

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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MITOLA DENTAL OFFICE

1240 LOUDON ROAD

APPLICATION FOR CONCEPT ACCEPTANCE

5 *****

6 THE STENOGRAPHIC MINUTES of the above entitled
7 matter by NANCY L. STRANG, a Shorthand Reporter,
8 commencing on November 1, 2016 at 8:17 p.m. at The
Public Operations Center, 347 Old Niskayuna Road,
Latham, New York.

9

10 BOARD MEMBERS:
11 PETER STUTO, CHAIRMAN
12 LOU MION
13 BRIAN AUSTIN
14 TIMOTHY LANE
15 KATHLEEN DALTON
16 SUSAN MILSTEIN

17

18 ALSO PRESENT:

19

20 Kathleen Marinelli, Esq. Counsel to the Planning Board
21 Joseph LaCivita, Planning and Economic Development
22 Department
23 Michael Tengeler, Planning and Economic Development
24 Department
25 Joseph Grasso, PE, CHA
Nick Costa, PE, Advanced Engineering
George Howe
Paula Orshan Patrician

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1 CHAIRMAN STUTO: Next on the agenda is Mitola
2 Dental Office, 1240 Loudon Road, application for
3 concept acceptance, 4,100 square foot professional
4 office.

5 MR. LACIVITA: Peter, before we get to the
6 applicant - I know that Nick is going to get ready
7 here in the second - I'd like to get some important
8 dates on the record.

9 The applicant was before the DCC on December
10 16, 2015. We were here from a sketch plan perspective
11 on February 9, 2016. Our first look at concept was
12 August 23, 2016. At that time, the applicant was asked
13 to project what the impact would be on the adjoining
14 neighborhood or the adjoining farm to show the radius
15 as to a 100 and 500 foot impact that was discussed
16 earlier meeting.

17 We are here tonight for an update and a
18 movement toward concept, if the board agrees. And I
19 will hand it over to Nick Costa for his presentation.

20 MR. COSTA: Good evening. My name is Nick Costa
21 with Advanced Engineering.

22 As Joe just mentioned, we were here before the
23 board about four or six weeks ago. This is the
24 proposal on a one acre parcel on Loudon Road that Dr.
25 Mitola is proposing to build his dental office on.

1 When we are last time, we were requested to
2 come back with some graphics to show what the impact
3 will be to the adjacent Orshan Farm, which is located
4 around the perimeter of the parcel.

5 We placed the 100 foot radius from the building
6 and as you can see with the heavy red line, that's
7 where the impact will be. The property line is right
8 here (Indicating). The 100 foot radius touches the
9 property line here. Even though this is farmed here,
10 it is not part of the Orshan Farm -

11 CHAIRMAN STUTO: It's part of your parcel,
12 right?

13 MR. COSTA: It is part of our parcel. So,
14 really the largest impact is on this portion of the
15 site (Indicating). This is the asphalt driveway that
16 goes back to the farm buildings and also to the house
17 that is here.

18 CHAIRMAN STUTO: You go over that quick?

19 MR. COSTA: Sure. This is the 100 foot radius
20 distance from the building. As you can see, a portion
21 of that is within the subject parcel which is here
22 (Indicating). That is about an acre in size. The
23 building is being proposed right here (Indicating).
24 The 100 foot radius falls right along the property
25 line. There is a portion of this land that is

1 currently being farmed, that is not owned by the
2 Orshans. It is owned by Patricia. The impact would
3 really be along this portion of the farm.

4 This is the access road to the farm into the
5 buildings in the back (Indicating).

6 If we go to a larger overview, you can see the
7 parcel of the farm - like I'm indicating here
8 (Indicating) - that totals about 36 1/2 acres. The
9 impact would amount to .12 acres which is 5,000 square
10 feet. It's not like they can't farm that. It's just
11 that they cannot spray with their equipment. They can
12 hand spray.

13 I think that's pretty much it for what I have
14 for exhibits. I think that's what the board requested
15 the last.

16 CHAIRMAN STUTO: Okay, you want to go back over
17 your project?

18 MR. COSTA: The project, as I mentioned is
19 exactly an acre in size. What is being proposed is a
20 4,100 square foot office building, one-story with
21 associated parking. Utilities are all in close
22 proximity. There are water mains on Loudon Road. There
23 is the sanitary sewer force main that runs along the
24 bike trail. This is the Colonie Mohawk Bike Trail that
25 is located to the south of the site (Indicating).

