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PLANNING BOARD COUNTY OF ALBANY

TOWN OF COLONIE

STEWART'S SHOP
19 FULLER ROAD

APPLICATION FOR CONCEPT ACCEPTANCE

THE STENOGRAPHIC MINUTES of the above entitled matter
by NANCY L. STRANG, a Shorthand Reporter commencing
on May 22, 2018 at 8:15 p.m. at The Public Operations
Center, 347 Old Niskayuna Road, Latham, New York

BOARD MEMBERS:
CRAIG SHAMLIAN, ACTING CHAIRMAN
LOU MION
CRAIG SHAMLIAN
SUSAN MILSTEIN
STEVEN HEIDER

ALSO PRESENT:

Kathleen Marinelli, Esq., Counsel to the Planning
Board
Michael Tengeler, Planning and Economic Development
Department
Michael Tucker, PE, VHB
Joseph Grasso, PE, CHA
Mary Elizabeth Slavin, Esq.
Michael C. Maguilli, Esq., Town Attorney
Adam DeSantis
John Drake
John Fahey
Mary Cox
Crystal Bruno
Joe Fesel

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EXHIBITS

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Goldman 3.....pg. 54

1 ACTING CHAIRMAN SHAMLIAN: Next project on the
2 agenda is Stewart's Shop, 19 Fuller Road, application
3 for concept acceptance.

4 When the applicant is ready, go ahead.

5 MR. POTTER: Good evening. I am Chris Potter
6 from Stewart's. Also with me here tonight is our
7 attorney, Paul Goldman.

8 I would just like to go through a little bit
9 of history. We started this whole process back in
10 2015 to redevelop the existing nightclub as well as a
11 bunch of other rentals that are on the site. We
12 started back in October 2015 with our DCC meeting
13 with the Town. At that time, we submitted 3,975
14 square foot Stewart's shop close to the single-family
15 residential area with a four dispenser canopy which
16 would have eight fueling points. Also with that we
17 have a 1,500 square feet rental. After meeting with
18 all the departments and the DCC, we made some
19 modifications to the plan and resubmitted for sketch
20 plan, which we appeared for back in January 2016.

21 The building size stayed the same at 3,975
22 square feet. We reduced the canopy or changed the
23 canopy orientation from four in a line to four in a
24 cube. The building location changed from close to the
25 single-family residential out towards Fuller Road

1 with the gas on the side towards Katherine Road.

2 Based on the comments from that meeting, we
3 had to go to the ZBA to seek variances, which we did
4 back in February 2016. Then, at that point in time,
5 we made our first submittal for concept acceptance
6 back in June 2016, which was essentially the same
7 plan that we received our variances from.

8 After that meeting we received comments and
9 we addressed those comments. We submitted in February
10 2017 for concept acceptance.

11 In that plan we moved the building towards
12 Pinehurst because the building was more towards
13 Katherine. We move the building closer to Pinehurst
14 and got the Fuller Road driveway more centralized
15 between Katherine and Pinehurst to address some of
16 the comments that we received.

17 After that, we had some additional comments.
18 We resubmitted yet again in November 2017. Without
19 submittal, we reduce the building size to 3,726
20 square feet. We also reduced the canopy from four
21 dispensers to three. Now we have six fueling points.
22 At that time we also offered option B that we had
23 submitted which had an additional exit onto Fuller
24 Road to help alleviate some of the concerns with the
25 truck traffic. At that time, Albany County DOT was

1 not in favor of the additional access point onto
2 Fuller Road.

3 So, that brings us to what we have submitted
4 today. The major change here is prohibiting
5 right-hand turns out onto Katherine as well as
6 bringing the section of Katherine Road across the
7 front of our site up to Town specs and widening it to
8 30 feet.

9 MR. GOLDMAN: I am Paul Goldman and I represent
10 Stewart's. I just want everyone to know that this is a
11 permitted use within the zone. It is an unlisted action
12 under SEQR because it's under 4,000 square feet. We have
13 received all of our variances in February 2016. What we
14 have tried to do is to direct this turn to prohibit --
15 because we were at the public hearing - to prohibit the
16 turns into the neighborhood. We did try to deal with
17 that so that the traffic would come in on Fuller and out
18 this way with rights-in and it would essentially not go
19 through the neighborhood. That's the major demark.

20 This property is under construction - the
21 property further to the south. With the additional
22 land that were going to give, it will hopefully help
23 the overall impact of that intersection.

24 My understanding is that Albany County will
25 not allow two entrances onto Fuller Road. So, hence,

1 we have to flow to some access point. This is kind of
2 the best of our situation of what we can do with what
3 we have. That is preventing any right-hand turns into
4 the neighborhood.

5 Again, it is an as of right use. There are no
6 variances or adjustments or waivers that are needed
7 from this plan. It is a permitted use. I just want to
8 remind the Board and the public that it is zoned for
9 the use.

10 ACTING CHAIRMAN SHAMLIAN: Okay, thank you.

11 The TDE on this again is Joe Grasso from CHA.

12 Joe, what do you have to say?

13 MR. GRASSO: So, there is a comment letter that
14 we issued on this dated March 7. I'm just going to go
15 through it.

16 Because we are still at concept and the
17 changes have been throughout the course of many
18 iterations, what our letter tried to do is recap on
19 some of the more significant changes made to the plan
20 to address previous comments to provide both the
21 public and the Planning Board. I'm going to go
22 through those and I'm not going to follow the order
23 of the letter that was sent. I just want to talk
24 about a couple things highlighted in our letter.

25 First, the plan previously needed a bunch of

1 waivers from the Town design standards. The plans
2 have been revised so that no waivers are required to
3 allow this plan to move forward. So, that concern has
4 been addressed.

5 Another one was there was some concern about
6 the visual obstruction on Katherine as you are coming
7 out of Fuller Road. The plan has been revised to
8 address those concerns. We have field checked it and
9 feel like this plan won't cause site restriction
10 obstructions as designed.

11 There was some previous comments about
12 signage to restrict truck access as you're driving
13 onto Fuller Road and turning onto Katherine. The
14 applicant has committed to doing those signs and they
15 have been shown on the revised plan. That is
16 something that we would typically get into when we
17 get into final design, but they wanted to get that
18 shown and committed to on the plans so there is no
19 question as to what their intentions are.

20 I wanted to talk about the trucks and the
21 issue of the trucks parking in the median of Fuller
22 Road. Unfortunately, I was not here at the last time
23 this project was before the Planning Board. I think
24 it was back in December. I went to the minutes of
25 that meeting and when CHA's representative was

1 talking about the traffic study that we did, he
2 didn't clarify one really important point. We did the
3 traffic study continuously for one week. So, Monday
4 through Friday from 5:30 in the morning to 11:00 at
5 night for five straight days to look at whether or
6 not vehicles were parking in the median of Fuller
7 Road, patronizing the existing Stewart's just one
8 block down from here so that we can understand the
9 likelihood of those trucks doing it for this new
10 location. When we did that, throughout the course of
11 the whole week - not just one day, but over the
12 course of the whole week - there were four trucks
13 that stopped in the median. There were 19 trucks that
14 parked in the parking lot of the office building next
15 door to the Stewart's and then people ran over to the
16 Stewart's to patronize the store.

17 So, just to put in context how often - we
18 understand that it does occur, but only four trucks
19 stopped in the median. When that happens, it's not a
20 safe situation in our minds and it's something that
21 we do not want to encourage to happen more. We think
22 that this location of the Stewart's - that it would
23 happen less because of where the site is located and
24 how the curb cuts are currently proposed and a better
25 access arrangement within the circulation pattern

1 within the site. Obviously, if anybody is familiar
2 with the existing site of Stewart's on Fuller Road,
3 the access situation could only be described as
4 horrendous.

5 There was a comment made during a Planning
6 Board meeting by a resident where they had counted 36
7 trucks in one day that were either parked in the
8 median or in the office building and they didn't
9 provide a breakdown between how many were in the
10 median or in the office building. I looked back in
11 the minutes. They refer to 36 trucks and one day
12 whereas we counted four trucks in the median in 19
13 trucks in the office building over the course of five
14 days anytime between 5:30 and 11:00 at night. That
15 was the traffic study that our office did.

16 The last thing that I wanted to mention was
17 the access arrangement to the site, primarily as it
18 relates to Katherine Drive. You may recall that we
19 have always been a supporter of the Katherine Drive
20 curb cut to service the stores on the site. We think
21 it's appropriate. We think that it is an appropriate
22 access provision for the neighborhood, primarily. We
23 understand that Stewart's needs the Katherine Drive
24 access in order to get the tanker truck out which we
25 validated that they actually needed that to get a

1 tanker truck out.

2 We are supportive of the modification where
3 they are restricting the right turns out onto
4 Katherine. We understand that it is a response to the
5 concern of the neighbors. We think that it is
6 appropriate mitigation. We are still comfortable with
7 that design. We would not be comfortable with the
8 site plan without an access arrangement to Katherine.

9 We also discuss the access arrangement at
10 length with Albany County. They didn't say that they
11 would not allow to curb cuts on Fuller Road. What
12 they said is if there is going to be to curb cuts on
13 Fuller Road, there still needs to be an access onto
14 Katherine. They would not support any curb cuts on
15 Fuller Road without an access being on one of the
16 side streets. Katherine is the preferred street. What
17 they said is if the site plan was developed, there
18 had to be an additional one way out behind the
19 Stewart's toward the Pinehurst side and they would
20 consider that. I don't want to misrepresent what they
21 said in terms of never allowing two access points.
22 Their recommendation is if they're going to have two
23 access points onto Fuller Road, that it be a one-way
24 in and a one-way out. We don't think that's
25 appropriate for the Stewart's operation and something

1 that we would not support.

2 At the last meeting what Stewart's provided
3 was two optional access arrangements. They both had
4 access on Katherine Drive. One showed the current
5 site plan that you have in front of you which is a
6 full access on Fuller Road. The other option had the
7 full access on Fuller Road in Katherine as well as a
8 one way out behind the store. The reason why that
9 option was presented by Stewart's and accepted by us
10 is if certain box size truck vehicles want to get off
11 Fuller Road and Park within the site, they could do
12 that. They could park along the side of the building
13 and then continue out onto Fuller Road they could
14 swing out in that one way. Obviously, the parking lot
15 has been designed for a normal passenger vehicle. I
16 hope that clears up the issue of the two curb cuts on
17 Fuller Road in that it has nothing to do with whether
18 or not a full access on -- I call it a full access -
19 - it is no longer proposed is full access - but an
20 access onto Katherine should be developed.

21 That's sort of where we are with our review.

22 ACTING CHAIRMAN SHAMLIAN: So, just to be
23 clear, Albany County, regardless of what happens on
24 Fuller, wants access on Katherine.

