

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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4 STEWART'S SHOP
5 19 FULLER ROAD
6 APPLICATION FOR CONCEPT ACCEPTANCE

7 *****

8 THE STENOGRAPHIC MINUTES of the above entitled matter
9 by NANCY L. STRANG, a Shorthand Reporter commencing
10 on November 28, 2017 at 7:17 p.m. at The Public
11 Operations Center, 347 Old Niskayuna Road, Latham,
12 New York

13 BOARD MEMBERS:
14 PETER STUTO, CHAIRMAN
15 KATHLEEN DALTON
16 LOU MION
17 CRAIG SHAMLIAN
18 STEVEN HEIDER
19 SUSAN MILSTEIN

20 ALSO PRESENT:
21 Joseph LaCivita, Director, Planning and Economic
22 Development Department
23 Christopher Potter, Stewart's
24 Michael C. Magguilli, Esq., Town Attorney
25 Joseph Romano, PE, CHA
Lay Yip
Weiqiang Xu
Steve Geurds
Richard Bovee
Ken Mason

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CHAIRMAN STUTO: The next item on the agenda is Stewart's Shop, 19 Fuller Road, application for concept acceptance, raze existing buildings and replace with a 3726 square foot convenience store and three pump fuel canopy.

Joe LaCivita, do you have any preliminary comments on this?

MR. LACIVITA: We might as well get a couple of dates on the record. We have seen this project several times, not only from the DCC perspective but this Board has seen it January 26, 2016. It came here at that time for sketch.

The initial concept was June 7, 2016.

It was back here again on February 7, 2017. No action was taken on the project.

We are here tonight for concept acceptance and I will turn it over to Chris.

CHAIRMAN STUTO: Before you start, members of the public, if you want to speak on this project, there is a sheet of paper over there. If you could sign in, it will allow us to take your comments in an orderly fashion.

MR. POTTER: Good evening. I am Chris Potter from Stewart's.

1 The last time we were here we made some
2 modifications to the site plan. One, we reduced the
3 building square footage by 249 square feet. The gas
4 canopy was reduced by almost 2,700 square feet. We
5 got rid of a dispenser underneath the canopy. Instead
6 of four dispensers, we now have three.

7 There was some concern about the ability for
8 sight lines with pulling out of Katherine Road. We
9 have pushed the fence as well as the sign back and the
10 landscaping that is out there is low. It is actually
11 back further than what is out there today.

12 We relocated the parking, so there is no more
13 parking in the front yard. We also added the interior
14 landscaped islands. This plan that we have today does
15 not require any waivers whereas the last plan that we
16 had did require waivers.

17 As far as the dumpster enclosure, that now
18 has changed to a masonry dumpster enclosure. It will
19 match the building architecture with the stone and the
20 cement board.

21 CHAIRMAN STUTO: Before we get into all of
22 these little issues, my understanding is that we are
23 going to see two alternative plans. I think maybe we
24 want to talk about the issues before we talk about the
25 little issues.

1 Do you have both drawings?

2 MR. POTTER: So, the colored plan is option A.
3 Option B was an additional exit only access off the
4 back, which would allow trucks to enter off of Fuller
5 Road and circulate on the side of the building and then
6 back out onto Fuller.

7 CHAIRMAN STUTO: Here is the million-dollar
8 question.

9 I drove by there and the side street where
10 the side entrance is - it's a pretty narrow street. I
11 think the neighbors were here discussing that with a
12 little bit of anxiety about having that entrance. I
13 guess I question whether we need curb cuts on
14 Katherine. I guess that is the question.

15 MR. POTTER: We would absolutely need it for
16 our delivery trucks to exit. There is no way a fuel
17 tanker could enter the site and exit the site out of one
18 curb cut.

19 CHAIRMAN STUTO: The plan on the right shows
20 two curb cuts.

21 MR. POTTER: Unfortunately, the Albany County
22 Department of Public Works is not in favor of that. So,
23 actually that option is something that is probably not
24 viable because it would not be permitted by them, based
25 on their comments.

1 MR. LACIVITA: With that question, if the Town
2 supported closing down the access to Katherine to Albany
3 County, can trucks maneuver with the two access points
4 to Fuller Road?

5 MR. POTTER: Not a sizable fuel tanker, they
6 can't. A fuel tanker has to exit onto Katherine. There
7 is not enough space between the building and the setback
8 for the blacktop to the property line that would allow a
9 tanker to get through there. It would allow up to a
10 WB-40 tractor-trailer to exit through there.

11 CHAIRMAN STUTO: Has our Town Designated
12 Engineers studied that question?

13 MR. ROMANO: No. The two plans that we reviewed
14 both included the access to Katherine.

15 CHAIRMAN STUTO: Can you explore a different
16 configuration with the two entrances onto Fuller and
17 maybe figure out a way to get the tankers in and out?

