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STATE OF NEW YORK  
COUNTY OF CAYUGA

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IN THE MATTER OF THE SPECIAL PLANNING  
BOARD MEETING ON TUESDAY, JUNE 18, 2013,  
RE: 161 GENESEE STREET, AUBURN, NEW YORK

---

MEETING held on Tuesday, June 18, 2013, at  
Auburn Memorial City Hall, City Council Chambers, 24  
South Street, Auburn, New York, 13021, commencing at 5:00  
p.m., before Kenneth H. Crewell, Jr., Certified Merit  
Reporter and Notary Public in and for the State of New  
York.



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**APPEARANCES :**

Auburn Planning Board:

SAM GIANGRECO, Chairman

FRANK REGINELLI

CRYSTAL CONSENTINO

ANNE McCARTHY

TIMOTHY BAROODY

Representing Michael & Carol Lynch:

BOND, SCHOENECK & KING, PLLC

BY: BRODY D. SMITH, ESQ.

Representing Daniel Soules:

JAMES MESSENGER, ESQ.

**Also Present:**

ANDREW FUSCO, ESQ., Assistant Corporation  
Counsel

JENNIFER L. HAINES, Director Planning &  
Economic Development

RENEE JENSEN, Community Development Planner



MEETING

MEETING

JUNE 18, 2013

MR. GIANGRECO: Good evening everyone. Welcome to the June 18th, 2013, special meeting of the Auburn City Planning Board.

At this time, would you all rise for the Pledge.

**(Whereupon, the Pledge of Allegiance took place.)**

MR. GIANGRECO: At this time I ask the secretary to call the roll.

MS. HAINES: Anne McCarthy.

MS. MCCARTHY: Here.

MS. HAINES: Tim Barody.

MR. BARODY: Here.

MS. HAINES: Shelli Graney. Crystal Cosentino.

MS. COSENTINO: Here.

MS. HAINES: Frank Reginelli.

MR. REGINELLI: Here.

MS. HAINES: Sam Giangreco.

MR. GIANGRECO: Here. At this time, I ask staff to clarify tonight's agenda.

## MEETING

1  
2 MS. HAINES: Thank you, Mr.  
3 Chairman.

4 We are here to review an amended  
5 site plan for the Plaza of the Arts project  
6 located at 161 Genesee Street.

7 The board will be considering a  
8 reaffirmation of a negative declaration that  
9 was done for this project in October of  
10 2012, and it will also be considering a  
11 resolution for an amended site plan that was  
12 originally approved in November of 2012.

13 MR. GIANGRECO: Thank you.

14 All right. The first item on the  
15 agenda this evening is the minutes from the  
16 last meeting. There are none to review at  
17 this time.

18 The second item of special permit  
19 applications. There are no special permit  
20 applications to review at this time.

21 The next, and third item on the  
22 agenda, is the reaffirmation of the October  
23 2nd, 2012, SEQRA resolution for the Plaza of  
24 the Arts, a new commercial building to be  
25 located at 161 Genesee Street.

## MEETING

1  
2 The fourth item on the agenda is an  
3 amended application for major site plan  
4 review for the construction of the Plaza of  
5 the Arts.

6 At this time would the applicant  
7 please step forward and present the project.

8 State your name and address, please.

9 MR. SOULES: Yes. Can you hear me?

10 Hi. Dan Soules, 45 Lakeshore Drive,  
11 Auburn, New York, and I am one of the  
12 developers for the new proposal, Plaza of the  
13 Arts.

14 I just wanted to take a moment to  
15 -- before I get into the project -- to thank  
16 the planning board, the city attorney -- I  
17 guess he stepped out for a second -- and  
18 codes, you know, Brian Hicks, for  
19 reconvening, having another meeting on this  
20 site. I appreciate it. It's been a lot of  
21 work for a lot of people. And all the  
22 people have worked hard on our team, too,  
23 but thank you very much.

24 I guess, you know, very simply we  
25 are here to re-present the project for the



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MEETING

1  
2 Plaza of the Arts. I am not going to go  
3 through a lot of great detail because I have  
4 covered this in the past, so I think the  
5 planning board is pretty aware of what is  
6 going on. But, in short form, it is a  
7 20,000 square foot multi-use complex.

8 It will be located where the past  
9 Auburn Family Restaurant once stood.

10 It is a great project in the sense  
11 that we have taken an alley, we are  
12 eliminating an alley which has been a curse  
13 to the city.

14 We have also eliminated a building  
15 that was in pretty bad shape.

16 We are also taking a neighborhood  
17 that's kind of been hanging in the balance  
18 and making a huge improvement in that  
19 neighborhood.

20 We have been very fortunate to work  
21 with Saint Peter and John Church to acquire  
22 32 foot of land from them, and in the  
23 process we are to help them with some of  
24 their financial needs and, at the same time,  
25 offer them some extra parking that they were



1  
2 looking for. So it's been a great  
3 partnership.

4 The building itself, as was stated  
5 in the past, will have commercial and retail  
6 restaurants on the first floor, and on the  
7 second floor, it will have our corporate  
8 offices, which will entail like ten different  
9 companies.

10 For those of you that don't know, we  
11 have Soules and Dunn Development Group, which  
12 is our development company; Grant Ave.  
13 Development, which is our Arby's restaurant  
14 group. We have Domino's, Tim Horton's in  
15 construction, and WST33, LLC, which is really  
16 the owner of the building.

17 We also have some medical groups  
18 coming in. And so right now as it stands,  
19 the building is pretty much sold out, except  
20 for one space.

21 We have letters of intent on about  
22 90 percent of the space in the building,  
23 which is wonderful.

24 As far as how it will affect the  
25 city -- I think this is an important thing,

## MEETING

1  
2 I know it is planning -- this building  
3 complex, will be a training center for our  
4 company, will create, we are figuring,  
5 between 800 million and a billion dollars of  
6 either depository relationship, new income, or  
7 sales taxes for Auburn in the next twenty  
8 years.

9 For our company alone, we will be  
10 consolidating our corporate offices from  
11 Virginia and they will be here in Auburn,  
12 New York, which will be wonderful.

13 This also will be the national  
14 training center for the Grant Ave.  
15 Development Group, and the impact on that is  
16 tremendous, not only for people moving into  
17 the city, residing here and purchasing and  
18 eating, but helping with our property taxes  
19 and going to our educational facilities.

20 We hope to have between 14 -- excuse  
21 me -- 12 and 14 employees employed directly  
22 here, and then there will be all kinds of  
23 people that will report here into the  
24 building.

25 So that kind of gives you a quick

## MEETING

1  
2 overview of what the building is going to  
3 be.

4 As I said stated earlier, it will be  
5 the new bookend for the west side of the  
6 city, which I think will be so attractive.

7 Everything that we have done -- and  
8 I am sure as the board you have reviewed the  
9 site plan -- we have taken into account  
10 every possible situation that we could.

11 The church next door, we have  
12 created a driveway entrance for them. We  
13 have created an opportunity for a walkway.  
14 We have created protection for their gardens.

15 We also are moving some trees that  
16 they would like to have moved, which we are  
17 doing.

18 They are putting up a beautiful  
19 fence. We helped them take down part of  
20 their old fence, which was nice because it  
21 was kind of an old, beautiful fence but was  
22 very tricky. So there is a lot that is  
23 going to be happening on the west side of  
24 the property.

25 Originally, we had met with Mr.

## MEETING

1  
2 Lynch, and I met with him probably eight  
3 months ago. We have a nice friendship, and  
4 we had pretty much agreed and how this could  
5 affect us both in a positive way.

6 Later on we found out that Mr.  
7 Lynch's property was set back three to five  
8 inches off his property line when they built  
9 it, and so a discussion arose in regards to  
10 what do you do with that few inches.

11 We had talked at one time of doing  
12 a quick claim and then just building two  
13 buildings together. That conversation kind  
14 of fell apart. I think Mr. Lynch had some  
15 other ideas of what he wanted to do or not  
16 to do with the property.

17 So through the advice of our  
18 attorneys, through advice of the city's  
19 attorney, and Codes, we applied for a new  
20 permit.

21 So here we are. I can answer any  
22 questions you would like, or get into any  
23 more detail if you have any questions.

24 MR. FUSCO: Well, it is technically  
25 not a new permit. This is an amendment of

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the existing site plan on four separate aspects, as I understand it. It is not a new permit.

MR. SOULES: Thank you.

MR. GIANGRECO: All right, we will get back to you, Dan.

All right. At this time, I am going to open up the hearing to the public to be heard section of the meeting, and I would ask everyone if they could limit their comments to three minutes or less because we have a city council meeting in here at six o'clock.

We would like to have everybody get a chance to speak, but if you could be brief, we would appreciate it.

So at this time, I will open the public hearing section of the meeting.

Are there any members of the public that wish to be heard?

And when you come up to the microphone, would you please state your name and address.

MR. SMITH: My name is Brody Smith.



## MEETING

1  
2 I am an attorney at Bond, Schoeneck & King.  
3 I represent the neighboring property owner,  
4 Michael and Carol Lynch, owners of Lynch  
5 Furniture.

6 Mr. Chairman, if I may approach, I  
7 would like to hand you a copy of my  
8 comments, if that would be helpful.

9 MR. FUSCO: Is that the letter that  
10 you had written, Mr. Smith?

11 MR. SMITH: No. This is a separate  
12 letter.

13 MR. FUSCO: Okay.

14 MR. SMITH: I won't read this  
15 verbatim, but this will serve as a guide to  
16 some of the --

17 MR. FUSCO: For the record, Mr.  
18 Smith, your prior letter is in everyone's  
19 packet, and I daresay that everyone has had  
20 the opportunity to review it. So if you  
21 could confine -- for the sake of time,  
22 because we do have another meeting here  
23 tonight, if you could confine your comments  
24 to what additional or different information  
25 is contained in the June 18th letter that

1  
2 you have handed up today, that would help  
3 us.

4 MR. SMITH: Absolutely.

5 This project is not something that  
6 my client opposes. It is not something that  
7 my client objects to. My client is here  
8 asking that the interest of the neighbor --  
9 the neighboring property be taken into  
10 account and that the site plan be amended  
11 slightly, not in such a way that it will  
12 impede the development of this project, not  
13 in such a way that it will prevent this  
14 project. What we are asking for is eight  
15 feet. Let me tell you why.

