

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

3  
4 \*\*\*\*\*  
5 LOUDON HOUSE  
6 151 MENAND ROAD AND 6 SCHUYLER ROAD  
7 PROPOSAL TO AMEND PDD  
8 \*\*\*\*\*

9 THE STENOGRAPHIC MINUTES of the above entitled  
10 public hearing BY NANCY STRANG-VANDEBOGART, a  
11 Shorthand Reporter, commencing on  
12 September 13, 2011 at 7:05 p.m. at  
13 the Public Operations Center  
14 347 Old Niskayuna Road,  
15 Latham, New York 12110

16 BOARD MEMBERS:

- 17 PETER STUTO, Chairman
- 18 LOUIS MION
- 19 KATHLEEN DALTON
- 20 TIM LANE
- 21 PAUL ROSANO
- 22 TOM NARDACCI
- 23 MICHAEL SULLIVAN
- 24 ELEENDA VAIDA, Esq., Attorney for the Planning Board

25 Also present:

- 26 Joseph LaCivita, Director, Planning and Economic  
27 Development
- 28 Michael C. Magguilli, Esq., Town Attorney
- 29 John Sweeney, Esq.
- 30 Mike Benson, BCI Construction
- 31 Norma Anthony
- 32 Addul Arati
- 33 Marcia Aronowitz
- 34 Jean Becker
- 35 Martin Becker

1 Kathy Billfield  
John Bishop  
2 Harold Brockman  
Jim Burns  
3 Qin Chen  
Janet Ferrari  
4 Amy Fox  
5 Joyce Galante  
Al Green  
6 Dawn Graham  
Stanley Isser  
7 Joan Lemme  
James McGuirk  
8 Frank McMahan  
Ellen Mnich  
9 Steven Moore  
Sam Sa  
10 Mark Simonsen  
Richard Stark  
11 Mark Townsend  
Jane Waldman  
12 Tom Wall  
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1           CHAIRMAN STUTO: Joe, we have to call a  
2 public hearing for 39 Sand Creek Road,  
3 application for a two-family dwelling in a  
4 single family zone for October 11, 2011. We  
5 need to note that for the record.

6           The next item on the agenda is Loudon  
7 House, 151 Menand Road, proposal to amend PDD  
8 presented by BCI construction and reviewed by  
9 the Planning and Economic Development  
10 Department.

11           I'd like to acknowledge for the record a  
12 letter from James McGuirk. I read it and I  
13 know that several of the Planning Board  
14 Members have read it. I'm sure they will all  
15 read it, if they have not. He's making  
16 suggestions to the Board. Also, there is a  
17 pile of copies of a letter signed by various  
18 residents.

19           Joe, can we enter this into the file and  
20 into the record?

21           MR. LACIVITA: Absolutely. We'll have  
22 those stamped in.

23           CHAIRMAN STUTO: I did read the letter  
24 carefully. I do just want to make a point on  
25 one part of it. I'm reading the last paragraph

1 of the letter.

2 "I want you to know that the people that  
3 I spoke to are in various stages of anger and  
4 frustration. The biggest surprise to me was  
5 the number of people who believe that this is  
6 a done deal and that the public hearing will  
7 have no effect on positions already taken."

8 I would just like to assure Mr. McGuirk,  
9 and everybody else who signed that letter,  
10 that nothing on this Board is a done deal  
11 until we've heard all of the information and  
12 thought about it - and particularly heard from  
13 the residents. I just wanted to spell that out  
14 right from the get-go. I hope you'll believe  
15 me on that. And I'll back up every one of the  
16 Board Members on that particular point.

17 MS. VAIDA: Peter, I think that you  
18 should also make it clear of the brief history  
19 of this and that it had already been approved  
20 by the prior administration and prior Economic  
21 and Development Board. I believe that Denise  
22 Sheehan was in charge at that time. They were  
23 the ones that studied this and approved it to  
24 begin with. I think that the residents should  
25 understand that this administration and this

1 Planning Board had nothing to do with the  
2 approval.

3 FROM THE FLOOR: We can't hear you.

4 MS. VAIDA: Peter, can you repeat what I  
5 just said.

6 CHAIRMAN STUTO: I think that the point  
7 that you were making is that none of the  
8 Members on this Board were around when this  
9 thing was originally approved. None of the  
10 Members of the current Town Board or the  
11 Supervisor was around when this was approved,  
12 which I think was in 2007 when it finally came  
13 to be. I'm sure that a lot of those facts will  
14 come to light as necessary during this  
15 presentation.

16 There is a resolution from the Town  
17 Board.

18 Elena, can you read the Resolution from  
19 the Town Board, so that we as a Board and the  
20 public understand what our mission is tonight.

21 MS. VAIDA: Whereas pursuant to Section  
22 190-69 of the Code of the Town of Colonie, the  
23 Town Board is required to refer matters in  
24 connection with planned development districts  
25 to the Planning Board for their review;

1           And whereas the developer has requested  
2           that the Town Board refer to the Planning  
3           Board an application to review a proposed  
4           amendment to Local Law 12 for 2007 to allow  
5           for the development of either 24 condominiums  
6           or apartment units at the Planned Development  
7           District located at 151 Menand Road and  
8           6 Schuyler Road.

9           Be it resolved that the Planning Board  
10          shall review and consider a proposed amendment  
11          to Local Law 12 for 2007 to allow for the  
12          development of either 24 condominium or  
13          apartment units at the Planned Development  
14          District located at 151 Menand Road and 6  
15          Schuyler Road and provide the Town Board with  
16          its findings and conclusions and  
17          recommendations, thereon.

18                 CHAIRMAN STUTO: Thank you.

19                 Joe, I don't know if you want to give a  
20          history or things such as what's approved  
21          there. Do you want to talk about it?

22                 MR. LACIVITA: You can speak to that,  
23          Peter.

24                 CHAIRMAN STUTO: Okay. My understanding  
25          of the PDD that was approved in 2007 was that

1 this parcel was approved for 24 condominium  
2 units and there are a series of conditions  
3 that we have in our packets that were supposed  
4 to have been complied with since that time.

5 I think that anyone that lives in that  
6 neighborhood knows that certain work was  
7 started there and that certain work was  
8 stalled. It appears that there is a foundation  
9 and some ground work that's done. I believe  
10 that the applicant is seeking the option of  
11 creating 24 apartments. The applicant will be  
12 able to tell that story better than I will.

13 The normal procedure here is that Joe  
14 will give an introduction if he wants to say  
15 anything. The applicant will give a full  
16 presentation of what their application is. The  
17 Board will ask any questions and have them  
18 answered of the applicant. Then we'll turn it  
19 over to the neighborhood group, or the  
20 residents, or anyone in the public that wants  
21 to speak.

22 We'd ask that you sign up. I've heard  
23 criticisms of why should you have to sign up.  
24 In order to be fair to everybody and allow  
25 them a chance to speak - that's why we do it.

1 We may limit the time to three minutes per  
2 person, but that's only on the first run.  
3 We'll let you keep coming back as many times  
4 as you want to make whatever points you want  
5 to make. I think that's the fairest way to do  
6 that.

7 With that said, Joe, I don't know if you  
8 want to make any introduction before the  
9 applicant makes their presentation.

10 MR. LACIVITA: I think that there has  
11 been a lot summed up here as to the project.  
12 It is 24-condominium units that have been  
13 previously approved under the PEDD.

14 Just for the residents understanding  
15 perspective, the project that is before us  
16 right now - we have to look at the condominium  
17 component, versus the apartment component. The  
18 PEDD language that was adopted back in 2007  
19 was very specific as to the conditions of the  
20 condominium. Condominium and apartments have  
21 two different understandings; one being  
22 ownership and one being tenancy. That's the  
23 thing that the Planning Board has to examine  
24 at this point in time. That application has  
25 not been before the Board. We have to make



1 recommendation to the Town Board at this point  
2 as to that definition has it. We understood in  
3 looking at the Building Department and through  
4 the Planning Department's documentation that  
5 the Building Department became void during the  
6 course of review because of inactivity -

7 CHAIRMAN STUTO: The building permit?

8 MR. LACIVITA: I'm sorry; the building  
9 permit became void during the course of review  
10 in this project because of the inactivity.  
11 Therefore, the application itself has actually  
12 become voided because that was actually  
13 approved through January of 2010. So, there  
14 would have to be a review of the project from  
15 a building perspective, because there will be  
16 some changes to it as to its design. They will  
17 also have to look at it from an application  
18 standpoint. So, again, we'll have to make  
19 recommendation tonight as to what is the basis  
20 of the resolution and then we'll have to  
21 review the project through the process in  
22 order to bring that back before the Town Board  
23 once again.

24 CHAIRMAN STUTO: Okay, thank you.

25 Representatives from the applicant?

1 MR. LACIVITA: Yes, we have here  
2 Mr. Benson and Mr. Sweeney.

3 MR. SWEENEY: My name is Bob Sweeney. I'm  
4 an attorney and I'm here on behalf of the  
5 applicant, BCI Construction Services. Mike  
6 Benson and Jeff DiStefano are in the back row.  
7 They are principals of the organization.

8 Obviously, the procedural context of what  
9 we're doing tonight has been pretty well  
10 described already. This evening's process is  
11 for a recommendation to the Town Board on our  
12 proposal to amend the existing planned  
13 development district for this project, which  
14 authorized, as Joe just said, is 24  
15 condominium units. That was done in 2008 and I  
16 agree with all the procedural statements here.  
17 The site plan approval has lapsed due to the  
18 passage of time. What did occur in 2007 and in  
19 2008 with those approvals is the applicant  
20 went forward with the project when it was  
21 approved. All the site work is done. All the  
22 infrastructure is in. All the utilities are  
23 in. The foundation is in. The elevator towers  
24 are in. As everybody knows what happened to  
25 the real estate market in 2008 - it

1 disappeared and the project had to stop for  
2 that reason. All of that work is already done.

3 What we have proposed is that we will  
4 build obviously the same project. The site  
5 plan in your application package is the  
6 previously approved site plan. The access  
7 points are the same. The building is the same.  
8 All of the utilities are the same. All of the  
9 site elements are exactly the same. There is a  
10 rendering in your packet that shows the  
11 building and the appearance of the building. I  
12 think that it's a handsome residential  
13 structure for that site. It's obviously made  
14 to look residential and that's the point of  
15 it. Right now, to get this project going  
16 forward, we need an adjustment to that planned  
17 development district in order to finance this  
18 project and have this project be occupied. If  
19 we can't have it be occupied, it won't get  
20 financed.

21 The units themselves will not change. The  
22 number of units in the building will not  
23 change. The occupants will be the same. It  
24 will strictly be that we will have the option  
25 to develop these as luxury apartments - high

1 rent apartments. Obviously this is an  
2 expensive project on an expensive site with an  
3 expensive design. These are not going to be  
4 low rent student apartments. I know that is  
5 some of the concern of the audience. This is  
6 going to be the same building and the same  
7 construction that was approved as  
8 condominiums.

9 CHAIRMAN STUTO: The exterior is going to  
10 look identical to what has been proposed?

11 MR. SWEENEY: Yes.

12 CHAIRMAN STUTO: Are any of the materials  
13 changing - the exterior?

14 MR. SWEENEY: I'm going to say no.  
15 Obviously, we have to come back here for site  
16 plan approval. You asked a question about the  
17 materials. Are they going to use a different  
18 type of siding? I don't know the answer to  
19 that. The building will look as it was  
20 approved before and as was shown in the  
21 rendering in your site plan packages.

22 CHAIRMAN STUTO: My understanding is that  
23 the interior is changing in the sense that  
24 you're not utilizing the third floor. Is that  
25 accurate?

1 MR. SWEENEY: Yes.

2 CHAIRMAN STUTO: Can you explain that?  
3 You said that the units are staying the same  
4 size.

5 MR. SWEENEY: The units aren't staying  
6 the same size. The units are smaller. The  
7 prior project had six units, I believe, on the  
8 third floor. The third floor was essentially  
9 in the roof structure. The units in the roof  
10 structure - we had units as large as 3,200  
11 square feet. The market for 3,200 square feet  
12 condos is gone, probably forever. So what  
13 we've done - the average size of the units, I  
14 would say, is 1,800 square feet.

15 CHAIRMAN STUTO: What is the smallest?

16 MR. SWEENEY: I'm going to say 1,200 or  
17 1,300 square feet.

18 CHAIRMAN STUTO: Do you have any boards  
19 to put up?

20 MR. SWEENEY: I apologize for that. I  
21 thought that they were all on different  
22 floors. I said that they were all the same and  
23 that wasn't right.

24 CHAIRMAN STUTO: It's going from three to  
25 two?

1 MR. SWEENEY: The structure is not  
2 changing.

3 CHAIRMAN STUTO: Understood.

4 MR. SWEENEY: There is no utilization of  
5 the space within the roof structure. So, in  
6 other words, there are 12 units on the first  
7 floor and 12 units on the second floor.

8 MR. NARDACCI: You mentioned the condo  
9 market. One thing that I don't see in the  
10 packet is I don't understand the change. Why  
11 can't you sell 24 condos? Do you know how many  
12 condos were sold in the Capital Region last  
13 year? You said the condo market is gone. Do  
14 you know how many are sold?

15 MR. SWEENEY: No.

16 MR. NARDACCI: There were 269. So, you're  
17 coming here saying that the condo market is  
18 gone. Is that your only rationale for changing  
19 this from condos to rental apartments?

20 MR. SWEENEY: No. I think that it's more  
21 of a financing issue for us and more of a  
22 desire for us to move the project forward. We  
23 can certainly let it sit there until the condo  
24 market comes back. I can't speculate as to  
25 when that would be.

1 MR. NARDACCI: There are active condo  
2 projects going on all over the region. At  
3 17 Chapel Street in Albany is a 24 unit condo  
4 project. They've already sold 10 units. There  
5 are projects all over Saratoga County. To come  
6 in here and say that the condo market is gone  
7 is not factual. Let's be factual. I don't see  
8 anything in here that says why you can't sell  
9 24 condos in Loudonville.

10 MR. SWEENEY: I think that Mike's answer  
11 to that is because he's having difficulty  
12 financing 24 condos. The Bonacio project in  
13 Saratoga is a great example of where the  
14 condominium market is. I think that your  
15 example of condos are all condos sold and not  
16 new condos.

17 MR. NARDACCI: How about challenging  
18 downtown Albany.

19 MR. SWEENEY: That was 24 units and 10  
20 sold.

21 MR. NARDACCI: Right. They're still  
22 building. The building is going on currently.

23 MR. SWEENEY: When you get to that point,  
24 you don't have a choice. Mr. Bonacio has done  
25 hundreds of condos in Saratoga Springs and had

1 a great run with them. This next project - he  
2 had to get out of condos and they're  
3 apartments.