1 Again, the water connection would be made here
2 (Indicating). The sanitary sewer connection would be
3 made to the force main. We would have the parking
4 that would accommodate the patients and the people who
5 are working.

6 We would have storm water management in the
7 back.

8 As far as site statistics, there is about 35%
9 paved, 9 1/2% building area and about 55% green. When
10 we were here last time, Joe Grasso from CHA suggested
11 conservation over the parcel. We reviewed that and
12 were okay with that analysis of keeping those
13 conservation easements.

14 MR. GRASSO: Can you describe where those were?

15 MR. COSTA: Yes. I believe they were alone
16 here, Joe (Indicating). It's pretty much the perimeter
17 of the property.

18 CHAIRMAN STUTO: This has been reviewed our
19 town designated engineer, Joe Grasso.

20 Joe, do you want to talk, or do you want to
21 turn it over to the neighbors first?

22 MR. GRASSO: No, I'll talk.

23 Just to refresh the Board's memory, there is a
24 new letter in your packet where we did review the
25 project previously. That previous review letter is

1 still included in your packet. It was a letter dated
2 August 12, 2016. Nick touched on some of the salient
3 items. I think it's important to know our comments
4 about the 40% the restricted area - that was to comply
5 with the zoning that requires 40% of the area to be
6 protected from development if there are resources
7 being worthy of protection by the Town. What we felt
8 was important was to provide a perimeter buffer around
9 the site, both on the north side which is to the right
10 of the page, to the west side which is to the top of
11 the page and then a pretty wide strip along the south
12 side of the project site. That southside was to keep
13 the development out of that portion. I believe it was
14 50 feet. The purpose was so that the strip would
15 provide access to not only this property, for possible
16 future development further to the west of the
17 property. In order to make that access point lineup
18 with Fonda Road - which there is an existing
19 signalized intersection - we do not support access to
20 this property any place other than directly across
21 from Fonda Road. That concern was shared by DOT as
22 well. So, if development on the site is going to
23 occur, we want the development to be shifted somewhat
24 to the north.

25 At the last planning board meeting there were

1 concerns raised about the impacts of the proposed
2 development on the agricultural lands. These were the
3 types of graphics that the Board had asked for was to
4 look at an aerial so that you could get a better
5 understanding of just how the existing agricultural
6 operation affects the project site and conversely how
7 this project will affect those operations.

8 In terms of that 40% and where the development
9 is located - you can see that hundred foot buffer -
10 when it goes to the West it is still pretty much
11 included within the project site. That portion of the
12 farm fields is actually a farm portion of the project
13 site. I assume it is by an easement to the adjacent
14 owner. That hundred foot buffer - when you go to the
15 North side, it does come out of the project site and
16 includes both the access road as well as the
17 agricultural field along that strip. So, there is
18 going to be an impact there after the project gets
19 developed. We would not support a change to the
20 project where the building was shifted to the south
21 because it will conflict with the concern raised
22 regarding the access management along the Route 9. We
23 understand that there are impacts of the project on
24 the operation of the adjacent agricultural use, but we
25 still feel like when you have to weigh all of these

1 issues we feel that where the building in the parking
2 is located, it is appropriate given the restraints of
3 the property and taking into account the adjacent
4 agricultural use.

5 CHAIRMAN STUTO: George Howe.

6 MR. HOWE: I am George Howe. I decided to come
7 here tonight and speak up as a member of the
8 community, which I have been a member for about 15
9 years. I, like so many others here tonight, have
10 gotten to know the Orshan Farm is a staple. When I
11 moved here and I needed beets, I went to the Orshan
12 Farm. When I needed corn, back to the Orshan Farm.
13 When Halloween was upon us, once again, we visited the
14 Orshan Farm for all my decorating needs.

15 Why is this important to me? Because I believe
16 in supporting my local farmers and small businesses is
17 important. A society, I see a large move back in
18 people are realizing the importance of food and other
19 products grown and purchased locally.

20 As a community, I see us moving forward and
21 picking up momentum. I have noticed an increase in
22 farmers markets and how popular they have become. Even
23 the town of Colonie sees the importance of farming and
24 the Orshan Farm.

