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PLANNING BOARD COUNTY OF ALBANY  
TOWN OF COLONIE

\*\*\*\*\*  
CMS RETAIL BUILDING  
639-641 LOUDON ROAD  
SKETCH PLAN  
\*\*\*\*\*

THE STENOGRAPHIC MINUTES of the above entitled  
public hearing BY NANCY STRANG-VANDEBOGART, a  
Shorthand Reporter, commencing on  
November 22, 2011 at 7:01 p.m. at the Public  
Operations Center 347 Old Niskayuna Road,  
Latham, New York 12110

BOARD MEMBERS:

- PETER STUTO, Chairman
- MICHAEL SULLIVAN
- LOUIS MION
- BRIAN AUSTIN
- TIM LANE
- PAUL ROSANO
- ELENA VAIDA, ESQ., Counsel to the Planning Board

Also present:

- Joe LaCivita, Director of Planning and Economic Development
- Victor Caponera, Esq.
- Daniel Hershberg, PE, Hershberg and Hershberg

1                   CHAIRMAN STUTO: We'll bring the meeting  
2 to order. Welcome to the Town of Colonie  
3 Planning Board.

4                   The first item on the agenda is the CMS  
5 Retail Building, 639 to 641 Loudon Road. This  
6 is sketch plan review. We're going to get  
7 warmed up on this project. This is 8,000  
8 square feet being presented by Victor  
9 Caponera.

10                  I guess Mr. Hershberg, you're on this  
11 one, too?

12                  MR. HERSHBERG: I'm here as Victor's  
13 assistant.

14                  MR. LACIVITA: I just want to clarify one  
15 thing. We are in front of the Planning Board  
16 tonight for a sketch plan review, but this is  
17 not an application for the Planning  
18 Department. The applicant has asked for, at  
19 Victor's request, to come before the Board for  
20 a first look to this to see if the Board likes  
21 this. There are some waivers that are going to  
22 need to be in on this project, but if these  
23 waivers are hard to get by, the project will  
24 then need to be redesigned. I think that they  
25 just want to get a first blush to see what the

1 Planning Board thought before they advance it  
2 to the next step.

3 CHAIRMAN STUTO: Just for members of the  
4 public, we've been encouraged by our Town  
5 Designated Engineer and by Joe to add these  
6 sketch plans, so that we can have a dialogue  
7 back and forth. For 20 minutes, we'll talk  
8 back and forth and you can get a little  
9 feedback from us before you make a final  
10 formal application.

11 MR. CAPONERA: Thank you, Mr. Chairman  
12 and Members of the Board. I really appreciate  
13 the opportunity because it's important for my  
14 client who is in contract to buy this  
15 property -- he hasn't bought it yet and of  
16 course, it's subject to how this Board  
17 responds to this proposal. This is a good  
18 opportunity to have a discussion in terms of  
19 whether or not you like our project so that we  
20 can move forward.

21 Anyway, as you know, Mr. Hershberg is  
22 here from Hershberg and Hershberg to answer  
23 any questions relative to the engineering. My  
24 client is here, so let me just get to the  
25 point real quickly.

1 I'm pretty sure that everyone knows where  
2 this property is. The overviews that were just  
3 dropped off shows you that it's a vacant piece  
4 of land. It's actually two parcels.

5 Formerly on the parcel was a house and a  
6 small building that I believe sold some kind  
7 of welding equipment. I never saw any cars  
8 there as long as I've lived in this area which  
9 is only 40 years. The buildings are gone and  
10 it's vacant. In between these two buildings,  
11 we all know, is TD Bank North to the north  
12 which is on my left as we're looking at this  
13 and the Bayberry Square buildings to the  
14 south.

15 What Mr. Hershberg has done very nicely  
16 is an aerial and then put the proposed  
17 building on the property. You can see that the  
18 proposed building is 8,000 square feet. Let me  
19 just tell everyone that this is in a COR zone;  
20 commercial/office/residential. This use is an  
21 authorized use, 100 percent, and the property  
22 is 100 percent in a COR zone. It meets the  
23 minimum requirements for the frontage,  
24 setbacks, etcetera. However, as this Board is  
25 uniquely familiar, when you look at the design

1 standards, it recommends that the parking be  
2 on the side or behind. If you have been by  
3 this property, there is a very unique  
4 topography to this property; it kind of goes  
5 up.