25 MR. GRASSO: Exactly. There is going to be that

1 occasional truck or other truck that may pull into the
2 site and use Katherine Drive. We think reconstructing
3 Katherine Drive to a full Town road section is
4 appreciable medication to support that. We really want
5 the neighborhood to be able to access the site by using
6 the Katherine Drive curb cut and not having to go out
7 onto Fuller Road and then make a double left into the
8 site, even if you're exiting the site, going out to
9 Fuller Road and taking another quick right onto
10 Katherine. We don't think it's appropriate and we don't
11 think it's good access management. You know that we are
12 big proponents of restricting access in certain
13 situations, but part of access management is making sure
14 that people who are trying to get to the sites and out
15 of sights have the safest most appropriate access to
16 accommodate their desired movements. We think that
17 Katherine Drive curb cut is really important.

18 MR. LACIVITA: Craig, can I mention one thing
19 about the validation of the parking on the median that
20 Joe mentioned?

21 I had a conversation on Thursday or Friday
22 with one of the residents that about this
23 neighborhood and showed the plan that we see before
24 us today. As Paul has mentioned from a legal aspect,
25 this is a zoned compliant plan. The parking that is

1 shown on here is also permitted.

2 The resident had concern that they really
3 didn't look to address any of the off-site parking.
4 When I followed that conversation up with Chuck
5 Marshall on Friday, that's what they want to do. They
6 want to submit a plan that was zoned compliant and no
7 waivers needed, but asked to take into consideration
8 some of the off-site parking that you are seeing in
9 the median and bring it onto the site. So, the waiver
10 may be coming or maybe going through final review to
11 look to maybe make and allow for maybe two additional
12 sites for some of these landscaped trucks or trailers
13 that come into the site.

14 I followed it up a little deeper into the
15 Land Use Law. It does talk about under 190.50(6)C4 -
16 it does talk about circulation of off-street parking
17 to bring it in and make those arrangements on site.
18 So, we can look to justify a waiver in our parking
19 design and parking count and maybe offset some of
20 these concerns.

21 MR. MION: Based upon what Joe just said, would
22 you consider back where the fuel tanks are and you have
23 the parking spaces of 16 through 27 -- if you took those
24 out and made those spaces for larger box trucks -- would
25 you consider getting a waiver for something like that?

1 MR. POTTER: Yes, I think if the Board is open
2 to granting waivers. It was our impression at the last
3 meeting that they were not looking to grant waivers.
4 That's why we came in with this plan. If that's the case
5 now, we can certainly look at reducing the number of
6 spots for cars and having some additional ones for
7 trucks.

8 MR. MION: Speaking for myself, I think I would
9 support that.

10 MR. LACIVITA: I think one of the things that
11 we want to do is see some options in the design so that
12 the TDE can review and you can review as well.

13 ACTING CHAIRMAN SHAMLIAN: Let's hear from some
14 of the neighbors.

15 Ken Mason.

16 MR. MASON: Good evening and thank you for the
17 opportunity to talk with you tonight. My name is Ken
18 Mason. I live at 9 Katherine Road. If there were two
19 more houses on this diagram, it would be right about
20 here. (Indicating).

21 I do have a couple of questions before
22 introducing my comments.

23 I have a letter from Paul Goldman dated
24 December 20. It talks about the widening of the road
25 at this point and it uses the term for the length of

1 the project. What does that mean? Does that mean
2 while it's under construction, or permanently or for
3 the length of Stewart's?

4 MR. GOLDMAN: What we are showing here is this
5 the existing right of way. It will expand it permanently
6 at our cost to provide the Town road. It's not going
7 away after construction.

8 MR. MASON: Thank you.

9 I think the other question that I had has
10 been answered but I just want to verify it.

11 Even though the curb cut is oriented towards
12 only making a left-hand turn here, it will allow a
13 left-hand turn from Katherine into the Stewart's?

14 MR. GRASSO: Yes.

15 MR. MASON: In the context of keeping traffic
16 down - I have to tell you that I go to Stewart's almost
17 every day. I walk there. I would much rather see no car
18 traffic allowed to come down here with the intent of
19 turning left into Stewart's. The whole idea is to keep
20 the traffic on Fuller Road and not on the neighborhood
21 streets. It is a short street. I'm sure that some people
22 drive there, but you can walk there in a minute from
23 pretty much any house on the street. I do appreciate you
24 taking into concern the neighbors' thoughts.

25 There are just my general comments on the

1 project.

2 My concern is the nearby eyesores in the
3 Fuller Road area of the Town in general and how these
4 eyesores impact property values, the appearance of
5 the neighborhood and a safety aspect of the
6 neighborhood.

7 Just a few examples are that there is a
8 building at 1366 Central Avenue which burned in March
9 2017. It has the red X symbol indicating that it is a
10 safety hazard. Nothing has been done to demolish it
11 or repair the building.

12 Dewey's Diner is falling into repair. It has
13 been tagged. There are multiple buildings in that
14 area that have been tagged. The former Northway
15 Hotel.

16 I went to the Fuller Road Firehouse to get
17 data on this. They couldn't tell me the exact date,
18 but it burned sometime in 2005/2006. It sat in that
19 state until the present owner started to renovate the
20 building on Memorial Day weekend of 2017. It's two
21 weeks short of the year and the building is still
22 under construction.

23 There are the three vacant buildings on the
24 Stewart's site. I'm not being exhaustive here. There
25 are also empty storefronts. I believe that it is 71

1 Fuller Road where Cisco used to be and where the
2 warehouse used to be and Environment One used to be.
3 I think you get the gist of it that the area is
4 decaying.

5 I see this project as an opportunity to
6 improve the appearance of the neighborhood. The
7 property values improve the safety of the surrounding
8 area.

9 In today's world we talk about walkable
10 communities. It's helpful to be able to walk to
11 Stewart's to pick up a few items instead of getting
12 in the car and contributing to the congestion on Wolf
13 Road. I don't mean this to sound as entirely
14 pro-Stewart's. Stewart's has to be a good neighbor
15 with us. They are sitting adjacent to all these
16 homes. I do appreciate very much that they address
17 this turning situation.

18 There were issues raised at the last Planning
19 meeting about noise and light control.

20 I happen to be at the Stewart's on Wade Road
21 a couple of months ago and there is a sign on the
22 dumpster enclosure that says no pickups 7:00 p.m. to
23 7:00 a.m. I don't see it documented anywhere and
24 maybe it is, but I would certainly ask anything to
25 mitigate noise would be included as part of this

1 project. That also includes things like overnight
2 deliveries that are going to cause a lot of noise as
3 well.

4 I support this project but only if these
5 other issues especially with the noise, are
6 addressed.

7 Joe, I am glad you brought up the trucks
8 parking in the median. I actually did speak about
9 them at the last Planning meeting. I went to the
10 county police station following the last Planning
11 meeting and got no answer back. I went to the Colonie
12 Police station yesterday and asked him specifically
13 about this. They did state that parking in the median
14 is an illegal activity. I will submit that this is
15 just as much a traffic issue than in putting up a
16 building issue. They simply said to me all somebody
17 has to do is complain about it and we will take care
18 of it.

19 Another reality of it is that there is still
20 going to be truck traffic there. My sense is that no
21 one has gone to the police to ask them to do anything
22 about it. I'm not up as early in the morning as I
23 used to be, but I used to go to work and leave
24 between 7:30 and 8:00 every day. I'm not sure what
25 happened on the days you are there, but there were

1 repeated trucks parked in the median. There are two
2 companies that are the prime offenders of this. You
3 can tell that there are other companies where they
4 have said to their truck drivers don't park there.
5 You see them there every day parking in the parking
6 lot across the street and then walking across Fuller.

7 When this is happening, everyone is caring
8 their iPhone or their android device. You can take a
9 picture of it. I don't think too many truck drivers
10 like their truck with their license plate number
11 being given to the police. Will it solve the whole
12 problem? Probably not. Will it mitigate it? I think
13 so.

14 At any rate, I do encourage and look forward
15 to this project. I do encourage Stewart's to really
16 respect the neighbors. It's a small neighborhood but
17 it's a nice neighborhood. You have to respect them.
18 Thank you.

19 ACTING CHAIRMAN SHAMLIAN: Thank you

20 MR. AUSTIN: Joe Grasso, I have a quick
21 question. When was the traffic study done for the
22 median? Did you say that was in the evening?

23 MR. GRASSO: No, when we did our count, we
24 started at 5:30 in the morning and somebody was there
25 continuously. We took shifts until 11:00 at night. That

1 was five days straight. It was one week. I was there and
2 I wasn't sleeping.

3 FROM THE FLOOR: What were the dates that
4 occurred?

5 MR. GRASSO: I would have to look through my
6 notes. I don't even think I have it in the papers that I
7 brought tonight. I can report back to the Board at the
8 next meeting.

9 ACTING CHAIRMAN SHAMLIAN: It says the week of
10 February 20.

11 Can you address light and noise mitigation? I
12 know that it has come up before.

13 MR. POTTER: Obviously, further details with
14 regard to lighting - they are required for the next
15 submittal. We would have to comply with the lighting
16 regulations with no light transfer onto the neighboring
17 properties. Any lights that we do have mounted on light
18 poles would all be back shielded to direct the light
19 towards the lots so there is no light spillage towards
20 the residential parcels.

21 Someone mentioned some overnight deliveries.
22 We don't do overnight deliveries. It's just during
23 business hours.

24 As far as I know, the dumpster refuse pick-up
25 that was also mentioned at the previous meetings --

1 it would be restricted to 7:00 a.m. to 7:00 p.m. We
2 have no issue with that.

3 MR. MION: On your deliveries, would it be
4 business hours at 5:30?

5 MR. POTTER: No, business hours are 4:30 to
6 11:00.

7 MR. MION: So, you could get a delivery at 4:30
8 in the morning.

9 MR. POTTER: We could, yes.

10 MR. MION: That might be something that we
11 would want to take a look at.

12 ACTING CHAIRMAN SHAMLIAN: Would you be
13 supportive of restricting that?

14 MR. POTTER: Yes, it is something that we could
15 look at, yes.

16 MR. GOLDMAN: We want to be good neighbors.
17 It's got to work.

18 I would say that I drive this road probably
19 once a week. I'm not there in the morning. I don't
20 know who parks in that median because getting out
21 there and leaving your car there is like taking your
22 life into your own hands. There is a lot of speed to
23 there. I drive it every day.

24 ACTING CHAIRMAN SHAMLIAN: There are trucks
25 that do it.

1 MR. GOLDMAN: I just don't understand the
2 wisdom of it.

3 ACTING CHAIRMAN SHAMLIAN: They have nowhere
4 else to go.

5 MS. MILSTEIN: I am a little bit unclear about
6 the road widening. You are talking about being along the
7 length of the property. The property goes farther.

8 MR. POTTER: It's got to taper back and tie
9 into what's existing. It would be the 30-foot width up
10 until the point at the end of our driveway and then at
11 that point it would taper down to the current width.

12 MR. GOLDMAN: You can't have a wall where it
13 just all the sudden starts.

14 ACTING CHAIRMAN SHAMLIAN: Theodore Scott.

15 MR. SCOTT: Thank you, folks. I am a 27 year
16 truck driver. I have an immaculate safety record. From
17 looking at this plan, a tanker truck is almost the
18 length of this (Indicating). They weight 110,000 - 55
19 tons totally loaded with 12,000 gallons of gasoline.
20 There is no way you can physically make this turn
21 without coming over into this hotel's parking lot, which
22 is under construction. There is a sinking sewer system
23 here. That kind of weight is going to break the street
24 up and possibly crush the sewer.