16 The project right now, as the  
17 building permit applications have been  
18 submitted, anticipate the construction of a  
19 building three to eight inches -- it varies  
20 a little bit depending on where you are  
21 along the property line away from an existing  
22 building. That is a bad idea.

23 I won't get into the details of  
24 that, because we have also brought an  
25 engineer who is more qualified to talk to

1  
2 you a little bit about why that is a bad  
3 idea.

4 But I think from a commonsense point  
5 of view, you instinctively know that it is a  
6 bad idea. Snow and ice will build up  
7 between the two buildings, moisture will  
8 build up between the two buildings -- vermin,  
9 debris, all those sorts of things.

10 You don't see very many buildings  
11 constructed three to eight inches apart from  
12 each other. This an appropriate issue for  
13 site plan review.

14 The impacts on existing buildings and  
15 on the neighbors is right in your statute,  
16 and the placement of the footprint of  
17 buildings on a site plan, that is definitely  
18 within your purview.

19 So just touching on a couple of  
20 details there. Right now the building permit  
21 application includes the installation of  
22 styrofoam separation boards to separate the  
23 foundations of the two buildings.

24 Those building permit applications  
25 contemplate those separators being on Mr.

1  
2 Lynch's property. There is no such  
3 permission to do so.

4           There's been no -- as was alluded to  
5 by the previous speaker -- there were  
6 attempts to reach some sort of compromise  
7 where that land could be conveyed, or  
8 permission would be granted to use that land:  
9 It didn't happen.

10           Also, the plans have been submitted,  
11 as part of the building permit, anticipate  
12 the roofs being tied together through a  
13 membrane to prevent some of those impacts,  
14 not all of those impacts I mentioned, but to  
15 try to mitigate them. No permission has  
16 been obtained from the applicant to do so.

17           So right now the applicant in their  
18 plans shows that they are tying the buildings  
19 together, putting an overhang across Mr.  
20 Lynch's property. He doesn't have permission  
21 to do it.

22           So the plans that you -- that have  
23 been submitted to the city, the site plan,  
24 even the amended site plan that's been  
25 submitted to the city, contemplates



1  
2 construction on property that is not  
3 controlled by the applicant. Full stop.  
4 That is the reason to deny it in its present  
5 form.

6 Does that mean we shouldn't have the  
7 project? No. That means the building  
8 should be moved back a reasonable distance  
9 from the existing building like --

10 MR. FUSCO: What would you consider  
11 a reasonable distance, Mr. Smith?

12 MR. SMITH: I think eight feet would  
13 be appropriate. I don't think eight feet  
14 would prevent the development.

15 If you look on the other side, there  
16 is not a river, there is not a stream, there  
17 is not a road, there is another building.  
18 There is not even the driveway, the proposed  
19 driveway of the building.

20 The eight feet on the other side, as  
21 you can see, is a wide -- for lack of a  
22 better term -- breezeway or patio. That  
23 would still exist, it would just be a little  
24 narrower (indicating).

25 The space that we are asking you to

1  
2 take is to push the building eight feet this  
3 way, and instead of this being a 25/30 foot  
4 wide walkway, it will now be a little  
5 narrower. It would be eight feet narrower  
6 (indicating).

7 It wouldn't prevent the project. It  
8 is a reasonable accommodation to prevent  
9 potentially catastrophic damage to the  
10 foundation of an existing building, an  
11 existing business, and to prevent damage to  
12 both buildings.

13 Moving on. The other differences  
14 you will see in the site plan revolve around  
15 parking.

16 The original site plan approval that  
17 you granted contemplated shared parking  
18 between Mr. Lynch's property and the proposed  
19 project. That would be approximately a  
20 hundred parking spaces. That agreement  
21 didn't happen. At the time it was deemed  
22 necessary to have that amount of parking, but  
23 that is no longer available.

24 In the amended site plan, no  
25 additional parking is provided for in other

1  
2 locations.

3 MR. FUSCO: May I interrupt for one  
4 moment. I disagree with your statement that  
5 somebody deemed it to be necessary. In this  
6 particular zone, no parking is required  
7 whatsoever.

8 MR. SMITH: And I don't mean it  
9 from the -- that is a fair point. I don't  
10 mean it from the point of view of a zoning  
11 requirement. But as you know with site plan  
12 approval, that is one of the things it says  
13 right in your statute in section, the parking  
14 Section 305-13(D)(3)(a) states: The board  
15 when granting site plan approval should make  
16 sure that there is adequate off-street  
17 parking and traffic circulation. So it is  
18 something that you should consider.

19 MR. FUSCO: I am aware of that, but  
20 I just want to make a point -- and I don't  
21 mean to nitpick and I apologize for  
22 interrupting -- I attended all of the  
23 previous meetings last October and November.  
24 I don't ever recall this board in its prior  
25 findings making a finding that parking for

1  
2 this use on your client's property was  
3 necessary or needed.

4 I will let members of the board  
5 correct my memory, if I am incorrect in  
6 that, but I just simply disagree with the  
7 conclusion that somehow the prior approval,  
8 site plan approval of this board was  
9 conditioned upon using your client's property  
10 for parking.

11 I realize there was some joint  
12 parking plan contemplated, but I don't think  
13 it was ever a specific condition.

14 MR. SMITH: I understand and I agree  
15 that it wasn't laid out as a condition of  
16 the drawing, but I will say in the minutes  
17 from the first meeting before the board, it  
18 was certainly discussed.

19 The date of that meeting of the  
20 planning board was September 4th, 2012, where  
21 it says, and I quote what the developer said  
22 in support of the application: One hundred  
23 parking spaces will be located at the rear  
24 of the building. Lighting and security will  
25 be installed and a parking fence will be in

1  
2 place. We will install handicap parking and  
3 handicap parking will be available for St.  
4 Peter and St. Paul church. So on an so  
5 forth.

6 That is certainly a selling point  
7 from the developer's point of view, that we  
8 had a hundred parking spaces, and that was  
9 something used to help persuade the board  
10 that that section of the site plan  
11 regulations have been satisfied.

12 I would submit that it is not so  
13 satisfied anymore, since there are less than  
14 half as many parking spaces available in the  
15 new site plan.

16 It's been reduced further by virtue  
17 of the fact that the original site plan  
18 contemplated snow storage on Mr. Lynch's  
19 property from the proposed development. That  
20 deal was never reached by the developer.  
21 They failed to do that.

22 So now in addition to losing half of  
23 their parking spaces, the parking spaces that  
24 they have left, some of them will have to be  
25 used for snow storage.

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So I would submit that the amended site plan is not as good as the old one for parking, and probably not adequate, and further study should be required by this board before it is rubber stamped.

My next point has to do with drainage. The original site plan included a drainage easement -- contemplated a drainage easement across Mr. Lynch's property for the installation of a drainage pipe to reduce the perceived problem -- the expected problem of ponding and the accumulation of stormwater. The developer -- that was on the site plan, that was part of the site plan.

The developer failed to secure access to an easement, and their new plan simply removes the drainage system.

Well, it was deemed important before in November when this was approved. It was deemed desirable before, there is no alternative, and it hasn't been replaced with something else.

The remedy proposed in the site plan, they are unable to -- they were unable



1  
2 to get control of the property. They need  
3 to do that. But that doesn't mean it is  
4 going to rain less. That doesn't mean the  
5 problem went away. They should be required  
6 to solve it in a different way and they  
7 haven't done that and that --

8 MR. FUSCO: As I understand the  
9 plans, Mr. Smith -- and we will give the  
10 developer the opportunity to explain that in  
11 further detail -- I see an alternative  
12 developed but nonetheless your point is made.

13 MR. SMITH: Thank you. And then --  
14 finally, I will close with the circulation  
15 issues, traffic circulation.

16 The amended site plan includes a  
17 rear curb cut near the corner of Pine and  
18 Church Street. In the original site plan,  
19 the cross easements were contemplated between  
20 Lynch's property and the new development,  
21 which would have allowed customers, employees,  
22 and deliveries to the Lynch property from  
23 Genesee Street thereby reducing traffic and,  
24 specifically, truck traffic to the residential  
25 neighborhoods behind.

1  
2 The developer has not entered into  
3 those agreements to allow that easement  
4 across his property to the Lynch property.  
5 Therefore, unlike the original site plan, the  
6 new amended site plan will have additional  
7 traffic impacts on that residential street,  
8 because it will push -- in the past, those  
9 trips could get through the neighboring  
10 property, now they are not going to be able  
11 to go through the neighboring property from  
12 Genesee Street, they are going to have to go  
13 through the residential street and they are  
14 going to negatively impact the residents of  
15 those streets. That should be studied.  
16 That should at least be discussed.

17 In addition, the width of the rear  
18 curb cut on the proposed property was  
19 acknowledged through discussion at the board,  
20 that it was borderline, it was maybe a  
21 little narrower than you would have liked,  
22 there wasn't maybe as much of a setback from  
23 the neighboring residential use as you would  
24 have liked.

25 But I noted in the minutes, there

## MEETING

1  
2 was discussion that it is just one of two  
3 curb cuts. Since there are cross access  
4 easements between these two parking lots,  
5 there was more than adequate access because  
6 they could use the Lynch exit or they could  
7 use the new exit.

8 Well, that is not the case now.  
9 Maybe that is a little bit too narrow. The  
10 curb cut on the back to Church Street should  
11 be studied a little closer since the traffic  
12 circulation issue has changed.

13 I think more information should be  
14 submitted on that, again, before this plan is  
15 simply rubber stamped.

16 I will stop there. I appreciate  
17 your indulgence. I know I went longer than  
18 three minutes.

19 I would like to turn to our engineer  
20 who can speak more intelligently about the  
21 foundation issues that I touched on. Thank  
22 you.

23 MR. TRYTEK: Good afternoon. My  
24 name is Tom Trytek from TDK Engineering, and  
25 I was contracted by Michael Lynch to perform

1  
2 a review, general review with regard to the  
3 May 8th, 2013, set of drawings that was  
4 prepared by Whelan & Curry Construction  
5 Services.

6 What is being handed out right now  
7 is just a review memorandum specific to my  
8 services associated with the review of the  
9 design drawings.

10 More specifically, though, my  
11 involvement was with regard to the immediate  
12 area right along the eastern property line of  
13 the development at 161 Genesee Street and the  
14 existing building for Lynch's Furniture.

