some property to build a retaining  
15 wall and permanent easement -- that's all been  
16 deeded off.

17 If you read the minutes from the previous  
18 hearing, there was some talk about the  
19 setbacks. We actually had to ask for a  
20 variance because we were getting approval  
21 before the taking was set. We said we were  
22 going to set the building to what the setbacks  
23 will be after the taking. So, the building is  
24 in compliance with current standards and now  
25 the property has been deeded off to the state.

**Legal Transcription**

1 The parking meets the requirements. The front  
2 setback of what was proposed for Friday's is  
3 basically the same setback that we have for  
4 the proposed new building.

5 What is happening in this new site plan  
6 is that we're basically putting a different  
7 shape to the building in that same footprint.  
8 The original building was about 12,000 square  
9 feet. If you follow through these numbers,  
10 we're proposing about 10,350 square feet so  
11 it's a net reduction of about 2,100 square  
12 feet. However, the previous approval with  
13 Fridays was about an 8,000 square foot  
14 building. It's a smaller building, but a  
15 higher trafficked area. So, as part of our  
16 submission package, we put in a new traffic  
17 study and traffic analysis.

18 This main building, DiBella's Sub Shop,  
19 and the proposed retail will require less  
20 parking so we're able to lose one row of  
21 parking here and increase the green space a  
22 little bit. Basically, it's the same footprint  
23 with pedestrian access. The traffic  
24 circulation is all the same. The utilities are  
25 the same. The parking has actually been cut

1 down from the 156 spaces that was before, to  
2 what we have now of 141 spaces. We have a few  
3 more than the minimum required.

4 One or two of the Town comments was about  
5 the dumpster. We have shown the dumpster here  
6 a little larger in size so we'll make sure  
7 that we have recycling bins inside the wall  
8 and we're working with Chipotle's to get that  
9 dumpster sitting out in the parking lot where  
10 it's not supposed to be to get that worked in.  
11 The landscaping along the road is pretty much  
12 the same as what was proposed before. We added  
13 a little area here of no parking which is  
14 really for trucks to pull off for deliveries  
15 so that trucks delivering to the businesses  
16 will not block the entrance/exit that we have.

17 The building that we're proposing would  
18 have DiBella's in the side closest to the  
19 parking area and the proposed tenant in the  
20 front. Our presentation to the Board is that  
21 it's less of a traffic generator. There is a  
22 little bit more greenspace than before. The  
23 footprint of the building is a little bit  
24 larger, but in the same location. The setbacks  
25 are the same and the landscaping is basically

1 the same as before. We feel that this is a  
2 minor modification to something that the Board  
3 has already approved. We just want to follow  
4 through on the direction that we were given on  
5 the approval.

6 With that, Mr. Chairman, I'd be happy to  
7 answer questions.

8 CHAIRMAN O'ROURKE: The orientation of  
9 the building - you pull your frontage off of  
10 Wade Road?

11 MR. SECOR: Correct. This is the front of  
12 the building (Indicating).

13 CHAIRMAN O'ROURKE: But the front doesn't  
14 face Wade Road.

15 If you look at PA1, your main façade  
16 faces Route 7. That doesn't meet the Land Use  
17 Law.

18 MR. SECOR: It's basically the same  
19 orientation as the TGI Friday's. It was faced  
20 to the north and there was landscaped façade  
21 along Wade Road. The pedestrian entrances were  
22 on the north side. Unless we missed something,  
23 that was the same orientation as the building  
24 and the access the first time.

25 CHAIRMAN O'ROURKE: I tend to disagree.

1 MR. NARDACCI: I don't recall that being  
2 made clear as to the orientation of Friday's.

3 MR. SECOR: Again, I can hand out plans  
4 to the Board, but this was the restaurant and  
5 the main entrances were, again, facing towards  
6 Route 7 on the side of the parking. It was the  
7 same.