25 This turn is impossible. I will take anyone

1 of you people in a truck and demonstrate it, if need
2 be. This residence don't want these gas tanks this
3 close to this house. I'm afraid that this ground is
4 not stable enough for that kind of weight.

5 I live right here (indicating). The street
6 can barely make two cars passing here. These roads
7 are more narrow than most people realize. To have a
8 tanker truck trying to make this articulated turn -
9 you can't do it. Somebody is going to get hurt. Kids
10 are going to get hurt. You have excessive speeding
11 traffic. I've called several times. I have asked to
12 have a radar unit here. You have people going 40 or
13 45 miles per hour. What's going to happen when this
14 tank truck comes out and he can't see past this
15 building? Somebody's going to get hurt there or
16 killed. It is a serious safety risk to me and I have
17 been driving truck for almost 30 years. I would never
18 take a truck in there. Thank you and I rest my case.

19 ACTING CHAIRMAN SHAMLIAN: Thank you.

20 Somebody wanted to talk about truck movement?

21 MR. POTTER: Truck software does show that a
22 fuel tanker can enter from Fuller Road, drop the fuel
23 tanks and exit and still make the turn with no issue.
24 They don't have to go into the neighboring lot. They
25 actually probably have a 5 feet width in the driveway to

1 spare. I would disagree.

2 MR. LACIVITA: What is the length of that
3 truck?

4 MR. POTTER: It's a 43 foot trailer.

5 MR. GRASSO: So, a common tractor-trailer is a
6 53-foot box and then 17 or 18-foot cab. So, you're
7 talking about a different design.

8 MR. POTTER: This is based on our fuel tanker
9 that we have.

10 MR. GRASSO: We use the software, too.
11 Everybody says well, maybe the software is not accurate,
12 but it is conservative. From our experience the actual
13 trucks of that size can make these movements much easier
14 than the software shows that they can.

15 ACTING CHAIRMAN SHAMLIAN: Terri Haywood.

16 MS. HAYWOOD: Here are pictures of -- this is
17 the size of the street. It is a small road. It's a small
18 neighborhood. Here are some of the pictures of the Kamco
19 trucks - I waved to them with only a few fingers every
20 morning.

21 Here is the Kamco truck parked on the other
22 side of the road (Indicating). They tried pulling out
23 of Katherine with the Kamco truck right there. I have
24 lived there 365 days of the year. I know it to be
25 true. Those pictures show how small the street is.

1 Since we have no traffic on that street, you could
2 stand out there for an hour and in an hour maybe 10
3 cars might go by. Now, we are going to have a whole
4 different configuration. In listening to the other
5 people with the other concerns, it dawned on me that
6 individual residents and lives need to be counted
7 over the commercial development that has taken over
8 what used to be suburban Colonie.

9 I grew up here. We had barns. We had houses.
10 Now, every available space is being taken up. We are
11 encroaching on small neighborhoods. None of us
12 individuals seem to matter anymore. There's a big
13 difference between having the right to do something
14 and doing what is right morally and ethically and -
15 what you would want for your families and for your
16 lives.

17 I do have a complaint about the original
18 variance. I believe it was the area variance that
19 none of the neighbors were notified. Even TJ who
20 spoke that lived in the one brick house -- I only
21 knew that this project was going to happen because I
22 was having a garage sale and he was in that apartment
23 and he was saying gee, they're talking about building
24 a Stewart's.

25 According to what an area variance is in the

1 Town of Colonie regulations, following a submission
2 of an application for an area variance related to a
3 nonresidential parcel, the applicant shall provide
4 written notice of the public hearing to all owners
5 whose properties are located partially or within 250
6 feet distance of the perimeter of the subject
7 parcel's proposed variance. The notice of public
8 hearing shall contain at a minimum the name of the
9 applicant, the subject parcel address and a brief
10 description of the proposed project as well as the
11 date, time and place of the hearing. Notices must
12 contain the following statements and landlords should
13 encourage tenants of the notice. The notice of the
14 public hearing shall be mailed 10 days before the
15 scheduled date of the public hearing. The variance
16 was granted, we have 90 days to appeal.

17 The Stewart's sketch plan was presented to
18 the Planning Board January 26, 2016. Property owners
19 were not notified until June 7 when we were all
20 starting to hear rumors. We called the Town and that
21 was only then that the Town mailed us something. So,
22 we lost our right to an appeal and we lost our right
23 to attend that original variance.

24 ACTING CHAIRMAN SHAMLIAN: You just confused an
25 area variance and the Planning Board sketch plan. A

1 variance is not granted by us.

2 MS. HAYWOOD: I heard somebody saying that they
3 weren't notified either. This is written in the Colonie
4 Law.

5 ACTING CHAIRMAN SHAMLIAN: I think Joe has an
6 update on the variance.

7 MR. LACIVITA: I have the variance hearing
8 notification.

9 MS. HAYWOOD: Is my name on it? Is the ones
10 that lived -

11 MR. LACIVITA: The subject parcel that was used
12 was 19 Fuller Road. What they did is they looked at
13 Fuller Road and these were mailed out by the Building
14 Department.

15 There was a Richard Jack who was the property
16 owner at the time. There was a resident at 6
17 Pinehurst, Martin Doherty at 4 Pinehurst, a resident
18 at 3 Pinehurst and a Jean Frye at 1 Pinehurst, 15
19 Fuller Road. 13 Fuller Road, 14, 16, 18, 20, 21 -

20 MS. HAYWOOD: What about Katherine?

21 MS. LACIVITA: The subject parcel, the way they
22 used it at the original zoning verification, was the
23 number 19. They went 200 from that. That was the
24 notification that we had.

25 MS. HAYWOOD: This is on my front window. This

1 is where the whole fence is going to be. I am within 200
2 feet -

3 MR. LACIVITA: Understood and the subject
4 parcel -- I'm trying to show you what the 200 foot line
5 is. There are actually four locations here within it. If
6 you take it from the property line and go out 200 feet,
7 that's how they gauge. They were initially looking at 19
8 Fuller Road, the way it was explained to me by the
9 Zoning Department. They do the notification based on
10 exactly what I just said.

11 MS. HAYWOOD: So, when it's out my front
12 window -- this is going to be a parking lot.

13 MR. LACIVITA: You would see the site placarded
14 from our sign. We tried to do 200 feet as well when we
15 placard.

16 MS. HAYWOOD: I mean, even the person that was
17 living in the house that was being taken down wasn't
18 notified. You would kind of think that if they're taking
19 your house away from you, that you deserve to be
20 notified.

21 The road has a four ton weight limit. The
22 average pickup truck alone weighs three tons.
23 Tractor-trailers weigh up to 40 tons. The tankards
24 are 55. This is not like a Stewart's anyplace else
25 because we are off the Thruway, off I 90 and we have

1 Railroad Avenue.

2 The fence behind me is a stockade fence.
3 Every day there are at least five full-size Ideal
4 Move trucks that are on the old access road. I look
5 out my window and they are there. They are full-size
6 trucks. There is an inordinate amount of traffic by
7 large vehicles. There are also city buses there. I
8 want to remind you that you have school buses coming
9 in and out. So, it's not like the other ones. You are
10 going to have people - you can see the intersection.
11 It is one lane coming down from Central Avenue. They
12 say I'm going to stop it Stewart's. Boom, they're
13 going to hit the break and go in there. It's a single
14 lane. You've got no place to swerve. You have
15 tractor-trailers and buses. It's not going to be a
16 little fender bender. Somebody's going to get
17 seriously hurt due to the volume of the big trucks on
18 there. That makes a big difference for safety. This
19 just going to be more stops and starts. How many
20 times have you gone past something and just hit the
21 break quick? That's what's going to happen. With that
22 one single lane coming down, you're going to be
23 backing up traffic. You have cars pulling in left and
24 right on both sides and trying to come out of
25 Katherine into one single lane and you have the

1 median there. At 5:00 - there are two lanes on the
2 other side. That road is very full when you've only
3 got one lane coming down and people stopping for gas.

4 There are all the dangers of having a gas
5 station. A gas station will not only impact the
6 quality of life, but also the quality of life for
7 future residents of the neighborhood. Construction of
8 a gas station will impact the landscape for
9 generations as gas stations are not easily converted
10 to other uses. Not only does the construction of a
11 gas station create negative health impacts to a
12 neighborhood, but it effectively prevents development
13 of a project on that site which may have had a
14 positive impact on the neighborhood. A gas station
15 will likely stay there for at least 50 years and be a
16 reminder of the missed opportunity for development
17 for a community's vision for the future.

18 Smart development tends to increase
19 transportation options and property values. They
20 encourage residents to walk, bike or run and not just
21 being tied to their cars.

22 From what I understand, if I go to sell my
23 house, the three things that devalue property the
24 most by Zulu is hospitals. The second thing is a
25 convenience store with a gas station. Those are the

1 top two things that devalue property.

2 I am 63 years old and you can see most of us
3 are in that median age in that neighborhood. We've
4 worked to maintain our little homes on that little
5 street. We are not going to get the value that we
6 have got into our houses living across the street
7 from a gas station.

8 I talked to Allstate. They can take the
9 insurance that you've got, but they won't write new
10 business for adjacent risks. They said banks can give
11 you insurance, but you have to pay a higher price for
12 it. So, who is going to want to buy my house when
13 they have to pay a higher insurance price because
14 they live next to a gas station? You can see from
15 that map how far down into the neighborhood that
16 parking lot goes. The parking lot is going to be
17 directly across the street from my house. Christmas
18 morning I'm going to have people right out in front
19 of my house. The whole point is that it comes down to
20 how far into the neighborhood is the parking is going
21 to be?

22 There are 51 Stewart's within a 15 mile
23 radius of the 12205 zip code. They have a right to
24 build it. They have money and they have the lawyers
25 and they can do it. We have rights, too. People on

1 Forts Ferry and people that are just trying to scrape
2 by in their houses - we have a right to the land that
3 we bought. We would not have bought it if we knew
4 this. When you buy a house in Colonie now, it is a
5 crap shoot what you're going to have five years
6 later. What's going to be allowed to go in? I am
7 scared because I can't afford not to get the money
8 out of my house.

9 When I go to BJ's and pump gas, I look and I
10 generally dropped five or six little droplets of gas
11 on the ground. If you multiply that all day long -
12 and it's in a neighborhood. It's the wrong thing.

13 I tried to call Chuck Marshall back last year
14 when Camelot went up for sale on the corner of Fuller
15 Road and Railroad Avenue. It is two lanes there and
16 it's got all the access coming in off of Railroad
17 Avenue. It's got a light. That would've been the
18 ideal spot for Stewart's. They could've had more gas
19 pumps. They would've had all the place for the tanker
20 trucks. Our location is not the location for this.
21 They could've had a gold mine if they went down to
22 where Camelot is.

23 It is health, it is money, it is financial.

24 Everything now is black lives matter, white
25 lives matter and all lives matter. My life matters

1 and the people in my neighborhood matter more than
2 CEOs putting more money in the bank so that they can
3 have gas pumps because it's more money for them.