18 MR. POTTER: We have been through that.

19 CHAIRMAN STUTO: I'm asking our Town Designated
20 Engineer if they can study that.

21 MR. ROMANO: I know that they have been through
22 a number of options.

23 MR. POTTER: Albany County is not supportive of
24 two access points on Fuller.

25 CHAIRMAN STUTO: Do you know that for a fact,

1 Joe LaCivita?

2 MR. LACIVITA: I am not 100% confident that is
3 accurate. I think we have been working through the
4 process. I know Chris has been involved with a number of
5 the meetings, but if we supported the double access,
6 that would carry much more

7 CHAIRMAN STUTO: How are you proposing to
8 control traffic in the neighborhood through that side
9 street?

10 MR. POTTER: Through signage. There is no way a
11 large truck could even exit out that way. There's not
12 enough room for a truck to maneuver down the road.

13 CHAIRMAN STUTO: If you don't mind, our Town
14 Attorney is here, Mike Magguilli.

15 Have you found that to be successful in the
16 past? It is a loaded question, in a way. He is
17 proposing controlling traffic in a residential area
18 with signage.

19 MR. MAGGUILLI: With Stewart's, no. We have had
20 trouble with a couple of other Stewart's sites in the
21 Town with the signage and moving in and out one way. We
22 got very little cooperation from Stewart's to try to
23 alleviate the problem. For them to stand there and say
24 that they are going to address the issue with signage -
25 I have my doubts.

1 MR. POTTER: I just don't understand why a
2 truck would make a right and go through that
3 neighborhood anyway, we had a traffic study done that
4 supports that. I just don't see the likelihood of a
5 large truck making that right-hand turn on Katherine,
6 going back out which would get you back to Central
7 Avenue where there is no signal at that intersection.

8 MR. MAGGUILLI: They want this Board to approve
9 putting these fuel trucks onto a very narrow residential
10 street to make all fuel deliveries on and off of
11 Katherine Street, if I understand this gentleman
12 correctly. Katherine Road, I don't think can handle it.
13 It is a very narrow street and it doesn't even meet the
14 Town's current requirements of 32 feet. How they expect
15 to circulate traffic onto that small residential road is
16 beyond me.

17 CHAIRMAN STUTO: Thank you.

18 Okay, does the Board have any questions or
19 comments?

20 Do you want to go over the rest of your
21 presentation?

22 MR. POTTER: Sure. I don't have a whole lot
23 more to add, other than the turning movement diagram
24 here shows how the fuel tanker can exit.

25 I know what the Town Code is. This road is

1 restricted with a four time weight limit, except for
2 local deliveries. This would constitute a local
3 delivery. It would be permitted to use Katherine Road
4 to exit out on.

5 MR. LACIVITA: Do your trucks dispense on the
6 driver side or passenger side?

7 MR. POTTER: It's on the passenger side.

8 CHAIRMAN STUTO: Joe Romano from Clough - you
9 have reviewed this. Do you want to give us your comments
10 on this briefly and then we will hear from the public?

11 MR. ROMANO: We issued a letter on November 13,
12 2017 which the Board has.

13 Really our letter focused on four items that
14 came up during the concept review which included truck
15 access to the site and the existing issues caused by
16 trucks temporarily parking in the median of Fuller
17 Road, the need for waivers from the Town's Land Use
18 Law, signage to restrict truck access on to Katherine
19 and visual obstructions caused by the sign, fencing
20 and landscape placements.

21 We had done an independent review of trucks
22 accessing the existing Stewart's sites.

23 The week of February 20, which was shortly
24 after the last time the project was in front of the
25 Board, we performed traffic counts for each hour the

1 existing store was in operation which included 5:30
2 a.m. to 11:00 p.m. In particular, the number of trucks
3 parking within the Fuller Road median and the adjacent
4 office building parking lot were evaluated.

5 During the period of observation, a total of
6 four trucks, which we consider to be tractor-trailers
7 or box trucks, temporarily parked within the median of
8 Fuller Road and 19 trucks, box trucks or pickup
9 trucks, utilized the adjacent office parking lot to
10 utilize the Stewart's. The tractor-trailers that were
11 temporarily parked within the median of Fuller Road
12 created a hazard in obstructing the view entering or
13 exiting vehicles.

14 That is our summary on the truck access.

15 Obviously, the plans that we reviewed both
16 included the proposed access to Katherine. So, our
17 letter talked about the potential for signing not only
18 on Katherine, but Fuller Road to restrict trucks
19 turning onto Katherine and using the Katherine Road
20 curb cut to access the site.

21 Chris had mentioned the need for waivers
22 the previous plan required three separate waivers. The
23 revised options do not require any waivers and they
24 are in conformance with the design standards. The
25 visual obstruction the sign, fencing and landscaping

1 has been revised to push a way to increase the site
2 distance at Katherine. Our recommendation would be to
3 use low level landscaping.