8 MR. NARDACCI: On the previous plans,  
9 what was the number of Friday's?

10 MR. SECOR: This was PA1

11 CHAIRMAN O'ROURKE: But that's not  
12 Friday's.

13 MR. SECOR: Originally, the street  
14 address was 694 Troy-Schenectady Road and that  
15 was what the Building Department assigned to  
16 Wade Road. The main entrances were right here  
17 (Indicating) on the north side.

18 MR. NARDACCI: I don't recall, myself, as  
19 that being part of the conversation. I mean, I  
20 know that it was part of the conversation at  
21 that meeting, but were we given architectural  
22 plans for that?

23 MR. SECOR: We had elevations.

24 CHAIRMAN O'ROURKE: What is the zoning?

25 MR. LACIVITA: COR.

1 MS. VAIDA: Do you recall if the waivers  
2 were granted in conjunction with that?

3 MR. SECOR: Yes, the waivers were green  
4 space and setbacks in the right of ways.

5 MR. NARDACCI: There were three waivers.  
6 Two of them were setback waivers.

7 CHAIRMAN O'ROURKE: "Site organization:  
8 Building Placement: Buildings must present  
9 their main façade and entrance toward the  
10 street. Buildings should be orientated  
11 parallel or perpendicular to the street or  
12 public sidewalk and allow for parking to the  
13 rear or side of the proposed structure."

14 The minimum frontage build-out is 80%. In  
15 my opinion, the site is not in compliance with  
16 the Land Use Law, unfortunately.

17 MR. SECOR: There is no relief on a  
18 corner lot?

19 CHAIRMAN O'ROURKE: "The Board may waive  
20 these standards to the extent that it deems  
21 necessary in order to secure a reasonable  
22 development of the site. In such case, the  
23 applicant must establish that there are no  
24 practical alternatives to the proposed waiver  
25 that would conform to the standard and the

1 Planning Board shall issue written findings  
2 stating that they sent justification for the  
3 waiver."

4 So you do have some remediation. I'm just  
5 very surprised that nobody before coming to  
6 this meeting had picked up on it. I know that  
7 it had been discussed.

8 Tom, I don't know if it jogs your memory.

9 MR. NARDACCI: I don't recall it being  
10 part of the discussion, and I just read  
11 through the minutes and the minutes are very -

12 CHAIRMAN O'ROURKE: Benign.

13 MR. ROSANO: What is Chipotle's address?

14 MR. SECOR: To be honest, I believe that  
15 it's 694 Troy-Schenectady Road. That was the  
16 original address of the site and the medical  
17 office building.

18 CHAIRMAN O'ROURKE: Yes, but this  
19 building would be Wade Road, correct?

20 MR. SECOR: When we sent this in for  
21 review, they assigned it Wade Road. That's  
22 when we did the zoning verification.

23 MR. BARKSTROM: I'm Greg Barkstrom. I own  
24 DiBella's. I believe that it's one tax parcel  
25 and the tax parcel address is the

1           694 Troy-Schenectady. I don't know how it's  
2 handled, but it's one tax parcel.

3           CHAIRMAN O'ROURKE: Being a corner lot,  
4 you have two faces. You can pull your setback  
5 off of one part and then face your building to  
6 the other part. Do you understand what I'm  
7 saying? As you look at the site, it's not my  
8 belief that the intension of the Land Use Law  
9 was to allow the side of that building to face  
10 Wade Road. Is there a way that you can situate  
11 that building to face Wade Road?

12           MR. BARKSTROM: When we did the original  
13 TGI Friday's and Chipotle's, at that point we  
14 had a Route 7 address. We were meeting the  
15 minimum side setbacks and parking  
16 requirements.

17           CHAIRMAN O'ROURKE: But it's two separate  
18 buildings.

19           MR. BARKSTROM: You're right, but I don't  
20 remember this being part of the conversation  
21 that the doors of Friday's had to face the  
22 street. Basically, this was always oriented to  
23 face to Route 7. We picked one frontage to  
24 front it.

25           CHAIRMAN O'ROURKE: "On a lot containing

1 an existing building, the maximum setback  
2 requirement shall not be mandatory. However,  
3 any new construction should comply with the  
4 intent of the maximum setback provisions as  
5 far as is practicable."