4 MR. NARDACCI: You guys are sophisticated  
5 business people. You guys are very involved in  
6 the building community in the Capital Region.  
7 To come in here and say a blanket statement  
8 that the condo market is gone and is not  
9 coming back is not only unfactual, but it's  
10 actually insulting.

11 MR. SWEENEY: There was never any intent  
12 to insult anyone. I don't think that there are  
13 too many new condo projects anywhere in the  
14 Capital District. There are left over condo  
15 projects and I'll check it as to what your  
16 number is -- all condos sold including recent.  
17 The problem is when you go to a lender, they  
18 say we're not going to finance condos. There  
19 is no condo real estate market.

20 MR. LANE: So, what you're essentially  
21 doing is you're asking this Board to adjust  
22 for a flawed business plan.

23 MR. SWEENEY: Absolutely not. This plan  
24 was a good plan and it's still a good plan.  
25 The flaw does not come in the business plan.



1           Everybody knows what happened in this country  
2           and in this economy in the real estate market  
3           after that.

4           MR. NARDACCI: But you're talking about  
5           24 condo units. We just approved on this  
6           Planning Board - I don't know how many condo  
7           units in the last six months. There are quite  
8           a number of units that have come before us to  
9           build here in the Town. There is no  
10          explanation as to why this has to be changed.  
11          I'll get into some of my other issues later  
12          about how this became a PDD on two acres. But  
13          the fact is that to come in -- we've looked  
14          through packets and packets of info. If there  
15          was an explanation that is better about the  
16          condo market, I'd like to see it.

17          MR. SWEENEY: Is there a philosophical  
18          problem with luxury apartments on this site?

19          MR. NARDACCI: That's not my objection.  
20          My question is: This was approved as a PDD for  
21          condos for sale. I don't see any information  
22          presented to us that makes a different case as  
23          to why condos don't work, as approved.

24          MR. SWEENEY: I would ask the same  
25          question. Even if they do work, is there a

1 problem with having luxury apartments on this  
2 site instead of condos?

3 MR. NARDACCI: That's not my question. I  
4 have other questions that I'll ask as it comes  
5 down the road.

6 MS. VAIDA: I think that one of the  
7 things that we were hoping that you would  
8 address is when this was approved in 2007, it  
9 actually had attached to it a number of  
10 conditions. I have them in front of me. It  
11 says:

12 "Expressed conditions of the Town Board  
13 for the zoning of 151 Menand Road and  
14 6 Schuyler Road."

15 It says:

16 "In addition to all other conditions  
17 expressed in the record for such rezoning,  
18 it's contingent upon the following."

19 It lists one through 18. I was wondering  
20 if you could just quickly go through those  
21 conditions and let us know what conditions  
22 have been met, and if there are any that have  
23 not been met; and if not, why? The approval  
24 was contingent upon those conditions.

25 MR. SWEENEY: Condition 1 was the

1 stormwater pollution prevention plan and in  
2 fact, it was submitted and approved and  
3 constructed.

4 MS. VAIDA: Would you agree that with  
5 this new application that there may be an  
6 issue as to whether or not you have to comply  
7 with the new SWPPP rules?

8 MR. SWEENEY: The exception to that is  
9 completed construction, which is where we are.  
10 Certainly at the time of site plan approval,  
11 if we get there, we can bring you evidence of  
12 where we are on that.

13 MS. VAIDA: But it's not completed now.

14 MR. SWEENEY: Yes, it is. All of the  
15 stormwater management facilities have already  
16 been constructed.

17 MR. BENSON: For that matter, all of the  
18 site utilities have been constructed.

19 MS. VAIDA: You're saying that's an  
20 exception and that you don't have to comply  
21 with the new regs?

22 MR. SWEENEY: If you're already  
23 constructed, you don't have to go back and -

24 MS. VAIDA: Even if the project changes?

25 MS. DALTON: Mr. Sweeney, is that if the

1 entire project is constructed, or just the  
2 utility portion? I think that it's a key issue  
3 that the project was not constructed as it is.  
4 It's certainly not finished. So, if you were  
5 to change usage, you would have to change that  
6 anyway.

7 MS. VAIDA: It may be an issue, but I  
8 don't want to get sidetracked.

9 MR. SWEENEY: Army Corps of Engineer  
10 jurisdiction - that was done. The Department  
11 of Transportation - they did get a work permit  
12 and constructed the improvements already.

13 MS. VAIDA: For condos.

14 MR. SWEENEY: No, this was for the road.  
15 No more than 24 condominium units for  
16 residential use may be constructed, located in  
17 one building. The same as those permitted in a  
18 multifamily dwelling, multifamily residential  
19 zoning district -- that's where we are. We're  
20 asking for permission to complete that  
21 construction as it was originally approved. As  
22 we said, the foundation is in, the elevator  
23 towers are in, the site improvements are in,  
24 the building needs to be built.

25 MS. VAIDA: Except that you're changing

1 it from condos to apartments.

2 MR. SWEENEY: The interior, yes, will be  
3 24 apartments instead of 24 condos.

4 The architectural character of the  
5 building, as I said - what we've submitted to  
6 you is the plan that's already approved and  
7 the architectural character of the building  
8 will be maintained. Setbacks and height  
9 limitations as depicted on the site  
10 plan - again, nothing is changing from the  
11 site plan. Setbacks and height restrictions  
12 will be as depicted.

13 Down to Number 8 - modify the number and  
14 location of parking spaces - upon the project  
15 plan submitted to the Town -

16 MR. BENSON: There are 24 parking spots  
17 on the outside and 36 underneath.

18 MR. SWEENEY: No accessory  
19 uses -- required with construction of  
20 outbuildings - a kiosk and structures required  
21 by the postal service -- all of that is as it  
22 is on the plan and consistent with  
23 condition 9.

24 Open space owned and maintained by a  
25 homeowners association or a condo association.

1 MS. VAIDA: How are you going to comply  
2 with that?

3 MR. SWEENEY: If you look at our proposed  
4 amended PDD, there is a phrase that we've  
5 asked to be added there that if it's an  
6 apartment complex that the owner be required  
7 to comply with all of those site conditions  
8 rather than a homeowners association.

9 MS. DALTON: Is it intended for the owner  
10 to live on-site?

11 MR. SWEENEY: No. The answer is no. The  
12 owner is BCI Construction Services. They'll  
13 obviously have an apartment manager.

14 MS. DALTON: It would be a managed  
15 building and an external owner.

16 MR. SWEENEY: Any principal or accessory  
17 uses not expressly authorized are prohibited.  
18 There are none, and that's fine.

19 MS. VAIDA: How do you get around 11?

20 MR. SWEENEY: We're not trying to get  
21 around anything. We're trying to comply.

22 MS. VAIDA: But as it was expressly  
23 approved with this provision - any principal  
24 or accessory use is not expressly  
25 authorized - i.e. apartments are prohibited.

1           MR. SWEENEY: We're not here suggesting  
2           that this, written in 2007, will accommodate  
3           the apartments. We're asking to amend this. If  
4           this is amended to allow apartments and/or  
5           condominiums, then any principal or accessory  
6           use that is not expressly authorized or  
7           prohibited will be in full compliance with  
8           that.

9           You're suggesting that we're trying to  
10          say that we're in compliance with the  
11          apartments and we would need to amend this to  
12          allow apartments.

13          MS. VAIDA: Would it be fair to say that  
14          when this was originally approved that there  
15          was quite a bit of discussion about objections  
16          by the neighbors at that time to using these  
17          as apartments?

18          MR. SWEENEY: I don't recall it being a  
19          discussion. It was a condo project.

20          MS. VAIDA: In reviewing the minutes, I  
21          found quite a bit of discussion about a fear  
22          of these being used as apartments. There was  
23          actually an agreement being made that there  
24          would be a limitation put in the condominium  
25          agreement or the homeowner's agreement that

1 would not allow rentals of the condos. In the  
2 May 29, 2007 - page six talks about Mr. Joe  
3 Camella, a neighbor applauded the project.  
4 Ms. Marcia Aronowitz of Loudon Wood East had  
5 questions about the regulations for rental  
6 units and the square footage of the units. The  
7 condo documents have not yet been drawn up,  
8 but will have language limiting the rental of  
9 units.

10 That was just part of it.

11 So, it seems like that was an issue from  
12 the beginning. I'm just pointing that out.

13 MR. SWEENEY: Number 12 - applicant will  
14 make reasonable efforts and make sure that  
15 approximately 20 percent of the residential  
16 units will be considered handicapped or senior  
17 rental units. Apparently, there is no problem  
18 with that.

19 MR. ROSANO: Explain to me why you had to  
20 put in residential units as part of that  
21 paragraph? You said 20 percent of the  
22 residential units. Is there something else  
23 that we should know about?

24 MR. SWEENEY: No, there is not. That was  
25 a word chosen by the Town Board in its



1 conditions. We could probably say condominium  
2 or just units.

3 MR. ROSANO: I want to be factual here so  
4 can we strike that?

5 MR. SWEENEY: This is your document.

6 MR. ROSANO: We have to come to a  
7 document sooner or later here.

8 MR. SWEENEY: Who would like to recommend  
9 to the Town Board that that word be deleted?

10 MR. ROSANO: Thank you; we will.

11 MR. SWEENEY: Balconies attached to the  
12 residential units - there is it again - are  
13 not permitted other than the balconies  
14 contemplated as part of the original  
15 construction. It's the same building.

16 The Town of Colonie's Comprehensive Plan  
17 encourages connections between neighborhoods,  
18 pedestrian access point between the project  
19 site and Loudon Wood East should be  
20 investigated and provided, if at all possible.

21 MR. BENSON: It's not there, but it's  
22 intended to be.

23 MR. SWEENEY: Okay, it's intended to be  
24 part of the completed project.

25 CHAIRMAN STUTO: Is that in the design?

1 MR. BENSON: Yes, it is. It's in the site  
2 plan design.

3 MR. SWEENEY: Number 15 - the developer  
4 has indicated that he will try to retain as  
5 many of the old and larger trees and bushes as  
6 possible. Some of these trees may be of lower  
7 quality.

8 I'm not sure what I'm hearing here.

9 MS. VAIDA: They're saying that they're  
10 all gone.

11 CHAIRMAN STUTO: Whoever wants to make  
12 that point, please make a note of it because  
13 you'll get your chance.

14 MR. SWEENEY: There is a detailed  
15 landscaping plan that was approved and the  
16 site is in compliance with what was approved  
17 as the detailed landscaping plan.

18 MS. VAIDA: I know that there was quite a  
19 bit of talk about some old trees and a desire  
20 to retain those. Were those retained, or were  
21 they cut down?

22 MR. BENSON: They were retained. They  
23 were marked and they were retained. They all  
24 border Loudon Wood East.

25 MR. SWEENEY: "Although it appears that

1 the Loudon Wood East community to the west has  
2 negotiated with the developer to do certain  
3 improvements along this future property line--"

4 This is the Town Board suggesting that  
5 the Planning Board pay special attention to  
6 the landscaping on the east/south and north  
7 sides of the property. These sides face  
8 individual homes and not part of the larger  
9 homeowners association such as Loudon Wood  
10 East. Again, there is a detailed landscaping  
11 plan that the Planning Board approved.

12 MS. VAIDA: Were those certain  
13 improvements made?

14 MR. SWEENEY: I don't believe the  
15 landscaping was installed yet. Although as you  
16 have probably seen, the screening from the  
17 large evergreen trees around the perimeter -

18 FROM THE FLOOR: It's only on one side.

19 MR. SWEENEY: Okay, just one side.

20 CHAIRMAN STUTO: Just for the edification  
21 of the applicant, I have gotten a couple of  
22 comments out in the community that they  
23 thought the screening on the 378 side was  
24 good, but they would have liked to have seen  
25 the screening on the other side.

1           MR. SWEENEY: The intension is for it to  
2 be completed on the entire property. It's on  
3 the site plan. It's just not installed.

4           CHAIRMAN STUTO: I understand, but  
5 they've had to look at the hole for a number  
6 of years. If they couldn't have completed it,  
7 couldn't they have at least screened it?  
8 That's the sediment that I got out on the  
9 street.

10           MR. SWEENEY: "The contribution under  
11 Article 13 PDD provisions Subsection G8,  
12 Colonie Land Use Law can be investigated  
13 because of the proposed increase in  
14 development density. The Town Board will set  
15 the contribution amount at a later date. The  
16 PEDD shall provide the computation of the  
17 contribution amount to the Board - it's  
18 analysis, once the Planning Board establishes  
19 the final number of permitted residential  
20 units."

21           There's that word again.

22           CHAIRMAN STUTO: I have a couple of  
23 questions on that one.

24           This was single family residential,  
25 originally, before a PDDD was created?

1 MR. SWEENEY: That's correct.

2 CHAIRMAN STUTO: How many units could  
3 have been constructed on that site?

4 MR. BENSON: I don't know that.

5 CHAIRMAN STUTO: That's a question that's  
6 an important question to us. You're increasing  
7 density and we'd like to know what the  
8 original density would have been.

9 The rest of this condition talks about  
10 contribution under Article XII-i of the Town's  
11 Land Use Law. That can be investigated because  
12 of the proposed increase in development  
13 density.

14 "If necessary, the Town Board shall set  
15 the contribution amount by Resolution to be  
16 adopted at a later date. The Planning and  
17 Economic Development Department shall provide  
18 a computation of this contribution to the Town  
19 Board for its analysis once the Planning Board  
20 establishes the final number of permitted  
21 uses."

22 Do you know if that analysis has been  
23 done? We have searched our files and can't  
24 find it.

25 MR. SWEENEY: I don't. It's obviously

1 something that we would have done as a  
2 direction from the Board.

3 CHAIRMAN STUTO: But you know that you  
4 had to pay a density fee, right?

5 Elena, I know you investigated that. Can  
6 you tell us what you found?

7 MS. VAIDA: Well, I couldn't find it. The  
8 only thing that I found, was it seemed like it  
9 was clear that some sort of fee was supposed  
10 to be determined at a later date. I was going  
11 to ask you if it had ever been done. The only  
12 thing that we could find was a memo to Denise  
13 Sheehan who was in charge of Planning at that  
14 time. It's a memo from Arnis Zilgme, who was  
15 the Town Attorney. It's dated December 7,  
16 2007. It just says:

17 "At the Town Board agenda review, they  
18 reviewed the site plan for the Loudon House  
19 project and they determined that the finalized  
20 plans were consistent with the conceptual  
21 plans used for rezoning."

22 Then it says:

23 "There was a discussion pertaining to  
24 expressed condition 17 of the PEDD rezoning  
25 which required the Planning staff to

1 investigate the application of the density  
2 incentive program to the site. As reported to  
3 the Town Board by yourself,"

4 I assume that means Denise Sheehan.

5 "the recommendation to the Town Board is  
6 that no incentive zoning be required. This is  
7 because this developer is providing certain  
8 site and off-site improvements which are being  
9 credited against the obligations in this  
10 regard. In fact, as discussed last evening,  
11 his credit probably exceeds his obligation.  
12 The Town Board cited no sections to the  
13 conclusions of the PEDD investigation and  
14 therefore this matter has been satisfied."