4 From everything that I have read about
5 Stewart's, they are supposed to be an employee
6 friendly company. Employees have great pension plans.
7 They do donations at Christmas time. How can you be
8 giving and kind to one group and then just say, I
9 don't care about these people. We have the right to
10 do it, so were going to do it. If you have that kind
11 of ethical background, it seems to me that it should
12 carry through as well as all of your dealings if you
13 want to be known as a good family oriented company.
14 It's just not the right place for it.

15 ACTING CHAIRMAN SHAMLIAN: Nancy, please mark
16 this as Haywood 2.

17 (Haywood Exhibit 2 was marked for
18 identification.)

19 Steven Geurds.

20 MR. GEURDS: Good evening. I am Steven Geurds
21 and I live at 5 Katherine Road. This is where my bedroom
22 is (Indicating). It's about 125 feet from the gas tank.
23 So, I am a little bit queasy about having a gas tank
24 that close to my bedroom.

25 I have five points I would like to touch on

1 quickly.

2 The last meeting I did mention that the
3 barricade fence at the corner of Katherine and Fuller
4 was obscuring my view and forced me to go into the
5 crosswalk in order for me to make a left-hand turn
6 onto Fuller Road. That was never remedied. I think it
7 just shows Stewart's as not being a good neighbor in
8 this regard.

9 My second point: You are moving closer to the
10 neighborhood by a block. You are going to have
11 residents on basically four sides or three sides. It
12 would be better for the neighbors if the hours were
13 limited from like 6:00 to 10:00. It would allow the
14 residents to sleep in a little bit more without the
15 noise and without the fumes and without the lighting
16 issues that are associated with the convenience
17 store.

18 I do not have central air conditioning. If
19 it's a 55° night, I want to sleep with a patio door
20 cracked so I can breathe some fresh air. I don't want
21 to be woken up at 4:30 in the morning by a store that
22 is beginning to open. I don't want to be woken up by
23 lights or trucks pulling in and out. It's not
24 conducive. I am hoping that you will consider that in
25 defining the hours that the store can be opened.

1 My third point is parking concerns. Someone
2 mentioned that this strip could be used for truck
3 parking. Again, this point here is 40 feet, 60 feet -
4 another 30 feet. I'm going to hear people not turning
5 their trucks off, which I know they are legally not
6 supposed to do but they will leave them idling -
7 especially diesels. It's going to be noisy and it's
8 going to be loud. There are going to be odors
9 associated with it that are going to basically
10 permeate into my house. It's just really not a great
11 situation for me.

12 Yesterday morning there was a box truck
13 parked in the median, of course, on Fuller Road. I
14 don't know when you stopped by. This morning, there
15 were about five or six trucks that were parked across
16 the street by the subway. I don't know how you're
17 going to fit all those trucks in there. I fear that
18 they're going to be parked near Katherine Road. I
19 don't know if the Town can pass a Local Law that
20 would limit weight on the road.

21 MS. MARINELLI: There already is.

22 MR. GEURDS: I just wonder if that will be
23 enforced.

24 My fourth point is odors. You can Google
25 anything you want these days. There are health risks

1 that are associated with living next to a gas
2 station.

3 Benzene is an additive to gasoline. It helps
4 bring up the octane. You probably are not aware of
5 that. I have five articles and I will recite them
6 quickly, if you don't mind.

7 Benzene is added to gasoline to, of course,
8 increase octane. Benzene exposure is associated with
9 cardiovascular disease risks.

10 The second article is monitoring of gas
11 station attendants' exposure to benzene. Using a
12 three colored chromosome painting, you can find
13 chromosome abnormality in 10 out of 60 or one out of
14 six gas station attendants where the norm is one to
15 200,000. So, you have an eight time risk factor of
16 having a chromosome abnormality which leads to
17 malignancy by living within a close proximity to a
18 gas station. I think that is something that -
19 especially if I want to sleep with the windows open -
20 that I need to be concerned with. The third article
21 is living within 100 yards of the gas station damages
22 your health. Experts say that a minimum distance of
23 50 yards should be maintained between petrol stations
24 and housing.

25 The fourth article -- gas stations are toxic

1 neighbors. Living and working within 100 miles of a
2 gas station increases exposure to toxic chemicals.
3 Leukemia risks for kids living near gas stations -
4 children who live next to gas stations are four times
5 more likely to develop acute leukemia than other
6 children in the same area.

7 To sum up, we work and we take risks when we
8 work. We choose where to work and we are compensated
9 for these risks. Residential neighbors of gas
10 stations become victims of gas stations. The risk is
11 involuntary. The impact of moving away from the risk
12 may be substantial financially.

13 My fifth point is the ability of prospective
14 homebuyer to purchase FHA insurance. According to the
15 narrative for this project, the subject property line
16 is within 300 feet of an aboveground or subsurface
17 stationery tank - again, 125 feet - and with a
18 capacity of 1,000 gallons - and I believe the total
19 capacity is 25,000 gallons - more flammable or
20 explosive material, than the property is ineligible
21 for FHA insurance. My point in bringing that up is
22 that these are among some of the more affordable
23 houses in the Town of Colonie. The average price is
24 somewhere between \$150,000 and \$275,000. It's going
25 to be drawing in people that are going to be relying

1 on FHA mortgages and FHA insurance. It's going to
2 make it more difficult for us to sell and more
3 difficult for them to apply.

4 My second point and also from the narrative
5 is that the appraiser must notify the mortgagee of
6 the deficiency of minimum property requirements or
7 minimum property standards so the mortgagee can
8 determine the eligibility. It's going to drive down
9 the price of our homes, plain and simple. If we have
10 to notify the appraiser that you are within 300 feet
11 of a gas station, it's going to drive down the price
12 of the home. So, it's an economic burden that they
13 pass on to us. We are not being compensated for it.
14 So, if this does go through and that tank has to stay
15 there, I would think that certainly Stewart's might
16 want to compensate us for the loss of property value.
17 That's just a suggestion.

18 That's pretty much all I have. I think you
19 for your time.

20 ACTING CHAIRMAN SHAMLIAN: Thank you.

21 So, there are a couple things there that
22 perhaps the applicant can respond to.

23 MR. GOLDMAN: I think in the narrative I wrote
24 I responded to -- it's a disclosure item on the FHA
25 appraisal requirements. It's not a prohibition. That's

1 covered in my narrative, too.

2 Anything else?

3 ACTING CHAIRMAN SHAMLIAN: An item that came up
4 in the last meeting - the barricade fence and moving
5 that so the site lines were improved.

6 MR. POTTER: We made a site visit and what we
7 found were weeds that were halfway up the fence. We cut
8 those and after that with it being a chain-link fence,
9 you could see through it. We felt there was no issue
10 beside that.

11 ACTING CHAIRMAN SHAMLIAN: You may want to take
12 another look at it.

13 There was also a question about potentially a
14 little more restrictive open hours - whether that
15 would be something that you would give some
16 consideration to.

17 MR. GOLDMAN: I think that if we get to the
18 process here, we would be amenable to an hour
19 restriction I believe.

20 MR. POTTER: I don't know about the hours that
21 were mentioned, but I think it's something -

22 MR. GOLDMAN: We are willing to work with the
23 Planning staff and the neighbors. We want to be a good
24 neighbor and to try to get acceptable hours for
25 everyone.

1 In terms of the barricade fence - I'm sorry,
2 I did mean to talk over your Mr. Shamlan. We will
3 look at it.

4 MR. MAGGUILLI: I didn't put my name on the
5 list, but I was wondering if I could speak for a minute.

6 ACTING CHAIRMAN SHAMLIAN: Sure.

7 MR. MAGGUILLI: Thank you.

8 Paul Goldman is right. Stewart's is a
9 permitted use here, but of course you get to tell
10 them how they can use it.

11 Paul and I have met with the neighbors on a
12 number of occasions and we have walked the site and
13 the neighbors have some, as you know, legitimate and
14 serious concerns here. It mostly arises from the fact
15 that Katherine Street is a very old street. It was
16 not constructed to Town standards. It is not 32 feet.
17 It was built over an old lake. So, there are concerns
18 about its structural integrity and its ability to
19 hold the weight of the trucks that are foreseen to be
20 driving on this road.

21 The other problem that is specific to
22 Katherine Street is the motel that was mentioned
23 earlier and has taken so long to rebuild. That was
24 partially our fault. We put a moratorium on motels
25 for three years and that came within the footage

1 restricted requirement. The gentleman that bought it
2 was prevented. He wanted to rebuild the motel there
3 and he couldn't because of the moratorium. Then, he
4 finally gave up and switched to apartments. The
5 parking there is right on Katherine Street. It is
6 almost immediately across from where they plan the
7 curb cut. We have had some discussions with
8 Stewart's. This is no surprise to them that we have
9 these concerns with the project. We tried to see if
10 we could do anything to have no access on Katherine
11 Street. That really wasn't possible. What we would
12 like to see is the no right turn or no left turn or
13 whatever you may be considering. Quite honestly, it
14 is very hard to enforce. So, I guess I would ask that
15 the Board please keep that in mind. We would ask that
16 if this does get approved, that a specific condition
17 of approval would be that they widen Katherine Street
18 at least adjacent alongside of the property by where
19 the Stewart's is going to be. Truck parking is a
20 problem, as Ms. Haywood said.

21 I think the best expert in this room right
22 now Mr. Scott. He's the guy who would know about it.
23 If he says you can't get a truck in there, I would
24 tend to believe him.

25 MR. SCOTT: I would not even put a straight

1 truck in there because the way that this is laid out
2 would cause congestion between automobiles and possibly
3 cause an on-property accident or a pedestrian hit. We've
4 got three other gas stations within walking distance of
5 this place. A fourth one is being built right now on
6 Central Avenue. It's a brand-new Cumberland Farms.
7 Honestly, we don't need any more convenience stores in
8 our neighborhoods.

9 MR. MAGGUILLI: I did call Chief Teale today
10 and spoke to him about the truck parking. The truck
11 problem parking right now - there is no Stewart's there.
12 So, it's not Stewart's that's causing the problem, of
13 course. I think we can all agree that Stewart's, if
14 anything, would only make the parking worse. I have
15 asked the Chief if they could increase enforcement,
16 particularly with parking in the median. He assures me
17 that they will. Again, there's only so much that the
18 Colonie Police can do.

19 As far as noise and light goes, Stewart's has
20 been very good about it. With a number of meetings
21 that we have had with them, they have agreed to make
22 certain concessions that we will follow and make sure
23 that they are hopefully in the final plans with
24 respect to the barriers and the lights.

25 As far as the property values go, I think

1 there is something about FHA mortgages where if you
2 are within a certain distance of gas tanks or storage
3 facilities, it makes it difficult or impossible to
4 get an FHA mortgage. That is something that is
5 limiting to the neighbors.