6 MR. BARKSTROM: We're meeting the setback  
7 on Wade Road, but I understand your point.

8 CHAIRMAN O'ROURKE: You're meeting the  
9 setback on Wade, but yet the orientation isn't  
10 toward Wade. Your orientation is toward  
11 Route 7.

12 I think that what you would have to do is  
13 you would have to present to the Board and  
14 prove to the Board -- first I'm going to let  
15 the rest of the board speak, but the way I'd  
16 like to, as one board member, see you do is to  
17 go back and try to orientate the building  
18 toward Wade Road. If it's an impossibility,  
19 then your recourse is that the only way to  
20 reasonably develop the site is to orient the  
21 building that way. But you have to prove that  
22 to us. We have to make written findings.  
23 Again, this was something that came up at a  
24 project and it's come up in a couple of  
25 different projects. We're bound by the Land

1 Use Law. Again, there might be other  
2 questions. I just wanted to get this right  
3 out. I think that it's a serious issue that's  
4 going to depend to the Board whether or not  
5 it's a substantial change for or not. In my  
6 opinion right now, I think that it  
7 substantially deviates from the Land Use Law.  
8 You're going to have to go back and prove to  
9 us and ask for a waiver. For right now,  
10 they're trying to get a waiver. I don't think  
11 that we'll vote tonight, but I think that you  
12 can get al the input that the Board has and  
13 get this back before us in a timely fashion.  
14 Is that fair?

15 MR. BARKSTROM: Yes.

16 CHAIRMAN O'ROURKE: Peter?

17 MR. GANNON: I just have a couple quick  
18 questions about the orientation of the  
19 building. Is it the intent that once you guys  
20 identify who that retail tenant is -- that the  
21 building side that faces Wade Road - is that  
22 going to look similar to the side that's going  
23 to be facing the woods where you have the  
24 DiBella's signage? On your rendering right now  
25 it's blank.

1                   CHAIRMAN O'ROURKE: I think that Peter  
2                   has a great point. If you drive by Fresh  
3                   Market, for instance, it's a corner lot  
4                   developed up there. They chose to face 155  
5                   with their main entrance, but they carry the  
6                   façade to Route 9 and asked for a waiver to do  
7                   that. Certainly, in my opinion, if we were to  
8                   allow you to face that at Route 7, we would  
9                   look for something on Wade Road. We won't  
10                  accept a blank wall.

11                  MR. SECOR: Okay.

12                  MR. GANNON: The other point about  
13                  orientation is I'm aware of what the use is of  
14                  the facility behind where you are proposing to  
15                  build. I guess a real problem that I have with  
16                  the orientation is if you come back as is and  
17                  say that it's impossible having that rear of  
18                  the building facing the rear of a children's  
19                  playground there. I think it's Gilda's Club,  
20                  which may or may not be vacating. I know that  
21                  there is some space there, but it's just even  
22                  more reason to reposition this building on the  
23                  site in a way that complies with the Land Use  
24                  Law and is maybe more friendly to the  
25                  surroundings.

1           The only other question that I had and  
2           the only other point that I wanted to make was  
3           I do feel like a bit of a broken record, but  
4           I've been in that parking lot and it seems  
5           like a ton of parking spots. It seems like the  
6           141 spots - is that for Chipotle's and for  
7           DiBella's and the retail combined?

8           MR. SECOR: Yes.

9           MR. GANNON: I guess that makes a little  
10          bit more sense.

11          MR. SECOR: Because TGI Friday's was the  
12          first one in and their requirement was -

13          MR. GANNON: I understand that. I'd like  
14          to see you guys bring back some numbers to the  
15          Board. I know that you're trying to be good  
16          corporate citizens in complying with the  
17          guidance regarding parking spaces, but we have  
18          seen spots where we have these vast parking  
19          lots that don't necessarily contribute. I know  
20          that the parking lot is already there and  
21          stuff like that, but if you guys determine  
22          that it's not needed and you give us a good  
23          faith look, I think that I, as one member of  
24          the Board, would be interested in hearing what  
25          you see the actual parking requirements to be

1 for the site and hearing what they are.