4 CHAIRMAN STUTO: Okay, thank you.

5 We are going to take comments from the
6 neighbors now.

7 Terry Haywood?

8 MS. HAYWOOD: I have pictures to show you. Here
9 he is talking about how narrow the road is.

10 CHAIRMAN STUTO: We have a petition here with
11 pictures. Are these different?

12 MS. HAYWOOD: Yes, some are different pictures.

13 This was when I was going out to work the
14 other morning. Now that we have that 33 Fuller Road
15 with the motel being taken care of -

16 CHAIRMAN STUTO: Do you have just one picture,
17 or more than one?

18 MS. HAYWOOD: No, I have more than one. This
19 shows you where the parking is. This is looking out my
20 bay window.

21 CHAIRMAN STUTO: Can we mark these as Ms.
22 Haywood pictures with today's date?

23 MS. HAYWOOD: This shows gas stations and what
24 chemicals that are released. It doesn't make for a good
25 neighborhood.

1 First off, the main concern is the gas
2 station on a narrow road. You can see from the
3 pictures that the road is only like 19 feet wide. You
4 can practically put your hand out the window and touch
5 the car next to you. You can see in the picture with
6 the truck in front of the motel and the car parked
7 there that a truck and a car can't pass through there.
8 The weight limit, they say, is for tons. A pickup
9 truck -- I looked it up -- is almost 3 tons. Some
10 people have those duly big pickup trucks. They have to
11 be almost 4 tons. How are you going to limit what
12 trucks come in and out of which entrance? One of the
13 neighbors said, which I didn't know, that our road was
14 actually a lake and they filled the lake in and it has
15 Sandy Loom over top of the road. The road has
16 collapsed twice already. It would never hold up to a
17 constant flow of pickup trucks. Like I said, it is not
18 solid underneath their. It was a lake.

19 Our biggest concern is about the gas pumps,
20 no matter where they are located.

21 All of us have agreed that Stewart's is nice
22 to have in the neighborhood as long as it stays on
23 Fuller Road.

24 You can see from the picture taken from my
25 window and it's not just a personal issue. It is for

1 the whole neighborhood. That road is small. What store
2 is one-third of the way down a residential street? It
3 is a very small narrow residential street and this has
4 parking one-third of the way down. That's a very real
5 concern.

6 Yes, I have a personal stake because the
7 parking is directly across from my window. Every day
8 of the year I am going to have cars getting out and I
9 am going to be afraid to go outside because you have
10 all kinds of people in the neighborhood day and night
11 parking on a 19 foot road. You're going to have
12 traffic making rights and lefts out of a 19 foot road.
13 You're going to have them coming in both directions
14 and going out both directions. There are pictures of
15 trucks in the median. Whether this would alleviate
16 trucks parking in the median or not - I don't think
17 that it is definitely going to because it's just
18 convenient and it's a unique situation where we are
19 located by Railroad Avenue and the number of big
20 trucks coming off of the Thruway.

21 The main concern is the gas station. What I
22 passed out shows all the hazards in all the chemicals
23 and increased cancer risks of having just the gas. It
24 does emit fumes.

25 I also have questions about the variance. No

1 one in the neighborhood knew anything about Stewart's
2 coming in.

3 January 26, 2016 there was the sketch plan
4 review. When was the variance granted?

5 CHAIRMAN STUTO: That was in front of a
6 different Board - the Zoning Board of Appeals

7 MS. HAYWOOD: From what I have seen in the
8 Colonie Town thing, is it true or not true that
9 neighbors were supposed to have been notified and
10 science were supposed to have been posted for variances?

11 CHAIRMAN STUTO: I believe there is a notice,
12 but I can't speak to that.

13 Do you know, Joe?

14 MR. LACIVITA: I can't say no -

15 MS. HAYWOOD: I have the notes for the variance
16 here and it says about notification and about people
17 being within 250 feet. Neighbors were supposed to have
18 been notified. It was supposed to have been put on the
19 site. It was not put on the site. The only way that us
20 neighbors heard of it was through rumors. We came to the
21 Town and asked what was going on and that only then were
22 we notified that evidently the variance had been
23 granted.

24 CHAIRMAN STUTO: The notice for the variance
25 does not come out of our Board. It is a different

1 Board.

2 MR. LACIVITA: Right. The Building Department
3 does their own notification.

4 CHAIRMAN STUTO: So, we can't speak firsthand
5 to that. We make sure that the notices are out for our
6 meetings.

7 MS. HAYWOOD: Nobody from our neighborhood was
8 notified, which is a violation of our rights. It never
9 would have gotten this far because we all would have
10 turned out at the variance meeting and I believe the
11 variance would not have been granted if you knew all of
12 this. That one stone house there is being demolished
13 and that would not have been turned over to commercial
14 just because they bought the two commercial properties
15 and it would have killed it right there.

16 Our rights were not given consideration in
17 letting neighbors know. The first that we knew about
18 it was through rumors and then the Planning Board
19 sending us letter for the June 7, 2016 meeting. That's
20 how us neighbors found out about it. I believe there
21 was a direct violation of the variance that they were
22 trying to slip this through.

23 It says that the public hearing must be
24 mailed at least 10 days or personally delivered at
25 least five days before the scheduled date of the

1 public hearing. None of that happened with this.

2 MR. LACIVITA: Peter, I will confirm what
3 happened from the Zoning Board and get back to the
4 Board. I know that we have heard it a couple of times
5 here now. I can't speak to that and I can't say that it
6 didn't happen, but I certainly will let you know.