25 For example, here are a couple of documents,

1 statements and goals published in our very own
2 comprehensive plan; Section 2.2, Goals: encourage
3 conservation of viable farmland. Section 3: there's
4 also a growing recognition that the town's remaining
5 farmland and large open spaces are rapidly
6 disappearing. Section 3.9.1 Support Farm Operations. A
7 plan is built over time. It is based on input from
8 community members and elected officials. I believe
9 that the job of our local Planning Board is to make
10 decisions on what is best, long-term, for our
11 community. We have laid out our plan and we have
12 stated our goals. I ask you to keep the plan's stated
13 goals in mind when making a decision on one dental
14 office. I bring this up because if a dental office is
15 allotted by the Town, I feel that it will limit the
16 ability of the Orshan Farm to continue as it does
17 today. I feel that the cost associated with adhering
18 to change will be too much for them to bear and we
19 will see an end of one of the last remaining farms in
20 our community. Change costs money. Change costs
21 time. Change costs loss of production and income.

22 As we know in communities like ours, once a
23 farm is sold out, the farm is gone forever. All that
24 remains is the houses and office buildings.

25 As a member of this community, I think that we

1 owe it to the Orshans not to make decisions that could
2 impact the ability to make their living as they have
3 been doing for 97 years but to impact their living as
4 they have been doing for 97 years. I realize that
5 this is commercial property and the owner has every
6 right to sell to whomever they wish. I realize that
7 finding the perfect business to fill that lot and not
8 cause a burden on the farm operations will be
9 difficult. I think that ensuring the farming needs is
10 worth the time and effort and fits directly into our
11 Comprehensive Town Plan, moving forward.

12 CHAIRMAN STUTO: Thank you.

13 Tom Gallagher.

14 MR. GALLAGHER: Hi, I'm Tom Gallagher with
15 Cornell Cooperative Extension and also Secretary of
16 the Ag and Farmland Protection Board. I guess I'm
17 here as an advocate to agriculture. So, I just wanted
18 to give out a few facts that might help in making this
19 decision tonight.

20 Do you know when this aerial photo was done?

21 MR. COSTA: It was 2012.

22 MR. GALLAGHER: So, we might want to look at
23 this to see if this is actually correct.

24 Let me move forward.

25 MR. GRASSO: So, your Tom is about when the air

1 photo was taken?

2 MR. GALLAGHER: Yes, and is this actually
3 surveyed correctly or not.

4 MR. GRASSO: The property has been surveyed by
5 a licensed land surveyor.

6 MR. GALLAGHER: Maybe we could just verify that
7 somehow to see if it is correct or not.

8 MS. ORSHAN: Where there is the little strip -

9 MS. DALTON: Are you talking north, south, east
10 or west?

11 MS. ORSHAN: The north side - we own the barn.
12 We figured that we own less on the north side is, but
13 -

14 MR. GRASSO: Yes, we can look into the survey
15 issue.

16 MR. GALLAGHER: I think that one of the issues
17 that came up the last time that we discussed this
18 situation was pesticides. What I did was brought this
19 along. This is full of labels and there are 17
20 different pesticides that are used on the farm
21 throughout the year. They are used based on need.
22 Obviously, you're not going to spray an insecticide if
23 there are no insects. He doesn't spray an herbicide
24 if there aren't any weeds. A lot of these are used on
25 an irregular basis but probably he uses most of these

1 over a year's time. A couple of these pesticides are
2 of concern.

3 Just to give you an example of some -- I'm not
4 going to go through all 17 of them. One of them on
5 the label says: do not apply product within 300 feet
6 of town housing.

7 Three of them have the word poison on them.
8 That's just a caution or warning.

9 Do not use around home, garden, schools or
10 recreation areas.

11 Somebody mentioned last time that pesticides
12 don't smell. One of the pesticides that he uses
13 contains a non-toxic odor to help prevent accidental
14 ingestion. That's just like using propane or natural
15 gas. They have to add an odor, or you'd never smell
16 it. The odor from several of these pesticides is
17 pretty strong. I know that just in our office we
18 can't even use certain cleaning products because
19 people are allergic to them. I see that as a
20 problem, whether it's 100 feet when we put trees there
21 that odors can be an issue. Drift is illegal so the
22 actual product drifting on would not happen. There is
23 not much we can do to stop odors because odors are put
24 in there for a reason. That's one concern.

