

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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5 FULLER ROAD MOTEL
6 33 FULLER ROAD
7 REVIEW REQUEST FOR WAIVER OF MORATORIUM

8 *****

9 THE TAPED AND TRANSCRIBED MINUTES of the above
10 entitled proceeding BY NANCY STRANG-VANDEBOGART
11 commencing on May 17, 2011 at 8:10 p.m. at the
12 Public Operations Center 347 Old Niskayuna Road,
13 Latham, New York 12110

14 BOARD MEMBERS:

- 15 PETER STUTO, CHAIRMAN
- 16 MICHAEL SULLIVAN
- 17 THOMAS NARDACCI
- 18 LOUIS MION
- 19 TIMOTHY LANE
- 20 KATHLEEN DALTON
- 21 PAUL ROSANO
- 22 ELENA VAIDA, Esq., Attorney for the Planning Board

23 Also present:

24 Joe LaCivita, Director, Planning and Economic
25 Development

Victor Caponera, Esq.

- 26 Mary Barber
- 27 Dave Ryan
- 28 Robert Ott
- 29 Ralph Coon
- 30 Amjad Mughar, Oah Sai Corporation
- 31 Patricia Thorne
- 32 Shirley Coon
- 33 Councilman Ronald Baily, 3rd Ward, City of Albany
- 34 Alice Mencil
- 35 Rose Lazaro, Metropolis Vintage

1 CHAIRMAN STUTO: We're calling up the
2 Fuller Road Motel, 33 Fuller Road. This is a
3 review and request for waiver of moratorium.

4 Joe, do you want to give us an
5 introduction on this?

6 MR. LACIVITA: Sure, you summarized that
7 pretty well. We have before us the Fuller Road
8 Motel at 33 Fuller Road. The moratorium was
9 placed on the Central Avenue corridor 1,000
10 feet from centerline back in July of 2010. The
11 applicant is before us to ask for a waiver of
12 relief from that moratorium. At the time, the
13 moratorium said that they were no longer
14 looking at hotels. They were looking at
15 saturation points and they were looking at
16 studies within the corridor. That's why this
17 project is caught in the moratorium and they
18 can't move forward.

19 You do have a recommendation from the
20 Planning Board to give you a summary of the
21 project. I'll turn that over to Victor for a
22 review of the request.

23 CHAIRMAN STUTO: Mr. Caponera, you
24 represent the applicant?

25 MR. CAPONERA: I do. Thank you, very much

1 Mr. Chairman, and members of the Board,
2 audience that is here. Let me introduce
3 myself. I'm Victor Caponera and I represent
4 the property owner which is Oah Sai
5 Corporation. I'd just like to advise everyone
6 a little history here.

7 Back in 2007 there was a fire at this
8 hotel and the photos that I've given to all of
9 you in your site plan packets show on the
10 upper side of it what this property looks like
11 today, since the 2007 fire. Obviously and in
12 my opinion, it's very unsightly and certainly
13 deleterious to the area.

14 From a legal standpoint, if the owner of
15 the property within a year of the fire of 2007
16 had simply made an application to the Building
17 Department to refurbish the fire damage, the
18 Building Department, under the law, would have
19 given him that approval and it would have been
20 refurbished. However, the owner didn't. Under
21 the law, if you don't refurbish it within a
22 year, then technically you have to go back to
23 the Zoning Board with what is known as an area
24 variance because the building sits on the
25 property and it basically doesn't meet the

1 setbacks.

2 Anyway, on December 22, 2009 my client
3 bought this property and I'm giving you the
4 numbers. He paid \$151,953.84 for the property
5 and he immediately filed an application with
6 the Building Department January 6th to seek
7 approval to refurbish the damage that was done
8 to this property. Because of what I just told
9 you under Section 190.35(b)2, which is in a
10 letter that I wrote to you to the members of
11 the Board, the Building Department denied the
12 zoning verification and you have a copy of it
13 in your packet that I submitted to you for the
14 reason that I just indicated.

15 So, what did the owner do? Well, the
16 owner didn't have me on his side. He hired
17 another law firm and they filed an application
18 to the Zoning Board, obviously, to go in front
19 of the Zoning Board to get an area variance
20 for the continuation of this use. In the
21 meantime, the Town Board enacted in July of
22 last year the one-year moratorium which
23 effectively ends in July of this year,
24 effectively stopping any building of new
25 motels, new hotels and refurbishing of

1 existing hotels within 1,000 feet of Central
2 Avenue. Guess where this one sits? About 970
3 feet from Central Avenue. So it's within that
4 area.