15 And with that there is a couple of,  
16 or actually a few items here to go through.  
17 I will try and make them as brief as  
18 possible.

19 I will start off with looking at the  
20 general site plan and proposed grading.

21 Over near the northwest corner of  
22 Lynch's furniture property, the proposed  
23 pavement and parking area for the developer,  
24 there's two areas for proposed snow storage  
25 and a dumpster enclosure.

## MEETING

1  
2 Looking at the drawings, they do not  
3 provide any provisions with regard to the  
4 potential impacts caused by plowing of snow  
5 up against Mr. Lynch's building. And,  
6 additionally with that in mind, the potential  
7 for saturated conditions and/or freeze-thaw  
8 cycles that could occur with snow laying up  
9 against the building could, over time, start  
10 to impact the mortar and the brick of the  
11 existing building.

12 So we did, with this review, offer  
13 to the board some possible recommendations  
14 that could be considered and they are  
15 relatively straight forward and simple:  
16 First of all, just provide a simple guardrail  
17 basically about two feet away from Mr.  
18 Lynch's property, preventing any snow plowing  
19 activities to push the snow up against his  
20 building. By doing that, it will also keep  
21 the stored snow in a location that when it  
22 does tend to accumulate and go through its  
23 freezing and melting period, it won't be up  
24 against Mr. Lynch's building. So that was  
25 pretty simple with regard to the site plan.



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As for the actual foundation and roof construction that is being proposed between the new building and the existing structure, although this area allows in the zoning regulations a zero plot line construction for the side yards, it doesn't always mean that is the best condition.

If there was not an existing building, that would be great. There would be no impacts. But because there is an existing building, there's quite a few things that could come into play.

First of which Mr. Lynch's property and the existing wall is roughly three to eight inches off the property line.

Okay. Any disturbance of the soil on 161 Genesee Street, there would be no way of conceivably and physically restraining the soil on Mr. Lynch's property. So there would be disturbance on his property from that activity.

The next thing is when I reviewed the drawings, they didn't really have many notes in there with regard to the protection

1  
2 of Mr. Lynch's building. As a matter of  
3 fact, there were none in that review.

4 Typically when you are doing a  
5 construction against an existing building, you  
6 certainly would at least provide some  
7 cautionary language within the drawings with  
8 regard to potential undermining, underpinning  
9 conditions and so forth.

10 With the drawings themselves, the  
11 proposed foundation system consists of several  
12 items. They called it a "mass pour," which  
13 is really a low strength concrete mix. It  
14 is typically called a "flowable fill." It  
15 is a very good product, construction  
16 component to minimize settlement, minimize  
17 placement and compaction of typical  
18 construction materials such as crushed stone.

19 The other part of that foundation  
20 system consists of steel reinforced concrete  
21 grade beams and piers. Okay.

22 The mass pour excavation notes do  
23 not provide any -- or the drawings do not  
24 provide any notes specific to general  
25 excavation instructions.

## MEETING

1  
2 Okay. With regard to the removal of  
3 poor quality fill soils in the drawings, they  
4 did report that there was a geotechnical  
5 investigation performed. I did not receive a  
6 copy of that at this point, but looking at  
7 the drawings, they indicated that they  
8 anticipate the fact there would be the  
9 excavation of poor quality fill soils that  
10 are present on the site.

11 They also indicate that they are  
12 requiring a geotechnical engineer to be on  
13 site to determine when that transition occurs  
14 between a poor quality soil and the native  
15 bearing material reaching a sound soil  
16 strength of roughly 2,500 pounds per square  
17 foot.

18 When we start excavating against the  
19 building like that, or the developer does,  
20 again they don't mention any potential for  
21 undermining of the Lynch foundation,  
22 building's foundation during the excavation  
23 process.

24 So while the drawings qualify the  
25 fact that there are poor quality soils and

## MEETING

1  
2 that they are going to be excavating them to  
3 reach a native soil condition and then build  
4 back up with a flowable-type fill or mass  
5 pour, the problem, in reviewing the drawings,  
6 is that in the investigation that was  
7 performed they don't identify specifically the  
8 depths of that excavation to be performed.

9 So that leaves a very vague and  
10 open-ended discussion that could be two feet  
11 below grade, it could be four feet, it could  
12 be twelve feet. We don't know. And each  
13 one of those conditions has issues associated  
14 with it.

15 If they excavate let's say half way  
16 down Mr. Lynch's foundation wall, and they  
17 reach solid bearing material and they start  
18 to pour back up a mass pour, or flowable  
19 fill, and then build upon that grade beam  
20 and pier, what happens is now you have got  
21 at five specific locations -- which are the  
22 column lines of the new proposed building --  
23 you have now imposed surcharge loadings from  
24 this structure onto and against Mr. Lynch's  
25 foundation wall.



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1  
2           Granted it will be a partial  
3 transmission, but nonetheless it will be a  
4 transmission laterally against a wall that  
5 wasn't constructed, designed, or intended to  
6 have those types of loads placed against the  
7 wall system.

8           The other indication here in the  
9 drawings is although they point out that the  
10 soil boring program was performed, they don't  
11 identify the specific soils that are present,  
12 at least on the drawings. They certainly  
13 are within the geotechnical report, but they  
14 don't also mention on the drawings the  
15 presence of ground water. That could be  
16 another issue during construction and  
17 excavation, especially when we get close to  
18 Mr. Lynch's foundation.

19           So then it leads to where the zero  
20 lot line construction is. When they start  
21 to do this construction adjacent to the  
22 building, inherently you start to end up with  
23 this gap between the two party walls, and as  
24 such, the design drawings indicated, as was  
25 alluded to earlier, a presence of a Styrofoam



1  
2 rigid board insulation around the outside  
3 contact area with the existing foundation  
4 wall for Mr. Lynch.

5 Well, that becomes a little bit of a  
6 problem if the excavation that is being  
7 performed for these five locations in the  
8 mass pour and the grade beam and so forth,  
9 that you have a potentially compressible  
10 material that you would be constructing over,  
11 albeit it could be over the existing  
12 foundation, it is still a compressible  
13 material.

14 And when you are bringing in these  
15 surcharge loading conditions, that is not an  
16 advisable condition.

17 And with any construction, you are  
18 going to have settlement. It doesn't matter,  
19 it could a little or a lot. And with  
20 settlement, especially being constructed up  
21 against an existing structure such as Mr.  
22 Lynch's, potential for damage to his existing  
23 footing foundation system could occur.

24 Then as we start to move up towards  
25 the roof system and interaction between the

1  
2 proposed building and Mr. Lynch's wall, the  
3 drawings show, in general, what they intend  
4 to do to make the connection between the two  
5 buildings, but they are not specific with  
6 regard to the method of attachment and the  
7 locations of the attachments, spacing, etc,  
8 sealants and so forth.

9 So when we start to look at all  
10 those different components that come into  
11 play, it really seems like there is just  
12 issues here that don't need to be.

13 Considering the fact that to the west of the  
14 property, there is a space available --  
15 although it would be great to have a very  
16 large patio area, scaled on the drawing it  
17 appears to be roughly 24/25 feet wide -- my  
18 client's request is just simply moving the  
19 building over eight feet would eliminate all  
20 of these issues with regard to building up  
21 against his building.

22 So by having this construction that  
23 is being proposed being so close, it does  
24 limit his ability for maintenance of the  
25 brick and mortar. There's potential for

1  
2 moisture conditions. Mr. Smith had indicated  
3 earlier the fact that there could be rodents  
4 and so forth that could find their way in  
5 between the space. So it just doesn't make  
6 it a good application for my client.

7 MR. FUSCO: Sir, is there any type  
8 of standard in the industry regarding the  
9 separation of these buildings? I mean if I  
10 am a rodent, I don't care whether it is  
11 three inches or three feet or eight feet.

12 MR. TRYTEK: Well, with this  
13 particular situation, you have zero lot line  
14 conditions.

15 MR. FUSCO: I understand that. But  
16 you are echoing Mr. Smith's eight foot. I  
17 am just wondering is there a standard in the  
18 law -- excuse me, in the engineering design  
19 field --

20 MR. TRYTEK: No.

21 MR. FUSCO: -- for an acceptable  
22 distance between buildings?

23 MR. TRYTEK: No. There's no hard  
24 and true fact separation distances, only with  
25 regard to when you start looking at specifics

## MEETING

1  
2 according to each individual town, city, or  
3 state code, they may have adopted their own  
4 regulations with regard to setback  
5 requirements specifically with regard to fire.

6 MR. FUSCO: So it is possible that  
7 seven feet would be acceptable?

8 MR. TRYTEK: That is possible, yes.

9 MR. FUSCO: It is possible six feet  
10 would acceptable?

11 MR. TRYTEK: That is correct.

12 MR. MESSENGER: I was thinking five.

13 MR. FUSCO: I am sorry?

14 MR. MESSENGER: I was thinking five.

15 MR. FUSCO: Or five.

16 MR. TRYTEK: Exactly. And honestly  
17 from the years of construction experience and  
18 design that I have had, it would be a  
19 simpler approach to actually move the  
20 building away from a foundation-construction  
21 aspect, because we wouldn't have to get into  
22 some many --

23 MR. FUSCO: We will get into that  
24 in awhile because our design/rule committee  
25 met on this. Anything further?

## MEETING

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MR. TRYTEK: Well --

MR. FUSCO: I don't mean to be rude, but we are going to be hustled out of here in 21 minutes.

MR. TRYTEK: There is a lot to explain in that timeframe, so I apologize for going longer. It is very difficult to explain all those things to make it clear to everyone here.

That pretty much concludes what I have to say with regard to the construction of the buildings next to each other.

It would be our recommendation to simply move it away from the property line. Thank you.

MR. REGINELLI: Excuse me. One question: What would be the minimum amount of footage that would be acceptable according to your specifications.

MR. FUSCO: I am sorry, Frank, I couldn't hear the question.

MR. REGINELLI: What would be the minimum amount of footage they would accept from the property line?

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MR. TRYTEK: There's many different aspects that could come into play. I mean you could go as close as four feet. But what happens is, the closer you get --

MR. REGINELLI: Theoretically.

MR. TRYTEK: -- theoretically, the closer you get you have to provide shoring methods even if you were eight feet away.