25 The other concern is that where he mixes and

1 loads his pesticides is less than 200 feet from where
2 the dental office would be about 170 feet away. So,
3 again, you get more odors and things from that.

4 Just quickly, New York State, as a site
5 regulations states: a pesticide must be used to
6 prevent contamination of people, pets, fish, wildlife,
7 property, structures, lands, pastures and adjacent
8 waters. So, basically all of these things could be
9 subject to contamination and that's why some of these
10 say that you can't spray within so many feet of the
11 structure or well or whatever.

12 Just a couple more things here.

13 The Albany County Legislator recognizes that
14 small or large farms are integral components of the
15 county's economic base. Productive agricultural soil
16 is an irreplaceable asset and agriculture contributes
17 to the economic diversity, environmental quality and
18 overall quality of life in Albany County. This
19 legislation also declares that it is the policy of
20 Albany County to promote effective communication
21 between farm and non-farm neighbors. This is our
22 County Right to Farm Law.

23 Just one other section of interest is: When a
24 buy/sell agreement is written up -- and this has to be
25 in the agreement when you buy the property -- when

1 any purchase and sale contract is presented for the
2 sale/purchase or exchange of real property located in
3 Albany County, partially or wholly in an AG district -
4 blah, blah, blah - it talks about the sections of the
5 State Law -- or within 500 feet of the AG district,
6 the perspective grantor shall present to the
7 perspective grantee a disclosure notice which states
8 -- and farming activities within the area, such
9 farming activities may include but are not limited to
10 activities that cause noise, dust and odors.

11 Seems like we just heard about that earlier
12 tonight.

13 So, are we inviting a problem by creating --
14 you're going to have noise. You're going to have
15 tractors. They're going to have dust from plowing.
16 So, I see a problem happening already just from those
17 perspectives.

18 As far as the Town of Colonie, right now in the
19 Town of Colonie there are approximately 700 acres of
20 active farm land within the Albany County Ag District
21 #3. Owners of those parcels -- about 24 people who
22 own those particular pieces of property for commercial
23 farming in the Town. I think that as a part of the Ag
24 and Farmland Protection Board, we try to protect as
25 many farms as we can. With the dwindling number of

1 acres here --- they talked about greenspace, wildlife
2 habitat and birdwatching in the area earlier tonight.
3 That's exactly what you have on the 37 acres here of
4 the Orshan Farm. You've got all of that already. If
5 this dental office goes in and forces this farm to go
6 out of business because of all the complaints or the
7 issues with owners or the issues of noise, keep in
8 mind that within the State Law, complaints can be made
9 but there is nothing that they can do as long as they
10 are using best management practices. When they are in
11 an Ag district, the Commissioner of Ag and Markets
12 will come in and rule and say that he's using best
13 management practices and he does not have to change
14 anything. So, if he goes out and plows a field and
15 customers' cars get dusty and they complain, there is
16 nothing that they can do. He is protected on the Ag
17 and Market's Law. The dental office is kind of going
18 to be on its own when these issues arise. They're
19 going to have to figure out how to deal with them. We
20 know that they are going to happen. There is nothing
21 that we can do. It's a farm. You're going to have
22 noisy tractors.

23 When you spray, you spray in the morning when
24 there is no wind. When is that? It's not 7:00 when
25 the dump trucks make noise. It's probably going to be

1 6:00. So, there is going to be a lot of those kinds
2 of issues.

3 We are updating the Colonie Ag and Farmland
4 protection plan. We just got \$50,000.00 from the
5 state. They feel that it's very important that we
6 have a plan like this in the county. I'm just afraid
7 that we're going to lose another farm in the county.
8 That's kind of why I'm here tonight to hope that we
9 can protect this farm.

10 MR. LANE: Well, if they are protected under
11 the Ag and Markets Law, why would the complaints cause
12 an issue that would cause them to possibly close down?