5 So, I discussed this with my client. He,
6 after expending that kind of money, found
7 himself between a rock and a hard place. He
8 invested the sums when he bought it in
9 December of 2009. He has been trying to get a
10 building permit to fix the fire damage since
11 then. Obviously, he has run into these issues
12 that I've just talked to you about including a
13 moratorium and he's stuck being able to do
14 nothing with the property since he's owned it
15 for over a year now.

16 So, I took a look at the moratorium and
17 lo and behold in the moratorium there is a
18 procedure that I am now exercising asking the
19 Town Board's consideration to waive that
20 moratorium on this piece and allow him to fix
21 this damage.

22 The site plan that we had prepared by
23 Harris Sanders Architects shows what it would
24 look like if it got refurbished. Of course,
25 it's far nicer looking than what was is up on

1 top. Essentially, that's what we're here for.

2 Now, when we look at this, obviously the
3 property sits on Fuller Road and it's also on
4 the corner of, I believe, Katherine. My client
5 submits that certainly through no fault of his
6 own, he has purchased the property and spent a
7 substantial amount of money on the property
8 and has been able to do nothing with it other
9 than to pay taxes and try to keep it boarded
10 up. I have driven by it multiple amount of
11 times since we've been retained on this. I
12 don't know why, but it seems like it looks
13 worse almost every time I drive by.

14 We know through my representation of
15 probably two owners or three owners ago, that
16 many years ago in 1991 I came in front of the
17 Zoning Board and I got an approval to utilize
18 this property for a use which was a little
19 unique. It was office suites/hotel use. I've
20 also given you a copy of the approved
21 May 11, 1990 zoning verification that
22 basically -- I find it interesting that it's
23 got Lynch and Lynch on it as the attorneys.
24 Anyway, the applicant proposes to change the
25 motel use to a combination of office/motel

1 suites; bedroom, bathroom, office to service
2 the patron and its business customers. The
3 number of suites proposed is 19.

4 That's what I did approximately 21 years
5 ago and here we are in this situation asking
6 this Board to consider this. As the law
7 provides the moratorium, this Board is asked
8 to weigh in on it and then make comment to the
9 Town Board, who would make the ultimate
10 decision on the waiver and not this Board.
11 Essentially, that's what we are looking to do,
12 Mr. Chairman.

13 I did have my client, when he was mailing
14 and handing out the notices that are required
15 under the statute, seek person's comments and
16 support on this proposal. I do have a couple
17 of petitions that I'd like to hand up to the
18 Board. They were signed by six folks on this
19 one, and two folks on the other one. So, there
20 is a total of eight. I'll read it and then
21 enter it into the record.

22 Regarding the property at 33 Fuller Road,
23 these names are signed in no opposition to the
24 current owner at 33 Fuller Road for repairing
25 or refurbishing the existing fire damage to

1 the building and reopening the previously
2 authorized 19 office motel suites within the
3 property. The property addresses are 26, 28,
4 30, 34, 38 and 35 Fuller and we also have 2A
5 Katherine and 8 Katherine with a caveat
6 written in. I hope to read this right. If I
7 don't I'm sure they will correct me.

8 Not short term rooms rented to the
9 homeless.

10 Is that accurate?

11 MS. BARBER: Close enough.

12 MR. CAPONERA: So, I'll hand this up to
13 the Board.

14 Mr. Chairman, that's why I'm here and
15 what our proposal is.

16 CHAIRMAN STUTO: I just want to go over
17 some timeline things so that we have a clear
18 understanding and then we'll open it up to
19 questions from the Board.

20 Let's try to take this chronologically.
21 What happened first, the fire or the transfer
22 of the property?

23 MR. CAPONERA: The fire happened first.

24 CHAIRMAN STUTO: Approximately when?

25 MR. CAPONERA: That was in 2007.

1 CHAIRMAN STUTO: The transfer of the
2 property happened?

3 MR. CAPONERA: December 22, 2009.

4 CHAIRMAN STUTO: Okay, the end of 2009.
5 Moratorium effective?

6 MR. CAPONERA: July 2010.

7 CHAIRMAN STUTO: The application was made
8 originally?

9 MR. CAPONERA: The application by my
10 client was made in December of 2010.

11 CHAIRMAN STUTO: During the moratorium?

12 MR. CAPONERA: No, before the moratorium.
13 The moratorium went into effect in July of
14 2010. My client made an application as soon as
15 he bought the property. He bought it
16 December 22, 2009. You have a copy of the
17 zoning verification on January 6th. It was
18 disapproved by Mr. Cordell on 1/6/10.