15 I was hoping that you could enlighten us  
16 on that.

17 MR. SWEENEY: The parking garage  
18 underneath added millions of dollars to the  
19 project.

20 MS. VAIDA: How is that a public benefit?

21 MR. SWEENEY: Because it took the cars  
22 off the site and put them within the building.

23 CHAIRMAN STUTO: Is there any  
24 documentation of that? That doesn't sound like  
25 the type of thing that's going to give you a

1 credit on extra density.

2 Can you read that again, Elena?

3 MS. VAIDA: It says that this is because  
4 the developer is providing certain site and  
5 offsite improvements which are being credited  
6 against his obligations in this regard.

7 CHAIRMAN STUTO: I don't think that  
8 they're supposed to be improvements that  
9 benefit you and your revenue.

10 MR. BENSON: It was the parking garage. I  
11 specifically remember there being a discussion  
12 about the amount of money that was being  
13 invested into the project for the purpose of  
14 parking -

15 CHAIRMAN STUTO: Were there any off-site  
16 improvements in that regard?

17 MR. BENSON: Road improvements - the DOT  
18 highway permit and there were also public  
19 utility improvements off-site.

20 MS. VAIDA: Is there some documentation  
21 regarding these improvements? Did you have a  
22 meeting with somebody?

23 MR. BENSON: The offsite improvements are  
24 a component of the plans which you have in  
25 front of you.



1           With regard to the parking portion of the  
2 project: Ordinarily, the difference was that  
3 24 parking spots versus I believe 60 or 70.

4           MS. VAIDA: That probably wouldn't have  
5 been approved with that.

6           MR. BENSON: It was also related to  
7 greenspace, as I recall. Our greenspace  
8 percentage was very high.

9           CHAIRMAN STUTO: As somebody who was  
10 appointed to this Board, I would be more  
11 comfortable to see it in writing what the  
12 calculation was that was supposed to have been  
13 done under 17, what the purported credits are  
14 supposed to be, whether they're off-site or  
15 on-site and see if that makes any sense.

16           MS. VAIDA: Do you have any letters or  
17 notes from your conversations of who you  
18 talked to -

19           MR. MIKE: My sense is that you probably  
20 have more information than we do.

21           MS. VAIDA: Actually, that's all that we  
22 have.

23           MR. ROSANO: It seems like someone  
24 benefited here. I'm not quite sure which way  
25 this is going. I think that the feeling in the

1 crowd may be that the Town maybe didn't get  
2 its fair share here. That has happened before.  
3 We're talking about 2007. We have nothing on  
4 here.

5 MR. SWEENEY: Mr. Chairman, if I can just  
6 go back to your earlier comments on the  
7 beginning of 17, I will see if I can figure  
8 out what the zoning density would have  
9 permitted on this 2.5 acre site.

10 MR. NARDACCI: I just looked it up. It's  
11 four to five units. It's 18,000 square feet  
12 per residential unit; SFR.

13 MR. SWEENEY: Our concern is - is that  
14 the same because we have changed the zoning  
15 laws. Is it the same today as it -

16 CHAIRMAN STUTO: It was 18,000-something  
17 for a single family, but then you have to  
18 subtract out unusable land.

19 MR. NARDACCI: For .41 acres is one  
20 single family residence.

21 MS. VAIDA: It's actually also in the  
22 minutes. Mary Brizzell talked about how you  
23 could originally build five units on the  
24 property and you were asking to build 24.

25 CHAIRMAN STUTO: So, the record says 25,

1           okay.

2           MR. SWEENEY: My point being, however,  
3           that we're not here -- we have a PDD. We're  
4           not here applying for a PDD. If that  
5           calculation is of interest to you and the  
6           Board -

7           CHAIRMAN STUTO: That's good enough for  
8           me.

9           MR. SWEENEY: We're not going back to  
10          that, but we already have a legislative PDD in  
11          place.

12          CHAIRMAN STUTO: And there are expiration  
13          provisions for the PDD Land Use Law; if the  
14          project isn't active for long enough and the  
15          building permits expire - I would just make a  
16          note of that. It's not in perpetuity.

17          Elena, can you read that portion of the  
18          Land Use Law?

19          MS. VAIDA: It's under Section 190-72 and  
20          it's called PDD legislation repealer. It says:

21          "The Town Board may act to return the  
22          property to its prior zoning district  
23          classification if it finds that A: performance  
24          requirements which may have been specified by  
25          the Town Board in its PDD approval action such

1 as a time limit for either initiation or  
2 completion of improvements and other  
3 construction work on the proposed development  
4 have not been met unless the Town Board, upon  
5 specific application and for good cause,  
6 authorizes an extension of said performance  
7 requirement; B: The PDD approval has expired  
8 by failure of the applicant to make  
9 substantial and continuing progress in the  
10 development of the project for more than three  
11 years from the date of final approval. The  
12 determination of substantial and continuing  
13 progress shall be determined solely by the  
14 Town Board, which may consider any number of  
15 factors in making its determination including  
16 the securing of project financing and change  
17 of market conditions.

18 Number 2 says:

19 "If the planned development district is  
20 repealed, any building constructed or used may  
21 continue as a nonconforming use and as such  
22 shall continue to be bound by the previous PDD  
23 approval."

24 CHAIRMAN STUTO: Thank you.

25 Do you want to add anything else?

1           MR. SWEENEY: Number 18 - the remaining  
2 issues identified by the Planning Board shall  
3 be considered.

4           In conclusion, this applicant came to  
5 this Town trying to clean up that corner and  
6 build what they were approved to build. It sat  
7 there as it looks - we all drive by it all the  
8 time and it's unfortunate the way that it  
9 looks. It's unfortunate that it happened the  
10 way that it happened. This was not a bad  
11 business plan. This was a bad economy that did  
12 this. They would like to finish this and do it  
13 the right way. That's why we're here. We're  
14 asking this Board's consideration of that and  
15 a consideration of all the factors involved  
16 and to give these folks a chance to finish  
17 this project, clean up that corner for the way  
18 that it was approved and move on.

19           CHAIRMAN STUTO: Thank you.

20           We'll hear from the public first.

21           Jim and Jean Burns.

22           MR. BURNS: Jim Burns, 144 Menand Road.

23           Forty-nine years ago we built a home  
24 across the street from a grill and a bar. It  
25 has been a grill and a bar up until 2007. In

1           2007 it was proposed and grandfathered that if  
2           you don't build what we want, we'll build a  
3           bar. A lot of people that are newer here did  
4           not understand that bar was not that bad. I  
5           don't drink, but that doesn't make any  
6           difference.

7                     I also have to tell you that for over 40  
8           years I worked in the gut. If you don't know  
9           what the gut is, you should go to downtown  
10          Albany. That was a slum area. They destroyed  
11          the slums and they built those beautiful big  
12          buildings just alongside of the Dunn Memorial  
13          Bridge. If you go down there now, guess what?  
14          It's a slum. When you take condos that people  
15          are going to pay \$500,000 for and you turn  
16          them into apartments, we are going to end up  
17          like downtown Albany; the gut. Thank you.

18                    CHAIRMAN STUTO: Thank you.

19                    Harold Brockman.

20                    MR. BROCKMAN: I'm a retired architect  
21          and a resident of Loudon Wood East. In looking  
22          at the plan of the Town of Colonie, there  
23          isn't another multifamily zone within miles of  
24          our intersection. I think that the original  
25          decision to allow condominium apartments was

1           flawed and moving this into rental apartments  
2           is even more flawed. I think that this zoning  
3           of single family residences should remain. I  
4           don't think that it's the Town's  
5           responsibility to bail out the developers. In  
6           45 years of practice, I've seen this scenario  
7           repeated time and time again. People never  
8           learn that you should not build where the  
9           zoning is not compatible with what you want to  
10          do. It seems like that lesson has to be  
11          learned over and over again. I don't think  
12          that the Town should bail out the developers.  
13          I think that the only remedy is dynamite. When  
14          we deal with the land, it can be two fold.

15                 The developer can salvage some tax  
16                 credits by donating the property to the Town  
17                 for a development as a pocket park or  
18                 alternately there is enough space in this  
19                 property to put 10 units; single family  
20                 detached houses of Loudon Wood East.

21                 We need a vote of 32 out our 39 residents  
22                 to expand the project. We'd need an amendment  
23                 and building permit, which could be issued off  
24                 of the original offering plan. Further, an  
25                 investment of four million would easily cover

1           these 10 residences.

2                     Right now, after six years of living  
3           there, this is the first time we have 100  
4           percent occupancy. Every unit in our area is  
5           occupied. There is also a little corollary to  
6           that. A very, very high percentage of  
7           purchases in Loudon Wood East are cash. People  
8           divesting themselves of the large mansion and  
9           downsizing. They pay cash. I would think that  
10          any banker interested in construction  
11          financing would be very much interested in  
12          supporting a developer and turning this piece  
13          of property into an extension of Loudon Wood  
14          East. I haven't polled this, but I rather  
15          imagine that of our 39 homeowners, there would  
16          be an overwhelming majority that would like to  
17          see more of the same than this Chinese wall  
18          cutting us off from the rest of the world.

19                    Multifamily residences buffer single  
20          family from industrial and commercial uses. We  
21          have the most effective buffer in the world.  
22          Albany Rural does a very good job of buffering  
23          us from Watervliet. Thank you.

24                    CHAIRMAN STUTO:   Jane Waldman.

25                    MS. WALDMAN:   I, too, am a resident of



1 Loudon Wood East and I would like to second  
2 everything that's been said before. They've  
3 all said it very well.

4           There is a huge difference between  
5 apartments and condos. I don't think that the  
6 condos should be a foregone conclusion because  
7 as we have heard, their permit may well have  
8 expired. I think that would give us the option  
9 of starting from square one and reviewing  
10 everything starting over. The fact that they  
11 have invested in the property is unfortunate,  
12 but their inconvenience should not be a reason  
13 that the rest of us all have to suffer. Suffer  
14 we will because this is totally out of  
15 character for the neighborhood that we have  
16 all settled in. We're all very happy in a  
17 lovely residential area and it's quiet and  
18 pleasant. Now, you're talking about changing  
19 the character of the area.

20           Aside from that, these people had  
21 promised us a buffer between Loudon Wood East  
22 and this property. They did put the buffer up  
23 on Menand Road and that has taken very well,  
24 but they never continued it around the side.  
25 There would have been three years growth on

1           that buffer, had it been installed. I don't  
2           know that we can really count on these people  
3           following through with what they promised us.

4                     Getting back to a condo versus an  
5           apartment - you know that they attract a  
6           totally different type of population.  
7           Apartment people do not have the same vested  
8           interest in the property. They are more  
9           transient. They come and go more. They'll have  
10          more children there and that will burden our  
11          schools.

12                    With regard to the traffic pattern - they  
13          have a driveway going out onto Menand Road,  
14          which is a very congested road. Going out onto  
15          Schuyler Road is very difficult also. The  
16          number of cars that would be going in and out  
17          of there daily will really cause a hazard. If  
18          you're not familiar with the property, you  
19          should go over and take a look. It's a  
20          difficult corner and putting more density into  
21          that corner is going to make it more  
22          difficult.

23                    I think that on the whole, this whole  
24          thing really should be reexamined from square  
25          one. We should discount the fact that they

1 started to develop it. I'm sorry that they  
2 have such an investment into it, but that's  
3 unfortunate. I don't think that we should have  
4 to suffer for that.

5 CHAIRMAN STUTO: Thank you.

6 Marcia Aronowitz.

7 MS. ARONOWITZ: I'm Marcia Aronowitz and  
8 I live right on the buffer in Loudon Wood  
9 East. I was here at the original Planning  
10 Board meeting under the other administration.  
11 Anyway, Phil Steck had given me a letter to  
12 read to you. He was unable to be with us  
13 tonight. He is not a Johnny-come-lately being  
14 opposed to this.

15 "Thank you for inviting me to today's  
16 Town Board meeting. Unfortunately September  
17 13<sup>th</sup> is primary day.

18 The luxury condominium project on the  
19 corner of 378 Schuyler Road - the site of the  
20 former Eamonn's was the project passed by the  
21 Brizzell administration before the Mahan  
22 administration took office. It was passed  
23 despite the residents' strong opposition to  
24 it. It is not true that the present  
25 administration has no choice but to go through

1 with this project, albeit a different format.  
2 I wrote to the Town on several occasions  
3 pointing out the developers had not developed  
4 the project within the time required by the  
5 Town Code and that the Town should take action  
6 to protect the residents against this  
7 abandoned project. Back in 2007 I was the  
8 Democratic Chairman.

9 Too many times I heard Peter Platt, the  
10 Chair of the Planning Board, say explicitly if  
11 you don't like it, move. I consider this  
12 highly inappropriate and it was one reason  
13 that we had a change in government. I hope  
14 that the new administration will be truly  
15 different and listen to its residents. It may  
16 find that it does not have all the answers and  
17 that the residents will come up with  
18 constructive proposals for the use of this  
19 land.

20 For example, in Menands there was a  
21 similar problem with an abandoned school and  
22 the plan was to create it into apartments yet  
23 ultimately that project failed. The building  
24 was raised and single family homes were  
25 ultimately built."

1           I want to say that this project - they  
2           abandoned it. We were faced living with a slew  
3           of construction materials, concrete block - it  
4           was really a strewn mess that was just  
5           abandoned. I finally called and said that I  
6           was going to hire a truck and put it in their  
7           front yard. I was tired of it in ours.  
8           Finally, they sent a crew over and cleaned the  
9           spot up. They have not really been good  
10          neighbors. I just don't trust anything that's  
11          going on at this point. I don't have faith in  
12          it. I've seen this thing be a mess. They did  
13          promise us a buffer zone that was never put in  
14          between Loudon Wood East and this complex. We  
15          have lived with broken promises.

16                 I love the idea of an extension of Loudon  
17          Wood East. This is a perfect community. We  
18          have 39 wonderful homes and we are at full  
19          occupancy and half of them were purchased in  
20          cash. It's easy to finance at that rate.  
21          Mostly, we are retired people. We have a few  
22          young people. But it's a nice quiet and  
23          residential area. I have to stress  
24          residential. An apartment building is just not  
25          appropriate in our backyard and I hear that

1 the owner doesn't want to live there. I don't  
2 blame him. Neither would I.

3 I really want to commend the Planning  
4 Board. You are so well informed on this  
5 project and you have just followed it  
6 unbelievably. I didn't come in here feeling  
7 very hopeful. You really have restored my  
8 faith. Thank you.