6 Again, our main concern is that the traffic -
7 truck traffic particularly on Katherine Street.
8 Stewart's only has so much control over their
9 delivery people. They can control their own drivers
10 and they have assured us that they will do that. My
11 concern is with the third-party drivers. Just like
12 anybody else, they want to do their job and leave as
13 fast as possible and that may not take into
14 consideration the needs of the neighborhood. I'm not
15 quite sure how we should address that other than
16 prohibiting traffic particularly through cut through
17 along Katherine Street. Again, we do have major
18 concerns with this site. Stewart's has been good
19 about working with us and we hope that continues. We
20 would like to continue working with the neighbors
21 because their concerns in this case are very
22 legitimate.

23 The only other thing that I would ask is
24 everything that was handed up tonight - Kathleen, can
25 you make sure that we get that marked as an exhibit

1 so that we read the transcript we can identify the
2 exhibits?

3 MS. MARINELLI: Yes.

4 ACTING CHAIRMAN SHAMLIAN: Yes, it was.

5 MR. MAGGUILLI: Thank you.

6 SUPERVISOR MAHAN: First, I want to thank the
7 Planning Board for your patience tonight. There are a
8 lot of things that have come about in without having all
9 the facts in front of you and some of the things are
10 really tough.

11 That being said, as a Planning Board and TDEs
12 and Planning Director Joe LaCivita - a tremendous
13 amount has been done to work within the parameters
14 that were left with us in the Land Use Law and all
15 the changes that were made before we started. A
16 tremendous amount of work has been done to provide a
17 fair process so that people are heard and everything
18 is looked at. That's what I have experienced over the
19 last 11 years. Other people have had different
20 opinions and that's fine. That is their prerogative.
21 The most important thing is that the process works to
22 the best that we can make it work, within the
23 parameters that we have. I think that you do that and
24 I think that you do that very, very well.

25 Getting to Stewart's - I did visit the site

1 at different times with Mr. Magguilli. We talked to
2 some of the neighbors and they had some good points
3 that they brought out to us. Typically, I don't have
4 much to say to the Planning Board because it's their
5 job to do what they need to do. They do it very well.
6 I do have a concern, seeing the property and walking
7 the property and looking at what they have to work
8 with. I have had that same concern from the
9 beginning. That's the truck traffic and the weight of
10 the trucks and size of the trucks, the gas tanks and
11 all these kinds of things.

12 There is nothing against Stewart's. I grew up
13 with Stewart's. I used to walk there all the time. We
14 love Stewart's and you do a good job. There is no
15 question about it. *I know that it is a permitted
16 site. That's the way the Land Use Law was written and
17 it is a permitted site. However, the Planning Board
18 does have some discretion and I think it's really
19 critical to consider, above everything, the safety of
20 the residents.

21 A lot of people like to go to Stewart's and
22 grab a cup of coffee, a snack or this or that, ice
23 cream or whatever. It is the issue of gas. You have
24 to have the gas tanks. That's what we are told. In
25 order to build, you want the gas tanks. That is the

1 option that you are providing.

2 If we have to continue down this path, I
3 would ask the Planning Board to consider -- I would
4 like to see one of these tankers - have a time set up
5 where our traffic safety people can take a look at
6 one of these tankers turning into Katherine.

7 Mr. Scott, you are a truck driver?

8 MR. SCOTT: There are low wires and power
9 lines. The trucks are high.

10 SUPERVISOR MAHAN: You put something out there
11 that is very concerning. I think that we need to see for
12 ourselves that the turn can be made safely and where
13 this is going to end up and how far back you're looking
14 to go into the neighborhood. When you stand there at the
15 end of the property, you're looking right at the houses.
16 I know that you have a right to build. For the safety of
17 everyone that lives there and everyone that's going to
18 go there, I think that we have to know for sure that
19 these tankers can get in there and how you're going to
20 protect the rest of the road. It is a small road. You're
21 talking about increasing the size for your portion of
22 it. There is the rest of the road that is not to Town
23 standards. That is a big issue.

24 Maybe this all would've been different if
25 Albany County allowed the curb cuts onto Fuller Road,

1 but they felt that was a safety issue, I would
2 imagine. We feel that turning onto Katherine and
3 using that road for large trucks and these tanker
4 trucks is going to be just as much of a safety factor
5 as it is making curb cuts onto Fuller Road.

6 Again, no disrespect to Stewart's. You are
7 good neighbor and you provide a lot for a lot of
8 different communities. This is sandwiched between two
9 small streets and you have to think about if you are
10 living there, you would have the same concerns. You
11 would have the same concerns of the people that are
12 sitting here. I have to be neutral, but the thing is
13 that when it comes to the safety of the people that
14 live there, it comes to the safety of people who are
15 driving these cars and trucks in and out - I think we
16 have an obligation. If a truck can make that turn and
17 make that turn safely and our traffic safety people
18 can take a look at this and say either yes or no, I
19 think it's worth the time to consider that and make
20 sure that we know before you move forward that these
21 trucks can get in and out of there.

22 It really concerns me with the safety of
23 having this so close to the neighbors. I have a
24 Stewart's near me. I live down off of Forts Ferry
25 Road. I know lots and lots about the questions that

1 were asked before because I was there fighting it
2 long before I became Supervisor. I was pretty much
3 fighting it by myself for a few people. So, I know
4 the background and if anyone is interested at some
5 time, just stop in and ask me. We are not here for
6 that right now.

7 I am concerned about the location of the
8 tanks and the trucks coming in and people living
9 right there. It's a major concern. My job is to
10 protect the residents. If it wasn't a concern, I
11 would say it's not a concern. Seeing it, walking it -
12 - we're hearing from someone who has been a truck
13 driver for many many years. He says you can't make it
14 safely. Let's check it out. It doesn't take that much
15 time to check something out. If it's not a problem to
16 get our people there - we have done it before with
17 other issues to be sure that it's safe. I know that
18 our people will do that.

19 That's my two cents. Thank you.

20 MR. GOLDMAN: Let's put this in context about
21 trucks. There are three delivery tanker trucks a week.
22 It is not every day. It's not a highway fueling station
23 where they're coming out all the time. There are three
24 deliveries in a week. That's first.

25 Second: Hours of operation - we have

1 committed to this Board that we are willing to work
2 on our hours of operation. We are sensitive to the
3 neighbors.

4 In terms of the road, I think we are fixing
5 the road and helping the road. To the extent there
6 are problems with the road that are caused by the
7 trucks, we will have to deal with it. If we have to
8 fix it, we have to fix it.

9 Third: We have engineers who are telling you
10 that based on their engineering that this works. That
11 is objective evidence. You have your TDE telling you
12 and that's objective evidence. I don't want to say
13 anything in terms of what people say, but we believe
14 that it works. The turning radius is of the trucks -
15 they obviously operate a fleet of trucks. It is three
16 trucks per week. Let's just put that in context.

17 MR. AUSTIN: Sir, are your truck specific to
18 Stewart's? Are they a smaller tanker truck or the same
19 size as a fuel tanker truck?

20 MR. POTTER: No, it is a typical tanker truck.
21 This is a Brenner tanker trailer, which is a standard
22 fuel tanker truck.

23 ACTING CHAIRMAN SHAMLIAN: The tanker truck is
24 smaller than the typical tractor-trailer.

25 MR. GRASSO: Yes.

1 MR. POTTER: There are multiple sizes of
2 tractor-trailers.

3 MR. AUSTIN: There is no other tractor-trailer
4 traffic coming into that site.

5 MR. POTTER: This is the largest
6 tractor-trailer that would enter the site.

7 MR. AUSTIN: And the other deliveries would be
8 by a box truck?

9 MR. POTTER: Or smaller.

10 MR. GRASSO: What is the design of the vehicle?
11 It is a WB-43?

12 MR. POTTER: This is a Brenner tanker trailer
13 which is a little bit different.

14 MR. GRASSO: What is the wheelbase? Do you know
15 what it is?

16 MR. POTTER: The wheelbase of the trailer is
17 34.33 feet. The trailer length is 43 feet. The wheelbase
18 on the truck is 21 1/2 feet, the cab is 16.81 feet.

19 MR. GRASSO: So that would be like a WB-55
20 design vehicle. The tractor-trailer is a WB-67.

21 MR. AUSTIN: I have another question for you
22 real quick.

23 There is another Stewart's 100 yards down the
24 road - the existing one. I know that it doesn't have
25 fuel service, but what is the traffic at that one?

1 Obviously, there are a lot of cars apparently in the
2 road and across the street. Is it a fairly busy
3 Stewart's right now? Do you see a lot of business
4 down there?

5 MR. POTTER: It's actually probably on the
6 bottom of -

7 MR. GOLDMAN: I think that's more a function of
8 building the road in the configuration close to Central
9 Avenue. Again, it is an in-line strip.

10 ACTING CHAIRMAN SHAMLIAN: Wei Xu.

11 Nancy, this is Wei Xu Exhibit 3.

12 (Wei Xu Exhibit 3 was marked for
13 identification.)

14 MR. XU: Hello, my name is Wei Xu and I am the
15 property owner at 23 Pinehurst Road. We have been
16 talking about how we work with trucks and Stewart's
17 customers through Katherine Road. I think that I want to
18 point out to the Board that there is a Local Law of the
19 Town of Colonie that prohibits any overweight vehicles
20 going into Katherine Road - the whole length. If you
21 look at page 1 - it says what it restricts. If you look
22 at page 3, the entire length of Katherine Road prohibits
23 oversized vehicles. That is four tons. Four tons means
24 8,000 pounds.

25 Just to give you an idea, a pickup truck that

1 is fully loaded is more than four tons. So, forget
2 about the trucks. In other words, what we are
3 proposing here - Katherine Road -- it should be
4 prohibited. If it ever gets approved by this Board,
5 we are violating our own Local Law in the Town of
6 Colonie.

7 You are welcome to check it. I just
8 downloaded it from the Town's page.

9 Not to speak of the other 2,000 reasons not
10 to have a gas station here, but having an entrance or
11 exit out of Katherine Road - that should be
12 prohibited. There should be no entrance or exit from
13 this establishment on Katherine Road, period.

14 Also, whether we make a left turn or right
15 turn or whatever turn, the integrity of Katherine
16 Road cannot handle it. It will collapse. It did
17 before. It will again. It is not a well-built Road.
18 It is small. If we have all different vehicles going
19 into a major establishment like Stewart's, it's going
20 to collapse again. So, we are violating our own Law
21 to allow an entrance or exit here.

22 The front of the Stewart's shops faces
23 Katherine Road. That is a 30 foot entrance/exit. So,
24 it's going to be a major entrance or exit into or out
25 of Katherine Road. That should not be allowed. Thank

1 you.

2 MR. AUSTIN: Sir, just a quick question to
3 clarify: You are planning on rebuilding that entire
4 portion of Katherine Road to spec, correct?

5 MR. POTTER: Correct.

6 MR. AUSTIN: Not in the neighborhood part, but
7 from your portion of the exit to Fuller Road will be
8 rebuilt so it will not collapse.

9 MR. POTTER: That is correct.

10 MR. AUSTIN: They're going to rebuild the whole
11 thing.

12 MR. MARINELLI: Craig, can I just say that the
13 section of the traffic laws that were recited - there is
14 Section C which says that the regulations established
15 shall not apply to the following: commercial vehicles
16 while they are actively engaged of the delivery or pick
17 up of merchandise or other property along the highways
18 from which such vehicles are otherwise excluded. So,
19 there is an exclusion there.