7 CHAIRMAN STUTO: Thank you.

8 MS. HAYWOOD: Like I said, I do know from
9 myself living within 250 feet of the site and the other
10 neighbors -

11 CHAIRMAN STUTO: Okay, you made your point.
12 We're going to check and see what records they have in
13 the other department.

14 MS. HAYWOOD: And if that -- we could have
15 filed to oppose it within 90 days and we lost that
16 option because we never knew that it existed. So, I have
17 a big concern over why we never were notified in the
18 first place.

19 I know that they reduced the square footage,
20 but I know that most of the Stewart's - they purposely
21 have it set at 3,675 square feet so that they don't
22 have to do the environmental review. Right now,
23 things that need to be looked at are change in the use
24 or intensity of use and preserving the character or
25 quality of existing community, the level of traffic

1 and hazardous resources to human health.

2 Even though it falls under the 4,000 square
3 feet, these issues still should be addressed.

4 CHAIRMAN STUTO: What is the 4,000 threshold
5 that she is talking about? Do you know?

6 MR. POTTER: It made it a Type II Action if
7 it's under 4,000 square feet.

8 MS. HAYWOOD: Right, so they go under that so
9 you don't have to have a review. Our individual lives
10 and being exposed to cancer causing agents in the air -
11 I don't think should depend on a couple of hundred
12 square foot difference.

13 I think that's about all I have got.

14 CHAIRMAN STUTO: Okay, so you have other
15 neighbors who want to talk and I'm sure they'll hit the
16 points.

17 Lay Yip.

18 MS. YIP: Thank you this evening again for
19 hearing us out. A special thanks for additional members
20 of the Town that actually came to hear us, including our
21 Town Supervisor, Town Planning Board and Town Attorney -
22 thank you.

23 I guess we have been over this over and over
24 again. I do see the attempt of the applicant trying to
25 somewhat address the major concerns that we do have

1 and that we did bring up the past couple of meetings.

2 I'm just going to start off with the current
3 existing plans that they have modified and some of the
4 concerns that we still do have and want to address.

5 The Katherine Road entrance is really our
6 main issue. We want to eliminate that completely.
7 There is no real reason why we would be in favor of
8 that, as the neighbors. That entrance, the road - the
9 Board already knows because you visited the site. You
10 understand the road width. It doesn't accommodate for
11 that, especially given that the new motel has actually
12 moved forward which that is a good thing.

13 Good job to the Planning Board for making
14 that. I do want to praise you and thank you for that.

15 They also have all the parking and ingress
16 and egress out of Katherine Road. They are reversing
17 out, as a matter of fact.

18 This Katherine entrance from Stewart's is
19 pulling in and pulling out pretty much diagonally
20 across that traffic. That is just a hazardous
21 situation. I personally don't think that I need to
22 stress how that really is not favorable to the
23 neighborhood.

24 If applicant cannot accommodate their
25 development without an entrance - an egress on

1 Katherine, didn't they propose Fuller Road?

2 CHAIRMAN STUTO: Yes.

3 Do you understand that drawing? There is two
4 on Fuller and there is one on Katherine.

5 MS. YIP: Correct. So, if we eliminate
6 Katherine, which would be the most ideal - what Chris is
7 proposing is to put a truck entrance out here which
8 would be extremely disruptive to the Pinehurst entrance
9 and exit because it's very close to Pinehurst Road. As
10 you can see there is 25 feet of visibility and you're
11 talking about tractor trailers pulling out. There is no
12 way that people exiting Pinehurst are going to be able
13 to see the right turn, the left turn or any turn if that
14 truck is trying to pull out. Pinehurst is actually width
15 wise more narrow than Katherine. I'm sure that is
16 apparent as well.

17 The other concern that I have -- Chris, on a
18 daily basis, how many parking spots do you need? With
19 this new submission - with this new concept, there is
20 not enough parking for your patrons. I'm sure our Town
21 Designated Engineer has already reviewed the traffic
22 studies in terms of -- there are 19 trucks that get
23 parked there?

24 MR. POTTER: From the study that we did there
25 were 19 trucks over the course of the day; 5:30 to

1 11:00.

2 MS. YIP: And I believe that a majority of it
3 is probably between 5:30 to 6:30 and then you have a
4 batch from 11:30 to 1:00.

5 MR. POTTER: There are definitely waves.

6 MS. YIP: Yes, waves of trucks and so forth.
7 With that amount of traffic being parked on the site and
8 Stewart's employees, this is not enough parking. There
9 are no designating parking spots for its current patrons
10 that are overloaded tractor trailers. They have only
11 accommodated parking just for passenger vehicles and
12 vans. I think that the parking situation is where I am
13 not sure how we can address it, even in the submitted
14 plans.

15 So, that's our input on the most recent plan
16 adjustments and changes, so to speak.

17 Additionally, we do have some additional
18 concerns for the type of business that is being
19 proposed -- the actual lighting from the station that
20 will be on almost all the time, especially at night
21 including not only the lights under the fueling
22 canopy, the lights inside the store office, sign
23 lights, business sign as well as gas prices lights.
24 This area is one of those special areas because it's
25 so close to the proximity of single family residences.