9 CHAIRMAN STUTO: Thank you.  
10 Stanley Isser.

11 MR. ISSER: I'm also a resident of Loudon  
12 Wood East. My property backs onto the  
13 construction site. I'm not going to disagree  
14 with my colleagues that have spoken just  
15 before and I don't want to repeat things that  
16 have been said, but perhaps there is one point  
17 that might be made. Most of the discussion has  
18 really involved the ultimate use of this  
19 property and the long range planning of that  
20 will be or what won't be built there. And yet,  
21 that site has had a burnt down restaurant on  
22 it for several years. For a couple more years  
23 we had these elevator towers and a foundation.  
24 Perhaps if it is in the power of the Planning  
25 Board or the Town Board, regardless of what

1 the ultimate recommendations are for this  
2 property - whether it can direct the  
3 developers to immediately continue screening  
4 off of the Schuyler Road side and the Loudon  
5 Wood East side of that property, instead of  
6 waiting for the end of the project and  
7 considering that as the final landscaping. I  
8 make that request.

9 CHAIRMAN STUTO: Thank you.

10 Norma Anthony.

11 MS. ANTHONY: I'd just like to say that  
12 I'm very new to this area. I have come to live  
13 with my father who is at 3 Schuyler Road,  
14 directly across from what has been referred to  
15 by delivery men as Stonehenge. He suggested  
16 starting to charge for tickets for tourism.

17 My father is 89 years old. He has lived  
18 at 3 Schuyler Road since 1987. He was around  
19 for Eamonn's, the Irish Pub. As a family, we  
20 were in Troy and we grew up and we went to the  
21 Vittles and Grog and we remember, very well,  
22 that restaurant.

23 In listening to the lawyer and the  
24 developer, I don't dispute that they could not  
25 sell luxury condominiums. I believe that the

1 price was \$500,000 per condominium. These are  
2 hard times.

3 I've lived 33 years in Genoa, Italy where  
4 I did live in a condominium. Everything is  
5 condos in Italy. The zonings are quite  
6 different. You can have a beautiful villa next  
7 to condominiums. Urban development in Genoa,  
8 Italy, as in the rest of Italy is quite  
9 different from America. This is a beautiful  
10 area of single family homes with gardens.

11 I don't dispute that they would have  
12 trouble selling those condominiums at that  
13 price, given the economic times. I mean it's  
14 obvious to everyone that these are terrible  
15 times. I don't know if the condominiums that  
16 you said have been selling well at \$500,000  
17 each. However, they have given no price range  
18 and no guarantee that they will even be able  
19 to rent luxury apartments. I'd like to know  
20 what kind of rent you'd be interested in  
21 charging and why you think that you will get  
22 high rent. This is another point. This is  
23 going to be another shot in the dark. How do  
24 you know what people will rent for? We don't  
25 know what price you're imagining. If they're



1 luxury apartments, who is going to rent them  
2 in this day and age? Have you done a market  
3 survey?

4 CHAIRMAN STUTO: Please direct your  
5 questions here, ma'am.

6 MS. ANTHONY: That was actually my  
7 question.

8 MR. SWEENEY: The anticipated rent range  
9 is pushing \$2,000. These are intended to be  
10 luxury apartments. The target market is the  
11 same folks that used to buy condominiums and  
12 are getting rid of their houses. They are  
13 moving to apartments. That is the real estate  
14 trend. You see apartments approved all over  
15 the place and the reason for that is that is  
16 where the market is today. The target market  
17 is the same folks - the retiring folks and  
18 baby boomers who are looking to get out of  
19 their McMansions and into a nice place to live  
20 in Loudonville. I'm sure that you can see from  
21 the site and the design of the building, that  
22 this is an expensive project. I'm sure that  
23 all of you are sophisticated enough to know  
24 that translates into higher rent. That's the  
25 intent here. That's the target audience. It

1 will be the same folks that are buying the  
2 condominiums, but the market isn't there for  
3 condominiums. Banks are not financing condos.  
4 Apartments are renting and they're getting  
5 financing and that's why we're here.

6 CHAIRMAN STUTO: Thank you.

7 MS. ANTHONY: But there are no guarantees  
8 and there is no guarantee that there would be  
9 a market for these kinds of apartments in this  
10 area for that price. I think that in approving  
11 this project, rezoned, I think that they're  
12 headed down another dead end.

13 CHAIRMAN STUTO: Thank you.

14 Joan Lemme.

15 MS. LEMME: Hi, I live on Patroon Place  
16 in Loudonville and in order to get out of my  
17 neighborhood and take a left hand turn onto  
18 378, it can sometimes take me 10 minutes just  
19 to get down to the light at Route 9. You're  
20 going to put 24 apartments in that area and  
21 I'm never getting out. I'm never going to get  
22 a left hand turn. I've been opposed to this  
23 project from the beginning. I'm not happy  
24 about all those units and the traffic  
25 concerns. We bought our house on Little's Lane

1 Preserve and we love it there, and we're  
2 raising our family there. The traffic concerns  
3 and the way that it's going to change our  
4 whole neighborhood and possibly impact - if we  
5 want to move it's going to impact the sale of  
6 our house. What's to stop Siena students from  
7 dividing \$2,000?

8 CHAIRMAN STUTO: Thank you.

9 Frank McMahon.

10 MR. MCMAHON: We can probably address  
11 this a little bit better than most people. My  
12 wife and I - we lived in Ballston Spa and  
13 about 25 years ago the developer of our street  
14 passed away. We had a beautiful 60-foot ranch  
15 with about 20 or 30 other ranches. It got  
16 rezoned to duplexes. We didn't argue with it.  
17 We were young and married. Anyway, once the  
18 duplexes came in, before we know it, people  
19 are sitting on their stoop and they're playing  
20 the radio at 10:00 in the morning for the  
21 whole neighborhood. We sold the house. We  
22 couldn't fight it. Now we live down here. We  
23 live directly across from the towers.

24 The builder said that they had  
25 underground parking. That's one proposal that

1 is a little bit misleading. It's above ground  
2 parking with grass on it. He built up the site  
3 about eight feet. If you go down Schuyler Road  
4 when Eamonn's was there, it was level. You  
5 can't see the parking garage because it's  
6 covered with grass. So, it's underground  
7 parking, but in a way, it's not underground  
8 parking. It's my understanding that if this  
9 goes to apartments, they're going to be made  
10 out of wood instead of concrete, which was in  
11 the original plan if it stayed condos.

12 CHAIRMAN STUTO: Where did you get that  
13 understanding from?

14 MR. MCMAHON: I read the plans that you  
15 have.

16 CHAIRMAN STUTO: You're saying that they  
17 changed from concrete to wood?

18 MR. MCMAHON: I believe so. Can anybody  
19 on the Board address that?

20 MR. LACIVITA: Peter, I would turn that  
21 over to Michael or Bob to talk about, but when  
22 he came in to talk about the project as to why  
23 they were doing it, based on the fact that  
24 they were taking livable space out of the  
25 attic area, they didn't have to go to the

1 steel construction with the concrete subfloors  
2 in-between and were able to build this a  
3 little bit more affordable with a stick  
4 construction. They could do that because there  
5 is no livable space above it.

6 I don't know if you could confirm that or  
7 not, Bob.

8 CHAIRMAN STUTO: So, you're talking about  
9 a structural component, and not an exterior.

10 Is that what you're talking about too,  
11 sir?

12 MR. MCMAHON: You guys had basically said  
13 that nothing would change.

14 Luxury condos - we didn't object to them  
15 four years ago because they increase the value  
16 of our house. Then again, going back to  
17 Ballston Spa when they became duplexes, it  
18 decreased the value of our house. You can't  
19 argue with it. We sold the house and we moved  
20 to Loudonville. I don't think that there is  
21 any apartment complex in Loudonville. This  
22 would be the first. I think that these folks  
23 made a bad business investment. It's sad and  
24 it happens.

25 I think that we all should remember that

1           this was a historical site. It isn't any more.  
2           Thank you.

3                     CHAIRMAN STUTO: Thank you.

4                     MR. NARDACCI: Joe, the plans that I have  
5           are stamped from 2008. Are there different  
6           plans that you have?

7                     MR. LACIVITA: No. We would see the  
8           internal to that, Tom. The Building Department  
9           is the one that actually reviews the building  
10          practices and techniques that have to go on  
11          that. We only look at the site plan component  
12          of that. What they're saying or presenting  
13          here today is that same Mount Vernon look that  
14          doesn't change from the exterior component.  
15          It's the interior that's going to change with  
16          the building design because of the living  
17          space on the third floor of the dormer areas.

18                    MR. NARDACCI: Mr. McMahon, what were the  
19          plans that you reviewed?

20                    MR. MCMAHON: I don't know. I was lucky  
21          enough to have some of you folks go over them  
22          with me. My wife and I went to the Planning  
23          Board about a week ago. They put us in a  
24          conference room and let us look at what we  
25          wanted to.

1 MR. LANE: In the Planning Department.

2 MR. MCMAHAN: Yes, and we appreciated  
3 that. So, I might have misrepresented it, but  
4 I don't think I did.

5 CHAIRMAN STUTO: Sir?

6 FROM THE FLOOR: I have reviewed the  
7 plans that are on file with the Planning  
8 Department. There is not enough information on  
9 this to specify how the building would be  
10 constructed.

11 CHAIRMAN STUTO: Mark Townsend.

12 MR. TOWNSEND: My name is Mark Townsend  
13 and my wife, Ann Marie and I live at  
14 7 Schuyler Road for the last 10 years.

15 I put together a brief statement so I  
16 wouldn't forget what to say.

17 I also speak for the Colellos that reside  
18 at 9 Schuyler Road for the last 20 years. Our  
19 homes face the condo project on the north  
20 side. In the last three years my front door  
21 and windows, when we look out, have been of a  
22 trailer with towers on the side. That's been  
23 our view for the last three years.

24 Several years ago I attended Board  
25 meetings for the project and heard a lot of

1 proposals and promises. During those initial  
2 discussions I heard promises of keeping the  
3 landscape and providing barriers so that the  
4 sound of the traffic flow from Menands would  
5 be muted. That no longer is provided for me  
6 where I live. My wife and I have been hoping  
7 that the view of the trailer would be replaced  
8 with the agreed upon greenspace. Our  
9 understanding is that entire area would be a  
10 greenspace area. Nothing has been done with  
11 that. So, whatever was done has not produced  
12 any relief.

13 On separate occasions I've also called  
14 the Town to ask about the overgrowing  
15 dandelions which covers all the neighbors'  
16 lawns.

17 With the condo project we're hoping that  
18 they would be homeowners and listen to the  
19 concerns of neighbors. It's not my problem  
20 that the condo project is no longer feasible.  
21 That was a promise made long ago, and that is  
22 the risk of doing business. They could have  
23 built a couple of nice homes on the corner if  
24 they wanted or needed a much bigger site to be  
25 financially feasible. Now they want an



1 apartment building - an apartment complex that  
2 brings the resident with no ownership and no  
3 vested interest in the local neighborhood.  
4 Going forward my concern would be having to  
5 deal with comings and goings of unknown  
6 residents. Now I ask myself will I be looking  
7 at a larger parking lot with unkept cars? Will  
8 I be dealing with loud parties? Will any lack  
9 of unkept property affect the future value of  
10 my home and property? This is truly the  
11 difference between a resident who can afford a  
12 \$500,000 condo and a resident that can only  
13 afford a monthly rent. So, my wife and I  
14 strongly are against this proposal and request  
15 that the Board make this a quality of living  
16 decision and not a business decision.

17 CHAIRMAN STUTO: Thank you.

18 John Bishop.

19 MR. BISHOP: Good evening. As per full  
20 disclosure, first of all, I happen to know the  
21 developer and I have known them for a long  
22 time. I've always had a good relationship and  
23 have a lot of respect for him.

24 I'm also the former Mayor of Menands and  
25 I would like to comment on the project that

1 was originally referred to earlier where there  
2 was an old school and developers came to us  
3 and wanted apartments. When I was mayor; I  
4 refused to allow that to proceed through a  
5 legal means. We eventually worked with the  
6 developer through some rezoning and setback  
7 adjustments to change that property to 10  
8 brand new houses which are fully occupied. I  
9 believe that the developer made money and I  
10 think that it was a win/win because we now  
11 have 10 homes in Menands that are  
12 owner/occupied.

13 We've also had numerous properties in the  
14 village where people have taken parcels and  
15 wanted to turn them into apartments. I'm  
16 adamantly opposed to apartments in our whole  
17 region. We have way too many in Menands. It is  
18 not the same as homeownership. I can throw a  
19 baseball from my house and hit the apartments.  
20 It is just not the same. I do think that there  
21 is a way to make a win/win here. As a business  
22 man, I understand. Profit is not a dirty word  
23 in our society. If it's apartments, I'm  
24 adamantly opposed to it. It completely changes  
25 the complexity of our area.

1                   With that being said, it sounds to me  
2                   from the reading that they want the option of  
3                   a condo or apartments. I think that it needs  
4                   to be defined: Is it apartments or is it  
5                   condos? I think that somebody with a better  
6                   legal mind than I should look at the  
7                   homeowners association. Can you create a  
8                   homeowners association with renters? I don't  
9                   know. I'm not a legal expert in that. I don't  
10                  know if a homeowners association has been  
11                  filed with the state and approved. Then you  
12                  have another step in there as well. So, I see  
13                  some real complications here. I think that  
14                  it's one or the other; it's A or B and quite  
15                  frankly if it's apartments, I'm opposed to it.  
16                  I live a quarter of a mile from this site and  
17                  it's just not the same and our neighborhood  
18                  has drastically changed. Thank you.

19                         CHAIRMAN STUTO: Thank you.

20                         Joyce Galante.

21                         MS. GALANTE: I'm Joyce Galante. I live  
22                         at 59 Loudon Wood East. I've been there since  
23                         1980. I've been all through the different  
24                         manifestations of this.

25                         Someone said it was a historic place. As

1 far as I know it was an old warehouse for 15  
2 years. I do not know Mr. Benson well, but I've  
3 met him. I went to every meeting that everyone  
4 had. I respect the developer. I have no  
5 problem with him. I'm adjacent to the  
6 property. No one is closer to the property  
7 than myself, except my immediate neighbors.

8 We had a little problem and thank God for  
9 Marcia Aronowitz who made them clean up the  
10 place. I think that they tried. What I'm  
11 looking at is a lawyer. I'm 70 years old and I  
12 don't know if I'll be around 10 years from now  
13 but we might still be discussing this project.  
14 It might be with Benderson, or with someone  
15 else.

16 Sure, I'd like to have more Loudon Wood  
17 East there. It would be great.

18 Who is going to pay for turning this  
19 down? In reading what you read from the rules,  
20 I see lawsuit. Let's be practical. I don't  
21 want to see lawsuit. I've never talked to them  
22 about it. I met Mr. Sweeney once in my life 30  
23 years ago. I don't know what's in their mind.  
24 I know that I'm a business person and you  
25 can't expect people to just walk away,

1           totally. I think that would be unrealistic and  
2           unrealistic to all of our neighbors who may  
3           like to see me hit by a big truck to be sure  
4           that it's permanent, but I think that we have  
5           to be practical. It was approved, whether it  
6           was approved by this administration or that  
7           administration. I believe that honestly, if a  
8           condominium was approved, then sure, they  
9           passed their deadline. They've got a problem  
10          with that, but the idea of clearing it out and  
11          putting up a park - I just don't think that  
12          it's practical. I'm very much opposed to  
13          apartments. I believe that I'm sorry to say  
14          that it's ownership or not. I don't want to  
15          take any more of your time.