20 ACTING CHAIRMAN SHAMLIAN: Thank you.

21 Just to clarify, you're not just repaving
22 that section of Katherine. You're going to rebuild
23 that section of Katherine to handle a higher weight
24 load.

25 MR. POTTER: It will be a full dig out.

1 MR. GOLDMAN: The other thing - were talking
2 about the neighborhood and Cumberland Farms which is
3 exactly the same scenario with the street. I've got the
4 map and I like to put that into evidence. I'm sure the
5 Board is intimately familiar with it. It is the same
6 scenario with a smaller neighborhood road on Central
7 Avenue.

8 (Goldman Exhibit 4 was marked for
9 identification.)

10 ACTING CHAIRMAN SHAMLIAN: Ryan DiSanto.

11 MR. DISANTO: Thank you. My name is Ryan
12 DiSanto. I live it 16 Lake Road.

13 I can appreciate the computer software that
14 tells you that you can make all these turns, but the
15 computer is not driving the car so I do appreciate
16 the Town Supervisor's suggestion to actually put it
17 into a real-life kind of test. I would just like to
18 say that.

19 I think the uniqueness of this particular
20 scenario is that this is not a new kind of business.
21 We have their business just down the road. We know
22 exactly their patrons and what they drive. They are
23 all the same people every day, for the most part.

24 Again, to Mr. Xu's point, we are basically
25 figuring out a way to constantly put that traffic on

1 that road. So, I don't know from an engineering
2 standpoint of whether just rebuilding this section
3 right here alleviates any stress that could be caused
4 on the remainder of the road. How do we determine
5 that? Honestly, if there is no other way to do it, I
6 would like to see full barricade fences blocking half
7 the street entering the neighborhood in its entirety
8 for local residents only so there is no chance that a
9 truck could ever drive into the neighborhood.

10 The sign of four tons - it does nothing. It
11 did nothing before. You might just as well save the
12 sign for somewhere else. I really would like to see
13 the test. Does their computer software account for
14 other cars in the lots? Three gas deliveries every
15 week. That's great.

16 There are probably 300 cars go to the store
17 on a daily basis and more. I would imagine expanding
18 your project brings more business and not just the
19 same. I would just like to kind of have someone look
20 at the reality of it, as opposed to my computer test
21 that tells me how many cars drove on a road, whether
22 a robot can drive a tractor trailer truck and make a
23 turn as opposed to a human being -- I would really
24 like to see that test done. Thank you.

25 MR. GRASSO: We have heard a couple comments

1 about the ability of a tanker truck to maneuver to the
2 site and exit properly. Although we believe the software
3 - we have a lot of experience with it and they have
4 provided us with more than what most applicants would
5 need to do to assure us that it's going to work, if the
6 Board decides to move this application forward what I
7 would recommend is that between concept and final that
8 we be given the opportunity to actually have Stewart's
9 set up demarcations and a large parking lot with this
10 parking lot and access configuration with cones or
11 whatever and they prove to us and we can invite
12 representatives from the Town's DPW or Planning or
13 whoever to go out there and witness and actually watch a
14 Stewart's fuel delivery truck maneuver through and see
15 if they can make it within the area that is demarcated
16 that represents the limits here and the limits of the
17 roadway and limits of the drive aisles not including the
18 parking spaces. I will throw that out there. We have
19 never done that before, but if that is something that
20 the Board wants to consider, I'm sure the applicant
21 would be willing to work with us to make that happen.

22 MR. AUSTIN: If we are going to do that and
23 it's pretty much on the request of the residents because
24 it was some of their idea, can we invite them as well,
25 so they can actually have proof and see what's going on.

1 MR. GRASSO: I'm just going to leave it up to
2 the Board. I would recommend that when we do these
3 things that we have Town representatives and our office
4 be present. The Board can do whatever they want.

5 FROM THE FLOOR: The neighbors can't witness
6 it?

7 ACTING CHAIRMAN SHAMLIAN: It is something that
8 we will talk about.

9 Lay Yip.

10 MS. YIP: Good evening, Board Members. I think
11 there is some misunderstanding. Everyone's talking about
12 deliveries. For me personally, I am not talking about
13 deliveries. I'm talking about the customers that are
14 patrons of Stewart's that do try the larger cars and do
15 drive the larger trucks that will have to use Katherine
16 Road ingress and egress as a means of entrance and exit.
17 The reason being is the design layout right now does not
18 allow for a large vehicle to enter in and turn back out
19 the same exit - regardless if they are entering on
20 Fuller, entering on Katherine and exiting the other way.
21 There is no ability and design for them to actually make
22 a turn within the property to get out of the same
23 entrance. So, my concern about the overweight limit of
24 vehicles is not their deliveries. I know deliveries - I
25 know they will be allowed to do it. Deliveries are not

1 my concern. My concern is the patrons that the Town
2 Engineer has already clocked the vehicles that they
3 have.

4 We can have a disagreement about the numbers,
5 but that means they do have patrons - regardless if
6 there are four that are parked in the median lane -
7 that is for too many. It is not permitted especially
8 when this new site is shifted toward Central Avenue's
9 intersection a little bit more.

10 Right now they are this way (Indicating). We
11 are shifting them up so any traffic trailers - of
12 their patrons and not the deliveries - park in the
13 median lanes and is the hazardous condition.

14 I have spoke to Joe a little bit about can we
15 have Stewart's accommodate some type of truck in
16 their design - and their layout to prevent them from
17 parking in the median lanes.

18 The Town Engineer - I appreciate your studies
19 and we can argue about if it's technology that proves
20 that the tractor trailer can turn or a tractor
21 trailer cannot turn or whatever, but I have a
22 different concern.

23 When a tractor trailer is exiting Katherine
24 Road, if it needs to get across on the other side
25 because Katherine is a two-way street. It is not

1 marked a one-way street. When it turns and if it
2 takes over on the other side of the road from someone
3 coming in from Fuller Road to Katherine
4 simultaneously, that is a hazardous condition because
5 that will prevent emergency vehicles that come in and
6 that will prevent a lot of catastrophe because then
7 you have cars that are trying to comment and yet when
8 they turn it to Katherine, there is nowhere for them
9 to situate themselves. The site is so close to Fuller
10 Road, once a tractor-trailer is trying to make that
11 turn, and has to stop or pause before it can either
12 turn left or turn right onto Fuller. That pauses
13 where another vehicle trying to come in, regardless
14 if it is an emergency vehicle - they're going to have
15 a difficult time doing that because they are hogging
16 the entire width. Even if you widened the width and
17 you pulled that turn, that's where I would appreciate
18 the Town Designated Engineer to recognize that. You
19 can't take the entire length - even if you widen the
20 road - for those larger trucks to make that turn
21 because you're preventing another vehicle turning in.
22 They have to stop at that intersection to make a left
23 or right. That entrance really is a difficult topic
24 here. I am not opposing if the applicant or
25 Stewart's -- the applicant's attorney is stating -

1 I'm not opposing if they can do it. The question is:
2 should they do it? We understand it is a permitted
3 use. More importantly is should they and can they? If
4 they need to use the residents' road, Katherine Road,
5 then we have the right to say hey, it's going to have
6 damaging implications that are permanent to us. I'm
7 asking you guys to please really look into that
8 entrance and those concerns tonight that everybody
9 has addressed. Thank you.

10 ACTING CHAIRMAN SHAMLIAN: Bob Ott.

11 MR. OTT: Thank you, folks. I have been here
12 before about the same issue. The location of the sign
13 for Stewart's -- my concern is this: The sign for
14 Stewart's should be on the cut on Fuller and not at the
15 corner of Katherine. The reason why is because Stewart's
16 will be facing Katherine.

17 If I'm coming from Central Avenue down, I see
18 the back of Stewart's. I see the sign for Stewart's
19 and I'm going to blow right past the cut to get in on
20 Fuller and I'm going to go right down to Katherine
21 and turn on to Katherine. I propose that the sign
22 should be up where the cut is on Fuller so if you're
23 coming down from Central, you turn in there and not
24 turn in Katherine where there's going to be enough
25 consternation that's going on there to begin with.

1 ACTING CHAIRMAN SHAMLIAN: Thank you.

2 Would the applicant be willing to move their
3 sign?

4 MR. GOLDMAN: I'm sure we would consider moving
5 it anywhere the Board would tell us to move it.

6 ACTING CHAIRMAN SHAMLIAN: Be careful what you
7 say.

8 MR. GOLDMAN: Reasonably on Fuller Road so
9 there is access to the sign.

10 ACTING CHAIRMAN SHAMLIAN: Richard Bovee.

11 MR. BOVEE: My name is Dick Bovee and I live at
12 4 Dolyann Road, two blocks away from the site. My wife is
13 a Fuller. Her grandparents establish the road. It was
14 the entrance to the dairy farm and the fire company. We
15 lived there for 73 years and they lived there over a
16 century. We have seen a lot of change.

17 Our biggest concern is what the one gentleman
18 brought up - the empty homes. The empty buildings and
19 the burnt out structures - that really depreciate
20 your property.

21 I think what Stewart's has presented here and
22 having been a practicing engineer for 48 years -
23 retired for four - there is more than ample space for
24 a tractor-trailer to sit there at the crosswalk and
25 have any number of cars come in off of Fuller Road

1 and onto Katherine and get gas there. There is enough
2 engineering that they have available to them to build
3 anything to carry any weights that they need. It
4 exists in every company today and there are people
5 who use all kinds of materials to be able to do that.
6 It is unfortunate that the county has not been more
7 reasonable to allow multiple entrances. I can see
8 their point of view and wanting to exit onto
9 Katherine. This plan is many times safer than what is
10 there today for the SUV, the homeowner and the family
11 member that has to pull in. When the Budweiser truck
12 is on the sidewalk right now, you can't see in any
13 direction when you're pulling in or pulling out. Yes,
14 cars on the median is a problem, but that is
15 something that the Colonie Police have to deal with.

16 I am encouraged to think that Stewart's want
17 to invest this kind of money in our area to improve
18 the value of what we own. Thank you.

19 ACTING CHAIRMAN SHAMLIAN: Go ahead.

20 MS. HAYWOOD: I'm just begging you guys. That
21 street - nobody goes down it. These are our houses.
22 These are our lives. After we get done working, this is
23 where we go home to and why I am working so I'm not
24 living in a shoebox. You are taking that away from me
25 and giving a business that can build anywhere they

1 want -- you're taking my house away for me.

2 I can't go out on my porch anymore and just
3 have it quiet. I've got a stockade fence behind my
4 house now where all the trucks park and I hear them
5 all talking and at 2:00 in the morning the trash
6 pickup -- you hear this big boom when they're picking
7 that up at 2:00 on a Monday morning.