1 As you can see Terri -- her house window
2 looks at it and this light disturbance is something
3 that in the long term will extremely disturb the
4 neighborhood. The extra traffic added to Katherine
5 Road and the cars lining up to fuel.

6 The gas tanker truck that will show up to
7 refuel the underground tank and applicant's delivery
8 will cause extreme noise disturbances during the hours
9 of 12:00 a.m. to 4:00 a.m. We are talking about
10 deliveries during hours that people should be
11 sleeping. Those are loud noises. We know how load fuel
12 trucks are and applicant already stressed in their
13 last meeting that they plan on making these deliveries
14 between the hours of 2:00 a.m. to 4:00 a.m.

15 Chris, correct me if I'm wrong.

16 MR. POTTER: I don't believe that is correct.
17 Actually, there was a comment from Planning to restrict
18 our deliveries to between 7:00 a.m. and 7:00 p.m., which
19 we would be willing to.

20 MS. YIP: If that is the case, that means that
21 you will be making deliveries during your business
22 hours. How is that manageable with traffic?

23 MR. POTTER: We do that every day at all our of
24 stores.

25 CHAIRMAN STUTO: Can you address the Board,

1 ma'am?

2 MS. YIP: I'm sorry.

3 So, if that's Chris' proposal to make the
4 deliveries of the oil tanks between 7:00 a.m. to 7:00
5 p.m., when that truck is making deliveries, these
6 parking spots are gone. Where are the patron's
7 vehicles going to park? I'll bet you anything that
8 they will park on the street, which means it's our
9 residential streets. That's the effect that we're
10 going to be having.

11 The value of our houses will be decreasing.
12 This is for certain.

13 I am a licenced real estate broker. I can
14 tell you that it will go down. I'm not the only one
15 who is saying this. There are reports, so that is not
16 bias.

17 The industry that diminished property values
18 the most, first being a hospital and second is a
19 convenient store and gas station. This is per
20 Zillow.com.

21 The second major issue we have - homeowner's
22 insurance. Within 300 feet a property borderline near
23 a subsurface gas tank storage, so to speak, or gas
24 station, so to speak - we will not be entitled to FHA
25 insurance anymore.

1 In addition, we also did get from a
2 professional -- Marshall and Sterling Brokerage Firm
3 the following statement: When we inquire the affects
4 of commercial properties near residential properties
5 -- I guess the most important part here that in
6 general, carriers would want commercial or
7 non-residential properties, depending on the use,
8 1,000 feet or more from the home. This is up to the
9 underwriting review as some of our carriers may not
10 write the policy if a gas station were within 1,000
11 feet of the home.

12 I'm not saying it will happen, but if it does
13 happen, who should be accountable for our -- the
14 consequences that we are going to be dealing with?

15 Again, I'm not making this up. I do have
16 documentation.

17 The first letter is from the insurance
18 brokers. The second letter is the FHA's laws.

19 The gas fumes out of the vent pipes and
20 customers fueling spilled gasoline, even though the
21 hoses are safer than they used to be, people still end
22 up dripping gas by overfilling or pulling the nozzles
23 out while there is still gas in the hose.

24 The National Institute of Health has warned a
25 constant exposure to spilled or vaporized gasoline can

1 lead to respiratory problems, along with long, brain,
2 kidney damage and cancer.

3 The garbage -- i.e. showing you pictures of
4 existing Stewart's garbage dumpster. These are on two
5 different occasions; one in the winter and one summer.
6 I did not find the largest amount and then take
7 pictures of it. I did not do that.

8 This is going to be right next to a home. On
9 the second picture you will see where they plan to put
10 the dumpster masonry. This is how close they are to
11 the next house (Indicating).

12 Pollution and noise from the cars coming to
13 refuel, potential for fires and explosions, potential
14 for armed robberies which statistics have shown to
15 increase their gas stations.

16 I want to stress to the Planning Board that
17 the applicant's success in their wealth -- we do not
18 benefit from it. I can tell you that from this
19 application design of how unique the area is and how
20 unique their proposal is in terms of where they are
21 situated, we will be dealing with the entire brunt and
22 cost of their success. The consequences and
23 implications are felt and it is our livelihood. We are
24 asking the Board to deny their concept. Thank you.

25 CHAIRMAN STUTO: Thank you.

1 Weiqiang Xu.

2 MR. XU: Hello everyone. My name is Weiqiang
3 Xu. I live in Pinehurst Road which is very close to the
4 proposed site.

5 I think that we all have heard enough.
6 Obviously, Katherine Road is not equipped to handle
7 all this traffic. It's not equipped to handle an in or
8 out exit or entrance for this proposed use. I am
9 asking the Board to deny any entrance or exit out of
10 Katherine Road. That is number one.