16                   CHAIRMAN STUTO: Thank you.

17                   Mark Simonsen.

18                   MR. SIMONSEN: I'm sorry if I go over  
19          some of the same things that have already been  
20          said. I know that you'll listen, though.

21                   I've been a resident of Patroon Place for  
22          more than 40 years. I grew up there as a  
23          child. I moved out for a few years for college  
24          and then moved my family back there. I've  
25          enjoyed living there for more than 20 years.

1 I own my home, outright. I anticipate retiring  
2 there. I love the character of this area and  
3 the neighborhood and the Town.

4 Honestly, I feel this project was  
5 conceived at the height of the real estate  
6 bubble by investors with no interest in  
7 maintaining the character of the neighborhood.  
8 I think that their intent was to leverage the  
9 quality of the local area to raise the  
10 perception of their property. A high density  
11 building with limited parking will have  
12 limited appeal. The project was approved  
13 towards the end of December by the outgoing  
14 Town administration with very limited public  
15 input. Given the time of year that it  
16 happened, 32 local residents noticed what was  
17 happening and became involved. We've already  
18 heard tonight that there were a large number  
19 of variances granted already to permit this  
20 and now we have another set of variances. I've  
21 noticed that it wasn't just the variances not  
22 just to convert this from condos to  
23 apartments, but apparently to reduce the size  
24 of the individual living units. There appear  
25 to be two things that are being requested

1 here.

2 If you go by the picture on the billboard  
3 in front of the lot, it shows the building  
4 with a large setback. As can be seen from the  
5 installed foundation, the building is in fact  
6 as close as 20 feet to Menand Road and no  
7 further than 50 feet from Menand and Schuyler  
8 Road. I've heard statements in the past that  
9 the building is in some way colonial in  
10 design. The fact is that it's a very large  
11 unattractive box. Statements have been made  
12 that the building will present well to folks  
13 entering this part of the Town. It will give  
14 the idea that this part of the Town is  
15 commercial in nature and not residential. It  
16 is difficult to perceive the footprint that  
17 this very large structure will present, but it  
18 will be substantially out of character with  
19 the area.

20 We've heard some of this, but I need to  
21 repeat it. Renters are by definition,  
22 transients in between one living arrangement  
23 and the next. Renters have no ownership  
24 interest and no long-term interest in  
25 preserving the property values sanctity and

1 safety of the neighborhoods. We have houses in  
2 my development, Patroon Place, converted to  
3 rental use for periods of time. These have not  
4 been maintained at the level of the  
5 owner/occupied homes. This has increased foot  
6 and pet traffic along with the risks to  
7 surrounding neighborhoods as the complex  
8 itself has no room for walking or running. The  
9 parking is extremely tight. Where will the  
10 guests of the renters park? Once this building  
11 is up, it will be there for 100 years or more  
12 and will likely change owners several times.  
13 There is no guarantee that absentee owners  
14 will maintain the property in line with the  
15 character of the area. Without question, area  
16 home values will be negatively impacted.

17 I've heard a few moments ago that the  
18 rent would be pegged at \$2,000 a month. I  
19 would think that anybody who could afford that  
20 could make a payment on a condo. I would also  
21 suggest that there is nothing to prevent that  
22 renting being reduced in the future if they're  
23 unable to rent the units and want to cut their  
24 losses.

25 I just had a couple of observations on



1 the map. The original plan was for luxury  
2 condominiums for retirees and professionals  
3 who would be owners. I would think likely two  
4 or two and a half residents per unit on the  
5 average; 24 units - 48 to 50 people as  
6 residents. The new plan is for apartments. I'm  
7 going to guess and say that four or more  
8 residents per unit. That's twice as many  
9 people using services and roaming the  
10 surrounding neighborhoods.

11 I would say one more thing. We've been  
12 looking at this site in its current state for  
13 more than three years with the only  
14 improvement being the installation of some  
15 trees after some residents complained. This  
16 civil action of courtesy was not undertaken  
17 until complaints were received. What can we  
18 expect proactively to retain the character of  
19 the neighborhood going forward? Some folks  
20 have given examples of the things that have  
21 occurred in maintenance around the lot and I'd  
22 like to give one.

23 I'm a bicycle rider. I go out every weekend in  
24 the warm weather. You have to stay on the  
25 shoulder of the road, or you're at risk. I

1           guess when the foundation went in back in 2007  
2           or 2008, it has remained that way since that  
3           point in time. So, every time you approach  
4           that piece of the shoulder, you have to move  
5           out into the driving lane. It's just an  
6           example of we don't care about the property  
7           until we're forced to do something, in my  
8           opinion.

9                     Those are my statements and I hope that  
10           we have another meeting to discuss this  
11           further. Thank you.

12                    CHAIRMAN STUTO: Thank you.

13                    Steven Moore.

14                    MR. MOORE: I'm at 142 Menand Road. I  
15           really can't see it, but I can see it through  
16           the woods from my house.

17                    Originally, when this project came up, I  
18           was opposed to the density change. I didn't  
19           think that there was any way that 24 units  
20           were going to fit on that property. We're  
21           concerned about parking and they said parking  
22           underground. Like a gentleman said earlier,  
23           parking is level with the ground and they  
24           build the garage over it so now it's not like  
25           a two story building; now it's like a three or

1 four story building. The fact that it's that  
2 close to the road - I was very disappointed in  
3 seeing that.

4 That being said, one thing about it was  
5 if these places were going to be \$500,000  
6 condo units, I'm thinking in my head, thank  
7 God that there is at least 24 people that will  
8 be getting green checks for taxes and that  
9 homeownership -- at least they'll be up in  
10 that tax base. Now we're going to switch to  
11 apartments. I am vehemently opposed to  
12 apartments. I was opposed to the project  
13 originally. I don't think that it fits in with  
14 the surrounding homes and I just think that  
15 there is no way that I would accept  
16 apartments. If we could continue with the  
17 condos and you want to stuff those down my  
18 throat, I'll take it. Thank you.

19 CHAIRMAN STUTO: Thank you.

20 Richard Stark.

21 MR. STARK: My name is Richard Stark and  
22 I live at 3A Schuyler Road. I look directly at  
23 the guard towers, as I affectionately call  
24 them. My daughter happens to live at 8  
25 Schuyler Road which is the first house just

1 north of the project. She attends seventh  
2 grade and every morning goes out to the bottom  
3 of her driveway to wait for the school bus.

4 I went to Shaker High School and my  
5 mother lives at 7 Orchard Grove. She is still  
6 there so I've been in and out of the area for  
7 most of my life.

8 I don't like the idea of condos, frankly.  
9 Primarily, it's the issue of density. It would  
10 be a real change to the nature of the  
11 neighborhood. Even worse would be apartment  
12 buildings. I've spent in my life quite a lot  
13 of time as a transient living in apartments.  
14 Whether it urban or rural areas, transients  
15 just have a different lifestyle and a  
16 different perspective. I don't begrudge them,  
17 but it doesn't fit the area. Transients don't  
18 have the interest in a community that people  
19 who live and work there do.

20 I jog often on Schuyler Road and to my  
21 chagrin I see on the side of the road often  
22 times empty water bottles, soda bottles, beer  
23 cans and food wrappers discarded. I don't  
24 believe that those are coming from my  
25 neighbors who live next door on all sides of

1 me.

2 There are several other issues.  
3 Primarily, I'm very concerned about the  
4 traffic.

5 A lot of times when I turn into Schuyler  
6 Road from Menand Road, I don't put my foot to  
7 the floor of the car. People see a 40 mile per  
8 hour speed limit and I think that they think  
9 that's the minimum speed limit allowed on the  
10 road. Ever since the East Hills properties  
11 came into being and other nearby developments,  
12 there has been a huge increase in traffic.  
13 Often times when I do turn into Schuyler Road,  
14 people cut around me on my left and drive  
15 north into the southbound lane just because  
16 they don't feel that I'm going quickly enough.  
17 I'm only turning into the fourth house. They  
18 don't know that. They take off up the hill.

19 I have a lot of concerns and primarily  
20 about the safety of my daughter with so many  
21 more vehicles that this would create with the  
22 development going on. It's a very bad  
23 situation for the area. I would expect even  
24 less responsibility and community mindedness  
25 from renters than I would from having property

1 owners. I don't believe that it is the  
2 responsibility of the community to help the  
3 developer make good on a chance that he took  
4 when he chose to develop the property. I wish  
5 him the best. I don't wish him to lose his  
6 shirt, but I don't think that it's up to us to  
7 bail you out. We have to look out for the  
8 community.

9 Those are my primary concerns. Most of  
10 the people who have spoken here already have  
11 been my elders. Thank you for listening to me.

12 CHAIRMAN STUTO: Thank you.

13 Jean Becker.

14 MS. BECKER: I'm Jean Becker and I live  
15 on 40 Schuyler Road. I just have one comment  
16 that I'd like to add. I didn't get any  
17 information about this meeting except from a  
18 letter from one of the neighbors. I read  
19 everything that the Town sends me. I read the  
20 newspaper and I would suggest to the Board  
21 here that we would like to know what's  
22 happening. I am positive that way more people  
23 would be in this room and they would all as  
24 unhappy as I am about the situation. The  
25 people who don't know couldn't possibly be

1 here. The information was not forthcoming.

2 I also am extremely opposed to having  
3 this ugly building on the corner. At one point  
4 it was supposed to be condominiums which had  
5 some merit in that people who lived in the  
6 area when they wanted to downsize would have  
7 an option to stay in the neighborhood. That  
8 had some justification in my mind and some  
9 merit. Putting in apartments and changing the  
10 nature of the neighborhood, lowering the  
11 values of our homes which we work very, very  
12 hard to maintain and keep and pay taxes on - I  
13 just see no merit at all.

14 CHAIRMAN STUTO: Thank you.

15 On the point of noticing the residents,  
16 we try to be conscientious about that.

17 Joe, I don't know if you can make a  
18 comment on what the notice provisions are,  
19 generally.

20 MR. LACIVITA: I've spoken to a number of  
21 people who have called our office as well. The  
22 Land Use Law and what we try to adhere to is  
23 that we should notify people within a 200 foot  
24 range of the bordering parcel and we do that.  
25 In fact, we actually notified 25 people. One

1 of the things that we've done very consciously  
2 is that we've always asked developers to talk  
3 to neighborhood associations prior to bringing  
4 the project before the Board so that we can  
5 get the neighborhood associations engaged.

6 One of the other things that we also do  
7 as well is we make sure that notification,  
8 when it goes out to the various people - we're  
9 also attaching notification to the presidents  
10 of the neighboring homeowners associations. We  
11 hope that those conversations that we've had  
12 with those associations is that they can then  
13 reach out to people, as well. We're trying to  
14 expand the notification component. Based on  
15 the Land Use Law that we have before us that  
16 was adopted in 2007 - we talk about 200 feet  
17 of any bordering parcel.

18 CHAIRMAN STUTO: Were you going to talk  
19 about notice, sir?

20 FROM THE FLOOR: I just want to point out  
21 that the notifications that I received was for  
22 151 Loudon Road.

23 MR. LACIVITA: That's correct. There was  
24 an error on that.

25 FROM THE FLOOR: When I called the



1 office, they said that I would get a call back  
2 and I didn't get a call back. Someone in the  
3 neighborhood got into the action and she went  
4 around and presented us with the actual  
5 address; 151 Menand Road.

6 MR. LACIVITA: Ms. Moore actually  
7 assisted with that. Unfortunately, I wasn't in  
8 the office to receive that. If I was, I would  
9 have answered that call. She was very polite  
10 and helpful.

11 FROM THE FLOOR: When I called the  
12 office, I was told that you personally would  
13 call.

14 MR. LACIVITA: I'm sorry. I apologize for  
15 that.

16 CHAIRMAN STUTO: Is this on the notice  
17 provision ma'am?

18 FROM THE FLOOR: My notice came to the  
19 former owner. I've been in that house four and  
20 a half years. It said his name or current  
21 resident. I've been there four and a half  
22 years. I almost threw that notice away. You  
23 get these silly mailers from people who are  
24 selling something. I really suggest you update  
25 our lists by your tax rolls of whose paying

1 the taxes.

2 MR. LACIVITA: That notification comes  
3 from the developer directly. We may have had a  
4 list of the existing residents that were there  
5 at that time. I know that we look at it as  
6 something that the Town can do, but the  
7 projects are so vast. We're really trying to  
8 look at the whole notification process and how  
9 we can expand it and make it better. I know  
10 that we're updating our Planning and Economic  
11 Development websites to try to put projects  
12 out there as well. We're automating a number  
13 of the processes that are going on with it  
14 through our GEIS system, which actually has a  
15 lot of the homeownership as well. Those are  
16 the types of things that we're trying to do  
17 under the Planning Department to really try to  
18 make that notification and make our projects  
19 known much better than it has in the past in  
20 order for people like yourselves to be here  
21 and talk.

22 CHAIRMAN STUTO: We'll work on the  
23 notifications as well.

24 Martin Becker.

25 MR. BECKER: I live at 40 Schuyler Road

1 with that lady who spoke before me. I just  
2 want to say that it might be worthwhile  
3 sending notices to people that are more than  
4 200 feet away.

5 CHAIRMAN STUTO: Particularly on the  
6 larger projects.

7 MR. BECKER: We live at 40 Schuyler Road,  
8 which is a half mile up the street and I think  
9 that we would be affected by traffic patterns  
10 and a whole bunch of other things associated  
11 with the project. So, maybe the Board could  
12 revisit that.

13 A lot of the things that I wanted to say  
14 have been said already so I won't repeat them.  
15 Obviously, there is the nature of transient  
16 people coming in and that changes the  
17 character of the neighborhood.

18 I would like to address one thing that's  
19 been said relative to the apartment that would  
20 change. The proposal to make apartments is  
21 because of financial difficulties associated  
22 with moving forward with condos. Even though  
23 Mr. Nardacci spoke eloquently that other  
24 people have managed to make condos work,  
25 apparently, these people have had difficulty

1           doing that.

2                     What happens with the apartments?

3           Suppose financial difficulties come up again?

4           Who's to say that they will be able to fulfill  
5           what even their own objectives are? These may  
6           be their honest objectives. They truly want to  
7           charge \$2,000 to high income people. Supposed  
8           they can't?