13 MR. GALLAGHER: What we tend to find is that
14 after enough complaints -- if somebody complains
15 about a pesticide, DEC has to come and paperwork has
16 to be filled out. He has to show all of his pesticide
17 records. We have actually had people call and
18 complain almost every time the sprayer goes on in the
19 shed. That takes time and they have to fill out a lot
20 of paperwork. If there are complaints about other
21 things where the police may respond, even though they
22 can't do anything, there is another situation where
23 they have to deal with it. We find that some of these
24 farms finally throw up their hands and say, I just
25 don't want to put up with this anymore.

1 MS. DALTON: Sir, I understand what you're
2 saying but essentially the response would indicate
3 that the parcel shouldn't be developed rather than you
4 have a problem. No matter what you put there, they're
5 going to be affected by all the things that you just
6 talked about. Frankly, in a dentist's office, they
7 are there for a much more limited of time than if you
8 were some other kind of business there. You could
9 have it zoned for a restaurant and put that there.
10 The things that you are describing would be far more
11 problematic. So, are you suggesting that they simply
12 never develop their land?

13 MR. GALLAGHER: You're right. It's going to be
14 a situation where do put there that is going to fit
15 with the farm itself? Probably the best use of it is
16 to continue to be a farm. With the situation at hand
17 right now, that doesn't look likely unless a different
18 type of sale is made.

19 Yes, because a dentist's office may only be
20 open from 8:00 to 5:00 but the ventilation systems and
21 things like that -

22 MS. DALTON: I understand what you are saying
23 but everything that you're saying will be affected no
24 matter what goes there. Essentially, there is no
25 development or there is development - if there is

1 going to be something there -

2 MR. GALLAGHER: I'm not going to say that the
3 dentist office is better than something else.
4 Obviously, yes, if you put a restaurant there that was
5 open from 7:00 in the morning until 10:00 at night,
6 that would be worse.

7 MS. DALTON: With the pesticides, yes, it would
8 be way worse. We're not talking about developing an
9 office building that we don't know who is going to go
10 in it or what they will do. We're talking about
11 somebody who is looking at this space and knows what
12 he or she is going into with regard to being next to a
13 farm and what that requires. Are there suggestions
14 -- what suggestions would you make to mitigate
15 appropriate land use here and protect the environment
16 at the same time?

17 MR. GALLAGHER: Well, some towns have their own
18 Right to Farm Law and they have changed some zonings.
19 The problem is that they've tried a lot of things to
20 help protect farms from cluster housing where they get
21 a 50-acre parcel and put all the houses on 10 acres
22 and try to farm the rest. That hasn't worked
23 particularly well. Towns have tried a lot of
24 different things to try to still be able to do
25 developments, still be able to bring in industrial

1 development and mix that with farms. In a lot of
2 cases, it hasn't been very successful. Putting
3 anything this close to the farm is going to make it
4 difficult for the farm to continue. We even in towns
5 like Rensselaerville which are much more rural - we
6 have had similar situations but it's been individual
7 residents coming in and having the same issues. In
8 some of the cases the farms try to continue on and in
9 some cases they haven't. They just kind of sold them
10 off in parcels and said it's easier to sell my land
11 and get out of the farming business. So, I think that
12 in the county and not in just this Town, but in all
13 the towns, we really have to take a better look and
14 come up with a better idea of how we can protect
15 farms. Putting an office this close to that farm
16 almost guarantees that sometime in the short term,
17 they're probably going to have to sell. It's just
18 going to put too many pressures on them.

19 MR. AUSTIN: Sir, just north of that particular
20 site and also - I'm not sure if they live in t he
21 house there ---that is in the path of the pesticides.

22 MR. GALLAGHER: Right, but it depends on which
23 pesticide they're using where.

24 MR. AUSTIN: The people on the bike path might
25 be running into the pesticides too.

1 MR. GALLAGHER: And they do have to post and
2 say that there is a pesticide that is going to be
3 applied that hasn't been applied and those kinds of
4 issues.

5 MR. AUSTIN: So, that happens now?

6 MR. GALLAGHER: Yes, by law, they have to do
7 postings when they are applying pesticides.

8 Any other questions?

9 I wish I had the answer for preserving all the
10 farms.

11 MS. DALTON: I'm sympathetic to the fact that
12 we want to save the farm. I'm really committed to
13 that. I guess that I would have to tell you that I'm
14 not convinced that this particular land use presents a
15 risk to the farm. It's a hard sell for me.