6 Dan, do you know what the elevation is in  
7 the back?

8 MR. HERSHBERG: I do. It's 37 feet, we  
9 believe, from the front of the property to  
10 Hoffman Drive in the back.

11 MR. CAPONERA: Following that line of  
12 reasoning, when they hit Bayberry Square, much  
13 the same that we're proposing, they pushed the  
14 building back and then there was the retaining  
15 wall. That's what is proposed here which is  
16 why there isn't any parking in the back of the  
17 building (Indicating). You can clearly see  
18 that would be nearly impossible. And when you  
19 look at the design standards, it does talk  
20 about trying to keep the buildings in keeping  
21 with the surrounding properties. You can see  
22 where Bayberry's parking is. You can see where  
23 TD Bank North's property is. It's mostly on  
24 the side and the front and nothing in the  
25 rear. That's one element that we'd like this

1 Board to look at, consider, and give us some  
2 direction in terms of whether or not you'd be  
3 satisfied with this. The building this could  
4 be larger, but basically the site statistics  
5 show that we have 37.9 percent greenspace  
6 which, as we know, the minimum requires 35  
7 percent. As I said, the minimum required in a  
8 COR zone is 20 and we've got nearly 40,000. We  
9 meet the minimum width size, depth and pretty  
10 much everything else.

11 So, this is our proposal. I'm going to  
12 make this quick and certainly enjoy getting  
13 some feedback from the Planning Board Members  
14 in terms of what your concept and thoughts  
15 are.

16 Also, I presented to you and I hope you  
17 have it in your packets a proposed elevation  
18 and what it's going to look like. I hope that  
19 you have it.

20 CHAIRMAN STUTO: The architectural  
21 rendition?

22 MR. CAPONERA: Yes, sir.

23 CHAIRMAN STUTO: Yes, we have it.

24 MR. CAPONERA: That, too, is in keeping  
25 with the design standards in terms of the use

1 of the stone and the masonry. There is not a  
2 lot of glass.

3 That in mind, Mr. Hershberg and I are  
4 here to answer your questions.

5 CHAIRMAN STUTO: So, the only waivers are  
6 the parking in the front?

7 MR. HERSHBERG: We actually need three  
8 waivers; one for the parking, one for the  
9 setback of the building - more than 25 feet,  
10 which this obviously is, and the parking  
11 within 10 feet of the side. Those are the  
12 three variances.

13 CHAIRMAN STUTO: That would be to the  
14 south side?

15 MR. HERSHBERG: Yes. This little piece in  
16 here, and this piece over here (Indicating).

17 CHAIRMAN STUTO: How do your neighbors  
18 feel about that? Do you have any sense at all?

19 MR. CAPONERA: We haven't had any  
20 discussion. We don't think that there would be  
21 a big issue.

22 One of the other things that the design  
23 standards talk about is the possibility of  
24 interconnections, so as to avoid vehicles  
25 coming out onto Route 9 and then back in

1           again. It's my opinion that if we go forward  
2           on this and the Board feels positive, we're  
3           probably going to work on that also.

4           Dan, you had mentioned a setback on the  
5           frontage. I think that the new standard says  
6           that it's a minimum of 20 feet setback from  
7           the property line.

8           MR. HERSHBERG: The COR recommends, I  
9           think, that it be set 25 feet back from the  
10          major highway line.

11          CHAIRMAN STUTO: No more than.

12          MR. CAPONERA: How far back are we?

13          MR. HERSHBERG: It's about 90 feet back.

14          MR. ROSANO: I have a couple of things.  
15          That sign - that billboard - who owns that?

16          MR. HERSHBERG: That's on the other  
17          property.

18          MR. CAPONERA: It's on TD Bank North's.  
19          It's a good question because I was thinking  
20          about that the other day when I was coming  
21          from Fresh Market and I thought; I wonder who  
22          owns that because it's pretty big.