But the thing is, you are far enough away that when you do your excavation you go eight feet away from the building and you are going eight feet down to depth, the soils tend to just remain there without having an issue regarding collapsing into the trench. So the closer you get, the more shoring methodology the applicant would have to entertain to protect Mr. Lynch's building.

Could it be done at four feet?  
Absolutely. It would be a lot simpler construction to get away from all of this insulation up against the foundation, the attachment between the proposed building and the existing building. It is just there is no need to.

## MEETING

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MR. REGINELLI: My other question is this: If you were to come to an agreement question as far as minimum footage, would that solve all the problems?

MR. FUSCO: I am sorry, I didn't hear that.

MR. REGINELLI: If there was a minimum that was agreed upon, would that resolve all the problems?

MR. TRYTEK: From a technical standpoint, it certainly would with regard to the foundation construction and attachment in between the buildings, yes, that would be eliminated completely.

I think the snow storage location is acceptable, it is just a matter of having protection so that you get, in the unlikely event someone comes in there plowing the snow and not paying attention, rams into his building.

MR. GIANGRECO: Thank you very much.

MR. TRYTEK: Thank you.

MR. GIANGRECO: Anyone else? Mike.

MR. LYNCH: My name is Michael

## MEETING

1  
2 Lynch, and my wife and I own Lynch Furniture  
3 in downtown Auburn, and I want to thank  
4 everybody for having us here today.

5 I wonder if we should ask for an  
6 adjournment, since this seems to be under  
7 time pressure?

8 MS. HAINES: We will move into a  
9 different room if we need to.

10 MR. LYNCH: Okay. I am not going  
11 to beat the same subjects that my attorney  
12 and engineer have, but I was here on October  
13 12, 2012, and gave my support for this  
14 project, and I still support the project.

15 My wife and I have just have grave  
16 concerns about our building, and a lot of  
17 those concerns relate to the foundation,  
18 relate to the spacing of the buildings, and  
19 the harm that spacing may cause to our  
20 building in the long run.

21 I also want to point out I didn't  
22 go engineer shopping. I talked to two  
23 structural engineers and a civil engineer,  
24 all of which thought this was a risky  
25 proposition at best.



## MEETING

1  
2           The foundation problems that they  
3 have come up with, both Tom and a gentleman  
4 by the name of Tim Buhl, seemed to mirror  
5 each other.

6           Tim Buhl, if I can quote, says:  
7 The mass pour foundation up against our west  
8 basement wall would add lateral pressure  
9 against your existing wall at certain  
10 locations and none at others. So he  
11 describes a sheering force that could push  
12 our basement wall in.

13           Back to the quote: Differential  
14 lateral loading against our existing wall  
15 could cause movement and cracking of the  
16 existing concrete damaging our building.  
17 That is pretty clear cut.

18           Second: Should the new building  
19 footing settle for any reason and sink lower  
20 because of the overlap proposed by this plan  
21 -- if you look at the plans you will see  
22 that they tie the, literally tie the  
23 foundations together -- could result in  
24 additional loading and stress on our existing  
25 footing, again running the risk of damaging

## MEETING

1  
2 our wall and basement. That is all pretty  
3 clear cut.

4 The other, I guess, point that I  
5 really want to make here is, I did speak to  
6 a developer -- I am sorry, communicated with  
7 a developer. That developer said: Due to  
8 the proximity of the two exterior walls as  
9 proposed by the plan, there will be future  
10 issues with water, debris, ice, flaking of  
11 brick, and an unnecessary heat loss and  
12 long-term maintenance concerns.

13 Please realize as a developer there  
14 could be future losses to both parties, if a  
15 proposed buyer cannot attend to and repair  
16 the exterior of the building as well as  
17 ours.

18 When he said "ours" that was Dan  
19 Soules. That was an email I got from him  
20 on May 8th.

21 So he actually recognizes that there  
22 would be damage to my building if he built  
23 three to eight inches away from it, but  
24 submitted plans to do the same.

25 So I don't know how we can approve



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## MEETING

1  
2 those plans if the developer himself says  
3 that there is going to be a problem.

4           Again, to echo Brody: The  
5 repositioning of this building, reconfiguring  
6 this project would be the appropriate and  
7 reasonable thing to do. A little less patio  
8 on the eastern side, maybe the space between  
9 our buildings could be used in some  
10 productive way like executive parking.

11           I think, in answer to Andy's  
12 concerns about what is the minimum, I think  
13 the minimum between the buildings would be  
14 that which would allow us to maintain our  
15 wall and him to maintain his wall and us to  
16 both reasonably remove debris that accumulated  
17 in there to prevent things like rodents and  
18 fire hazards and things like that.

19           I am not trying to take money out  
20 of anybody's pocket. I just to safeguard  
21 the integrity of our building.

22           I am sure we can both get what we  
23 want here with just a little bit of give and  
24 take from both parties. Thank you.

25           MR. GIANGRECO: Thank you. Anyone

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else?

MR. FUSCO: Why don't we do this:  
Since it looks like there is a distinct  
possibility we won't get done tonight, why  
don't we give the opportunity for people to  
not have to come back if they wish to speak,  
and then we will hear from Mr. Soules.

Is there anybody else that wishes to  
be heard, given our time constraints? We  
would ask you to keep within the three  
minutes. We have an hourglass here to  
enforce that, if we have to.

Anybody else wish to be heard? Yes.  
Come up.

MS. FARR: My name is Ginger Farr.  
I am on the vestry for of St. Peter &  
John's church. We just want to express that  
we are in support of the project as it  
exists now, and are hoping our neighborhood  
will improve in the very near future. So we  
are looking forward to having this project  
actually occur.

Thank you very much.

MR. GIANGRECO: Thank you. Anyone



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else? Okay.

MR. BOUCK: Hi. Good afternoon. I am John Bouck. My address is 323 Dunman Cove in Auburn. I am here as a business person in Auburn that's been vested in the city for over fifty years. I have done my own share of development, and I am here in support of project.

But as I am standing here, I have some real concerns over what appears to me as a developer, of the potential of someone, that in this instance is a neighbor, just trying to rewrite the code for both parking in the area as well as setback and side lot restrictions. They were put there for a reason.

As a matter of fact, I have a building I constructed in downtown Skaneateles at 19 Jordan Street, Skaneateles Bakery, brand new. My building is situated one inch from the buildings on each side. One is the Paris Flea, the other is the Skaneateles Jewelry Store.

We went through the same issues over



1  
2 there. We don't have one iota of a problem  
3 with anything that has to do with  
4 engineering. My lot restriction was actually  
5 smaller.

6 This building, or this project is a  
7 continuing sign of real progress in this  
8 city, and I think and I would urge you to  
9 go through with this.

10 I have no relationship with this  
11 project, but I see it as a business person  
12 as being an important, continuing step in  
13 what we already have.

14 As you will note, there's been  
15 virtually -- and I certainly know that for a  
16 fact in my business -- there's been virtually  
17 no private investment in this community in  
18 the past ten years in terms of commercial  
19 property particularly in the downtown area.  
20 It is a real danger for an investor, and I  
21 have to hand it to somebody that's willing  
22 to go ahead and put his money in this  
23 situation.

24 This project represents real  
25 speculation to a private investor in this



1  
2 situation. Somebody that's willing to take a  
3 risk in this community.

4 There is no downside that I can see  
5 to this project. It is a real asset to  
6 both the downtown area and the community as  
7 a whole. I certainly support it in any way  
8 that I can.

9 MR. GIANGRECO: Thank you. My  
10 apologies to everybody. We are going to  
11 have to move the meeting up to the third  
12 floor training room because the city counsel  
13 will be coming in here in five minutes.

14 MR. FUSCO: In the five minutes that  
15 we've got, do we have any more people that  
16 could speak who might not want to go up to  
17 the third floor?

18 The room is not nearly as large as  
19 this one.

20 MS. HAINES: We won't all fit in  
21 there. You all will be able to speak no  
22 matter where we are, but there is not as  
23 much room up there as there is here. I  
24 apologize, but we need to defer to the  
25 council.

## MEETING

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MR. GIANGRECO: Anyone else wish to speak immediately?

Okay. We are going to adjourn up to the third floor training room.

MR. FUSCO: We still have a couple of minutes, Mr. Chairman.

Mr. Soules, could you take the microphone.

Do you have counsel here tonight that is prepared to talk about the state environmental quality review issues that are triggered by the changes in your plan?

MR. SOULES: Well, yeah, we have our engineer that is here.

MR. FUSCO: Okay, the engineer has experience in SEQRA matters?

MR. SOULES: I think in the past, but this one has been approved, if I am understand your question.

MR. FUSCO: The law of the state of New York is very clear that when the plan is changed, our obligation as the lead agency continues, so that we have to take a hard look at the potential environmental concerns

## MEETING

1  
2 that are raised by the changes in the plans,  
3 the traffic pattern, parking, the lateral  
4 stresses on the building, the accumulation of  
5 debris between the two, and the impact of  
6 the potential for snow removal being in a  
7 different location than it is. Also possibly  
8 the drainage situation, although I see it  
9 addressed, but it has been raised.

10 We have an obligation to have a  
11 lengthy discussion about that, and I am just  
12 wondering if you are prepared to go forward  
13 on that issue?

14 MR. SOULES: Yeah, we are prepared  
15 to go forward on that. I have my engineer  
16 and our contractor is here and I would also  
17 like to speak on some of it too, because  
18 some of these are recommendations and whether  
19 we speak here on it or speak upstairs, I  
20 really think a lot of this has been  
21 formulated without a lot of support. I can  
22 answer a lot of these questions myself and  
23 then we will turn it over to our engineers  
24 to go further on that.

25 MR. FUSCO: Very good. And before

## MEETING

1  
2 we adjourn upstairs, very quickly in the  
3 nature of housekeeping, we have received a  
4 long form, Environmental Impact Assessment --  
5 excuse me, Environmental Assessment Form in  
6 the Schwartz Theater matter, which will come  
7 before us later this year.

8 As you recall previously, we were  
9 coordinated on it and you had no objection  
10 to city council being the lead agency.

11 Does anybody here have thoughts on  
12 it one way or the other, and specifically,  
13 do any of the five of you have any objection  
14 to city council being lead agency for the  
15 environmental review?

16 BOARD MEMBER: Could some on council  
17 have a conflict with that?

18 MR. FUSCO: One member of the  
19 council has currently recused himself on all  
20 matters concerning this because he is also a  
21 trustee with the college and he is a  
22 developer. So I think the answer is no,  
23 pragmatically.