19 CHAIRMAN STUTO: And his rationale being
20 at the bottom of that?

21 MR. CAPONERA: Yes, that was the
22 rationale that I stated in my application. To
23 put it in plain English, because the prior
24 owner didn't apply for a permit to refurbish
25 the property within a year, it lost its

1 nonconforming use. Mr. Cordell is saying in
2 that very long paragraph is that the setbacks
3 that he is articulating there do not comply
4 with the current zoning setbacks which require
5 him to go to the Zoning Board. He then filed
6 an application to the Zoning Board of Appeals
7 and was scheduled to go before them on June 3,
8 2010, before the moratorium.

9 CHAIRMAN STUTO: Okay, does everyone
10 understand that?

11 MR. NARDACCI: Did he go to the Zoning
12 Board?

13 MR. CAPONERA: No.

14 CHAIRMAN STUTO: Is there any dispute
15 with the prior owner with not being able to
16 use it for its intended purpose?

17 MR. CAPONERA: No, nothing that I'm aware
18 of. There is no litigation that I'm aware of.

19 CHAIRMAN STUTO: Okay we'll take Board
20 questions and comments.

21 MR. LANE: Honestly, we don't know if the
22 Town Board is going to extend the moratorium,
23 which expires in just over a month.

24 MR. CAPONERA: If it expires, Mr. Lane,
25 what will happen is that the moratorium will

1 lapse and we will march into the Zoning Board
2 seeking these area variances and remember an
3 area variance is not the same as a use
4 variance.

5 MR. LANE: Yes, so you still have an issue
6 because of the setbacks.

7 MR. CAPONERA: Absolutely.

8 MR. LANE: Okay, that was my question.

9 MR. NARDACCI: I don't have questions.
10 The timeline was what my question was and that
11 was answered.

12 CHAIRMAN STUTO: Okay, we'll go to the
13 public.

14 Mary Barber.

15 MS. BARBER: I think I'd like to wait.

16 CHAIRMAN STUTO: Get my attention if you
17 want to make a comment.

18 Robert Ott.

19 MR. OTT: I've been a resident there for
20 approximately six years now.

21 How many times has it been sold since the
22 fire?

23 CHAIRMAN STUTO: That's a fair question.

24 MR. OTT: How many owners has it had?

25 CHAIRMAN STUTO: The questions get

1 directed through here.

2 Mr. Caponera, if you know?

3 MR. CAPONERA: Because I didn't represent
4 the current owner on the purchase in December
5 of 09, I'm led to believe -- I represented
6 years ago back in 1990 the owner of the
7 property which was [SIC] Peter Golub and I
8 believe that he sold it to someone. In looking
9 at the deed here, that I didn't handle, it
10 went in from in [SIC] Enan at Fuller LLC to
11 Oam Sai Corporation, which is my client. At
12 worst it was two and at best it was one owner
13 between the fire when my client bought it.

14 CHAIRMAN STUTO: We don't have a
15 definitive answer or a record of that.

16 MR. OTT: Is it going to be state funded
17 as far as taking in people that are felons
18 that are now released or sex offenders that
19 are released? Is that going to be the proposed
20 patrons that are going to be inhabiting these
21 residences.

22 MR. CAPONERA: The answer to that is no.
23 It's not going to be state funded. It's going
24 to be used for my client for what was
25 previously authorized, assuming, again, that

1 we go through the Zoning Board to get the
2 approval. Remember, even if this Board makes a
3 recommendation and goes to the Town Board and
4 they say, okay, we grant the waiver, my client
5 still can't refurbish this. We still have to
6 go back to the Zoning Board.

7 CHAIRMAN STUTO: That's not the question.
8 Do you know who your intended client base
9 would be?

10 MR. CAPONERA: To answer his question,
11 it's not intended to be state funded.

12 CHAIRMAN STUTO: I think that he means
13 the rent paid by the residents.

14 MR. CAPONERA: That will be paid for by
15 the residents. Remember, again, I got this
16 approved for office suites/hotel rooms. It's a
17 little different than straight hotel rooms.

18 CHAIRMAN STUTO: What's to prevent
19 somebody - and I'm not an expert in
20 Section 8 -

21 MR. CAPONERA: Nor am I.

22 CHAIRMAN STUTO: What would prevent
23 somebody from coming in that participates in
24 Section 8, or some other program?

25 MR. CAPONERA: I suppose the Zoning Board

1 could put conditions on it and/or the Town
2 Board, if they so needed.