11 Number two is that it is not appropriate to
12 have a gas station there, right next to all of these
13 residential homes. This is very intrusive and it's
14 definitely going to impact the whole neighborhood. I
15 live there and we put houses there and we love the
16 neighborhood. We love our neighbors. We love the
17 neighborhood. It is a nice little peaceful
18 neighborhood. Now, this is going to ruin it. It's not
19 appropriate to have a gas station there. If there's
20 going to be a Stewart's shop store there, that's fine.
21 If it's going to be in a neighborhood, it should be a
22 neighborhood store. It should be a neighborhood
23 business. It should be operated in the neighborhood
24 business hours. I mean, 9:00 a.m. to 9:00 p.m. so,
25 this would be a neighborhood restriction on the hours

1 of operation. When you operate in neighborhoods, you
2 have neighborhood hours. It is normally from 9:00 to
3 9:00 and not from 4:00 to 4:00. That is all I am
4 asking the Board to consider. Again, no entrance or
5 exit on Katherine Road. Please, it is not appropriate
6 to have a gas station there. We don't need one. We
7 already have about four within two minutes.

8 Lastly, we should have restrictive operation
9 hours. I propose 9:00 to 9:00 and not into some crazy
10 hours at night or early in the morning because there
11 is a lot of noise disturbance and light disturbance,
12 as you have heard, to the neighbors.

13 Thank you, very much.

14 CHAIRMAN STUTO: Thank you.

15 Steve Geurds.

16 CHAIRMAN STUTO:

17 MR. GEURDS: Hi. My name is Steve Geurds and I
18 live at 5 Katherine Road. My house is partially obscured
19 over here (Indicating). It is the second house in from
20 where the Stewart's is going to be.

21 I would like to thank the TDE for doing the
22 traffic study and pointing out how much vehicle
23 traffic there is over there.

24 Also, I am hoping that if possible, Stewart's
25 could move the temporary fences back in from the road

1 because currently if you want to turn onto Fuller Road
2 from Katherine, you have to actually cross into the
3 crosswalk in order to see around the fence. If that is
4 something that could be addressed, that would be
5 great.

6 CHAIRMAN STUTO: Joe LaCivita, do you know
7 anything about that?

8 MR. LACIVITA: Yes. There is some barricade
9 fencing up there. We can certainly take a look at that.

10 CHAIRMAN STUTO: Thank you.

11 MR. GEURDS: This is a classic case of not in
12 my backyard, since this is my backyard. We have a
13 first-floor bedroom. We have a window and a patio door
14 and a nice pool. On a spring evening, we like to sleep
15 with the door open. This becomes a quality-of-life issue
16 for us, more than anything else.

17 Everyone else has touched on the gas pump
18 issues and turning radius and things like that. To me,
19 this is more of a personal issue.

20 My concern is the amount of light pollution
21 and noise pollution that is going to be emanating from
22 the Stewart's. It is my understanding that the
23 operating hours are going to be 4:00 a.m. to midnight.
24 Obviously, for these hours I would like to be sound
25 asleep.

1 My real concern is not the delivery vehicles
2 which you can restrict, but just trucks in general
3 that are going to be pulling into the parking lot as
4 early as 4:00 a.m. to fuel. As you know, most diesel
5 trucks do not turn their engines off. They run idle at
6 rather low idle with deep reverberations.

7 Having lived next to the old bar, at night
8 you can often hear the baseline of songs coming
9 through our walls, as you're trying to fall asleep.
10 You're just hoping that as you fall asleep, they might
11 play something good.

12 I fall asleep relatively easily, but at 4:00
13 in the morning I don't want to be woken up by lights
14 shining off of my garage through a semi-opened patio
15 door that I need to have opened to let air into our
16 room. That is so it is not a furnace. We don't have
17 central air. Natural cooling is the best cooling in
18 this case.

19 I am worried about mostly the noise pollution
20 of trucks idling lowly at low idle at 4:00 in the
21 morning.

22 CHAIRMAN STUTO: Let me just ask what are the
23 proposed hours of operation? I know deliveries, I think,
24 are restricted 7:00 to 7:00. What about the opening of
25 the store?

1 MR. LACIVITA: Mike, correct me if I'm wrong,
2 but we don't have hours of operation and the law.

3 MR. MAGGUILLI: We do not.

4 CHAIRMAN STUTO: We can restrict it, though,
5 right?

6 MR. LACIVITA: I will defer to counsel.

7 MR. MARINELLI: Yes, you can.

8 CHAIRMAN STUTO: What is the applicant
9 proposing for their hours of operation?

10 MR. POTTER: They are proposed at 4:00 a.m. to
11 midnight.

12 MR. GEURDS: So, again, the store opening at
13 4:00 the proximity of the garbage dumpster, I don't
14 think I can stop County Waste or any other hauler from
15 coming in there at 3:00 in the morning to pick up trash.
16 So, that is again, more noise pollution a couple of days
17 a week to pick up trash.

18 I pretty much have addressed my concerns. I
19 thank you for your time. Again, it is my backyard and
20 I would appreciate it if we could somehow limit this.

21 CHAIRMAN STUTO: Thank you. They are good
22 points.

23 Richard Bovee.

24 MR. BOVEE: My name is Dick Bovee. I live at 4
25 Dorlind Road. I am still in the original Fuller family.

1 My mother-in-law is a Fuller. So, the family has been in
2 that house since 1940. So, we have seen Fuller Road
3 change.