16 MR. GALLAGHER: I have seen so many farms that
17 have been pushed out for this very reason. Maybe what
18 I should have brought was a couple of examples. I
19 didn't know that we were going to be here tonight
20 until last Thursday. I didn't get a chance to talk to
21 some farmers and see if they would be willing to talk
22 about what happened in their situation.

23 MS. DALTON: Again, the issue for me is not
24 necessarily a particular applicant. The issue is that
25 they either own that property or they don't, and they

1 don't. So, whoever owns it has the right to develop
2 it, and they do. If you can make suggestions for
3 mitigating factors that we can consider, then I would
4 be happy to consider them. What I hear is that there
5 is really not a mitigating solution. The only
6 solution is don't develop that land and frankly that's
7 just not a viable solution.

8 MR. GALLAGHER: I think that we have
9 incorporated some trees.

10 Did we have any berms in there or anything? I
11 didn't notice in the picture.

12 MR. COSTA: We haven't done the detailed
13 design to look at.

14 MR. GALLAGHER: I think that those are some of
15 the issues -- especially the owners and those things
16 are some of the biggest issues that will come up
17 first.

18 MS. DALTON: I'm sorry. I didn't hear.

19 CHAIRMAN STUTO: He says that the berms and the
20 landscaping might mitigate.

21 MR. GALLAGHER: Something to help with the odor
22 situation which is going to be one of the biggest
23 issues I think right up front from the use of the
24 pesticides. They do have an odor and if we can do
25 something to help eliminate some of that -- but I

1 don't think that anything gets rid of the odor 100%.
2 Some of that might help, though.

3 MS. DALTON: And the screening on the back of
4 the property.

5 MR. GALLAGHER: Right, especially because he
6 mixes so close to where he is and that's where you
7 really get a lot of odors when you do the actual
8 mixing because you've got the concentrates.

9 MS. DALTON: How about fencing? In terms of
10 the drifts from the pesticides - if there were fencing
11 around that area?

12 MR. GALLAGHER: Drift is actually illegal.
13 What they do is now we spray a lot less. We have
14 bigger droplets so that they don't move as much.
15 Usually, the drift is not the issue. It's more the
16 odor that comes from the applications rather than
17 drift. It wouldn't be like you'd have to build a big
18 wooden fence or anything.

19 CHAIRMAN STUTO: Are there any other questions?

20 (There was no response.)

21 Thank you.

22 Paula Orshan Patrician.

23 MS. ORSHAN PATRICIAN: I'm the owner of the
24 land that they're talking about. I lived in the Orshan
25 house for 33 years plan and never smelled anything.

1 As far as them putting all these signs - I
2 don't remember my father or brother ever putting signs
3 up. If you look at the spot where my property is and
4 this little spot here (Indicating), they had eight
5 rows of beets growing in weeds there. Of course, I
6 don't speak to my brother and he doesn't speak to the
7 but other people buy vegetables for me from my
8 brother's farm, so I know what's growing there.

9 As far as the little spot that he's got there,
10 it smaller than the area here (Indicating). It's not
11 like it's going to be detrimental to the farm. If you
12 went by his farm this summer, most of his crops were
13 pumpkins. He didn't even grow them on his own farm.
14 So, talking about this little strip and this little
15 stip around the back and we're talking about
16 chemicals. Most of us get our lawns sprayed. They
17 spray them four or five times a season. Most of the
18 time they spray at the beginning of the season to get
19 rid of weeds and then again they will spray again if
20 there is corn growing to keep the bugs out of the
21 corn. They're not going to be there every day
22 spraying. They're just making it to be a little witch
23 hunt, like I said before. The doctor knows what he's
24 getting into. He said to me tonight that whether he
25 puts his dental office in or not, he's going to buy

1 the property from you anyway. It's not a big deal. My
2 brother just wants the land. He's got 78 acres of
3 land left. I'm sure if you check to tax record and
4 stuff, since my dad was sick and my dad passed away,
5 it has not been a full fledged bar for at least four
6 years. He used to sell corn to all the clam steam
7 places -- the gentleman who owns Lathiers - he has not
8 sold corn to him in four or five years.