3 CHAIRMAN STUTO: So, the answer is that
4 it remains to be seen.

5 MR. OTT: Also, I'm just curious about
6 the signatures that you've got.

7 CHAIRMAN STUTO: We can pass this around
8 to the public.

9 MR. OTT: I'm just saying that there are
10 not too many residents on Fuller Road. I'm
11 just wondering how many of those are business
12 owners.

13 MR. CAPONERA: There are a couple of
14 business owners and a couple of residents.

15 CHAIRMAN STUTO: There appears to be one
16 resident and the rest businesses.

17 Without getting into individual names,
18 can you read the addresses?

19 MR. NARDACCI: Okay, 26 Fuller Road,
20 28 Fuller, 30 Fuller, 34 Fuller, 38 Fuller,
21 35 Fuller.

22 CHAIRMAN STUTO: Sir, next comment or
23 question?

24 MR. OTT: This is basically the beginning
25 of obviously a longer proceeding, correct?

1 CHAIRMAN STUTO: Yes. Just so you
2 understand what's gong on here, there is a
3 moratorium which means they can't build a
4 hotel for a year. That's imposed by the Town
5 Board. They can make exceptions, or waive that
6 for individual cases. They're asking us for
7 our recommendation as to whether they should
8 or not. So, if we say yes or we say no, they
9 get our recommendation and they can either
10 agree with us or not agree with us. That's
11 just step one.

12 Once they do that, they have to go to the
13 Building Department. If they need variances,
14 they also have to go to the Zoning Board of
15 Appeals. If it's a major site plan review, we
16 see it. If it's not a major site plan review,
17 our department sees it. Joe LaCivita heads
18 that up.

19 MR. OTT: The Zoning Board - is that a
20 public forum also?

21 CHAIRMAN STUTO: Yes.

22 MR. ROSANO: Just so you know, everything
23 that we do, is a public forum. It wasn't done
24 that way before. You'll be notified.

25 CHAIRMAN STUTO: It's helpful if you say

1 whether you're for or against it because
2 you're asking interesting questions. If you
3 don't want to, you don't have to.

4 MR. OTT: Let me just say this much, when
5 I first bought the property on Katherine Road,
6 in the first month of living there, a
7 detective car pulled up in front of my house.
8 He came to my door and said my name. I'm like,
9 why are you talking to me? He presented a
10 picture and said, I just want to let you know
11 that at the end of your street is a convicted
12 felon and we have to let you know.

13 CHAIRMAN STUTO: Thank you.

14 MR. ROSANO: Can we have your address,
15 please?

16 MR. OTT: I live at 22 Katherine Road.

17 CHAIRMAN STUTO: Amjad Mughar.

18 MR. MUGHAR: My name is Amjad Mughar and
19 I bought that property. This is not going to
20 be a state funded motel. Thank you.

21 CHAIRMAN STUTO: Doug Ryan.

22 MR. RYAN: First of all I want to say
23 that it's nice to live in one of the safest
24 townships in the United States.

25 As a lifelong resident in Colonie, I know

1 what goes on in that motel and always has gone
2 on in that motel. You have sex offenders in
3 there, drug addicts and prostitutes. It's
4 never changed and it's not in a good area. And
5 these girls that go to work at 3:30 in the
6 morning have seen the people out there at 5:00
7 in the morning, and there are no Colonie cops
8 down in that area. If you had a chance, would
9 you close the Skyline Motel? I'm not saying
10 discriminate against these people, but you're
11 asking for trouble. It's not going to be any
12 better. It's not a safe area. It's not a good
13 idea to just go ahead and let them make a
14 motel again. Anything else but that.

15 CHAIRMAN STUTO: Rose Lazaro.

16 MS. LAZARO: I own Metropolis Vintage at
17 32 Fuller, right across the street from the
18 hotel. I am against them making another motel
19 for a lot of reasons. First of all,
20 Mr. Caponera said in 1990 you got an approval
21 for an office/motel 21 years ago. Well, we
22 know how well that worked out. It didn't work
23 out well at all. It turned into drug-infested
24 and this is the state that it's in now. Also,
25 I would like to know does the owner live

1 around here? Where does he live?

2 MR. MUGHAR: I live in Latham.

3 MS. LAZARO: So, it's one thing for you
4 to say that you care about what's going on in
5 that area, but you don't have to live there.

6 CHAIRMAN STUTO: Ma'am please address us.

7 MS. LAZARO: I'm sorry.

8 CHAIRMAN STUTO: You can make the same
9 point by addressing us.

10 MS. LAZARO: Okay, I wanted to point that
11 out.

12 I also would like to know what other
13 motels Mr. Mughar owns. What other properties
14 does he own at this point, and what is their
15 condition?