23          MR. ROSANO: My biggest question is: That  
24          hill is in horrible shape. How much time,  
25          energy and money would it take to fix that

1 hill? It seems like one good rainstorm and  
2 here it comes.

3 MR. HERSHBERG: What we propose to do, I  
4 think - and we'd have to consult with a  
5 building architect - is to build a rear wall  
6 to this building as a retaining wall and then  
7 extend the wall down here (Indicating). It  
8 would allow us to actually reduce the grade in  
9 here and get in here and clean out some of the  
10 trees that are in more danger. We would  
11 certainly be willing, as part of our final  
12 plan, to put in some landscaping with more  
13 suitable plantings with something that would  
14 last better in that area.

15 MR. ROSANO: Thank you.

16 CHAIRMAN STUTO: Tim?

17 MR. LANE: I like the concept. What kind  
18 of retail would you expect to have there?

19 MR. CAPONERA: Maybe a fitness center.

20 MR. LANE: Nothing like trucks going in  
21 there for deliveries? I don't see space for  
22 delivery trucks or large vehicles.

23 MR. HERSHBERG: We designed it to  
24 anticipate that the largest delivery would  
25 come in box sized trucks like the size of UPS

1 trucks. This site can't even take a tractor  
2 trailer. You might have to let one or two in  
3 when you're delivering big pieces when you're  
4 setting up the building, but beyond that, they  
5 would be boxed sized.

6 MR. LANE: I like the idea.

7 MR. CAPONERA: As I said, there are two  
8 pieces there right now. There are two parcels  
9 that we're looking to merge together.

10 MR. SULLIVAN: I just had a few things.  
11 With regard to the cross connection - I would  
12 encourage pursuing that.

13 The second is: Will there be a fence up  
14 behind the retaining wall? It looks like you  
15 have a 12-foot drop off.

16 MR. HERSHBERG: This retaining wall  
17 required a fence for protection on top of it.  
18 Even though it's not very accessible to the  
19 public, you have to put that on top of any  
20 retaining wall greater than 2.5 feet in  
21 height. Also, I anticipate if we decide to use  
22 the spare wall as a retaining wall, we'll keep  
23 the finished grade behind it low enough that  
24 the wall itself would keep people from getting  
25 on it, except using ladders or other methods.

1           MR. SULLIVAN: The last question that I  
2 have may be a bit premature at this point. Do  
3 you have any idea what the trip generation  
4 would be based on retail?

5           MR. HERSHBERG: If you just use a generic  
6 shopping center classification, I think that  
7 the normal peak hour for this stuff is  
8 probably the p.m. peak hour when most of our  
9 peak hours occur. My guess is that it's  
10 probably in the range of 26 to 30 vehicles per  
11 peak hour. We can take the IT manual and run  
12 those figures. It will all be depended upon  
13 the particular uses. If you have a specific  
14 use, you may be able to substitute those  
15 calculations for the typical shopping center  
16 classification.

17           MR. CAPONERA: Can you tell them about  
18 the parking?

19           MR. HERSHBERG: Yes. By Code, at 8,000  
20 square feet you would be required to have 40  
21 parking spaces. Based upon our client's  
22 request, we had shown 37 parking spaces  
23 including two handicapped spaces. So, we do  
24 slightly exceed the Code and as we take a look  
25 at potential tenants in there, we will provide

1 the logic for that. Under your Code, you can  
2 set a minimum, but you're also trying to  
3 minimize impervious area so we'd provide for  
4 you explanations of why we need the extra 7  
5 parking spaces.

6 MR. SULLIVAN: If you did do the cross  
7 connect, you would look for four to six  
8 spaces; would that still be okay?

9 MR. HERSHBERG: Yes, I think that  
10 essentially it would probably only lose three  
11 spaces. This one is sort of lined up exactly  
12 where it has to go. With the exception of that  
13 huge billboard, we have a very good  
14 connection.

15 MR. SULLIVAN: Thank you. That's all I  
16 had.

17 CHAIRMAN STUTO: Brian?

18 MR. AUSTIN: In looking at the aerial  
19 rendering - possibly moving the building over  
20 where the parking is. In other words, flipping  
21 the building and the parking. It seems, in my  
22 opinion, kind of crowded in that area. Maybe  
23 it would space out the buildings a little  
24 more.