9 When he and my father farmed the farm it was
10 like two men working for eight men. It's a lot of
11 work for one person to run the farm. He's blowing it
12 out of proportion. His house - if you're saying 500
13 feet, this yarn (Indicating) - if I go to unravel it,
14 it probably will go all the way down to the circle.
15 This is 500 feet of yarn. I lived in that house and
16 that's not 500 feet.

17 When they used to mix up their chemicals in the
18 barn, you never smelled it at the house. I lived
19 there for 33 years. I worked there until I was 43. My
20 father started the corn business when I was 14; he was
21 12; my sister was 7. We never smelled stuff like
22 that. He's making it like a witch hunt.

23 I'm sure that if there is a day that he is
24 spraying chemical and you have to put signs out, the
25 doctor can call his patients and say hey, we have to

1 reschedule. They are spraying chemicals today. I would
2 say that they have to give -- what did Mr. Gallagher
3 say? You have to give them 24-hour's notice.

4 If you go to Fonda Road across from the farm
5 with the light is that Dr. Mitola is going to use -
6 where all the houses are on Fonda Road, there is
7 nobody here that lives there, but they spray up and
8 down Fonda Road and they are probably not 100 feet
9 behind people's houses. They don't have time -- I know
10 when my father was alive they didn't have time to
11 knock on doors and stuff. I know for fact that was
12 never done. So, technically it has been illegal away
13 that they have been spraying. They are making it sound
14 like they are spraying and spraying. They didn't go
15 up and down Fonda Road and put science and not on
16 people's doors. Plus, years ago the Cinnamon Tree
17 Restaurant is where Eddie's Aquarium is right now. We
18 used to spray right up to the back door. We were
19 friends with the people that owned the place. The guy
20 would go out and pick vegetables closer from me to
21 you.

22 They are just blowing this out of proportion. I
23 feel bad for the doctor because he has a lot of money
24 invested. If I don't sell to him, I will hang onto the
25 property until death do me part. I'll just hang onto

1 it.

2 They are talking about their scare guns last
3 time. David's wife was saying the guns -- if you have
4 been near the airport where the people had their
5 little stand were Engalls used to be -- I bought corn
6 there one day and they do have the gun that goes off.
7 They only put the gun in the field when they are
8 picking corn to keep the birds out.

9 Like this nice woman said, what am I going to
10 be able to sell the property for? What good is it?
11 I've been paying taxes for almost 30 years on this
12 property. It has been rezoned two or three times
13 already. What else can I put on there? Like I said,
14 they are making such a big deal about the spraying.
15 What they have been doing all these years has been
16 illegal anyway. If you had the map of the people on
17 Fonda Road, and if you went and figured out where the
18 road is and where the houses were, most of them are
19 not within 200 to 500 feet -- plus his own house that
20 he lives in. So, technically he can't spring near his
21 own house. His own house is right over here
22 (Indicating) and if the property is here - this is not
23 detrimental to his farm. He has a tiny little piece
24 here (Indicating) and a tiny little piece here
25 (Indicating). He's got 78 more acres and he's renting

1 30 acres.

2 This little strip - if he wants, I will buy it
3 from him. It's just a witch hunt.

4 Does anyone have any questions for me?

5 CHAIRMAN STUTO: When was it subdivided? That's
6 the only question I have.

7 MS. ORSHAN PATRICIAN: In 1988, but we got the
8 deed to it in 1989. My husband and I used to work the
9 farm and help my parents out. They gave it to us as a
10 wedding gift, with the idea that we would have
11 children and we might build a house there. Then, it
12 was zoned B3 where we could build an apartment - like
13 a log cabin. We just kept holding onto it. My husband
14 and I were thinking of doing like a dog grooming place
15 or something like that. So, we have had it all these
16 years. This is my only inheritance from my dad.

17 My dad passed away, my brother got the farm. I
18 am not fighting him on because he deserved what he
19 got. He worked hard. This is my only inheritance from
20 my family.

21 CHAIRMAN STUTO: Thank you.

22 MS. ORSHAN PATRICIAN: Anybody else?

23 MR. GRASSO: I have a question. Is a portion of
24 your property farmed right now?

25 MS. ORSHAN PATRICIAN: I used to let him use it

1 until he kicked me off the farm when I was visiting my
2 dad one day, so I told him not to use it. They did use
3 it until probably five or six years ago. I used to let
4 them use it they used to grow cabbage there. They grew
5 cabbage, I paid the taxes and I got kicked off the
6 farm because I stole \$1.57 worth of vegetables.