16 CHAIRMAN STUTO: Mr. Caponera, would you
17 like to answer that?

18 MR. CAPONERA: Yes. I know that he owns
19 property in the City of Albany. I think that
20 there is a gentleman that's going to speak
21 relative to that and relative to the condition
22 that he keeps that property, which I believe
23 is going to be very clean and very positive.
24 I'll let that gentleman speak.

25 MS. LAZARO: Can I ask what kind of

1 property that is?

2 MR. CAPONERA: I'm not 100 percent sure.

3 CHAIRMAN STUTO: Okay, let's wait until
4 the other fellow comes up.

5 MS. LAZARO: I'm interested to know if he
6 owns any specific motels.

7 CHAIRMAN STUTO: Okay, and we'll get that
8 information.

9 MS. LAZARO: I think that's all for now.
10 I'd like to possibly comment later.

11 CHAIRMAN STUTO: Okay, thank you.

12 Ralph Coon.

13 MR. OTT: I forgot to say that I am
14 against it.

15 CHAIRMAN STUTO: Thank you.

16 MR. COON: I live on Katherine. I noticed
17 the pink advisory signs went up Friday. Aren't
18 they supposed to be up way before this
19 hearing?

20 CHAIRMAN STUTO: The placards - how much
21 in advance of the hearing are they supposed to
22 be up?

23 MR. LACIVITA: We put the placards out
24 usually five to seven days. We give them to
25 the applicant beforehand.

1 MR. COON: They went up on Friday?

2 MR. LACIVITA: Actually, they had them in
3 their hand by the end of the week of the
4 second. They were supposed to post them by the
5 end of that week. Let me see if I have a
6 certification here. We got this back on May
7 9th, which was the Monday that they were
8 posted. They should have gone out that week
9 that they had them prior. So, it's just about
10 two weeks prior to the meeting date.

11 MR. COON: They don't get posted on
12 anything else but the structure?

13 MR. CAPONERA: They're posted around the
14 property. They have to be posted on the front
15 of every road frontage. I think that it's
16 every 100 feet. So therefore it would require
17 one posting on Fuller and one posting on
18 Katherine.

19 MR. LACIVITA: Now did you receive one
20 directly, sir?

21 MR. COON: No, I didn't receive anything.

22 MR. LACIVITA: What is your address?

23 MR. COON: I'm at 13 Katherine. I'm about
24 360 feet.

25 MR. LACIVITA: It's a courtesy under the

1 Land Use Law of 200 feet to the property line.
2 That's why I'm looking here and I didn't see
3 13 but you said that you're about 300 feet
4 from that area.

5 MR. COON: About 360.

6 MR. LACIVITA: Okay.

7 MR. COON: The notification seemed
8 awfully quick before we got a chance to know
9 what was going on. The second issue is I would
10 suggest that the Board look at the incident
11 reports with the police in just the last three
12 years of that motel's life. We've lived
13 through suicides and drug arrests. We don't
14 want it. We're disenchanted with the way that
15 the hotel has gone, it hasn't been
16 reconstructed. it's been scavenged for
17 aluminum. I don't know what's on the inside,
18 but we've had the plywood ripped off and
19 people living in there. They came back and
20 boarded the place up. It's a haven for the
21 homeless. I believe in helping the homeless,
22 but that's not the way to do it.

23 The next issue is that there are 19
24 units. There are probably seven car spots to
25 park in front of that place. What does that

1 tell us? Where are they going to park? We
2 don't have on-street parking. Everybody has a
3 driveway and home and that type of thing. Two
4 of those spots are going to be held by an ADA
5 compliant parking spot. So, instead of 9,
6 you're going to be down to just a few. We'd
7 like to have the Town have a building engineer
8 go in there and check it for structural
9 integrity.

10 The roof has been compromised now for the
11 last five years and the little things that
12 they put on them are rotted off and it's
13 rained in it. When you walk by, they've stolen
14 pictures out of it. I don't know what else to
15 say. We've lived across the street from the
16 motel and they've found all these things going
17 on and they've arrested them and closed that
18 operation down.

19 The motel is less than 2,000 feet from
20 two elementary schools and a high school.
21 There are lots of children moving through that
22 area. We would need a guarantee of no parking
23 on the street, of professional people,
24 professional offices and to be very, very
25 careful there. We're worried about our

1 children. We see this as not a good fit for
2 our little community. It's going to hurt our
3 property taxes. The town hasn't given us any
4 breaks at the end of our street. I would
5 concur with all of those who are opposed to
6 this that we will be told when the next
7 process is that it's not conducive to our good
8 living to have it in that small neighborhood.
9 Thank you.