24 Okay. I think we have two no  
25 problems on this side of the room. No

1 problems on that side of the room.

2  
3 Okay, let's adjourn to the third  
4 floor.

5 **(Whereupon, the proceedings were**  
6 **adjourned to the third floor.)**

7 MR. GIANGRECO: The public hearing  
8 is now continued.

9 MS. HAINES: If you could come and  
10 stand over here so the stenographer can hear  
11 you.

12 MR. FUSCO: And, again, please state  
13 your name and address.

14 MR. GIANGRECO: Please speak up, all  
15 kidding aside, I am half deaf.

16 MR. FUSCO: Anybody else?

17 MR. LYNCH: My name is Chris Lynch.  
18 I am the brother of Mike Lynch. I live in  
19 Arizona, P.O. Box 2020 Green Valley, Arizona.

20 I am actually going to respond, just  
21 briefly, to the comments that were made by  
22 the developer from Skaneateles. I think he  
23 was giving the impression that maybe Lynch  
24 furniture, my brother, has not developed or  
25 invested money in this community.

1  
2 Of course, Lynch furniture and my  
3 brother and his wife have invested money in  
4 this community. They have been good  
5 commercial citizens to Auburn. They have  
6 provided good service to the people of  
7 Auburn.

8 My brother, Michael, and his wife,  
9 have indicated they are not in opposition to  
10 the project. They just want the board to  
11 follow the terms and conditions of the  
12 ordinance to make sure that when the project  
13 is built, it is built in a way that will  
14 not negatively affect their building.

15 And that is why the ordinance was  
16 written, is to make sure when a new  
17 development comes in, that that new  
18 development does not negatively affect  
19 existing structures, existing traffic, existing  
20 safety interests in the city, and that you  
21 actually take those matters into consideration  
22 before you make the determinations as to  
23 whether or not the project should go forward,  
24 or put conditions on the project before you  
25 approve it.



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Thank you.

MR. GIANGRECO: Anyone else?

MR. AUPPERLE: I have been involved with everything --

MR. FUSCO: What is your name and what is --

MR. AUPPERLE: Oh, geez. I am the engineer that's been hired by Whalen & Curry. My name is Richard Aupperle, and I am with the firm of St. Germain & Aupperle.

We do quite a bit of foundation work, soils review, and superstructures. That's our forte.

Okay. In the city of Syracuse and surrounding areas, we have done quite a few new building structures adjacent to existing building structures. It is nothing new. The key to the whole thing is matching the bottom of your neighbor's footing elevation period.

On our drawings, if you look closely, we state: All our mass pours will match bottom of Lynch footing elevation. Very important. So that will eliminate a

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lot of concern in terms of vertical load.

Lateral load is the other issue of concern right now. We basically proposed to put the compressible Styrofoam between our structure and the Lynch foundation wall. It compresses. It is that white insulation that you see a lot of times. Basically, it breaks apart, it compresses.

There is no way to actually provide trust load against Lynch. It is a basic industry standard.

MR. FUSCO: What about Mr. Smith's concern that legally you have no right to put this Styrofoam on his client's side of the line?

MR. AUPPERLE: I don't see this as being a major item. I mean we can hold back our edge of pour, if need be, but I think we are arguing over one or two inches.

MR. MESSENGER: My name is Jim Messenger. I am the attorney for the developers.

Lynch furniture is actually physically on the developer's property. So the issue

1  
2 of access to get up against there is an  
3 issue of us accessing our own property to  
4 the put our foundation up against theirs.  
5 Their utilities and their foundation  
6 physically are on WST's property, not on  
7 their own property.

8 MR. FUSCO: For the whole run of  
9 the building?

10 MR. MESSENGER: I believe it is.

11 So the issue of access, being able  
12 to put the Styrofoam separator down, is not  
13 a problem. It is going to be on my  
14 client's property.

15 MR. WHALEN: An additional point.  
16 My name is Roger Whalen. I want to add to  
17 Mr. Lynch's going over on our property. He  
18 put a new drive in facade on the front of  
19 his building wrapped around the corner. That  
20 facade is over on Dan Soules' property as  
21 well. Up in the air on the third floor --  
22 the second floor of his building.

23 MR. FUSCO: You understand that is  
24 not necessarily our concern.

25 MR. WHALEN: Right. It is common

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for people to cross property lines with items.

MR. FUSCO: We are talking about a facade here and a structural issue there (indicating).

MR. WHALEN: Right.

MR. FUSCO: Let's go with the structural first.

BOARD MEMBER: Just so I understand, you are saying none of the lateral stress load reduction that you built into the plans requires a trespass onto Mr. Lynch's property.

MR. AUPPERLE: Correct. Another point I would like to bring up in relation to lateral load, which is a horizontal load, because of the nature of our geometry the first four feet of height from grade going into the dirt, we are actually renewing the earth in that area against Lynch's building.

So the first four foot no longer has lateral force applied to their foundation wall. That is actually a strategic location because it is about at the belly of their

1  
2 wall where it will provide the worst harm if  
3 we did have lateral load. So we have  
4 actually reduced or just about eliminated  
5 lateral load.

6 I can't say it is a hundred percent,  
7 but you are at 20 percent of what the  
8 lateral load is currently for the existing  
9 backfills. So, if anything, the nature of  
10 that wall will actually sense less, much less  
11 lateral load as a result of our construction  
12 methods.

13 MR. FUSCO: We heard from Mr. Smith  
14 earlier that to button the tops of these two  
15 buildings together with some type of device  
16 would result in a trespass on Mr. Lynch's  
17 property. That may relate to what Mr.  
18 Whalen was just saying. Do you have any  
19 thoughts on that?

20 MR. BAROODY: If we could stay with  
21 the structural part first.

22 The information, or lack of  
23 information, the lack of geotechnical data  
24 that was on the drawings, you are speaking  
25 of mass excavation, filling it with a

1  
2 flowable fill, 2,500 pounds compressive  
3 strength, and you are saying you have no  
4 idea how deep that is going to go -- two,  
5 four, eight, ten, twelve feet -- you are  
6 going to fill it in two-foot layers and then  
7 you are coming up with a structural bottom  
8 beam, 4,500 pound concrete, that will  
9 eliminate any lateral movement whatsoever?

10 MR. AUPPERLE: Negligible lateral  
11 movement.

12 MR. FUSCO: What do you mean by  
13 "negligible"?

14 MR. AUPPERLE: Twenty percent of  
15 what it currently is with a backfill load  
16 against the wall.

17 MR. FUSCO: Now, the type -- I am  
18 not an engineer, obviously. The type of  
19 detail that Tim just recited -- he is very  
20 experienced with building -- is that in these  
21 plans?

22 MR. AUPPERLE: The bottom of footing  
23 elevation is established on our drawing. We  
24 are matching Lynch. It says so right on the  
25 sheet.

## MEETING

1  
2 MR. FUSCO: Let me make myself  
3 clear. The method that Tim just outlined,  
4 exactly how you were going to do this or how  
5 he thinks you are to do that, is that  
6 demonstrated in these plans?

7 MR. AUPPERLE: Well, I may be bias,  
8 prejudice, but I think it is obvious.

9 I mean somebody that doesn't do this  
10 work every day, maybe there is a question,  
11 but, again, the nature of the products -- we  
12 do this type work everyday -- this is not a  
13 mystery. This is not a mystery.

14 MR. WHALEN: The plans that you have  
15 for site plan submission do not show what  
16 Dick is talking about. The plans that were  
17 submitted with the building permit, which is  
18 the code problem where code issues are  
19 resolved, are on those plans, so that is why  
20 you may not be seeing it as a planning board  
21 because they are not on the site plan. They  
22 are in the detailed drawings of the structure  
23 which we gave to the building inspector which  
24 is the process.

25 I don't think you usually get

## MEETING

1  
2 foundation plans for site plan approval. So  
3 that is why you may not have seen this. We  
4 can show you that detail going down to  
5 Lynch's foundation which his foundation is 12  
6 feet down in the ground. He has a full  
7 basement under there. So we are going all  
8 the way down. We are not going to stop our  
9 footer half way down and start putting  
10 pressure on this wall. We are going all the  
11 way down on his footer.

12 MR. FUSCO: Your footers are going  
13 to be 12 foot deep?

14 MR. WHALEN: Yes.

15 MR. MESSENGER: I think it is  
16 appropriate that we have the discussion  
17 because there are some concerns for site plan  
18 review about foundation issues raised by Mr.  
19 Lynch, but I think it is more important to  
20 note that is not normally an area for  
21 jurisdiction for site planning review, that  
22 would be the issuance of building permits and  
23 construction approvals. That's a different  
24 level of expertise, not to question anybody's  
25 expertise, but those codes and requirements



## MEETING

1  
2 and standards are generally addressed by the  
3 by the code department and engineers and  
4 others hired by the city for that review.

5 I do think it is appropriate because  
6 Mr. Lynch is concerned about that issue, and  
7 I will state the original project had a  
8 party line wall and it was approved, it was  
9 approved, reviewed, it was before this board  
10 and to the building committee before in full.  
11 At some point after that, Mr. Lynch had a  
12 concern about a party line wall and then  
13 wanted that gap. We could never reach  
14 agreement on that over two attorneys and  
15 six-and-a-half-months of attempts.

16 So given that, we went back and  
17 re-engineered a setback. During that process  
18 it was noted that Lynch's foundation extend  
19 into WST's property. Lynch's utilities, it  
20 was determined, after borings and reviews,  
21 are on my client's property.

22 Other details that were incorrectly  
23 stated earlier. The relocation of the  
24 drainage line, the storm drainage line, that  
25 is not missing from the plan, it was

1  
2 relocated because at one point when there was  
3 original cooperation on the site plan that  
4 was approved last fall, the stormwater line  
5 would go on Lynch's property. It's now been  
6 in the new building plans relocated entirely  
7 on WST's property. So that issue has been  
8 addressed.

9 Utility issues. There was no change  
10 in what was needed for utilities and we are  
11 not asking for Mr. Lynch to dig up his  
12 utility lines and move them to his property.  
13 Not a question. The cooperation is there.