4 CHAIRMAN STUTO: Was it a farm at one time?

5 MR. BOVEE: It was a big farm. It went all the
6 way over to the nano tech and went all the way up to
7 Broderick.

8 CHAIRMAN STUTO: It was all owned by the
9 Fuller's?

10 MR. BOVEE: Fullers, Wilsons and Dotts.

11 Probably everybody's facts are correct. I
12 think that the depreciation of our houses right now is
13 the empty buildings. We have too many empty buildings
14 on Central Avenue. We have too many empty buildings on
15 Fuller Road.

16 Penske is right behind my house. When I look
17 out in the morning I see Penske behind me and I see
18 the remnants of Duie in front of me. So, talk about
19 depreciation of homes, I am living right in the middle
20 of it.

21 Traffic is a concern. Katherine is a concern.
22 If you visited Stewart's and you see the number of
23 tractor-trailers that pull behind the existing
24 Stewart's, the width of Katherine is not an obstacle
25 for the trucks. They wander behind the existing

1 Stewart's and find adequate parking. The safety is the
2 issue when the truckers park in front of subway and
3 they walk across three lanes of Fuller Road and the
4 median to get to Stewart's. Then, you have the drivers
5 that are not familiar with the area in the park in the
6 median. One of these days one of the men is going to
7 get out of there and somebody's going to nail them
8 just like the state policeman was killed.

9 Getting the trucks off of Fuller's median and
10 stopping the traffic of pedestrian drivers walking
11 across certainly should be helped. I would hope that
12 the County and the Town could work together and if the
13 two entrances work for Stewart's on Fuller, that
14 becomes an option as long as he can bring his
15 tractor-trailers in.

16 How often do you deliver fuel and at what
17 times do you normally deliver fuel?

18 MR. POTTER: It all depends on gallons sold,
19 based on how many deliveries we would do. It depends on
20 location, but we deliver off hours and we deliver during
21 business hours.

22 CHAIRMAN STUTO: You have to direct your
23 questions to us, just so that you know. We will get your
24 questions answered.

25 MR. BOVEE: The other thing is the dumpsters.

1 You're right, they pick up at 3:00 in the morning.

2 CHAIRMAN STUTO: We can restrict the dumpster
3 hour pickups.

4 MR. BOVEE: I wish you would for Penske and all
5 the other places.

6 CHAIRMAN STUTO: We cannot go back
7 retroactively.

8 MR. BOVEE: I would rather see that area
9 developed with the money that Stewart's could invest
10 versus somebody else doing it and we would still wind up
11 with empty buildings and empty structures.

12 CHAIRMAN STUTO: Okay, thank you.

13 Any other members of the neighborhood like to
14 speak on this?

15 (There was no response.)

16 Members of the Board?

17 MR. MION: I tend to agree with the last
18 gentleman that was up. If Stewart's could find a way of
19 reorganizing the property with the two curb cuts on
20 Fuller Road, blocking off Katherine Street and it might
21 even mean that you have to drop off one set of pumps, if
22 that's possible. I would think that would be the best
23 way. It would solve some of the problems, anyway, that
24 we have in that area. That way, you wouldn't even have
25 to worry about Katherine Road at all.

1 I guess I'm just more in favor of option two.
2 Take a look at that and see if you can work it.

3 MS. DALTON: I am going to back up on even this
4 proposal in general and go back to the question of
5 whether or not adequate notice was given by the Zoning
6 Board of Appeals. I am not ready to vote on anything
7 until I am certain that process was properly handled
8 because I think that the people who are concerned about
9 the health impacts on the neighborhood probably would
10 have shown up at the Zoning Board of Appeals if they had
11 been told. Given the evidence that we are being given
12 about the possible health impacts and the insurance
13 issues with regard to homeowners insurance, I think
14 those are really serious concerns that we need to
15 address before we can even consider what they want to
16 put on this parcel. That is my feeling.

17 MS. MILSTEIN: I have a lot of concerns that
18 the neighbors are sharing and at this point I don't see
19 that this is the best location for it. These are narrow
20 streets and there is a lot of issues with proximity, so
21 I am quite concerned about it.

22 MR. SHAMLIAN: I have concerns, just as
23 everybody on the Board does and most of the public. I am
24 not in a position to vote today. At the very least, I
25 think that Katherine needs to be closed off. It doesn't

1 mean that I am then in favor of the project, but without
2 Katherine being closed off I'm not in favor of it. Let's
3 put it that way. At the very least, you would have to
4 find a way to make it work with Katherine not having
5 access off the property. Again, it doesn't mean that I'm
6 in favor of the project, but that's a start.

7 MR. HEIDER: I have a couple comments with the
8 traffic. Stewart's success sometimes gets in its way. We
9 know how successful you are. Then, when they talk about
10 traffic in and out of the stores and based on looking at
11 other stores, the history of other stores and the trucks
12 on Fuller Road they are still probably going to continue
13 to park in the median of Fuller Road.