10 CHAIRMAN STUTO: Thank you very much.

11 Patricia Thorne.

12 MS. THORNE: I've lived on Katherine Road
13 for about 25 years now, and I too am against
14 having this as a hotel. I've seen a lot of
15 things go on there. Living in that area, you
16 don't want sex offenders down the street.
17 There are young kids there.

18 The thing about the petition: I never got
19 asked by anyone to sign a petition. They never
20 came to me. Thank you.

21 CHAIRMAN STUTO: Shirley Coon.

22 MS. COON: I just wanted to say that I'm
23 against it.

24 CHAIRMAN STUTO: Thank you.

25 Councilman Bailey.

1 MR. BAILEY: Good evening Mr. Chairman
2 and the Board. I'm Councilman Ron Bailey from
3 the Third Ward, City of Albany. Mr. Mughar has
4 businesses in my Ward and apartment buildings.
5 I came as a character witness to talk about
6 the work that he does in my community. I, too,
7 am against sex offenders and all that.
8 Mr. Mughar has been one of the homeowners and
9 land owners in our community that takes care
10 of his apartments. We don't get police calls
11 there. He doesn't allow people to hang out in
12 front of his stores.

13 CHAIRMAN STUTO: I don't mean to
14 interrupt you, but can you give us the address
15 of where you're talking about?

16 MR. BAILEY: I'm talking about the 3rd
17 Ward, Arbor Hill, 151 Lark Street, 20 Central
18 Avenue. Those are high crime areas in the city
19 and he is one of the few to take care of his
20 property. You don't worry about police calls -

21 CHAIRMAN STUTO: Are those hotel/motels,
22 or are those apartments?

23 MR. BAILEY: No, they're just the
24 apartment buildings. There might be three
25 apartments in the building. He takes care of

1 them with maintenance and no code violations.
2 He's very upstanding. I know for a fact from
3 knowing him and working with him on certain
4 issues in the community because he gives to
5 the community, also. If he says he's going to
6 build this and there will be no sex offenders
7 and no Section 8, then I believe him. When
8 I've worked with him, he's been a man of his
9 word. I understand people's concern from the
10 past, but they have to accept change to their
11 area. When he came into our community, there
12 were people that thought that this is just
13 another one of those landlords who doesn't
14 care. But he has shown the community
15 different, and that he does care. He's a very
16 hard worker and he's always there taking care
17 of his buildings and making sure that they are
18 up to par. Thank you.

19 CHAIRMAN STUTO: I appreciate you coming
20 and I appreciate your sincerity. Thank you.

21 That's the last name on our list. Does
22 anybody else want to speak by show of hands?

23 MS. BARBER: Mary Barber. I live at
24 2 Katherine, formally known as 2A. It was
25 changed by the Colonie Police. I bought the

1 house six years ago. It burned two years later
2 and it's now been four years and the place is
3 a disaster. It's unsafe. It worries me
4 constantly that someone is going to torch it.

5 I had an experience with some of the
6 people who lived there. Many of them had
7 addiction problems. I know that we did get a
8 notice at one time about that there was a
9 class 3 sex offender that was living in that
10 particular motel. I've also talked to Doug and
11 told him that nobody in the neighborhood is
12 going to tolerate the kind of population that
13 was there before. I don't think that I ever
14 knew any woman that stayed there. They were
15 all men. Nobody is going to tolerate that kind
16 of clientele. To be honest with you, I've
17 called the Town and the Supervisor's office
18 numerous times.

19 It's cost me a refinance because not only
20 does it lower my property value, it lowers my
21 ability to sell the property. If someone has
22 two houses for X amount of money, they're
23 going to take the one that is not next to a
24 burned motel. I've heard that there are rats
25 inside there. The plywood comes off. I have no

1 objection to it being rebuilt as long as there
2 are precautions. I just want something. It's
3 so disgusting the way that it is now. It's a
4 safety hazard. Is there something to ensure us
5 that it won't be what it was before? I have no
6 objection to a business going in there - a
7 legitimate business.

8 I think that you can do some kind of a
9 background check or whatever for insurance for
10 us that the same kind of clientele is not
11 going to be in there. I can't believe that
12 somebody would put a lot of money to refurbish
13 it and then let homeless people and whatever
14 else turns around and destroy it all, or have
15 the police called constantly. I honestly had a
16 few conversations that I honestly believe that
17 he has good intentions for the property. Thank
18 you.

