PLANNING BOARD                      COUNTY OF ALBANY
TOWN OF COLONIE

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ROSETTI OPEN DEVELOPMENT AREA
4, 6 AND 8 COLONIE PLAZA DRIVE
OPEN DEVELOPMENT AREA RECOMMENDATION
TO THE TOWN BOARD

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THE STENOGRAPHIC MINUTES of the above entitled matter
by NANCY L. STRANG, a Shorthand Reporter commencing
on December 19, 2017 at 7:47 p.m. at The Public
Operations Center, 347 Old Niskayuna Road, Latham,
New York

BOARD MEMBERS:
PETER STUTO, CHAIRMAN
KATHLEEN DALTON
BRIAN AUSTIN
LOU MION
CRAIG SHAMLIAN
STEVEN HEIDER
SUSAN MILSTEIN

ALSO PRESENT:

Joseph LaCivita, Director, Planning and Economic
Development Department
Michael Tengeler, Planning and Economic Development
Department
Michael C. Magguilli, Esq. Town Attorney
Nia Cholakis, Esq.
Nicholas Costa, PE, Advance Engineering and
Surveying
Don Allard
CHAIRMAN STUTO: The next and final project on the agenda is Rosetti Open Development Area, 4, 6 and 8 Colonie Plaza Drive, open development area recommendation to the Town Board.

MR. LACIVITA: Peter, while Nick gets ready here to talk about the project, I will speak a little bit about what the project has done.

It was before the Town Board for me the resolution back on October 20, 2016. It was Resolution 464 of 2016 referred here to the Planning Department and the Planning Board to review the open development area and make recommendations back to them as such. The action required of us -- you will see in your packet a finding statement. The applicant has done and satisfied all the Town Departments with this proposal and we are here tonight for a favorable recommendation.

MR. COSTA: Good evening. My name is Nick Costa and I am with Advance Engineering and Surveying. We have prepared the Albany Street ODA plans that were submitted and we are in front of the Board tonight. This is a parcel that is located off of Albany Street.

Albany Street is right here on the western side of the site (Indicating). The parcel does have a road that runs along the entire frontage which is
referred to as the Colonie Plaza Access Road. Colonie Plaza is located on the eastern side of the parcel. That is also the boundary line -- well, the municipal line between the Village of Colonie and the Town of Colonie.

The plaza is fully developed. It has quite a bit of traffic through this area that accesses Albany Street. The parcel is partially developed. There is a building located right at this corner where Colonie Plaza Road and Albany Street are. There is also an existing building that has been constructed and there is a proposed access area – maneuvering area.

So, what the application is – is to create three new parcels – four parcels, and total, including this one right here (Indicating).

CHAIRMAN STUTO: The applicant owns the front one too, right?

MR. COSTA: That is correct. He owns the entire 16 acres. It is a little more than 16 acres. So, the application is to have an ODA, open development area so that these three parcels can have access off of Colonie Plaza Road which has an existing easement that allows the access to the site.

There are utilities that have been brought over to serve this building right along here
(Indicating) that sanitary sewer. There is one storm water management area right here and one storm water management area over in this area for these developed buildings.

The site is fairly flat and there are some wetlands that are in the light blue color. They are part of a New York State DEC wetland area.

We have met with the DEC and we have met with the Albany Pine Bush Commission and we are here tonight to have the Board refer it back to the Town Board for the ODA.

CHAIRMAN STUTO: The main reason for this is to make sure access is ensured because you don't have frontage on the main road.

MR. COSTA: That's right.

CHAIRMAN STUTO: You talked about an easement. I'm not sure if you're talking about the access easement of that driveway -

MR. COSTA: That is correct.

CHAIRMAN STUTO: Can you describe the legal part of that?

MR. COSTA: Yes. It is a 50-foot access easement that runs all along the frontage of the property that is between the plaza – the owners of the plaza –
CHAIRMAN STUTO: Is that a different owner?

MR. COSTA: Yes, it is.

CHAIRMAN STUTO: And these parcels all have access?

MR. COSTA: That's correct. They do.

CHAIRMAN STUTO: Do you want to shed any light on that? Have you always had that access there - for a long time? Can you describe the nature of it? I am worried about ongoing maintenance, too. You can sell one or any of the parcels and I want to make sure that somehow -

MS. CHOLAKIS: Nia Cholakis, from Rosetti Development Companies. When we acquired this property in 2000, we acquired the 4 1/2 acres. In 2014 we acquired from another organization the building that is zoned as the Harvey Building located at 4253 and together with that was an additional 9 acres. So, it was a total of 12 acres. When we purchased that property, it came with a non-exclusive permanent easement.

At the time, the entity that owns that land was known as WIP Colonie which was the owner of the Price Chopper and the service center that fronts on Central Avenue at the intersection of Central Avenue and 155. I think earlier this year they sold that property to somebody else. That document, which is a
recorded document - I think you guys have reference to that in your paperwork - is a recorded document. As I said, it is permanent. It is non-exclusive. It allows access through the Colonie Plaza to access the main road on Central Avenue. It also provides for maintenance.

What happens is that the people that own the plaza - they performed maintenance including snowplowing, pavement repairs and those types of things. They, then bill us for a pro rata share of that and then we pay that.