14 On the structural issues themselves,  
15 that is best handled through the structural  
16 engineers, the building plans that have been  
17 submitted and approved, I believe, for the  
18 issuance of building permits. So the  
19 engineering has been done. Up against the  
20 building, separately away from the building,  
21 it's been determined that we can safely  
22 build. We would like to build that three  
23 inches closer to the back, I think five  
24 inches closer to the front because that  
25 property is angled.

## MEETING

1  
2 It would have been far preferable to  
3 do it that way because you don't have to  
4 worry about the exterior wall and peeling  
5 paint and things like that.

6 But given the fact that we do not  
7 have an agreement to build up against the  
8 party line wall, we will build on the  
9 property line. That is the proposal as the  
10 code permits and as the engineering has shown  
11 can be safely done.

12 Now, this has been reviewed not once  
13 but many times since last October because of  
14 the questions raised, so we have gone back  
15 and looked at the engineering again.

16 I think Mr. Hicks has looked at it,  
17 the city engineers have looked at it. It is  
18 fine, it is suitable, it meets industry  
19 standards and the only question would be:  
20 Should we enclose the top to minimize any  
21 debris that might get inside. That would be  
22 preferable. It has no downside impact on  
23 either building.

24 I know the engineer from TDK raised  
25 the question, how was it attached? That

1  
2 presumes that the people who are designing  
3 this don't know what they are doing when, in  
4 fact, I think they do know what they are  
5 doing, and that method would have to be  
6 approved by the building department. It  
7 would also require cooperation of Mr. Lynch  
8 for that three-inch gap to a five-inch gap  
9 along the property line.

10 MR. FUSCO: Mr. Smith said earlier:  
11 We are not going to go cooperate. I don't  
12 want to put words in your mouth, but we  
13 don't agree thus far.

14 MR. MESSENGER: Then there is going  
15 to be a gap between the two buildings, which  
16 exists in every town in America, every city  
17 in America. This is not new construction.

18 MR. BARODY: Excuse me. Questions  
19 were raised -- and I don't mean to be  
20 offensive, counsel. If you take offense you  
21 should have thicker skin -- but you are  
22 blowing smoke on a lot of issues that were  
23 already addressed -- the drainage, the curb  
24 cut.

25 We are concerned for Mr. Lynch's

## MEETING

1  
2 concern for his building, but we also  
3 understand Mr. Soules is not responsible for  
4 improving the property of Mr. Lynch.

5 MR. MESSENGER: Correct.

6 MR. BAROODY: We are looking at  
7 them. The structural issues were brought up  
8 and TSD Engineering offered remedies for each  
9 one, which I appreciate. He just didn't say  
10 this is wrong.

11 I kind of hope you guys can get  
12 together.

13 MR. SOULES: I agree with you. It  
14 seems like this is being rehashed and  
15 rehashed, but I really don't think there's  
16 been a lot of concrete defense.

17 First of all, think about what we  
18 are dealing with. We are dealing with two  
19 to five inches. So the thing is, I've said  
20 from day one the two walls should be  
21 adjoined.

22 Mr. Smith had said in his remarks  
23 earlier, that we have a shared common wall.  
24 That is not true. If you create two  
25 separate walls and one falls down, the other

1  
2 one stays up. These are two adjoining  
3 walls. It is done in every city in America.  
4 In New York City, thousands and thousands of  
5 building are built this way.

6 You have the insulation package.  
7 You never have to maintain the outside of  
8 your walls. There would be no windows  
9 there. It would eliminate any of the  
10 problems forever.

11 MR. FUSCO: What about the  
12 accumulation of snow ice and debris in the  
13 three-inch space between the two buildings?

14 MR. AUPPERLE: It would be no  
15 different than any of the row houses or the  
16 commercial buildings in the city of Syracuse  
17 or the city of Auburn. There is a certain  
18 amount of buildup between the two. There  
19 are geometric ways of minimizing the amount  
20 of ice.

21 As long as you allow a chimney  
22 effect between two adjacent masonry  
23 structures, after it is wetted, it will be  
24 allowed to dry out. So as long as you have  
25 chimney effect and draft, you will dry out

1 structures.

2  
3 So that's why we put wafer weights  
4 in the bottom of the brick work and the top  
5 of brick work. With our systems nowadays  
6 you allow air to go in the bottom behind the  
7 brick work and come back out the top.

8 Long story short, you will have  
9 wetting and then you will have drying cycles.  
10 It is the nature of masonry.

11 In conclusion from a structural  
12 standpoint, foundation standpoint, my firm  
13 feels ground water is estimated at minus 35  
14 feet below current ground level which varies  
15 a little, but basically we don't anticipate  
16 ground water being a big issue for temporary  
17 dewatering.

18 Secondly, because of the two row  
19 houses that we originally saw before they  
20 were demolished, those two row houses  
21 actually established Lynch's property and then  
22 my client's property.

23 When both were torn down, we feel  
24 that the footing established by Lynch is  
25 sound bearing. We look at the performance

1  
2 of the Lynch building, it is performing well.  
3 So we don't want to modify where we bear on.  
4 We want to bear on the same elevation as  
5 where Lynch is right now. Why not take a  
6 look at the success of performance of  
7 structure.

8 So long story short, we feel sound  
9 bearing occurs at that elevation. We don't  
10 have an issue with ground water, and we are  
11 minimizing any impacts lateral on the Lynch  
12 building. If anything, there will be less  
13 load on the Lynch building.

14 UNKNOWN SPEAKER: Right now the  
15 outside grade outside of structure, everything  
16 is being wetted including the top soil and  
17 ground surface off the west side vacant lot.  
18 If anything, right now that is applying  
19 additional hydrostatic load as a result of  
20 saturated soils.

21 Right now in this area, obviously,  
22 we are seeing rain on and off. Right now  
23 the water is actually sitting on top. We  
24 have got four or five foot of saturated soil  
25 material. That will be minimized and

1  
2 eliminated. Usually that is equivalent to  
3 another 15/18 percent of lateral load. It  
4 is saturated dirt that creates additional  
5 push due to the jello effect.

6 The Lynch building won't be seeing  
7 that once it is an enclosed area as a  
8 structure next door. Everything is positive  
9 from the aspect of a new structure being  
10 assigned adjacent to an existing structure.  
11 We see no change in the performance of the  
12 Lynch building.

13 MR. GIANGRECO: All right. Any  
14 other members who wish to be heard?

15 Anybody else from the public at this  
16 time?

17 MR. WHALEN: I am Roger Whalen the  
18 construction manager of this project. We  
19 have photos of the two row houses that Dick  
20 was referring to. We feel that those were  
21 demolished and put into the basement of those  
22 houses.

23 The soil boring report that I have  
24 that's referred to on the drawings here  
25 indicates bricks/wood, organic materials.

## MEETING

1  
2 That is why we have to do this mass pour  
3 foundation.

4 The other recommendation was to drive  
5 piles which is also expensive, more so than  
6 the mass pours, but also would shake Lynch's  
7 building. So that is why we went to the  
8 mass pour situation.

9 MR. GIANGRECO: Thank you.

10 MR. FUSCO: Just a matter of  
11 housekeeping. Mr. Smith, did you bring the  
12 stenographer tonight?

13 MR. SMITH: I did.

14 MR. FUSCO: Okay. Since we lost  
15 the ability to tape when we came to the  
16 third floor, I am wondering if we can enter  
17 into a stipulation that that will be the  
18 record and the city would be willing to  
19 share in the production of it.

20 MR. SMITH: Yes.

21 MR. GIANGRECO: All right. At this  
22 time I will close the public to be heard  
23 section of the meeting and I will ask the  
24 board for comments or questions.

25 MR. FUSCO: Specifically, Mr. Whalen,



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1  
2 you drafted the original stormwater plan  
3 which was specifically mentioned in the prior  
4 negative declaration. Could you tell my  
5 members of my board what changes have been  
6 made and why and whether the stormwater  
7 drainage concerns that Mr. Smith raised  
8 previously, what your client's position is on  
9 those.

10 MR. WHALEN: This is the stormwater  
11 drainage that you are referring to on the  
12 corner of Church and Pine Street (indicating  
13 drawing). It actually goes across Lynch's  
14 property to pick up this storm drainage from  
15 the building into the parking lot.

16 We have now abandoned that and  
17 brought it straight out through our property  
18 and working with the city to either tie it  
19 in here at the end of our driveway or take  
20 it across to that manhole (indicating).

21 You have got to remember this line  
22 isn't always going to be flowing because we  
23 have got dry wells in all these other  
24 locations to take the rain when it first  
25 comes and let it saturate the ground. This

## MEETING

1  
2 is more of an overflow pipe in the event of  
3 a hundred-year storm.

4 This is all explained in the  
5 stormwater report. Because this project is  
6 under an acre, this report wasn't even  
7 necessary but we did it to prove that we are  
8 not putting any more water into the street  
9 than is presently going out into the street.

10 MR. FUSCO: And it is all staying  
11 on Dan Soules' property?

12 MR. WHALEN: Yes. He has dry wells  
13 to take that water from the roof.

14 MR. SOULES: Our elevation is higher  
15 than Mr. Lynch's, so this is something we  
16 took into account to take water and remove  
17 it so it didn't go to the east and go on  
18 his property. So we took it upon ourselves  
19 to do that.

20 MR. FUSCO: Now, Mr. Soules -- and  
21 I apologize if this was covered while I left  
22 the room -- but Mr. Smith raised questions  
23 about potential of snow being placed onto Mr.  
24 Lynch's property or shed, snowplows possibly  
25 hitting Mr. Lynch's building.

## MEETING

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Are there any --

MR. WHALEN: There was a snow storage area on Lynch's property. We showed that as a convenience for his snow, not our snow. We took that off the drawing.

We also incorporated the grass area to take any immediate drainage to soak into the grass instead of the pavement going over to the Lynch property.

MR. FUSCO: So there is a physical separation between the snow mound and Mr. Lynch's building?

MR. WHALEN: There is a grass strip there.

BOARD MEMBER: On the previous plan why was the drainage to go through Lynch's property? Why was it not --

MR. WHALEN: We still have our snow storage.

BOARD MEMBER: The drainage pipe. Why was the first plan to go through Lynch's property?

MR. WHALEN: Well, at the time Lynch was for the project. We were not only



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1  
2 bringing that storm drainage across, we were  
3 putting light poles in his parking lot, we  
4 were re-striping his whole parking lot and  
5 improving the curb line.