14 I don't think that parking lot configuration,
15 regardless of how you do it, is going to stop a
16 tractor-trailer pulling off of Fuller Road to get
17 coffee at Stewart's. I live in the area and I know
18 that quite frequently there are full-blown
19 tractor-trailers parked in the middle of Fuller Road.
20 I don't think that the configuration is going to do a
21 whole lot to change that.

22 There is a note in the minutes, though, that
23 the County is against the second entrance onto Fuller
24 Road. I think that is what you are referring to.

25 As far as the entrance on Katherine, I am not

1 crazy about it. I know that there are other Stewart's
2 with entrances off of side roads, but I think they are
3 pretty much stores that don't have the gas pumps. The
4 gas is the main pull for people to come there and
5 thereby the main reason that they are going to use
6 Katherine Road. I am also concerned about that. I am
7 not dead set against it, but I would rather see you
8 talk to the County about Fuller Road. See if you could
9 pull that off.

10 CHAIRMAN STUTO: Okay, I think that we are
11 coming to something of a common consensus with the
12 Board. I agree with everything that everybody said.

13 I would also add -- can we do an
14 environmental review anyway, notwithstanding that it
15 is under 4,000?

16 I would like to look into the alternative
17 with no Katherine and let's look into restricting the
18 hours.

19 MR. LACIVITA: One thing that I'm going to ask
20 Chris is the house behind it next to Mr. Geurd - what is
21 the plan for that now? Are you selling it?

22 MR. POTTER: We don't own it.

23 MR. LACIVITA: You never did?

24 MR. POTTER: We did. We sold it over a year
25 ago.

1 CHAIRMAN STUTO: What is it zoned now?

2 MR. POTTER: That is zoned single-family
3 residential. The line goes like this (Indicating). This
4 single house here is in the COR district.

5 CHAIRMAN STUTO: Can you explain the nature of
6 what actions you got before the Zoning Board of Appeals?
7 I have their decision in front of me, but can you
8 explain that, though?

9 MR. POTTER: Sure. Currently this entire
10 project was zoned COR. We did not have anything rezoned.
11 This is a permitted use on this site.

12 CHAIRMAN STUTO: Commercial/office/residential
13 is COR.

14 MR. POTTER: That is correct. So, a gas station
15 is permitted for this site. We received variances for
16 setback to the front yard of 12 feet as well as minimart
17 fueling station canopy and dumpster enclosures are not
18 permitted within 100 feet of a single-family residential
19 zone. So, we have a variance for those items being
20 closer to the single-family residential.

21 CHAIRMAN STUTO: We will check on the notice of
22 that, as well.

23 We had a public comment period and we are
24 about to shut this down. You can go up to the
25 microphone.

1 MS. YIP: Based on my understanding, one
2 Katherine which is a multi-family house here is not
3 zoned COR.

4 MR. POTTER: Everything is owned COR. Just
5 because it had a single-family house on it, doesn't mean
6 that it is not zoned COR. That was zoned COR. There was
7 no zone change whatsoever.

8 MS. YIP: Okay, thanks.

9 CHAIRMAN STUTO: Do you want a copy of the
10 decision of the Zoning Board?

11 MS. YIP: No, I do have it.

12 CHAIRMAN STUTO: Is there someone else who
13 wanted to speak?

14 MR. MASON: My name is Ken Mason. I'm not
15 going to talk pro or con about the project. I just have
16 a question.

17 Thank you for the opportunity to ask a
18 question. There has been a lot of discussion about
19 truck traffic. The trucks parking in the median on
20 Fuller Road is that legal, or not?

21 MR. MAGGILLI: I don't believe the trucks can
22 park in the median.

23 MR. MASON: I guess that I'm just trying to
24 make the point that - fix the problem. There is a
25 problem there that is illegal that's being done and this

1 should be addressed regardless of -

2 CHAIRMAN STUTO: We agree. The police have
3 limited resources. They are not everywhere at all times.

4 MR. MASON: I totally agree that you have to be
5 there all morning to address most of this. Thank you.

6 CHAIRMAN STUTO: Thank you.

7 MR. POTTER: That was mentioned at the last
8 meeting about the enforcement. If the police were there
9 and they enforced it, it would stop. It's going to
10 happen whether we go here, or it remains where it is. It
11 is happening. We are trying to correct and make things
12 much better for this whole redevelopment for the traffic
13 and for the trucks. I think that this is going to be a
14 much better presentation and flow over what is there
15 today and what we currently have. It's going to be a
16 huge improvement.

17 CHAIRMAN STUTO: Well, we are going to ask you
18 to go back to the drawing board. I will repeat what I
19 have in my notes which is: exploring elimination of the
20 Katherine Road entrance and exit, go back and make sure
21 what the records show for notice having been given on
22 the Zoning Board of Appeals decision, look at
23 restriction of hours and also whether we can do an
24 environmental review.

25 Any other points?

1 (There was no response.)

2 Thank you. Thank you, to the public, too.

3 (Whereas the above entitled proceeding was
4 concluded at 8:10 p.m.)

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CERTIFICATION

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

Dated: _____

NANCY L. STRANG
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