CHAIRMAN STUTO: That's in the recorded document?

MS. CHOLAKIS: It is.

CHAIRMAN STUTO: Thank you.

Were there any members of the public looking to speak on this?

MR. ALLARD: My name is Don Allard. I'm on the CAC. I wasn't expecting to speak on this today but to appoint to the Planning Board -

CHAIRMAN STUTO: Are you speaking from the CAC?

MR. ALLARD: No.

That road is a continual problem with large scale litter.

I called up a Town Board Member yesterday
regarding a couch and a mattress and this is about
every six months that they have to go pick up
something.

As far as the maintenance, I am concerned
about that. Maybe that could be tied into whatever
proposal you are doing to make sure that the road is
kept clean on both sides all the way to Price Chopper

MS. CHOLAKIS: I can speak to that, somewhat.
I'm not aware of couches or anything like that. The
building at 4259 is now currently occupied—fully
occupied. So, prior to that, it was not. So, there were
not tenants in the building. There was some debris that
we would find as we were completing the building. I have
not heard that there has been anything out of the
ordinary.

On our property— we do take care of our
property as far as the road is concerned. The owner of
the plaza takes care of that. Again, if there are any
concerns, we could certainly try to address that. It's
the first that I am hearing about any kind of large
debris.

I was aware that during the course of
construction that people were kind of littering. We
were taking care of that on our property.

MR. ALLARD: Actually, it goes back quite a few
years that there has been a problem with beds, desks and
everything you can possibly think of.

Linda Murphy from the Town Board is here
right now.

I think three years ago I said something to
you on that, right?

MS. CHOLAKIS: Again, the building was
constructed on spec. It was not completed until recently
- until this year. So, now it's fully occupied. It has
been occupied since the summer. I don't know if you have
seen a decrease in that over the course of the summer.

MR. ALLARD: No. As I said, I just called the
police yesterday.

MS. CHOLAKIS: We will certainly look into it.

CHAIRMAN STUTO: Can you address the Board?

MS. CHOLAKIS: Sure, absolutely.

CHAIRMAN STUTO: Are there any comments or
questions?

(There was no response).

We have a Resolution in front of us, which is
the open development area Resolution. It is really a
recommendation to the Town Board. It also can
implement rules inside of it. It talks about
maintenance of the property. I'm just going to suggest
that when we get to that, that we make sure that the
Town Attorney reviews the easement that the applicant's attorney referred to.

MR. LACIVITA: So, we will make that number six, Peter?

CHAIRMAN STUTO: I think that we can doctor up five. We will give the entire Resolution to the stenographer to put in.

If you could read the title and the now therefore, one through four and we will have Mike read five.

MR. LACIVITA: Special rule of the Planning Board setting conditions and limitations and recommending establishments of an open development area for number 4, 6, and 8 Colonie Plaza Drive A/K/A 4253 and 4259 Albany Street, Town of Colonie, pursuant to Town Law Section 2B - a period now, therefore be it resolved, that the Planning Board recommends the open development area as requested by the applicant to be approved in all aspects subject to the following conditions: One, the address of the parcel must meet required 911 communications, and be it further resolved that any further changes to be recommended to the open development area including but not limited to additions, demolitions, structural, subdivision and/or change of use must comply with all applicable Town of Colonie
processes and approvals, and be it further resolved that
a hold harmless and indemnity agreement shall be entered
into with the Town, protecting the Town and any
liability in connection with the access and maintenance
of the roadway to the subject property, and further be
it resolved the granting of an open development area
does not relieve the applicant from compliance with all
other underlying industrial zoning list of permitted
uses, requirements or applicable environmental, building
and land use requirements, and further be it resolved
that number five –

CHAIRMAN STUTO: We will have Mike to that one.

MR. MAGGUILLI: For number 5 I would like this
language included here. The owner of the proposed three
parcels, their heirs, assigns and successors in interest
shall be fully responsible for all maintenance including
but not limited to keeping the parcel free and clear of
all debris and garbage of any type in nature and for the
upkeep required improvements, snowplowing, etcetera, of
the private drive which abuts and provides access to the
subject property.

CHAIRMAN STUTO: You may also add that
paragraph 5, subject to Town Attorney approval so that
you can review the easement document?

MR. MAGGUILLI: Sure.
CHAIRMAN STUTO: Any discussion by the Board, or any other suggestions.

(There was no response.)

Do we have a motion on this Resolution?

MR. SHAMLIAN: A make a motion

MR. MION: Second

CHAIRMAN STUTO: Discussion?

(There was no response.)

All those in favor, say aye.

(Ayes were recited.)

All those opposed?

(There were none opposed.)

The ayes have it.

Thank you.

(Whereas the above entitled proceeding was concluded at 8:01 p.m.)
CERTIFICATION

I, NANCY L. STRANG, Shorthand Reporter and Notary Public in and for the State of New York, hereby CERTIFY that the record taken by me at the time and place noted in the heading hereof is a true and accurate transcript of same, to the best of my ability and belief.

Dated: __________  ______________________

NANCY L. STRANG

LEGAL TRANSCRIPTION

2420 TROY SCHENECTADY RD.

NISKAYUNA, NY 12309