6 So since he didn't agree to it, we  
7 had to take this back off the drawing.

8 MR. FUSCO: Do you, or any of your  
9 consultants have any reaction or input  
10 regarding the traffic recirculation issue that  
11 Mr. Smith raised, the crossing of one  
12 person's property to reach the other's?

13 Also, I see there an alteration on  
14 the entrance to the parking lot from Church  
15 Street. Someone may want to discuss that  
16 because a member of public asked me about  
17 that on the walk up the stairs here.

18 MR. SOULES: I will explain it. I  
19 have to go back to the beginning why we want  
20 to build on the property line.

21 When we decided to do this -- and  
22 this is in the notes and this is not  
23 verbatim -- but the city engineer said that  
24 this is exactly the type of street scape we  
25 want in our city.

## MEETING

1  
2           Parking adjacent to the old building  
3 was kind of an eyesore. So when we  
4 redesigned the parking, and in the process we  
5 wanted to have the outdoor dining area out  
6 there which is about 28 feet, and we cut it  
7 down to about 14 feet.

8           At the same time we wanted to have  
9 accessibility. So we put a 32-foot wide  
10 entrance, double lane, granite curbing, with  
11 a deeper base, to handle the heavy traffic  
12 and the flow of cars.

13           The question you asked more  
14 specifically was the width of this. I think  
15 there was a misunderstanding that we not have  
16 driveway width here that we said we did  
17 (indicating drawing).

18           This is 33 feet wide. The driveway  
19 is 28-and-a-half feet wide. So there I  
20 think there is a misunderstanding from Mr.  
21 Lynch's side on that.

22           There was thrown out as a  
23 recommendation to make it 24 feet. We would  
24 like to, because it is on a secondary area,  
25 leave it at 28 feet if a truck wants to

1  
2 make that radius, that turn to get back into  
3 traffic. So really it is a dream situation  
4 (indicating).

5 MR. FUSCO: The traffic recirculation  
6 question that Mr. Smith raised, the potential  
7 according to his argument that members of the  
8 public, because it will no longer be able to  
9 be delineated, might enter Soules' property  
10 to get to Mr. Lynch's or Mr. Lynch's  
11 property to get to Mr. Soules' property, that  
12 there might be some confusion and some  
13 recirculation of traffic in the back.

14 Are there any thoughts or  
15 observations about that?

16 MR. SOULES: I am hoping that this  
17 would stay open and that we can get this  
18 resolved. These are minor issues. I  
19 believe they are very minor and that Mr.  
20 Lynch might find the value in tying this  
21 back in (indicating). That is a future  
22 thing.

23 C2 doesn't say this has to be fenced  
24 off. It is an open parking lot. So if  
25 you want to stripe this area (indicating),

## MEETING

1  
2 that could be done, but there is nothing in  
3 the C2 regulation that shows we have to put  
4 in a guardrail or a curb or anything to  
5 separate these parking areas.

6 MR. FUSCO: Nothing to do with  
7 traffic.

8 MR. SOULES: Nothing to do with  
9 traffic.

10 MR. FUSCO: I mean 24-and-a-half,  
11 28-and-a-half, nothing to do with traffic?

12 MR. SOULES: No. If Mr. Lynch  
13 feels he wants to put up a fence, that is  
14 his call. If we feel we want to put up a  
15 fence to separate our property, we could  
16 apply for that with planning and put up a  
17 fence someday. Right now I don't think it  
18 is a large issue. It is not part of our  
19 plan.

20 MR. WHALEN: I don't want to  
21 backtrack on touching the buildings, but if  
22 you drive down the center of Auburn, New  
23 York, on the east side of the street there  
24 -- I am pretty sure that is the east side  
25 -- the hundred block to two hundred block,

1 every one of those buildings is sandwiched  
2 together, every one of them.

3  
4 MR. GIANGRECO: Okay. Jenn, you a  
5 couple letters that have to be read?

6 MS. HAINES: Yes.

7 MS. JENSEN: I have two letters that  
8 will be read into the record. They were  
9 distributed to all board members. The first  
10 one I will read is the memo by Steven Lynch,  
11 Director of Cayuga County Planning & Economic  
12 Development.

13 "Please accept this brief memorandum  
14 as a statement of strong support for the  
15 Plaza of the Arts project in downtown Auburn,  
16 which I understand will be presented to the  
17 City of Auburn Planning Board on Tuesday,  
18 June 18, 2013, for consideration of minor  
19 site plan revisions to the previously  
20 approved site plan.

21 "The City Planning Board's support  
22 and approval of this important project in  
23 November of 2012 was another import and  
24 milestone in the ongoing redevelopment of  
25 downtown Auburn and the resurgence of

## MEETING

1  
2 investment in a renewed and revitalized  
3 downtown Auburn by local developers such as  
4 Dan Soules and his company.

5 "I have reviewed the site plans  
6 revised on 6/8/13 and submitted to the Board  
7 for consideration. I believe that these  
8 plans adequately address not only Auburn code  
9 and site development requirements, but also  
10 represent quality planning principals by  
11 matching the front setbacks, placing parking  
12 behind the building, allowing clear  
13 circulation and access that addresses and  
14 enhances neighboring properties and by  
15 bringing quality streetscape design into play.  
16 Further, the redevelopment of this site with  
17 new, quality construction and the opportunity  
18 for new tenants and vibrant street activity  
19 will act as a key connecting piece between  
20 Auburn's art, entertainment and cultural  
21 anchors just west on Genesee Street and  
22 Auburn's downtown core.

23 "Auburn is at a transitional state  
24 and this is a transformational project  
25 brought forward by another of Auburn's



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1  
2 committed, visionary and local developers. I  
3 would like to thank the City Planning Board  
4 for its previous support and approvals of the  
5 project and strongly encourage your support  
6 and approval of these minor changes so that  
7 this important development can move forward  
8 without delay.

9 "Respectfully, Stephen F. Lynch.  
10 Cayuga County Planning & Economic  
11 Development."

12 The second letter is from Cayuga  
13 County Chamber of Commerce, Andrew Fish,  
14 Executive Director.

15 "Dear City of Auburn Planning Board:

16 "The Cayuga County Chamber of  
17 Commerce request your approval of the  
18 redesigned plans being submitted by Soules  
19 and Dunn Development, dba WST33, LLC for  
20 their Plaza of the Arts project. This  
21 project will have a tremendous impact on the  
22 downtown business community for Auburn.

23 "This project is replacing a building  
24 that was heading into disrepair and with a  
25 state of the art facility-designed around the

## MEETING

1  
2 existing architecture in downtown - that will  
3 house professional offices, restaurants, and  
4 retail. This \$3.6M project will create and  
5 retain jobs as well as bring new businesses  
6 to downtown. With the advent of the Finger  
7 Lakes Musical Theater Festival and the  
8 increasing knowledge of our historic and  
9 cultural tourism attractions on a national  
10 scale there will be an increasing demand for  
11 class A commercial space for restaurants and  
12 retail. This project will provide our  
13 community with this needed asset and will  
14 increase our ability to capitalize on the  
15 influx of visitors.

16 "In addition to the added value  
17 provided to downtown this project will also  
18 have a significant impact on other areas of  
19 our economy. The redevelopment will  
20 facilitate the relocation of Soules and Dunn  
21 Development, and their subsidiaries, corporate  
22 offices from Virginia to New York. This  
23 move will bring all of their local cash  
24 deposits to Auburn, NY as well as relocate  
25 and create 23 jobs in the next 5 years.



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## MEETING

1  
2 This new location will also serve as the  
3 official training center for Arby's employees  
4 across the Northeast and will result in  
5 hundreds of individuals traveling to Auburn  
6 annually to spend several days at a time  
7 participating in this franchise specific  
8 training. This will bring occupancy revenue  
9 and other local spending from the  
10 participants to Auburn.

11 "This project has received tremendous  
12 support from the local community and the  
13 state. It has been identified as a priority  
14 project for Central New York and as a region  
15 we will be held accountable for its  
16 implementation. This is a significant  
17 project for the continued revitalization of  
18 our downtown and I believe it deserves our  
19 full support. I implore the planning board  
20 to please do everything that you are able to  
21 move this project forward. Please feel free  
22 to contact me with any additional questions  
23 you may have.

24 "Sincerely, Andrew Fish, Executive  
25 Director."



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## MEETING

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MR. GIANGRECO: Thank you. Any comments or questions? Members of the board?

BOARD MEMBER: The question I have is related to something Mr. Smith mentioned in his comments about the amended site plan still identifying some permissions between the two property owners.

I see on the site plan that there is some removal, like removal from plan to grading. Are these the only issues that identify potential cooperation at this point?

MR. SMITH: The issues where we believe the drawings presuppose activity on the Lynch property are two: One, with regard to foundation work, we disagree with the statement from opposing counsel earlier that the foundation work would all be on Lynch's property. We can't know for sure whether --

MR. BAROODY: Counsel, please answer the question. Please.

MR. SMITH: Right. I am trying to explain. I understand the question to be there are two pieces --

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MR. BAROODY: Okay.

MR. SMITH: The first piece has to do with the foundation. We believe they would have to come on our property to put that Styrofoam board to separate the two foundations, because unlike what they said before that they think our footer is on their side of the property, we don't believe that to be true. We don't know the basis of that statement.

The second thing is we believe they would have to come onto Lynch's property under their current plans, their current building permit drawings. Their current site plan is to tie the two roofs together.

Again, there is an eight inch gap in places, so they would have to come eight inches onto the property to put an overhang or membrane or whatever to close that gap. They don't have permission to do either of those things.

So that would be our argument, the plans before you presuppose construction on property that the applicant does not control.



## MEETING

1  
2 MR. BAROODY: Can we make it a  
3 condition that an independent licensed land  
4 surveyor determines where the property line  
5 is?

6 MR. FUSCO: No, we are not doing  
7 that.

8 MR. BAROODY: Codes will take care  
9 of that.

10 MR. FUSCO: No, a court of law will  
11 take care of that.

12 Just so the record is clear, your  
13 position is that there is no need to cross  
14 the property line to do any of the basement  
15 work, reduction on lateral stress we heard  
16 about earlier, that will all occur on Mr.  
17 Soules' side of the property line?