19 CHAIRMAN STUTO: Are you right next door
20 to it?

21 MS. BARBER: Yes, right next door. I was
22 there the night that it burned.

23 CHAIRMAN STUTO: Thank you.

24 Anybody else?

25 MS. MENCEL: I'm Alice Mencil and I'm the

1 manager of the Stewarts store that is directly
2 next to it. I have dealt with a lot of people
3 that were staying at that motel/office
4 building. One of my concerns is: Is this going
5 to be a long-term type hotel or a short term?
6 I think that having someone being able to stay
7 there for months on end would bring in some of
8 the riff raff or whatever you want to call
9 them. Also, my concern is to the parking,
10 which I deal with every day with our store.
11 Also, I don't know if you're aware that the
12 sidewalks are going in and taking most of the
13 side of the building there that they're
14 putting in right now, which is a big factor.
15 I've had a lot of problems with the store. I'm
16 opposed to that being a hotel.

17 CHAIRMAN STUTO: Thank you.

18 MR. OTT: Just for the record, I noticed
19 that all the Fuller Roads are all evens. That
20 means that they're across the street from 33.
21 They're not on the same side of the road.

22 MR. NARDACCI: One of the issues that was
23 asked with regards to the deed - I just looked
24 it up on Albany County's site and the property
25 was sold September 10, 2007 and then the fire

1 occurred in November of 2007.

2 MR. CAPONERA: I'm not 100 percent sure -

3 MR. NARDACCI: The fire was in November
4 of 2007?

5 MR. CAPONERA: That's what the Building
6 Department believed the time was.

7 MS. BARBER: It burned in May.

8 MR. NARDACCI: Of 2007?

9 MS. BARBER: Yes.

10 MR. CAPONERA: I think that she would
11 know better. According to the Building
12 Department, it was November of 2007.

13 MR. NARDACCI: One of the questions that
14 I have is has the property changed hands? How
15 many times has the property changed hands
16 since the fire? It appears that it's only
17 changed hands one time. If the deed says
18 September of 2007, the fire was in November
19 and then the sale was -

20 MR. CAPONERA: My client bought this in
21 December 22, 2009.

22 MR. NARDACCI: That's the question that I
23 raised.

24 MS. BARBER: To my knowledge, there was
25 someone in between there.

1 MR. NARDACCI: I just looked it up. I
2 looked it up on their website - the Albany
3 County deeds. It's the official record and
4 that's what it said.

5 MS. BARBER: I called to complain about
6 the dumpster that they had out there after the
7 fire. They left it for years. Whoever I called
8 in the Town said that's who owned it.

9 MR. NARDACCI: I think that it would be
10 important to know that. I just looked quick.

11 MS. BARBER: It might be under a
12 corporation. He built the condominium complex
13 down on Western.

14 MR. NARDACCI: It's hard to tell who the
15 exact person is.

16 MR. CAPONERA: That can be done in five
17 minutes.

18 MR. RYAN: If the property was only sold
19 once, why when you rip the plywood off does it
20 go weeks without anyone attending to it? Is
21 this how we take care of a building that we
22 own in the Town of Colonie? I'm in
23 construction. If I had a house in the Town of
24 Colonie and someone ripped the plywood off,
25 I'd know the next day I'd be fixing it and not

1 months later. So this is something that you
2 have to look at, too.

3 CHAIRMAN STUTO: Anyone else?

4 MR. OTT: You brought up a very good
5 point, Mr. Coon, about the apartment. Are
6 there not regulations as far as the number of
7 units and parking spaces?

8 CHAIRMAN STUTO: Yes, there are.

9 MR. LACIVITA: It's based on the number.

10 CHAIRMAN STUTO: If it is as you
11 describe, it probably doesn't meet the code.

12 MR. LACIVITA: Correct.

13 MR. OTT: Am I mistaken? Isn't there
14 apartments on the back side? Is it the intent
15 of the owner to put apartments on the backside
16 as well as the front side?

17 MR. CAPONERA: The intent would be to
18 bring it back to the previous allowed use, as
19 I stated before.

20 MR. OTT: Which was both sides.

21 MR. CAPONERA: The zoning verification
22 that was approved in 1990 was for 19 rooms.
23 That's both sides and it would have to be
24 because there are not enough rooms in the
25 front. I can see 8 doors.

1 CHAIRMAN STUTO: I do want to bring this
2 back around and I don't want to get into a
3 debate. We're not reviewing the project for
4 compliance with the Town Code. There is a
5 moratorium. We're just making a recommendation
6 to the Town Board. I will read the criteria
7 that the Town Board has to consider and I
8 think that we should consider similar criteria
9 when we're considering whether there should be
10 a variance or waiver.