2 That's all I have.

3 CHAIRMAN O'ROURKE: Mike?

4 MR. SULLIVAN: I had one question. It was  
5 in our packet that there was a discrepancy in  
6 the traffic values. CDTC had values that were  
7 higher than the trip generation manual.

8 MR. SECOR: That goes back to TGI  
9 Friday's. That argument is behind us since  
10 Friday's is out of the picture.

11 MR. SULLIVAN: So, now you're basing  
12 everything on the actual uses.

13 MR. SECOR: It's my understanding that  
14 the Town will send our new traffic letter to  
15 CDTA for analysis.

16 MR. LACIVITA: Yes, we're waiting on that  
17 to come back, actually.

18 MR. SULLIVAN: Thank you. That's all I  
19 had.

20 CHAIRMAN O'ROURKE: Tim?

21 MR. LANE: I thought that this was going  
22 to be quick and easy. Maybe you can add to the  
23 green space and reduce the number of parking  
24 spaces down to maybe a portion of what you  
25 really need. If the Town Code requires 130 or

1 141, then you can add some more green space.  
2 This does not appear to be designed to have a  
3 drive-thru. It is a sub shop, but it's going  
4 to be restaurant style; correct?

5 MR. SECOR: Correct.

6 MR. LANE: Okay, I just wanted to be  
7 sure.

8 Can you point out the dumpsters?

9 MR. SECOR: We had proposed two  
10 locations. One down here and one over here  
11 (Indicating). They're going to be on the side  
12 and they're going to be far enough away. It  
13 gives the truck good access to get into it.  
14 So, the truck will come into it here and come  
15 over to these dumpsters that are already by  
16 Chipotle's, he'll get these and then he'll be  
17 right back out.

18 MR. LANE: They can't share one? As you  
19 said, it's one site. They can't share it?

20 MR. BARKSTROM: The one for Chipotle's is  
21 already built. We may share the cardboard  
22 dumpster.

23 MR. SECOR: When we first looked at this,  
24 the vendor that was coming out had a smaller  
25 truck to pick them up, but the bin that's in

1 here now is the side of the truck. It's like a  
2 seven or eight foot width. That's where the  
3 idea of a recycling bin came in. Apparently,  
4 this company has a one-size bin. One size fits  
5 all. We'll work on that. This is on-site and  
6 it's not supposed to be there and we'll take  
7 care of that.

8 MR. LANE: I always ask the question  
9 about snow storage area.

10 MR. SECOR: We have a little bit of snow  
11 storage up here (Indicating). Basically on a  
12 lot this size, all you can do is pile it up  
13 and truck it away.

14 MR. LANE: So, you'll have a contractor  
15 that will truck it away.

16 MR. SECOR: The stormwater management  
17 area - you're really can't use that for snow  
18 storage because once you start filling it up  
19 with snow, then you can't put water in it.

20 MR. LANE: Thank you.

21 CHAIRMAN O'ROURKE: Lou?

22 MR. MION: I have nothing.

23 CHAIRMAN O'ROURKE: Paul?

24 MR. ROSANO: Nothing.

25 CHAIRMAN O'ROURKE: Tom?

1           MR. NARDACCI: With regard to the parking  
2 lot, is the parking lot fully built-out right  
3 now? Is there any more parking that needs to  
4 be built?

5           MR. SECOR: It's built all the way except  
6 for what was in the pad site. In other words,  
7 everything is built up to about here. You have  
8 these two rows and these two rows that are  
9 parking (Indicating), and everything else is  
10 grass.

11           MR. NARDACCI: That was my big question  
12 when we were talking about Friday's maximizing  
13 the parking, just because of other Friday's  
14 establishments in the area and how busy they  
15 are.

16           I know that to Pete's point - in other  
17 projects we've done banking. If you find that  
18 it's a use that you don't need and if it's  
19 unsightly banking is a good solution.