9                     What about the Siena students coming in?

10          We have all kinds of bottles alongside of the  
11          road. I have nothing against Siena students or  
12          other kinds of transient people. It's  
13          certainly not the target audience of what this  
14          complex was aimed at. What I'm saying is that  
15          financial uncertainties in a very volatile  
16          uncertain real estate market are likely to  
17          lead to unexpected situations coming forward  
18          in the future with which the developers will  
19          have to cope. They may have to abandon it at a  
20          different stage and it's better that we just  
21          nip this thing in the bud before it starts  
22          flowing in all sorts of unintended and  
23          unanticipated directions. Thank you.

24                     CHAIRMAN STUTO: Thank you.

25                     Amy Fox.

1 MS. FOX: Mr. Chairman and the Board,  
2 thank you so much for the time to have this  
3 open forum. I'm Amy Fox and I live at  
4 59 Patroon Place. My backyard borders Little  
5 Lane and properties on Berry Court. I happen  
6 to be very close to this site. I think that  
7 certain things are worth repeating so that you  
8 have a full scope of public sediment. You'll  
9 hear a couple of things repeated, but a lot of  
10 my focus is our law and the usage of it.

11 I know I have a letter into you and I'll  
12 be hearing from you in the future. My opinion  
13 is that the Land Use Law, while it's legal, is  
14 inadequate. In this day and age at my public  
15 school I have the school news notifier on  
16 e-mail, or the phone, or the various  
17 electronic components where in a snap they can  
18 update thousands of parents. I know that as I  
19 tapped into the Colonie Coalition of  
20 Neighborhood Associations, that they are  
21 forwarded certain agenda items via e-mail. But  
22 how does the rest of the community know that  
23 there are such coalitions of the neighborhood  
24 associations to join on? Even still, it's an  
25 old fashioned method even that we're

1 forwarding e-mails on it. It's a great gesture  
2 by the Town to do that, but the technology is  
3 there. It's cheap and it needs to be expanded  
4 upon. You hear this at many different  
5 meetings. It's no longer an issue. It's no  
6 longer an obstacle. It's no longer an excuse.  
7 I'd like to say that.

8 Because this project impacts hundreds and  
9 only 25 received their notification, I ask  
10 the developer to reach out to the Greater  
11 Loudonville Association.

12 CHAIRMAN STUTO: Can the applicant answer  
13 that question? Did they have any meetings with  
14 the neighborhood association or any of the  
15 neighbors?

16 MR. BENSON: We did not meet with any of  
17 the associations. We spoke to one of the  
18 neighbors whose name was made known to us.

19 CHAIRMAN STUTO: Okay. My understanding  
20 is either the Town Attorney or the  
21 Supervisor's office specifically asked the  
22 applicant to do that. You don't have any  
23 knowledge of that, I guess.

24 MR. BENSON: Mr. McGuirk.

25 MR. MCGUIRK: You spoke to me today.

1                   CHAIRMAN STUTO: Okay, enough said.

2                   MS. FOX: Also, the Colonie Coalition of  
3 Neighborhood Associations is a great resource  
4 for associations all over the Town. I don't  
5 know if they were notified, but we can't rely  
6 on good faith to make these connections  
7 happen. The requirement needs to be there. We  
8 shouldn't even rely on neighborhood  
9 associations that come in and out. The members  
10 and attendance can change over time. So, there  
11 needs to be some systems in place. The  
12 technology exists to improve upon that.

13                   My first question was: Has the criteria  
14 been met to consider repealing this 2007 PDD  
15 based on Code 190-72 which you refer to so  
16 beautifully - the legislation repealer? There  
17 is a three-year shot clock on our PDD Code. If  
18 the criteria have been met, then I request  
19 that this Planning Board recommend a repeal to  
20 eliminate the existing density, which should  
21 not have ever been allowed in the first place.  
22 It is completely out of character where it now  
23 sits. It does not adhere to the intent of our  
24 Code's PDD, which seeks to integrate PDDs into  
25 the existing character of the community and

1 not change the character of communities. We  
2 have utilities that hold municipalities to  
3 their shot clocks. This current PDD changes  
4 the character of the SFR community. It creates  
5 a further traffic congestion problem on Menand  
6 Road and the high speed cut-through traffic on  
7 Schuyler Road. I can attest to that.

8 It does take 10 minutes to take a left  
9 hand turn out onto Menand Road, depending on  
10 the time of day when you drive up to the light  
11 at Route 9 at the wrong time of day during  
12 rush hour, you will sit at least 10 minutes to  
13 turn onto Route 9. Schuyler Road serves as a  
14 high speed relief cut-through to those issues.  
15 I think that's worth echoing for people that  
16 are living there and use the roads all the  
17 time.

18 The PDD changes the character of this  
19 pocket in the community. And repealing this  
20 PDD, which seems like it's within the scope of  
21 the law, would revert the property back to its  
22 former zoning definition which would eliminate  
23 the density as it now stands. It would allow  
24 you to go forward with a concept that is more  
25 fitting for the community and that truly talks



1 to the heart and intent of the way that the  
2 PDD is written in our Code and would allow for  
3 a plan B for the developer.

4 Erosion of character of the single family  
5 neighborhood: If a PDD repeal is not possible,  
6 at least condos maintain an ownership state  
7 consistent with SFRs. However, in allowing  
8 apartments, I'm completely opposed as well. It  
9 would create a more grave departure from the  
10 community character and it would lead to the  
11 erosion of our high standard of single family  
12 dwelling communities that attracted residents  
13 there in the first place.

14 I looked at Delmar, Rensselaer County and  
15 the outskirts of Saratoga County. I picked  
16 Loudonville primarily because of the school  
17 district and the character of the community  
18 where I bought that house in 1999.

19 Again, I can't stress enough the intent  
20 of the PDD in the code. It says integrate and  
21 not to change the character. If an amendment  
22 occurs, it would be a horrible precedent to  
23 set for developers to be able to change the  
24 character of other places in Town, rather than  
25 uphold the intent for them to conform to

1 existing characters as the Code requires. It  
2 is not the responsibility of the municipality  
3 to be creating or changing PDDs for the sake  
4 of developers that have fallen into economic  
5 misfortune. The obligation is to maintain  
6 neighborhood characteristics and hold the  
7 developer to any shot clock that is outlined  
8 in our law.

9 If anything is amended, please consider  
10 making it contingent on the fact that it  
11 doesn't reset the shot clock. I'm concerned  
12 about that because too much time has passed  
13 already.

14 I agree with Mark Simonsen about the  
15 quality of houses that on rare occasion were  
16 rented on Patroon Place and the erosion of  
17 that quality of the transient renter. I saw  
18 that first hand with the rented house across  
19 the street from me and until it was purchased.  
20 While an unfinished project is an eyesore and  
21 is a disgrace, the Board recognizes it and the  
22 applicant recognizes it and we all recognize  
23 it. I say, better to live next to a project in  
24 short-term limbo knowing that the character  
25 and the standard of living will be upheld for

1 the eventual completion of something that does  
2 fit within this character, and will remain for  
3 years to come. Loudonville is an extremely  
4 unique pocket on the zoning map. I would  
5 assume that it's part of the Town's  
6 Comprehensive Plan to maintain those  
7 characteristics. I want to encourage this  
8 Board to take every opportunity to do so.  
9 Thank you.

10 MR. LANE: Ms. Fox are you speaking on  
11 behalf of GLA?

12 MS. FOX: No, I'm speaking on behalf of  
13 just myself as an individual. I only brought  
14 that up because someone previously mentioned  
15 the intent to reach out to these neighborhood  
16 association bodies.

17 MR. LANE: The GLA, initially, in our  
18 records was for this project; you know that,  
19 right?

20 MS. FOX: I'm not aware of that. I'm a  
21 GLA member and I joined a year ago.

22 MR. LANE: So, this is prior to your  
23 joining.

24 MS. FOX: Yes.

25 FROM THE FLOOR: If we set the zoning,

1 will the contractors still be able to build a  
2 restaurant and bar?

3 CHAIRMAN STUTO: That's a somewhat  
4 complicated legal question. First of all, it's  
5 not within our ability. It would be within the  
6 Town Board's ability to say that the PDD has  
7 expired and repealed and the shot clock has  
8 gone off. The question of the grandfathering  
9 in of the old restaurant - it's my  
10 understanding that if they grandfather in that  
11 restaurant, it would have to be the same  
12 restaurant. That's no longer there. They would  
13 have a difficult time making that case. That's  
14 just my opinion.

15 MS. FOX: Can't the definition of the  
16 restaurant exist as a PDD?

17 CHAIRMAN STUTO: It was grandfathered in  
18 as a prior and existing use.

19 MS. FOX: So, it didn't have the  
20 definition of a PDD zoning?

21 CHAIRMAN STUTO: I'm not sure that I  
22 understand the question.

23 MR. LANE: It didn't even exist then.

24 CHAIRMAN STUTO: A PDD that has an  
25 integrated restaurant in it - there is nothing

1 prohibiting that.

2 MS. FOX: I was wondering if the prior  
3 restaurant is zoned as PDD.

4 CHAIRMAN STUTO: Not to my knowledge; no.

5 MR. NARDACCI: The zone was single family  
6 residential with a non-conforming  
7 use - preexisting.

8 MS. FOX: Section 190-72 of the PDD,  
9 Section 2B discusses existing PDD  
10 grandfathered.

11 CHAIRMAN STUTO: I read that as if they  
12 had partially completed the project. You could  
13 have a combination and use your plot as  
14 apartment buildings and condos and if they  
15 finish the apartments and never got to the  
16 condo phase, then the buildings that have been  
17 completed and are in use would be  
18 grandfathered into that PDD. That's how I read  
19 that section.

20 MS. FOX: As long as the definition of  
21 that property and zoning is PDD to begin with.  
22 The section reads:

23 "existing PDD grandfathered - any planned  
24 development district formerly known as planned  
25 unit development district."

1                   CHAIRMAN STUTO: Prior to the Land Use  
2 Law that was implemented in 2007, the concept  
3 of PDD was implemented through PUDs so they  
4 were grandfathering that.

5                   MS. FOX: I see. Thank you for the  
6 clarification.

7                   I'm strongly opposed to having condos or  
8 apartments there. I'm even more strongly  
9 opposed to it being a transient population and  
10 I'd like to see anything that it becomes have  
11 an ownership stake for the residents that live  
12 on that property. Thank you, again.

13                  CHAIRMAN STUTO: Thank you.

14                  FROM THE FLOOR: My understanding is that  
15 a burnt out restaurant stayed there for all  
16 those years because it was grandfathered. It  
17 was not taken down because in order to keep it  
18 grandfathered so that they could build  
19 whatever they wanted -- when that came down,  
20 that should have been the end of it because  
21 then they start to build.

22                  CHAIRMAN STUTO: I agree with that.

23                  MR. LACIVITA: They would have to be able  
24 to maintain its nonconforming use. But it's  
25 nonconforming use actually has an 18-month

1 window in order to put a restaurant back in.  
2 Once that time frame is gone, they no longer  
3 have that capability of coming back in. With  
4 the townwide change in zoning, we're finding a  
5 number of nonconforming uses. When it comes to  
6 the zoning of a project, the nonconforming use  
7 has that 18-month window. If it goes vacant at  
8 any point in time, there has to be something  
9 that goes on similar or of like use within  
10 that 18-month period. If not, it's considered  
11 nonconforming and they can't go forward with  
12 it.

13 FROM THE FLOOR: I have a quick question.  
14 How long does that abandoned trailer stay  
15 there?

16 CHAIRMAN STUTO: I don't have a quick  
17 answer for that. We'll try to get back to you  
18 on that.

19 Qin Chen.

20 MS. CHEN: I'm going to be short. I live  
21 on 8 Schuyler Road. If they are so concerned  
22 about us, please plant trees starting tomorrow  
23 around all the neighbors. I've been living  
24 there for more than three years and it's  
25 disgusting.

1           The other thing is I don't think that  
2           this apartment building fits the neighborhood.

3           CHAIRMAN STUTO: Thank you.

4           Ellen Mnich.

5           MS. MNICH: I've lived on Patroon Place  
6           for almost 25 years. This property has been an  
7           eyesore and an embarrassment for way too long.  
8           Someone has to make an end. I don't feel as  
9           though this developer can be trusted. I've  
10          read everything from the beginning of time,  
11          seen the renderings in the newspaper,  
12          including the rendering on the poster on the  
13          property and it looks like an acceptable  
14          building. It really is an ugly building  
15          brought about by the underground parking that  
16          is not really underground. It's raised the  
17          building way up in the air.

18          Lastly, I wonder will you make a decision  
19          or something concrete before Election Day?

20          CHAIRMAN STUTO: We'll see how the  
21          process goes when we deliberate this.

22          Sam Sa.

23          MR. SA: I'm here to speak on behalf of  
24          my parents because they don't speak fluent  
25          English. They feel that I should translate.



1 I'm sorry for the way I'm dressed. They  
2 grabbed me when I was just out of class.

3 I live at 5 Schuyler Road. My neighbor is  
4 Mrs. Anthony. Every day we look out and we're  
5 looking right at the project. There is a  
6 bunker right across the street from us and it  
7 seems like it's from World War II.

8 They just wanted me to get a couple of  
9 points out. Most of my neighbors have already  
10 made great points. Our neighborhood is just  
11 not built for housing another 20 people.

12 Thirty years ago my parents moved to New  
13 York City and they retired and they moved back  
14 to Loudonville. It's a nice quiet neighborhood  
15 and it's a small road and it's not going to  
16 support another 20 families across the street.  
17 We're looking right at the house and there is  
18 going to be cars coming down in the future if  
19 they build condos. My parents pretty much said  
20 that our neighborhood is not built to house  
21 another 20 families. They don't have any  
22 problem with three or four houses right across  
23 from us. It's a nice neighborhood. No condos  
24 or apartments. We heard about that and we went  
25 nuts.

1           I was a college student and we used to  
2 trash apartments. We really don't care what  
3 the landlord says. You need to quiet down  
4 guys. Oh, okay. We're here for a year and then  
5 we're gone. Kids quiet down for a week, but  
6 we'll be back next week. That's a college  
7 student. Four of us used to live in one room.  
8 If we can't do it, when we're in New York City  
9 Siena College students will do it also. So, I  
10 just want to throw that out. We didn't give a  
11 flying rat about an apartment. We're there for  
12 two years and then we're gone. Our neighbors  
13 hated us. I grew up. I love my neighbors, but  
14 apartments are different because you see me  
15 for two years and then you don't see me  
16 anymore.

17           CHAIRMAN STUTO: Abdul Arati.

18           MR. ARATI: My name is Dr. Arati. I am a  
19 physician and fortunately or unfortunately my  
20 house is the closest one to the project. I  
21 live on 12 Berry Court off of Menand Road and  
22 the building is about 25 to 30 feet away from  
23 my house.

24           My main concern has been and still is  
25 that I have a problem with the light that has

1           been pointed at the Schuyler Road junction. I  
2           tried to get out of my street and if I have to  
3           make a left turn coming toward Route 9, my  
4           view is blocked by the traffic that is coming  
5           toward Menand and stopped at the light. I'm  
6           making a left turn and invariably I'm going to  
7           be hit by a car. I narrowly escaped a few  
8           times.