8 I'm 63. I am single. I pay my taxes. I'm a
9 good citizen. Why don't I have the right - why don't
10 my neighbors have the same rights as a big company?
11 They have attorneys that they can buy. *Would you let
12 your pregnant daughter -

13 ACTING CHAIRMAN SHAMLIAN: Ma'am.

14 MS. HAYWOOD: It's about people. Colonie used
15 to be about people when Wolf Road was two lanes and
16 everything. We have lost all of that. We have lost our
17 humanity in the Town of Colonie.

18 Would you want any of your kids living next
19 to a gas station? You guys wouldn't want it. You
20 wouldn't want it in your neighborhood. Look at the
21 size of our streets.

22 This is reality. This is my reality. It's not
23 your realities, but it's our realities. We have work
24 to pay for our little houses. We are not \$300,000
25 houses. We work hard to keep ours looking nice. Don't

1 we have any rights? I don't know what more we can
2 say.

3 I have been out in the rain for every one of
4 the things to pass out flyers and in snow and rain
5 and everything. Like I said people have rights, but
6 plain people do too. When do plain people matter?
7 When do ordinary people matter? Please think like you
8 would if it was your family or your lives.

9 Like I said, they have the perfect place to
10 go down where Camelot was. They would've done a
11 better business instead of just taking a small -- you
12 can see by the pictures that our street is different
13 than most neighborhoods. When you look out my window,
14 look where the fence is.

15 Christmas Day I am going to have people
16 parking right across the street from me.

17 ACTING CHAIRMAN SHAMLIAN: We get it. We hear
18 you.

19 MR. MASON: I have a very quick question. If
20 this project does get approved, is there something that
21 can be put in place to monitor the quality of the air so
22 we know if there is a problem?

23 ACTING CHAIRMAN SHAMLIAN: I will defer to Joe
24 or the applicant.

25 MR. GRASSO: Based on my experience, not that

1 I'm aware of. I'm sure that there is technology out
2 there, but nothing that would fit within the purview of
3 a site plan review and issuance of a building permit to
4 allow construction to occur.

5 MR. MASON: Okay, I understand that this might
6 not be a standard thing but just by seeing how many
7 people are here at this meeting and how many meetings
8 have taken place, it seems like that would be a very
9 smart thing to figure out - if it can be done.

10 ACTING CHAIRMAN SHAMLIAN: We will ask the
11 applicant.

12 Do you do any air quality monitoring at any
13 of your current stations?

14 MR. POTTER: No. I don't know whether there is
15 something that is out there. I don't know.

16 MR. MASON: I guess my request would be to ask
17 the applicant to find out if there is a way to do it and
18 report back to us.

19 ACTING CHAIRMAN SHAMLIAN: We can do that.

20 MR. GEURDS: I have a quick question on the
21 placement of the tanks. Is it possible that they could
22 be moved closer to Fuller Road to lessen the impacts on
23 the residents? Second, if residents will be going to the
24 Stewart's from Katherine - most of us do walk. Could a
25 multipurpose path be connected here? Otherwise, which is

1 going to wear the grass out anyway.

2 ACTING CHAIRMAN SHAMLIAN: I will have the
3 applicant address both of those.

4 MR. POTTER: As far as the tank locations, I
5 really think that's the only spot. Those are only the
6 few spots on the sites where they can work. As you can
7 see, this is the movement that the tanker has to make.
8 It would have to be somewhere in that location.
9 Unfortunately, they do have to drop on the passenger
10 side.

11 As far as a path for the neighborhood, we
12 would certainly be willing to add sidewalks along
13 Katherine as well as a connection from there into the
14 site. That is certainly doable.

15 MR. AUSTIN: I know that many times the gas
16 pumps have the fume control built into the nozzle. Is
17 that right?

18 MR. POTTER: It is not a requirement for New
19 York State.

20 MR. AUSTIN: I guess the question is when they
21 pull the tanker trunk and hook it in to the tank, how
22 many fumes are there?

23 MR. POTTER: I don't have numbers.

24 ACTING CHAIRMAN SHAMLIAN: To have stations
25 anywhere that have vapor recovery?

1 MR. POTTER: No. The states that we are - New
2 York and Vermont - they don't require that.

3 ACTING CHAIRMAN SHAMLIAN: Lou?

4 MR. MION: We have a lot to think about. I
5 really support the idea to put everybody at ease to take
6 a look at the turning radius of the truck. I know we had
7 another project on Route 7 at the Sunoco station and
8 Dunkin' Donuts where everything that was put into the
9 computer worked well. It works, but it's very, very
10 tight. What's it going to hurt to take a look and see if
11 the turning radius is appropriate? We want the engineer
12 there, obviously. We want someone from the Planning
13 Department there. If somebody from the neighborhood
14 wants to come out, why can't they?

15 ACTING CHAIRMAN SHAMLIAN: I think that's
16 pretty consistent with the Board consensus.

17 Brian, comments?

18 MR. AUSTIN: I would agree. We set kind of a
19 precedent with the Board review aspect like we have on
20 the other projects. This is kind of a new precedent that
21 we are setting by going out to see an actual
22 demonstration of a project, supposedly, and action. I
23 think it's a great idea. I really do. How they're going
24 to set that up and where they're going to set that up,
25 were going to have to wait and see. Hopefully, we can

1 invite some of the residents to come out and see that.
2 That's a big concern to the residents. *Also, at some
3 point - and thank you to Mr. Bovee for his engineering
4 comments. He has been an engineer for so many years.
5 Having some amount of faith in the engineers who are
6 doing this project -- they worked on this the whole
7 time. They're not just saying let's do this. They have
8 worked on this for years. They've made many
9 modifications and many of which have come from the
10 residents. I think they have listened to the residents
11 and they have moved the store three or four times. They
12 have moved the gas tank as well. They have reduce the
13 number of gas pumps at a serious expense to them. That
14 is irregardless and we are not thinking about them. We
15 are thinking about the residents. That's where we stand
16 as a Planning Board. Were kind of in the middle. We are
17 the people who are between the residents and the
18 engineers and the TDE.

19 We are very fortunate to have a TDE. Joe
20 Grasso is somebody who is highly respected by us. We
21 constantly defer to him during a meeting. He's an
22 engineer, but he works for us. He works for the Town.
23 That is something that went into play in this
24 administration. It was nonexistent before. That's a
25 nice addition and were very thankful to have each of

1 those companies that represent the Town and assist
2 us.

3 I think really in looking at the existing
4 conditions - they were people who were saying that
5 there are some real issues in that area. There are
6 abandoned buildings. There's a big building with an X
7 on it. There are burnt out buildings. There is a lot
8 of need for improvement in that area. The way that it
9 is zoned right now, it is zoned for a commercial use
10 - for use like Stewart's.

11 Stewart's and all of the projects that we
12 have ever done, have been extremely sensitive to the
13 neighbors. We have worked with a lot of different
14 engineers and a lot of different companies and a lot
15 of different people have come through. Stewart's
16 really ranks right up at the top, in my opinion. They
17 are constantly listening to the neighbors.

18 One of the projects over on Route 7 - they
19 bought a house - a neighboring house off of somebody
20 so they could move out. They do a lot of extra above
21 and beyond. They built a fence. If you need a fence,
22 they put up a fence. They don't even ask questions.
23 They want to work with the neighbors and make it the
24 best project they can.

25 I understand that it is a very emotional

1 issue. It is a big change for the neighborhood. I
2 would possibly say that when it's built, I might
3 actually go get a couple coffee there. I think that
4 you will, in the end, appreciate them being there.
5 They are good neighbor and I think overall they've
6 done a great job in the past. I think this project
7 will be very good with some tweaks and seeing how
8 everything is working. Once again, I commend
9 Stewart's for all the work they've done.

10 MS. MILSTEIN: Stewart's is a wonderful place
11 but I don't think this is the right location with the
12 gas tanks on it. I think Katherine Street is very
13 narrow.

14 I'm also concerned - now that I have been
15 given the Vehicle and Traffic Law 181.17 - they will
16 allow any delivery truck to access Katherine Street.
17 From what I am hearing from all the residents is that
18 it's not just that. There are many trucks from that
19 area that use it. I don't know the size of the trucks
20 that are patronizing currently Stewart's. Based on
21 this law, they are not allowed to have access to
22 Katherine Street. Where are they going to go?

23 I'm very concerned about gas tanks being this
24 close to residents. I think it's dangerous.

25 That also assumes that it's a bright sunny

1 day in it is clear. What's going to happen when there
2 is snow? The street will narrow. Then, we have
3 additional problems. Who is going to be responsible
4 for the snow removal? Who's going to be responsible
5 when the rest of Katherine Street collapses because
6 of all these vehicles? How many overweight vehicles
7 are there going to be? I would rather see two cuts
8 onto Fuller Road. I would rather protect the
9 neighborhood.

10 The truck driver - he knows trucking and he
11 knows the neighborhood.

12 My feeling is Stewart's is fine, but without
13 the gas.

14 MR. GRASSO: Susan, I'm not trying to change
15 your ultimate decision. You are firm in your thoughts
16 about it. Regarding the access on Fuller Road for
17 trucks -- I just want to remind the Board that at a
18 previous meeting Stewart's had presented two options
19 regarding the access on Fuller. I brought copies because
20 I thought that this might come up again. If you can just
21 take one and pass it down.

22 This was the plan that showed option A and
23 option B. This option a had just a wonderful access
24 curb cut on Fuller Road - what they are proposing
25 now. What they showed is a smaller truck - it was

1 trying to go to the site and not use Katherine.
2 Again, this option - they didn't have any parking for
3 the trucks within the patron parking lot. So, it's a
4 little bit misleading. They show the truck being
5 routed to get back out onto Fuller without using
6 Katherine, but there is no parking for those
7 vehicles. *If the Board wanted to accommodate parking
8 for oversized vehicles within the lot, what Stewart's
9 previously presented was option B which is on the
10 back side of the drawing. This shows a one-way out
11 curb cut on Fuller Road between the Stewart's
12 building and Pinehurst. This is something that was
13 discussed with Albany County DPW and they would allow
14 this curb cut to occur. Where trucks would park would
15 be along the access drive - along the side of the
16 Stewart's store. That is another option.

17 If there are other Board Members that share
18 this concern about how this site accommodates
19 oversized vehicles and have a place to park and then
20 get out without using Katherine, this is an option
21 that could be pursued by the Board.

22 MR. AUSTIN: Joe, just to clarify - even with
23 the two curb cuts on Fuller Road, DOT said that they
24 would still want to have access on to Katherine.

25 MR. GRASSO: It wasn't DOT. It was Albany

1 County DPW. The purpose of that second curb cut on
2 Fuller Road is only to allow oversized vehicles to
3 access and park within the site and access back onto
4 Fuller Road without using Katherine.

5 MR. MION: So, you still have the tanker having
6 to discharge fuel.

7 MR. GRASSO: That's a separate issue that I
8 think that we can address through other means. This is
9 really just getting to the comment about other oversized
10 vehicles. Not the tanker, not the deliveries, but the
11 normal deliveries in the patrons like landscaped trailer
12 trucks and box trucks. If you want to accommodate those
13 in the site plan, I think option B is what the Board
14 should consider. This was presented by the applicant.

15 MR. AUSTIN: So, we would still have the
16 improvements on Katherine?

17 MR. GRASSO: Nothing else regarding what was
18 presented tonight would change, except that additional
19 one way out curb cut onto Fuller Road.