11 "The Town Board may grant a variance or a
12 waiver upon its determination that such a
13 variance or waiver is required to alleviate
14 and unnecessary hardship affecting a parcel of
15 property. To grant such a request, the Town
16 Board must find that a variance or waiver will
17 not adversely affect the purpose of the Local
18 Law, the health, safety or welfare of the Town
19 of Colonie, or any planning being undertaken
20 by the Town. The Town Board shall take into
21 account the existing land use in the immediate
22 vicinity of the property and the impact of the
23 variance or waiver on the character, nature,
24 resources and transportation infrastructure of
25 the Town. The application must comply with all

1 other applicable provisions in the Town Code.

2 The purpose of the Local Law was to
3 permit the Town to conduct studies. Those
4 studies and reviews include analysis of the
5 impact of new hotels and motels on the Route 5
6 corridor; review the Land Use Law and other
7 uses in the Route 5 corridor in order to
8 determine whether the redevelopment overlay
9 district would be appropriate in that area;
10 review of a new Albany County re-entry task
11 force program and its effects on the Route 5
12 corridor; review the density and saturation
13 levels in the Route 5 corridor; review of the
14 need for new hotels, motels and inns in the
15 Route 5 corridor; and review the Route 5
16 corridor relating to the potential
17 redevelopment of parcels."

18 For myself, having looked at the record,
19 I'll note that the Planning and Economic
20 Development Department recommended that the
21 request be denied with respect to the criteria
22 that the Town has to consider, which in part
23 is whether there is a hardship. I don't see a
24 hardship in as much as the property was in the
25 existing condition when it was bought by the

1 property owner and it's a nonconforming use.
2 And then subsequently, the moratorium went
3 into effect.

4 I think that the purposes that I just
5 read of the moratorium are the six purposes
6 that the Town Board has to conduct a study on.
7 So, I would be inclined to vote against
8 granting any waiver at this time. The
9 moratorium is over in July.

10 MR. LANE: It expires at the end of June.
11 They can extend it. They can vote to extend
12 it.

13 CHAIRMAN STUTO: Yes, but there is a
14 limit on how many times they can extend it.

15 MR. NARDACCI: Based on the record and
16 based on the things that you just said, I'm in
17 agreement. The property was purchased in that
18 existing condition.

19 MR. OTT: Where does that leave us now?

20 MS. VAIDA: It's just a recommendation to
21 the Town Board.

22 CHAIRMAN STUTO: The Town Board has the
23 ultimate decision whether they're going to
24 grant the waiver. Since we are a planning body
25 with planning expertise in the sense that we

1 have access to the engineers and we have
2 experience reviewing these sorts of things,
3 they have asked for our recommendation. The
4 Local Law says that if someone appeals, it
5 gets referred to us for a recommendation to
6 see what we think. Our vote tonight is not
7 binding upon the Town. My inclination would be
8 to vote no.

9 There are no other further comments so
10 I'm going to bring it to the Town Board for
11 comment.

12 Anything else to comment on?

13 MR. LANE: There are areas of the Town
14 Code that have environments in reference to
15 the sex offenders. That's not something that
16 we would necessarily address here. It strictly
17 goes by what is stated in the moratorium. I
18 agree that this doesn't meet the requirements
19 of a hardship. I would vote against it.

20 CHAIRMAN STUTO: Anybody have an motion?

21 MR. NARDACCI: I'll make an motion to
22 deny the request.

23 MR. LANE: Second.

24 CHAIRMAN STUTO: All in favor of the
25 motion to deny the request?

1 **(Ayes were recited.)**

2 CHAIRMAN STUTO: All those opposed to the
3 motion?

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

5 CHAIRMAN STUTO: The ayes have it.

6 MR. CAPONERA: Thank you very much.

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10 **(Whereas the proceeding concerning the**
11 **above entitled matter was adjourned**
12 **at 9:56 p.m.)**

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CERTIFICATION

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4 **I, NANCY STRANG-VANDEBOGART, Approved**
5 **New York State Transcriber and Notary Public**
6 **in and for the State of New York, hereby**
7 **CERTIFY that the record taped and transcribed**
8 **by me at the time and place noted in the**
9 **heading hereof is a true and accurate**
10 **transcript of same, to the best of my ability**
11 **and belief.**
12
13
14

15 **NANCY STRANG-VANDEBOGART**
16
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18 **Dated May 25, 2011**
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