9                        Last winter my wife is getting out of our  
10           garage and she's out on our street, Berry  
11           Court. The girl is coming on Menand Road and  
12           because of the cars stopping in front of her,  
13           she could not stop and get into the street and  
14           broad-sided my wife. Thank God, my wife was  
15           okay with some cuts and bruises. I have a son  
16           and a wife and that's all I have. I hate to  
17           lose any one of them or any other member of  
18           the Loudonville area or any other area because  
19           of the traffic problem at this time.

20                      Now we are getting 24 apartments and  
21           there will be 48 more cars which will be  
22           turning when they come out towards Route 9.  
23           The traffic is going to be a mess.

24                      The people in the apartments are going to  
25           be the ones who cannot keep up the apartments

1 and are going to be sharing the apartments.  
2 There will be three or four Siena College  
3 students. So many years I've been collecting  
4 beer cans off of my front lawn.

5 At one time we heard some noises outside  
6 and somebody threw a cement block threw the  
7 rear window of my son's car. It was reported  
8 to the police.

9 I have lived at my house for the last 34  
10 years. I am proud to be an Albanian and I'm  
11 really proud to be living in Loudonville. We  
12 would like to keep it the way that it is. You  
13 want to build condos? Find ownership by decent  
14 people who will keep up the property and I can  
15 live with that. As for the apartments, I'm  
16 concerned and against it and I sincerely hope  
17 that the Board Members sitting here love  
18 Loudonville more than they love the  
19 contractor. What made you guys think to mix  
20 apples and oranges in the first place? This is  
21 a one-family area. We are proud to call it our  
22 home. If anybody asks me Mr. Arati, where do  
23 you live? I live in Loudonville. Please listen  
24 to us people. We aren't millionaire  
25 contractors, but we are homeowners. Let's keep

1 Loudon Wood as Loudonville. Let's not call it  
2 Loudonghetto. That's what it's going to get to  
3 be. Thank you.

4 CHAIRMAN STUTO: I just want to make one  
5 point. I don't know if you were here in the  
6 beginning. None of the Board Members approved  
7 this PDD that currently sit on the Board.

8 MR. ARATI: I just hope that you love  
9 Loudonville as much as we do. That's all I'm  
10 asking.

11 CHAIRMAN STUTO: We do. Thank you.

12 Tom Wall.

13 MR. WALL: Good evening. My name is Tom  
14 Wall and I live at 42 Patroon Place with my  
15 wife and we've lived there since 1985. We've  
16 loved the area for the entire time that we've  
17 lived there. I certainly agree whole heartedly  
18 with virtually everything that's been said  
19 here tonight so I don't want to just repeat  
20 things, but a couple of things have occurred  
21 to me.

22 One is that over the years that we've  
23 lived here we've seen in the newspaper and the  
24 TV on the news that there are plenty of  
25 zoning, and planning issues that have come up

1 in the Town over the years. My general  
2 reaction to them has always been - it sounds  
3 like with the increased ability to put in turn  
4 lanes and putting in a commercial venture in a  
5 commercial area, where's the problem? That's  
6 not what we're talking about here. We're  
7 talking about a very different type of use  
8 situation in an area that has never had any of  
9 that use of the land. I think that's a  
10 pertinent point. As everybody has said, it's  
11 very out of character with the nature of the  
12 community. My wife also pointed out and I'm  
13 also surprised that there hasn't been more  
14 comment by people about the increased load on  
15 the school system with people that aren't  
16 paying taxes there. So, that's my comment. As  
17 I said, I'm in complete agreement with what's  
18 been said here tonight.

19 CHAIRMAN STUTO: Anybody else?

20 MS. FERRARI: I've lived next door to the  
21 entrance to Loudon Wood East. My name is Janet  
22 Ferrari and I live at 16 Schuyler Road.

23 They've been wonderful neighbors. It's  
24 been a great experience. I've lived there for  
25 seven years. If I had known that seven years

1           ago that possibly a few houses down there were  
2           going to be two apartment houses, I would  
3           never have moved there. I'm afraid that when  
4           we all go to try to sell our properties that a  
5           lot of people are going to feel that way. I  
6           honestly don't believe that anyone sitting on  
7           the Board would want apartment houses going  
8           next to their homes. It's definitely going to  
9           hurt the value of our places. Thank you for  
10          your time.

11                   CHAIRMAN STUTO: Thank you.

12                   Al Green.

13                   MR. GREEN: My name is Al Green and I  
14           live at 22 Schuyler Road and one of the issues  
15           that I had was the notification. I just got it  
16           Sunday from Mr. McGuirk.

17                   When I was building my store, I made a  
18           point of finding people. Just by Googling the  
19           maps you can find out where people live. I got  
20           three notices out to my people so that  
21           everything was covered. If it wasn't for his  
22           letter, I wouldn't be here tonight. I went to  
23           my neighbors and said, did you get a letter  
24           and he said what letter? Honestly, I realized  
25           what was going on with the condominiums, but I

1           just was busy building my own store. I figured  
2           out what was going on. It looked like a nice  
3           place. With the apartments, when we read the  
4           letters we said, come on, this can't really  
5           happen. This is not fair. Believe me, when I  
6           went into a recession in building this  
7           appliance store -- you don't know what's going  
8           to happen. You just keep going forward and  
9           hope that things are going to work out. It's  
10          not all business. Sometimes it's hope.

11                       Eight or nine years ago we divided five  
12          acres of land where I live. We had three acres  
13          that we came here for subdivision and they  
14          gave us two lots. These are prime locations.  
15          They're not bad. One was on the backside of  
16          the condos. That was three acres divided by  
17          two houses. How can they get 24 condominiums  
18          on that small piece of property is beyond me.  
19          That's all I can say. I'm very much against  
20          it. I feel very bad about Schuyler Road.  
21          Everything that has been said about the  
22          garbage, and the people going up and down the  
23          road. I'm buffered by my land, but the people  
24          on Schuyler Road - they really have it bad and  
25          this is not going be good for anybody. Thank



1           you.

2                   CHAIRMAN STUTO: Thank you.

3                   MS. BILLFIELD: Good evening neighbors.

4           My name is Kathy Billfield. I live on 25  
5           Schuyler Hills Road. I'm really against this,  
6           as all of you are. I'd like to ask the Board  
7           if they could consider having a moratorium on  
8           the building. I don't know how many of you  
9           realize that there are things that have  
10          already been approved. I think that it's been  
11          approved for another development off of Turner  
12          Lane. This is just going to add more traffic  
13          and problems. I can't remember how many houses  
14          that you allowed them to put in there on the  
15          wetlands. It's really dreadful. Everything is  
16          being torn up in Loudonville. It's no longer  
17          the Loudonville that I bought into. I bought  
18          my house in 1978. I really recommend a  
19          moratorium until the Board can have some  
20          better planning about what it is that we  
21          really want here. I don't think that it's too  
22          much to ask for in a residential place like  
23          Loudonville. I think that it should have been  
24          done a long time ago and I said as much;  
25          nobody is listening. Now we have this proposal

1           for apartments. What next, timeshares? I just  
2           think that it's really poor planning.  
3           Certainly sidewalks should have been put in  
4           all around that corner, at the very minimum.  
5           I'm against it. I think that something else  
6           needs to be done there.

7                        I wanted to ask a question about the  
8           builder - the owner of that property. Is he  
9           local? If he does indeed get the opportunity  
10          to put in apartments, is he going to be an  
11          absentee landlord? Is that going to be another  
12          problem for us if it starts to fall into  
13          disrepair and you have problems there? I don't  
14          think that any of these builders have been  
15          made responsible for the damage that they have  
16          really committed in Loudonville and elsewhere.

17                       I also asked the Board to require that  
18          any builder coming in here with any kind of a  
19          significant project should be required to be  
20          bonded and they should pay for that bonding.  
21          If they renege on the deal and they leave up  
22          these monoliths or guard towers, then they  
23          should be required to take them down. They  
24          should have insurance for things like that. It  
25          just makes sense. I know that in any other

1 kind of business project, you have to be  
2 bonded. The banks are not going to give you  
3 any money if you're not.

4 CHAIRMAN STUTO: Would the applicant like  
5 to address her concern about the developer  
6 being an absentee landlord, or not?

7 MR. SWEENEY: BCI Construction Services  
8 are located on Loudon Road. I believe that is  
9 in the city. I'm not sure where it is.  
10 Mr. Benson has lived on Chestnut Hill for  
11 quite some time. He recently sold that house.  
12 These are apartments and the concept of an  
13 absentee landlord in this context - I don't  
14 think that you would expect or require any  
15 developer to live in an apartment in an  
16 apartment complex.

17 CHAIRMAN STUTO: I think that she was  
18 asking if he was out of the area or in the  
19 area.

20 MR. SWEENEY: His business is here -

21 MS. BILLFIELD: He sold his house, is he  
22 moving to Florida?

23 MR. SWEENEY: No, he isn't.

24 FROM THE FLOOR: Is Mr. Hayes involved?

25 MR. SWEENEY: Mr. Hayes is not involved.

1 MS. BILLFIELD: One more thing that I  
2 think we really should address. The concrete  
3 monoliths - those guard towers -- is the  
4 cement a compromised structure at this point?  
5 It hasn't gone forward. I don't know too much  
6 about cement, but I would worry that a large  
7 building that would go up on top of that -- do  
8 we have a mechanism whereby the inspector will  
9 look at that to see that it is indeed a viable  
10 structure at this point?

11 Is there a height requirement for houses?  
12 I know that up in the North Country I put up a  
13 house and the APA said that I could put up a  
14 40-foot high structure and the Town adjuster  
15 said no and that it was a 35-foot height  
16 requirement. What kind of requirements do we  
17 have here? Does it vary from a single  
18 residential as opposed to an apartment house,  
19 or a condo unit, or a Town house? Are there  
20 various requirements? I'd like to know.

21 CHAIRMAN STUTO: You made a good point on  
22 the concrete. We'll make sure that we make a  
23 note of that.

24 With respect to the height, each district  
25 and each type of building - in the Land Use

1 Law there are height restrictions. The height  
2 of this building is defined in the prior  
3 approval. I don't know what the exact height  
4 is with the three stories. We can get you the  
5 number. They're proposing that the height  
6 remain at the level that was in the original  
7 approval. They say that they're not changing  
8 any of the exterior dimensions.

9 MS. BILLFIELD: Because they raised up  
10 the so called parking garage, that bunker  
11 that's covered with grass - doesn't that  
12 count?

13 CHAIRMAN STUTO: I think that it has to  
14 conform with the plans that were approved. I'm  
15 not defending it. I don't think that they  
16 altered it and I don't think that they  
17 proposed to alter what was voted on in 2007.

18 MS. BILLFIELD: But do you have in your  
19 parameters to alter it because of the span of  
20 time? Can we now revisit it with a nice new  
21 Board?

22 CHAIRMAN STUTO: We might be able to  
23 suggest that.

24 MS. GRAHAM: I'm Dawn Graham and I'm from  
25 24 Patroon Place. I'd like to say that on the

1 corner of Schuyler Road and Menand Road on  
2 that corner there is always an issue of  
3 drainage and water. I know that at one point  
4 they put some drainage and stuff down there  
5 but when it rains, it floods. So, you can have  
6 three weeks of sunshine and you still have  
7 flooding on the side there. There shouldn't be  
8 water. Sometimes it comes out into the road  
9 and creates a hazard.

10 CHAIRMAN STUTO: At the intersection? Is  
11 that where you're talking about?

12 MS. GRAHAM: At the intersection when  
13 you're coming down Schuyler Road and you take  
14 a right onto Menand Road - that whole corner  
15 there is all -- it's been fixed a dozen times  
16 or they put more drainage down and it still  
17 floods. I know that my road is right across  
18 and we have four or five reflectors there due  
19 to the traffic. I was trying to take a left on  
20 to Menand going up and we have cars that move  
21 over the reflectors and bend them down. DOT  
22 has to come up after a few phone calls and set  
23 them back up. I've seen cars go into the fence  
24 into Loudon Wood East and take out a tree.  
25 It's a dangerous place. There are accidents on

1 the highway and 787 and people use that as a  
2 way to quickly avoid all that traffic.  
3 Congestion backs up all the way past,  
4 sometimes, Albany Rural Cemetery, that you  
5 can't even get past that section before you  
6 reach Schuyler Road, itself. It's definitely  
7 an issue.

8 I work in a big huge office and people  
9 drive by it. And they say oh, you live by that  
10 eyesore. You see those big huge columns. It's  
11 not just here. People are coming into our  
12 community that are seeing this, and this isn't  
13 Loudonville. It's garbage and we're all tired  
14 of looking at it. The people who actually have  
15 a house across from where the light  
16 is - people try to go around and they're  
17 driving on his property or a big huge pothole  
18 that's there that takes out your axel. People  
19 even wanted to have where the reflector poles  
20 are - they wanted the Town or DOT to pave over  
21 more so that cars could go around you, instead  
22 of waiting in traffic. It's just a huge issue  
23 and it hasn't changed in the last four or five  
24 years and the drainage there hasn't changed in  
25 the last 20 years. It's still the same issue.

1 I'm not in favor of the condos or apartments.  
2 If you did maybe a few houses, that would be  
3 great. I thought that it would be great for a  
4 park at one point because it mirrors the other  
5 end. People do walk and they do run and that  
6 whole stretch is used more the one at Route 9.  
7 No one uses the one at that end of Route 9,  
8 but people here use Schuyler Road and use  
9 their bikes. I see joggers all the time. A few  
10 houses or a few condos are okay, but 24 units  
11 doesn't fit. It's not even a big enough  
12 property. That's my comments.

13 CHAIRMAN STUTO: Anyone else?

14 FROM THE FLOOR: I've been around long  
15 enough to know that the previous people that  
16 sat up there and when they were going to put  
17 in the underground garage -- I live across the  
18 street and I said if I dig a hole to put a  
19 petunia in, I get squirted in the eye. They  
20 told me that they had all the hydraulics all  
21 taken care of and they could go down as far as  
22 they wanted. They got half way down and got  
23 squirted in the eye. Then they had to come  
24 back to the Board and the Board gave them  
25 permission to go higher. If you check, you'll



1 find that's in the record.

2 CHAIRMAN STUTO: Thank you.

3 Anybody else?

4 ***(There was no response.)***

5 CHAIRMAN STUTO: Would you like to make a  
6 rebuttal before we deliberate as a Board?

7 FROM THE FLOOR: I just wanted to say one  
8 more thing. I think that the reason why the  
9 restaurant was built so far back is because  
10 even when the bar was there, that whole  
11 parking lot used to be mud. I think that the  
12 water table there is too high to build what  
13 they want to build there. There is a purpose  
14 why that building was, 40 or 50 years ago, set  
15 back in the corner was because of the water  
16 issues. You can see that when you drive by and  
17 look in. The rain that came down four or five  
18 weeks ago - that water is right under that  
19 dirt. Dirt shouldn't still be wet in 90 degree  
20 weather. It should be dried dirt.