18 MR. AUPPERLE: Correct.

19 MR. GIANGRECO: Gentlemen, you have  
20 made your points, but we have to move on.

21 I have heard a lot of stuff tonight  
22 and it all makes sense; however, it is not  
23 that far from getting done. We are talking  
24 inches here, an enclosure here, attachments  
25 here. There must be something that can be

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MR. FUSCO: Here is the problem, Mr. Chairman. We brokered an agreement back in October and November. As you recall, the developer and the neighbor went out in the hallway and came back. They appeared to have worked something out back last November and we acted in reasonable reliance to that.

Unfortunately, it didn't happen. Why it didn't happen is none of our matter. So our opportunity to broker some agreement is gone. It is over. Because even if they were to agree to something tonight, there is nothing to prevent them from changing their minds tomorrow and we will be back here next month.

We need to proceed with the amended plan that we have before us. Specifically, there are four amendments.

We have heard about the drainage plan being amended to no longer rely on any drainage cross the Lynch property. That is number-1.

Number-2: We heard about the

## MEETING

1  
2 building plan to no longer have the two  
3 walls abut one another, and we have beaten  
4 that to death.

5 Number-3: We have heard about the  
6 driveway change that had been planned  
7 previously and what is before us now.

8 And, number-4, there is an alteration  
9 to the back entrance on the north side of  
10 the property.

11 Those are the four changes that we  
12 are dealing with tonight. We will revisit  
13 SEQRA after you have heard from anybody who  
14 wishes to speak or whom you allow to speak.  
15 Any more questions from the board members or  
16 any more input from staff?

17 MR. GIANGRECO: All right. Any  
18 comments on those four items as to what we  
19 are looking for? Andy just went over them.

20 MR. FUSCO: We can't act until we  
21 revisit SEQRA. You are asking for comments  
22 or questions.

23 MR. GIANGRECO: Yes. Any other  
24 comments from the board? Okay. We will  
25 move on to comments on SEQRA.

## MEETING

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2 MR. FUSCO: Okay. As recall on  
3 October 2nd, you issued a negative  
4 declaration. As I told you downstairs, SEQRA  
5 requires -- SEQRA requires us to have an  
6 ongoing obligation to revisit SEQRA whenever  
7 changes to the plan are had.

8 So what I will do is go through  
9 Part-2 of the EAF and see if you wish to  
10 change you answers.

11 You can answer yes or no and then  
12 we can have a discussion on each of the  
13 points.

14 First of all, Question A: Does this  
15 exceed the Type-1 threshold. We answered no  
16 back in October. That remains no.

17 Question B discusses a coordinated  
18 review. That issue has been mooted. The  
19 CBA regarding the setback that would align  
20 the two buildings up, city counsel has since  
21 changed that, so there is no need for a  
22 coordinated review or a single agency review.

23 Question C1 regards existing air  
24 quality, surface or ground water quality,  
25 noise levels, existing traffic patterns, solid

1  
2 waste production or disposal, potential for  
3 erosion, drainage, or flooding problems.

4 You answered back in October:

5 Because the potential for increased stormwater  
6 runoff exists, a drainage plan and stormwater  
7 plan have been developed to mitigate the  
8 increase of impervious surface.

9 Specifically, you made no answer  
10 regarding traffic patterns or what was  
11 referred to as the recirculation of traffic.

12 I hope that frames the questions.  
13 Do any of you wish to change the answer to  
14 question C1 that you espoused back in October  
15 based upon the testimony that you heard  
16 night?

17 BOARD MEMBER: Can you read that  
18 again.

19 MR. FUSCO: We answered the question  
20 to C1 which concerns air quality, ground  
21 water, drainage, flooding, traffic, solid  
22 waste.

23 We answered: Because of the  
24 potential for increased stormwater runoff  
25 exists, a drainage plan and stormwater report

## MEETING

1  
2 have been developed to mitigate the increase  
3 because of the impervious surface.

4 BOARD MEMBER: Okay.

5 MR. FUSCO: We have so far two no  
6 changes, Crystal Consentino and Frank no  
7 change, and Mr. Chairman no change.

8 Question C2. We answered that  
9 question concerns aesthetic, agricultural,  
10 archaeological, or historic resources, cultural  
11 resources and the character of the  
12 neighborhood.

13 We answered that question back in  
14 October: The project would appropriately  
15 extend the character of Auburn's downtown.

16 Is there anyone on the board who  
17 wishes to change that answer?

18 MR. GIANGRECO: No.

19 MR. REGINELLI: No.

20 MR. BAROODY: No.

21 MS. MCCARTHY: No.

22 MS. COSENTINO: No.

23 MR. FUSCO: Question-3 regards  
24 vegetation, fauna, fish, shell fish, wild  
25 life species, threatened or endangered

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species.

Back in October we answered that question that there is no -- there is no significant or potential significant environmental impact because this is a primarily developed parcel in a commercial zone.

The maps do not indicate the potential of wetlands, rare plants, rare animals or significant habitat. Impact to wildlife and habitats, therefore, are not anticipated.

Based upon the testimony that you have heard tonight, is there anyone who wishes to change their answer to question C3 from October?

All five of you say no.

Okay. Question C4. There's a question whether this proposed use site plan meets the community's existing plans and goals as officially adopted, or does it change use or intensity of land use and other resources.

We answered that question -- or I



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should say, you answered that question in October: The proposed mix of commercial uses, urban style of design and pedestrian separate site layout are supported and encouraged by the city's comprehensive plan.

Is there anything you have heard tonight that would motivate you to change that answer from October?

All five say no.

Question C5: Goals, subsequent development, or related activities that are likely to be induced by the proposed action.

You answered that question "not applicable," in October.

Is there any reason you would like to change that answer?

All five say no.

Question C6: Are there any long term, short term, or cumulative or other effects not identified in the first five questions, which would present an adverse environmental or potential environmental impact?

You answered that question

1 "nonapplicable" back in October.

2 May I say what we have heard  
3 regarding the pluses or minuses or concerns  
4 or whatever about a not quite zero lot line  
5 may well fit into this question because it  
6 is not in the other five.

7 BOARD MEMBER: No. This is  
8 environmental. Read the first sentence,  
9 again, counsel.

10 MR. FUSCO: All right. The first  
11 sentence of the question?

12 BOARD MEMBER: No. This is an  
13 environmental --

14 MR. FUSCO: Could the action result  
15 in any adverse effects associated with the  
16 following.

17 BOARD MEMBER: Environmentally.

18 MR. FUSCO: Correct. That is what  
19 this means, adverse environmental.

20 BOARD MEMBER: The question and the  
21 SEQRA environmental review are not applicable,  
22 after hearing everything tonight. The three  
23 to five inch gap, or zero wall gap, would  
24 not change the environmental review in my  
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opinion at all.

MR. FUSCO: Anne, how do you feel?

MS. MCCARTHY: Would you read it again, please.

MR. FUSCO: The threshold is, could any action -- could this action result in any adverse impacts or effects -- that means environmental effects -- associated with the following, and the four things that you need to consider in answering yes or no to that are the four changes:

The fact the two buildings are not abutting one another anymore.

The fact the entrance in the back is a little narrower than it was before.

The fact that the drainage used to drain on, or some of it I should say, used to drain onto Mr. Lynch's property and none of it does anymore.

And that the shared parking plan has been removed off the table.

Do any of those four changes result in an action which could result in an adverse environmental impact?

## MEETING

1 All five answer no.

2 Question D: Is the project in a  
3 critical environmental area? We answered  
4 "no." There are none that I am aware of.  
5

6 Question E: Is there likely to be,  
7 or is there controversy related to potential  
8 adverse environmental impacts?

9 We answered that question "no" in  
10 October. I would think, based upon the  
11 spirit of the debate that we have heard  
12 tonight, you may well wish to answer that  
13 question yes; however, whether it was a short  
14 form EAF or the full long form EAF, that  
15 question is answered --

16 MR. BARODY: Counsel, it doesn't  
17 change. If you are looking simply at the  
18 environmental issues, nothing has changed.

19 MR. FUSCO: You would still answer  
20 that question no?

21 MR. BARODY: Yes.

22 MR. FUSCO: Anne?

23 MS. McCARTHY: No.

24 MR. FUSCO: Crystal?

25 MS. COSENTINO: No.

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MR. FUSCO: Frank?

MR. REGINELLI: No.

MR. GIANGRECO: No.

MR. FUSCO: Now, back in October you made a determination of significance, based upon those eight answers that we just gave, that this project has no significant environmental impact and, therefore, you issued what is called a "negative declaration," or you authorized the chairman to sign -- at that time the acting chairman -- to sign a negative declaration.

In the form of a motion or resolution, what is your pleasure regarding that tonight?

MS. HAINES: Do you wish to affirm the negative declaration of October?

MR. FUSCO: We will need a motion and a second.

MS. COSENTINO: I will make the motion.

MR. BARODY: Second.

MR. GIANGRECO: Secretary, call the roll.

## MEETING

1  
2 MS. HAINES: Anne McCarthy?  
3 MS. McCARTHY: Yes.  
4 MS. HAINES: Tim Baroody?  
5 MR. BAROODY: Aye.  
6 MS. HAINES: Crystal Cosentino?  
7 MS. COSENTINO: Yes.  
8 MS. HAINES: Frank Reginelli?  
9 MR. REGINELLI: Aye.  
10 MS. HAINES: Sam Giangreco?  
11 MR. GIANGRECO: Yes. Motion  
12 carried.  
13 **(Whereupon, the Site Plan Resolution**  
14 **was read and the following occurred.)**  
15 MR. GIANGRECO: Is there a motion to  
16 adopt the Site Plan Resolution?  
17 MS. COSENTINO: Yes, there is.  
18 MR. GIANGRECO: Seconded by Frank.  
19 Call the roll.  
20 MS. HAINES: Anne McCarthy.  
21 MS. McCARTHY: Yes.  
22 MS. HAINES: Tim Baroody.  
23 MR. BAROODY: Yes.  
24 MS. HAINES: Crystal Cosentino.  
25 MS. COSENTINO: Yes.

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MS. HAINES: Frank Reginelli.

MR. REGINELLI: Yes.

MS. HAINES: Sam Giangreco.

MR. GIANGRECO: Yes. Motion  
carried. Motion to adjourn? Is there  
motion to adjourn?

MR. REGINELLI: So moved. All in  
favor? Motion carried.

**(Whereupon, the proceedings ended.)**



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20 KENNETH H. CREWELL, JR.

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22 DATED: July 1, 2013  
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