25 MR. HERSHBERG: I don't think that there

1 is any technical reason why we can't. The  
2 grades are pretty much the same going across  
3 the base of that hill. That's a good  
4 suggestion. That would alleviate some of the  
5 concern about the closeness of that.

6 MR. AUSTIN: I just think that would kind  
7 of spread that out a little more.

8 MR. HERSHBERG: We'd be closer to this  
9 property line of the building (Indicating).  
10 Also, the location of this driveway - we've  
11 talked about that. We have to go for a DOT  
12 highway permit - we're trying to line it up  
13 with either this driveway here or this  
14 driveway here (Indicating), even though there  
15 is not a big benefit for people going back and  
16 forth across Loudon Road to those two places.  
17 DOT would normally like you to line up curb  
18 cuts. That would change.

19 MR. BRIAN: Okay.

20 CHAIRMAN STUTO: Lou?

21 MR. MION: I like the proposal. I agree  
22 with Brian - if you could move it over.

23 MR. CAPONERA: That's pretty much it.  
24 With your input, we'll move forward on filing  
25 the zoning verification and going through the

1 process.

2 CHAIRMAN STUTO: I have a couple of  
3 questions.

4 I think that I may know what your  
5 response is going to be, but would there be  
6 any sense to have a shared driveway with  
7 Bayberry and have fewer connections onto  
8 Route 9?

9 MR. CAPONERA: Bayberry, as we know, has  
10 two.

11 CHAIRMAN STUTO: I was thinking shift the  
12 north one over and split it?

13 MR. CAPONERA: It's something that we  
14 could think about.

15 MR. HERSHBERG: Technically, there is no  
16 problem with it. If the adjoiner was  
17 interested in talking about it -- as you're  
18 aware, adjoining driveways sometimes create  
19 problems with adjacent owners. Again, if they  
20 were interested, there is no reason why  
21 technically we can't do it. It would save us  
22 one curb cut.

23 CHAIRMAN STUTO: I personally have no  
24 problems, per se, with the waivers that you're  
25 requesting. I'd like to see if the next door

1 neighbors have any problems with the side  
2 setbacks. I don't like to over pave, if you  
3 don't have to for aesthetics and for  
4 stormwater management. We can refine that as  
5 we go forward.

6 MR. LACIVITA: The only thing that I  
7 would question is that I know down the street  
8 we're having issues with the parking on the  
9 street. That's in light of the issue that we  
10 had with the Zumba classes in the one project.

11 MR. CAPONERA: I understand completely.  
12 For the Board's knowledge, Mr. DiBenedetto has  
13 engaged my services and I'm working diligently  
14 with your staff on that project. We're excited  
15 to be coming back with a nice proposal.

16 MR. LACIVITA: The only other final  
17 question that I have is that I know that  
18 you're well aware of the 200 foot rule in a  
19 single family zone.

20 MR. CAPONERA: Absolutely.

21 CHAIRMAN STUTO: Can you refresh the  
22 Board on that?

23 MR. LACIVITA: It's 190.20 of permitted  
24 uses. It's regarding the 200 feet that borders  
25 the -

1 MR. CAPONERA: You can't have a  
2 restaurant use.

3 MR. LACIVITA: The uses are restricted.

4 MR. CAPONERA: I've discussed this with  
5 my client and he's aware, and will be further  
6 aware of it when we leave this building.

7 CHAIRMAN STUTO: Okay, well, we hope that  
8 was good enough.

9 MR. CAPONERA: Thank you very much.

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

13 ***entitled matter was concluded at***

14 ***7:23 p.m.)***

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**CERTIFICATION**

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4            ***I, NANCY STRANG-VANDEBOGART, Shorthand***  
5            ***Reporter, and Notary Public in and for the***  
6            ***State of New York, hereby CERTIFY that the***  
7            ***record taken by me at the time and place***  
8            ***noted in the heading hereof is a true and***  
9            ***accurate transcript of same, to the best of***  
10           ***my ability and belief.***  
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14            -----  
15            ***NANCY STRANG-VANDEBOGART***  
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18            ***Dated December 14, 2011***  
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