21 CHAIRMAN STUTO: Did you want to say  
22 something else?

23 MS. FOX: It wasn't mentioned enough by  
24 people that live in these  
25 neighborhoods - maybe they can show by a show

1 of hands -- the use of the Albany Rural  
2 Cemetery because it's also a park and is also  
3 heavy. The pedestrian and bike traffic going  
4 from the neighborhoods represented here  
5 tonight, down to the cemetery is regular and  
6 consistent. I can tell you the neighbors that  
7 do it on a regular basis.

8 The other thing that might be helpful to  
9 look up in the traffic reports is healthy  
10 neighbors. I believe that in the last 12 month  
11 period, there was a fatal crash at the exact  
12 intersection where Orchard Grove exits out  
13 onto Menand Road. I don't know the details  
14 about why.

15 CHAIRMAN STUTO: Mr. Sweeney?

16 MR. SWEENEY: Can we have just a couple  
17 of minutes so that I can talk to my client?

18 CHAIRMAN STUTO: Sure. We'll take five  
19 minutes.

20 ***(There was a brief break in the proceedings.)***

21 CHAIRMAN STUTO: Mr. Sweeney, do you have  
22 something?

23 MR. SWEENEY: We do, Mr. Chairman. We  
24 have listened to the sediment of the  
25 neighborhood - my client has. They came here

1 in good faith to try to do the right thing for  
2 that corner, because they agree with everybody  
3 else that the way it looks is unacceptable.  
4 They would like to move forward with that, but  
5 they are facing a roadblock that's not their  
6 fault. However, they have listened very  
7 carefully to things that have been said about  
8 the nature of the apartments here and we are  
9 withdrawing our application and the PDD to  
10 have apartments.

11 CHAIRMAN STUTO: Thank you.

12 Counsel, I don't know if you have an  
13 opinion on this. We have a resolution in front  
14 of us from the Town Board asking us to do  
15 certain things. Do you have an opinion? How  
16 should we proceed?

17 MS. VAIDA: I think that because it is a  
18 Resolution -- this is before us tonight as a  
19 Resolution requesting that we act on your  
20 application that was made to the Town Board.  
21 So, I think that any withdrawal or setting  
22 aside would have to be made to the Town Board.  
23 It's already come to us to act on it and I  
24 think that we have to act on it.

25 MR. SWEENEY: I couldn't disagree more.

1           You can adjourn this if you want to see a  
2           letter to the Town Board. I would think that  
3           my standing here and advising you of that  
4           would be enough, but you certainly do not have  
5           to act on this tonight because of that  
6           Resolution. I couldn't disagree more. If you  
7           have any ounce of concern about this applicant  
8           in good faith with respect to dealing with  
9           this application, you would respect what I  
10          just said. If you want to adjourn it until we  
11          produce a letter from the Town Board, that's  
12          fine.

13                   CHAIRMAN STUTO: Maybe we could hear from  
14          the Town Attorney.

15                   MR. MAGGUILLI: My feeling is that there  
16          is a valid application before you. That he  
17          certainly has the right to try to withdraw his  
18          application, but based on the application, the  
19          Town Board acted in good faith. There was a  
20          request to put this on for September 13<sup>th</sup>. We  
21          went to some trouble to put it on for the 13<sup>th</sup>.  
22          All these people came here tonight and wanted  
23          to be heard. I think that because you have the  
24          Town Board Resolution before you, that you  
25          should act on the Town Board Resolution and

1 make a decision one way or the other this  
2 evening.

3 CHAIRMAN STUTO: That's good enough for  
4 me.

5 MS. DALTON: For the record, my  
6 understanding is that we have been asked to  
7 come up with findings conclusions and a  
8 recommendations to the Town Board with regard  
9 to whether or not we should allow for change  
10 in Local Law 12, and the addition of the  
11 ability to provide apartment units in that  
12 planned development district. After this  
13 hearing, our findings are that even the  
14 developer is of the opinion that this is not a  
15 good idea at this time. Our conclusion is that  
16 it's not a good idea at this time and our  
17 recommendation is not to move forward with  
18 this Resolution to change the law. That's my  
19 motion.

20 CHAIRMAN STUTO: Any discussion?

21 MR. NARDACCI: I just want to make a  
22 really quick brief comment and I appreciate  
23 the fact that the applicant has taken into  
24 consideration the things that you've heard  
25 this evening. I think that the Town does want

1 to cooperate and help find the right project.  
2 Certainly, we have had our share of  
3 challenging parcels in this Town. Coming  
4 together and being creative, we've found great  
5 solutions.

6 At the corner of Route 9 and 155 is a  
7 perfect example. It sat there dormant for  
8 many, many years. The Supervisor and her team,  
9 the Board, everyone came together and came up  
10 with a great plan and a great project. This  
11 parcel is not different. This is one of the  
12 top five parcels in the Town that are of  
13 interest. Maybe I'm more heightened because  
14 it's a route that I travel regularly. I live  
15 in Loudonville, so I pass it frequently. My  
16 concern tonight is that what came forward to  
17 us based on how interested people are, is that  
18 the submittal itself was incomplete. You don't  
19 have to be a communist to understand what is  
20 happening in this country and what is  
21 happening in the real estate market. My main  
22 problem was for you to come forward and say  
23 condos won't work, we can do heightened  
24 apartments and not provide any research to  
25 that effect - just a blanket statement. You're

1 a sophisticated law firm. They're a  
2 sophisticated construction firm. You have  
3 sophisticated partners. Certainly this Board  
4 is a little more sophisticated than most  
5 Planning Boards. We can understand that kind  
6 of information and make a good decision.  
7 However decisions were made in the past, those  
8 days are done. Decisions are going to be made  
9 and they have been - based on good data and  
10 good information. That was my main issue with  
11 this. I don't think that we should condemn  
12 decisions that were made in the past. We  
13 haven't done that. I've been on this Board for  
14 four years. We've tried to even improve bad  
15 decisions that were made. I think that's our  
16 charge and we're stewards that make good  
17 decisions.

18 So, that said, I do appreciate the fact  
19 that you recognize the concerns of the  
20 neighbors. That's very important. I hope that  
21 we can work together with something that's  
22 more beneficial for everyone.

23 MR. LANE: Considering apartments and  
24 condos - either way, I think that the whole  
25 project was a bad fit for the community. I

1 would also make a recommendation to the Town  
2 Board that they consider repealing the PDD.

3 CHAIRMAN STUTO: Are you proposing to  
4 amend Kathy's motion to include this?

5 MR. LANE: It's at least a recommendation  
6 for consideration.

7 MS. DALTON: My opinion is that since  
8 there is so much up in the air, we should put  
9 aside whether or not we make that  
10 recommendation.

11 CHAIRMAN STUTO: Let's entertain her  
12 motion and if you want to make a second  
13 motion, Tim, we can do that.

14 MS. VAIDA: It might also be helpful to  
15 include all the minutes from tonight and the  
16 documents and send them back to the Town  
17 Board.

18 CHAIRMAN STUTO: Let's consider Kathy's  
19 motion and then we can do the second motion.

20 Is that acceptable to you, Tim?

21 MR. LANE: I don't think that it requires  
22 a motion.

23 MS. VAIDA: It's just a recommendation.

24 MR. LANE: That's all it was. It wasn't a  
25 requirement.



1           CHAIRMAN STUTO: We have to do it in some  
2 fashion or vehicle in which we can vote on it,  
3 and she prefers not to amend the motion. Would  
4 you consider doing it as a second motion?

5           MR. LANE: Yes, I can do it as a separate  
6 motion.

7           I'll make the motion that the Town Board  
8 also consider a repeal of the PDD under 197.

9           CHAIRMAN STUTO: We'll hold that motion  
10 for now.

11           MR. SWEENEY: Mr. Chairman, I have a  
12 solid legal objection to this and I also have  
13 a request that in fairness, the Board respect  
14 the applicant's withdrawal of the application  
15 to the Town Board. I think that this is  
16 completely unfair, uncalled for and absolutely  
17 ignoring the good faith of the applicant and  
18 coming here in the first place and doing what  
19 the applicant just did. I would ask that the  
20 Board have some sense of fairness to these  
21 folks who have a lot of money into this and  
22 are trying to do the right thing. I'm not  
23 seeing any of that here.

24           CHAIRMAN STUTO: I appreciate your  
25 comment. For, myself, on Kathy's motion,

1 everything that I've heard about BCI - my gut  
2 says that they are a quality contracting firm.  
3 That's my personal opinion based on being  
4 somewhat in the profession in my professional  
5 life. I do not mean to disrespect the company  
6 or the person in any way or respect. I support  
7 Kathy's motion.

8 The one constructive criticism I would  
9 make is that if you're going to do greenspace  
10 or screening, I think that you would be better  
11 served with the neighbors up front with the  
12 project as this thing has lingered. The second  
13 criticism is that I've seen projects go a lot  
14 better when the applicant makes the effort to  
15 reach out to the community and hold meetings  
16 and do a lot of communication with them.

17 That said, I support Kathy's motion.

18 MS. DALTON: The one kind of piece of  
19 advice I would add is that this Board, I  
20 think, in contrast to some other Boards, has  
21 been very concerned with aesthetics and making  
22 sure that whether they are houses or  
23 commercial space is try to fit into the  
24 neighborhood and try to make the place more  
25 attractive. We've all agreed that whatever is

1 on that corner is not attractive. So, if you  
2 were going to come back to us with another  
3 project, I would encourage you to be very  
4 conscious of what we would be looking at which  
5 would be the materials, the design and very  
6 closely at all of the aspects of construction  
7 that these folks have talked about. That's for  
8 what it's worth.

9 CHAIRMAN STUTO: Do we have a second on  
10 the motion?

11 MR. MION: Second.

12 CHAIRMAN STUTO: All in favor?

13 ***(Ayes were recited.)***

14 CHAIRMAN STUTO: All opposed?

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

16 CHAIRMAN STUTO: The ayes have it.

17 Tim, do you want to make a recommendation  
18 to the Town Board?

19 MR. LANE: Yes, a motion to consider  
20 repeal of the PDD under 190.

21 CHAIRMAN STUTO: Do we have a second?

22 MR. SWEENEY: As a matter of law, I  
23 object to that. There is no application. We  
24 have withdrawn it.

25 CHAIRMAN STUTO: Okay, it's duly noted

1 for the record.

2 Is there a second on that?

3 MR. ROSANO: I'll second it.

4 CHAIRMAN STUTO: All those in favor?

5 MR. NARDACCI: Just a point of  
6 information here. Tim, the process on this  
7 motion is to the fact that the PDD, under that  
8 language -- it's been three years and this  
9 motion would recommend to the Town Board to  
10 look at actual repeal of the PDD.

11 MR. LANE: Correct.

12 CHAIRMAN STUTO: It's not saying to  
13 repeal it, but to just look at it.

14 MR. NARDACCI: Because I think that part  
15 of the discussion ought to be where the  
16 applicant is with regards to owner/occupied  
17 units. The Town Board can look at that, as  
18 well. I just want to make that point as well.

19 MR. MAGGUILLI: Can I address the Board?

20 CHAIRMAN STUTO: Yes.

21 MR. MAGGUILLI: I'd like to make two  
22 points with respect to the repealer. I think  
23 that the Land Use Law is written, that the  
24 repealer is solely in the discretion of the  
25 Town Board. While we would take into

1 consideration any recommendation that the  
2 Planning Board makes, again, the final  
3 analysis of whether the three years have been  
4 met, is solely up to the Town Board. I'm not  
5 saying that you can't make the recordation,  
6 but just with that in mind.

7 I would like to comment on one thing that  
8 Mr. Sweeney said. This has to do with  
9 fairness. All these people have come here  
10 tonight and everybody has had an opportunity  
11 to present their position, including the  
12 developer and we think that there should be  
13 closure one way or another. If nothing else,  
14 whether there is ever going to be apartments  
15 there. By allowing the petition to be  
16 withdrawn after we have gone through the full  
17 hearing in this matter, would leave that issue  
18 open for the developer to come again and  
19 essentially repeat this process - which I  
20 don't think is fair to the residents, to the  
21 Board or to anyone else.

22 MS. DALTON: I thought that was what we  
23 just voted on was the apartment component.

24 MR. MAGGUILLI: I understand that's what  
25 you just did. I'm just presenting the Town's

1 position for the record in light of Mr.  
2 Sweeney's statements. I want to make sure that  
3 the record is clear for whatever may  
4 ultimately may happen in the future and why  
5 the Town's position is what it is. Thank you.

6 CHAIRMAN STUTO: With respect to Tim's  
7 motion - you made a comment.

8 MR. NARDACCI: My concern is that with  
9 regard to that piece, I don't feel confident  
10 that I have enough information with regards to  
11 that. I do appreciate in looking at this  
12 thing - the proposal that was made from the  
13 audience with regard to expansion of Loudon  
14 Wood East in putting four or five homes  
15 there - it's very intriguing and interesting  
16 and I think that it's something that ought to  
17 be explored. I do want to have fairness with  
18 regards to the applicant and we've already  
19 said owner/occupied -- I do understand the  
20 overall concerns about the scale of it. I'm  
21 just struggling a little bit of how forceful  
22 we're going forward. Again, I appreciate it  
23 and I know what you're saying. I probably  
24 would not support that.

25 CHAIRMAN STUTO: I have a comment as

1 well. Let's face it, the Town Supervisor is  
2 here and there has been a couple of Town Board  
3 Members here and the Town Attorney is here.  
4 They know enough and they want to consider the  
5 repeal. I personally don't want to rub it in  
6 the developer's face. That's how I feel about  
7 it. I'm not going to be supportive of that.  
8 I'm not saying that you shouldn't go forward,  
9 but if that motion goes forward, I would vote  
10 no.

11 MR. LANE: I'll withdraw the motion.

12 CHAIRMAN STUTO: This portion of the  
13 meeting is now over. Thank you.

14

15

16 ***(Whereas the proceeding concerning the above***  
17 ***entitled matter was concluded***  
18 ***at 9:53 p.m.)***

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**CERTIFICATION**

1  
2  
3  
4            ***I, NANCY STRANG-VANDEBOGART, Shorthand***  
5            ***Reporter, New York State Approved Transcriber***  
6            ***and Notary Public in and for the State of New***  
7            ***York, hereby CERTIFY that the record taken by***  
8            ***me at the time and place noted in the heading***  
9            ***hereof is a true and accurate transcript of***  
10           ***same, to the best of my ability and belief.***  
11  
12  
13

14            -----  
15            ***NANCY STRANG-VANDEBOGART***  
16  
17

18            ***Dated October 3, 2011***  
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