7 MR. COSTA: Joe, I think that's why that total
8 is like a 2012 era. It shows that portion being
9 farmed.

10 MS. ORSHAN PATRICIAN: He probably was using it
11 because it was surveyed. Is my dad says it goes from
12 the telephone pole to here, I'm not going to question
13 my dad. They just farmed around us, until it was
14 actually surveyed. We pay taxes on 1.01 acres. An acre
15 is square so I think it's 110 x 210 is what apparently
16 the acre is. It was given to us with the intention
17 that it was a gift and it was our property to do what
18 we wished with it. I wasn't going to sell it until my
19 father passed away. I'm sure, like I said, last time
20 that my father would have been fine with a quiet
21 little dental office. I don't know what else I can put
22 there that is going to make everybody happy.

23 You probably have how many patients in a day;
24 15 or 20 people maybe?

25 It's going to be no different than -- people

1 are going to be complaining about the traffic light.
2 It's not going to be any different than people coming
3 up and down Fonda Road, across the street from that.

4 If they're doing a variance, it's going to make
5 my brother's property worth more because right now he
6 is landlocked. If he sells his property, the people
7 said you would put in a paper road or something. They
8 would be able to use the same road as Dr. Mitola's
9 office. Actually, he comes out better.

10 If this deal falls through and I don't sell and
11 he sells the farm, am I going to be forced to give
12 them a right-of-way to use Route 9?

13 CHAIRMAN STUTO: Probably not. Someone would
14 have to condemn it from you like the Town - a
15 governmental entity - to force you.

16 MS. ORSHAN PATRICIAN: But if he sells the back
17 of the farm which is now zoned single-family
18 dwellings -

19 CHAIRMAN STUTO: I do not know what it is zoned
20 for.

21 MS. ORSHAN PATRICIAN: But if I do not sell the
22 land, they cannot force me to take my land -

23 CHAIRMAN STUTO: A private party cannot take
24 your land.

25 MS. ORSHAN PATRICIAN: The developer wants to

1 buy it, he's going to have to pay the price. If
2 somebody buys the back property on the farm, there is
3 no way that they can make me sell my property or take
4 it; right?

5 CHAIRMAN STUTO: Correct.

6 MS. ORSHAN PATRICIAN: Are there any other
7 questions?

8 (There was no response.)

9 I appreciate your time and I am again sorry
10 that you are in the middle of this family thing.

11 CHAIRMAN STUTO: Thank you.

12 MR. GALLAGHER: What is the farm zoned?

13 MR. LACIVITA: It is office/residential.

14 CHAIRMAN STUTO: Agriculture is a permitted use
15 within that district.

16 MR. COSTA: Joe, a portion of that is
17 office/residential.

18 CHAIRMAN STUTO: Okay, to the Board members
19 want to speak?

20 (There was no response.)

21 Okay, I will speak. I agree with Kathy on this
22 that I do not see how this project kills the farm.
23 Maybe I'm wrong. I am also convinced that it is zoned
24 a certain way and they are entitled to develop it. I
25 think that the way it is laid out and the fact that it

1 gives access across from Fonda are all positive
2 things. I think the impact on the farm is minimal.
3 That is my opinion. I'm ready, personally, to go
4 forward.

5 Joe, do have any more comments?

6 MR. GRASSO: No.

7 CHAIRMAN STUTO: The application before us is
8 for an application for concept acceptance, as we see
9 in front of us here. Do we have a motion?

10 MS. DALTON: I'll make that motion.

11 CHAIRMAN STUTO: Kathy makes a motion. Second?

12 MR. LANE: Second.

13 CHAIRMAN STUTO: Any discussion?

14 (There was no response.)

15 Okay, this is concept and we will be coming
16 back for final. It is not a commitment from the town.

17 Any other discussion?

18 (There was no response.)

19 All those in favor, say aye.

20 (Ayes were recited.)

21 All those opposed, say nay.

22 (There was no response.)

23 The ayes have it.

24 Thank you.

25 MR. COSTA: Thank you.

1 (Whereas the above entitled proceeding was
2 concluded at 8:52 p.m.)

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CERTIFICATION

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

NANCY L. STRANG

Dated _____