20 MR. AUSTIN: That would potentially eliminate
21 the median traffic on Fuller Road.

22 MR. GRASSO: That's correct.

23 ACTING CHAIRMAN SHAMLIAN: It's not going to
24 eliminated completely.

25 MR. GRASSO: I agree. Whatever number of

1 vehicles parked within the median will continue to stop
2 within the median and can only be addressed through
3 enforcement.

4 MS. MILSTEIN: I really think what we are
5 trying to do is cut around Katherine Street.

6 MR. GRASSO: Understood. I'm not trying to
7 change your mind.

8 MS. MILSTEIN: I understand that. I still think
9 that they're trying to put a round peg in a square hole.
10 I think it is an improvement and I think it's better
11 than just having the two, but I still don't think this
12 is proper for this area.

13 ACTING CHAIRMAN SHAMLIAN: Chief?

14 MR. HEIDER: I like B - having a second exit
15 onto Fuller. If nothing else, it would help relieve some
16 of the stuff on Katherine - just by the nature of the
17 beast.

18 There is no perfect solution here, but by the
19 same token I don't think it's the perfect storm
20 either. Have a lot of experience on Fuller Road - the
21 New York City Café, the Clardon, Luigi's and all the
22 problems that they caused that nobody mentions
23 anymore because they're gone. What they left us with
24 is a bunch of old abandoned buildings - a bunch of
25 junk on Fuller Road. This may not be the perfect

1 application and I wasn't here for the original
2 history, but knowing that Stewart's has downsized the
3 gas pumps and have done changes, landscaped the
4 border - they came to us with about 60 or 70
5 arborvitae's -- I don't think there's ever going to
6 be a perfect solution because who knows who can come
7 in next to go on this lot? What's next could be worse
8 than Stewart's. We may not like it in our
9 neighborhood, but they have proven quality and they
10 purposely try to be good neighbors.

11 I personally like B only because I think it
12 gives more availability to put traffic on Fuller Road
13 from the parking lot than going into Katherine.

14 I will be honest with you folks, I have some
15 experience in traffic. If anybody has ever been in
16 the Hess station on Wolf Road, you know that they can
17 fit tractor-trailers in there. They going to show us
18 a parking lot that will work. Will it be tight? Yes.
19 Will you want to be there buying something when that
20 tanker is there? Probably not. That's Stewart's
21 problem. Whether we like it or not, they make it
22 work.

23 I would still like to see option B being
24 explored. I think Stewart's has already said on
25 record that they want to look at the hours which I

1 think would help a neighbor somewhat. *The parking
2 spots on the rear left - do we really need them all
3 six of them? She's going to be looking out of her
4 front window at them. There are six across the back
5 and then the island and then there's another six.

6 MR. POTTER: Again, I know they meet the
7 parking requirement.

8 MR. HEIDER: Can we bank any parking here?

9 MR. POTTER: I would be open to banking if it
10 is needed in the future we could do it. I am certainly
11 open to that.

12 MR. HEIDER: And just looking at her view
13 through her front window - that's what she's looking at
14 directly. There's a car literally 40 feet from her front
15 porch.

16 MR. POTTER: Again, there is an eight foot high
17 stockade fence, a dense row of arborvitae's as well as
18 deciduous trees and other landscape bushes. There is 25
19 feet of landscaping in that area.

20 MR. HEIDER: It's going to look a lot better.
21 It will look a lot better. It would look a lot better if
22 they were three or four places to park with a couple
23 more trees.

24 That's just my opinion.

25 ACTING CHAIRMAN SHAMLIAN: That's why you're

1 here.

2 MS. MILSTEIN: So, you have these big trucks
3 coming in to get coffee. Where do they park, with plan
4 B?

5 ACTING CHAIRMAN SHAMLIAN: What is your
6 definition of big truck?

7 MR. POTTER: A tractor trailer, or big box
8 truck?

9 MS. MILSTEIN: A big box truck, or a tractor
10 trailer.

11 MR. POTTER: The tractor trailers are going to
12 park in the road.

13 MR. GRASSO: What they have shown is a tanker
14 size vehicle through this turning template.

15 MS. MILSTEIN: With option B, where would they
16 be parking? I mean, the big box truck.

17 MR. POTTER: They would park parallel along the
18 pavement - I guess to the north side of the building as
19 well as parallel along that landscaped island behind
20 them.

21 MS. MILSTEIN: The parking spots that you have
22 laid out would be for automobiles?

23 MR. POTTER: These back here would be employee
24 parking spots. There are three or four employees on at
25 any given time. So, provided there was this exit here,

1 if the trucks came in they would be able to park in this
2 area here or this area here (Indicating). Even if they
3 were to block an employee, it's not the end of the world
4 for us. It's not a customer. It is an employee who is
5 therefore given number of hours.

6 MS. MILSTEIN: So, how many trucks could park
7 there at any given time?

8 MR. POTTER: I would say four.

9 MS. MILSTEIN: So, the other parking spots that
10 are along the rear - are they for automobiles?

11 MR. POTTER: Yes, these would be for
12 automobile.

13 MR. AUSTIN: Is there way to widen the backside
14 Road to the north just a little bit?

15 MR. POTTER: I don't know if it is a waiver or
16 a variance, but there is a 25 foot pavement setback. I
17 don't know if that's something that the Planning Board
18 waves.

19 MR. GOLDMAN: It's more of a detailed site
20 plan.

21 MR. POTTER: That would be something that we
22 could do. This was as per the design standards.

23 MR. GRASSO: That drive lane is probably
24 already 26 feet. I would not recommend widening it. You
25 can easily take the parking lane of nine or 10 feet and

1 still have a vehicle bypass it. Really, for the trucks
2 at that point, it's becoming one-way.

3 ACTING CHAIRMAN SHAMLIAN: I understand that
4 you don't have any but perhaps you can talk about or
5 give us some insight into vapor recovery.

6 MR. POTTER: Right now?

7 ACTING CHAIRMAN SHAMLIAN: Obviously, there is
8 a science behind it.

9 MR. POTTER: There was talk that the state was
10 going to do it at one point in time. We piped our tanks
11 to adapt to that and then the state recently said that
12 they are not -- I don't know why, but it is something
13 that we can look into and get the answer on why the
14 state does not do it. They have no plans to do it in the
15 future.

16 ACTING CHAIRMAN SHAMLIAN: I am also thinking
17 that one of the issues raised by one of the residents
18 was the fumes that come from gasoline and obviously the
19 reason for vapor recovery is to capture those fumes. So,
20 while it may not be required to New York State, it may
21 be something that would go a long way to alleviating
22 that concern in this particular instance.

23 MR. POTTER: Sure.

24 MR. MASON: I would just suggest that they - I
25 know that the question was posed to Stewart's, but you

1 might want to have somebody independently look at that.
2 This was discussed extensively at the last Planning
3 Board meeting. I am not an expert by any means. I went
4 home and started doing research on it. I went on the
5 Internet and it talked about eliminating vapor recovery
6 systems from gas stations because they are built into
7 modern automobiles over the last X number of years. I
8 think someone that is an independent expert should
9 answer that question.

10 ACTING CHAIRMAN SHAMLIAN: We will start with
11 the applicant and then we can always have our TDE find
12 someone to help.

13 MS. KATZMAN: Hi, my name is Pam Katzman.
14 Please do not consider any access for Stewart's on
15 Pinehurst. I brought up two meetings ago -

16 ACTING CHAIRMAN SHAMLIAN: It is not something
17 that is being considered.

18 MR. POTTER: no. I'm sorry to confuse you.

19 MS. KATZMAN: Okay, then I am good. Thank you.

20 MS. MILSTEIN: Other than Stewart's trucks not
21 being allowed on Katherine Road, what kind of
22 enforcement will there be? Just to clarify the record,
23 there were issues about the insurance. According to this
24 letter it says: If the subject property line is within
25 300 feet of an aboveground or subsurface stationary

1 storage tank with a capacity of 1,000 gallons or more
2 flammable or explosive material, then the property is
3 ineligible for FHA insurance. I just want to clarify
4 that.

5 ACTING CHAIRMAN SHAMLIAN: Would you like to
6 comment on that, Mr. Goldman?

7 MR. GOLDMAN: I think if you read at the end,
8 it says that our property is located -- the gas station
9 is eligible for insurance. From the above language, it
10 is not an outright prohibition for the receipt of FHA
11 insurance. So, I disagree with them. It is a disclosure
12 item that's disclosed in an appraisal. I don't think
13 it's an outright prohibition.

14 MS. HAYWOOD: I did speak to Allstate. Allstate
15 said that they can't take my insurance away but if I
16 sell my house it would be considered - I mean, you can't
17 sell your house.

18 ACTING CHAIRMAN SHAMLIAN: Any other questions
19 or comments?

20 Does someone want to make a motion to grant
21 concept acceptance?

22 MR. AUSTIN: I would like to make a motion for
23 concept acceptance with the following points being that
24 we will have a test, I guess, for the turning radius for
25 the trucks at a time to be determined for final, if we

1 do go to the vote here.

2 ACTING CHAIRMAN SHAMLIAN: I would like to have
3 the whole vapor recovery explored.

4 MR. AUSTIN: Okay, the vapor recovery and the
5 logistics of that and whether or not they can be done or
6 whether it needs to be done.

7 Also, option B for egress onto Fuller Road
8 that was presented by Joe Grasso and any other issues
9 regarding landscaping, lighting that have been
10 brought to the Board that will be presented on final
11 - when we come back for that.

12 ACTING CHAIRMAN SHAMLIAN: And looking at
13 banked parking.

14 How does the Board feel about this being --
15 again, assuming we vote affirmative that this be a
16 project that comes back for an update?

17 MR. MION: I strongly agree with that.

18 MR. AUSTIN: Yes, I want to see a Board update.

19 MR. GRASSO: And during that update if we could
20 try to nail down the hours of operation so the Board can
21 give some thought - so the applicant can give some
22 thoughts about what they would be willing to
23 accommodate. I would think that is something that we
24 should get resolved before they go through all the final
25 engineering.

1 MR. AUSTIN: And that is my very long motion.
2 There should be Town representatives and Planning Board
3 representatives, Town Board representatives, TDE, as
4 well as any residents who want to attend and would like
5 to attend.

6 ACTING CHAIRMAN SHAMLIAN: Is there a second?

7 MR. MION: I will second.

8 ACTING CHAIRMAN SHAMLIAN: All those in favor?

9 MR. MION: Aye.

10 MR. AUSTIN: Aye.

11 MR. HEIDER: Aye.

12 ACTING CHAIRMAN SHAMLIAN: Aye.

13 (Ayes were recited.)

14 Opposed?

15 MS. MILSTEIN: Me.

16 ACTING CHAIRMAN SHAMLIAN: The ayes have it.

17

18 (Whereas the above entitled proceeding was
19 concluded at 10:25 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.

Dated: _____

NANCY L. STRANG
LEGAL TRANSCRIPTION
2420 TROY SCHENECTADY RD.
NISKAYUNA, NY 12309