20           With regard to orientation, it's a great  
21 point. I'm glad that it was caught tonight. I  
22 didn't pull the minutes from the transcript. I  
23 don't know if we were doing transcripts then.

24           MR. LACIVITA: Not at that time.

25           MR. NARDACCI: I can't recall. I think

1           that based on the Land Use Law, I agree with  
2           C.J., you're going to have to go and prove  
3           that you can't make it orientated properly.

4           MR. SECOR: Again, I think that  
5           originally it was a Troy-Schenectady Road  
6           property and we were looking at that, but I  
7           understand your point.

8           MR. NARDACCI: Overall, I'd like to see  
9           it get developed. I'd like to see it move  
10          along expeditiously and hopefully you can get  
11          back sooner rather than later. It doesn't seem  
12          like we have a lot of heavy work ahead of us.  
13          If there are openings on a schedule, I'd like  
14          to get you back as quickly as possible.

15          CHAIRMAN O'ROURKE: Thanks, Tom.

16          I just want to go to a July 13<sup>th</sup> letter to  
17          Mike Lyons and just ask the applicant what he  
18          was getting at.

19          "Based on our analysis, the number of  
20          trips for the revised development of this site  
21          are less than the number of trips for the  
22          pre-existing medical office building.  
23          Therefore, we request that the traffic impact  
24          fees for this project be reduced or  
25          eliminated."

1           MR. SECOR: Based on the trip generations  
2 for the Friday's and Chipotle's, there was a  
3 payment due to the Town. Since the trip  
4 generation now is less than the original use,  
5 we're asking that you recalculate it. Whether  
6 that means it's zero or not, I don't know.

7           CHAIRMAN O'ROURKE: There's a big  
8 difference between recalculating and reduced  
9 or eliminated.

10          MR. SECOR: I like to keep my options  
11 open.

12          CHAIRMAN O'ROURKE: Again, it's  
13 one-third, one-third, one-third.

14          MR. SECOR: We understand that.

15          CHAIRMAN O'ROURKE: I just want to make  
16 sure because the name Mr. Lyons seems to come  
17 up sometimes to this Board and I don't see him  
18 here.

19          MR. LACIVITA: C.J., if I may? This is in  
20 the airport area and based on the original  
21 design of TGI Friday's and Chipotle's, the  
22 site was assessed at \$47,121 of which they  
23 have paid in to date \$23,244. That was based  
24 on the one-third, one-third and one-third.  
25 They are still holding out on the component of

1 the TGI Friday's. For just the building alone  
2 they paid components for the space, for the  
3 water, and for other usage. CDTC is  
4 calculating what the reduction is going to be  
5 and then they'll come back and pay that final  
6 component.

7 CHAIRMAN O'ROURKE: Right, just on the  
8 traffic portion.

9 MR. LACIVITA: Correct.

10 CHAIRMAN O'ROURKE: Right, and that's  
11 what I was reading off of, actually. I just  
12 wanted to clarify on the record that there is  
13 a little bit of difference. So, there will be  
14 a little bit of credit for them, but it  
15 certainly won't be reduced or eliminated.

16 There was a condition on the acceptance  
17 of a proportionate share of mitigating funds,  
18 which is consistent with the airport area GEIS  
19 statement of findings to date.

20 With that, those are really the only  
21 questions that I had.

22 Again, what we'd like to see as you come  
23 back is first, take care of the orientation of  
24 the building. If that isn't possible, the  
25 façade that faces Wade Road should be

1 architecturally significant as stated in the  
2 Land Use Law and wrought iron fence and things  
3 like that on the edge of Chipotle's. Maybe you  
4 could carry that down Wade Road. Something to  
5 get the eye of the Board to grant the waiver.

6 MR. SECOR: Thank you, very much.

7 CHAIRMAN O'ROURKE: Thank you, gentlemen.

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12 ***(Whereas the proceeding concerning the***

13 ***above entitled matter was adjourned at***

14 ***7:41 p.m.)***

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**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 **NANCY STRANG-VANDEBOGART**

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16  
17 **Dated October 28, 2010**

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**Legal Transcription**

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