

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

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5 FULLER ROAD MOTEL  
6 33 FULLER ROAD  
7 REVIEW REQUEST FOR WAIVER OF MORATORIUM  
8 \*\*\*\*\*

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

14 BOARD MEMBERS:

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

23 Also present:

24 Joe LaCivita, Director, Planning and Economic  
25 Development

Victor Caponera, Esq.

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

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

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

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

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

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

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

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

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

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

1 setbacks.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 Not short term rooms rented to the  
9 homeless.

10 Is that accurate?

11 MS. BARBER: Close enough.

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

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

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

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

23 MR. CAPONERA: The fire happened first.

24 CHAIRMAN STUTO: Approximately when?

25 MR. CAPONERA: That was in 2007.

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

3                   MR. CAPONERA: December 22, 2009.

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

6                   MR. CAPONERA: July 2010.

7                   CHAIRMAN STUTO: The application was made  
8 originally?

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

11                  CHAIRMAN STUTO: During the moratorium?

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

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

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

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

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

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

13 MR. CAPONERA: No.

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

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

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

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

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

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

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

7 MR. CAPONERA: Absolutely.

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

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

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

14 Mary Barber.

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

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

18 Robert Ott.

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

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

23 CHAIRMAN STUTO: That's a fair question.

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

25 CHAIRMAN STUTO: The questions get

1 directed through here.

2 Mr. Caponera, if you know?

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

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

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

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

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

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

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

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

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

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

21 MR. CAPONERA: Nor am I.

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

25 MR. CAPONERA: I suppose the Zoning Board

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21                   CHAIRMAN STUTO: Yes.

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

25                   CHAIRMAN STUTO: It's helpful if you say

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

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

13          CHAIRMAN STUTO: Thank you.

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

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

17          CHAIRMAN STUTO: Amjad Mughar.

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

21          CHAIRMAN STUTO: Doug Ryan.

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

25          As a lifelong resident in Colonie, I know

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

15                   CHAIRMAN STUTO:   Rose Lazaro.

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

1 around here? Where does he live?

2 MR. MUGHAR: I live in Latham.

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

6 CHAIRMAN STUTO: Ma'am please address us.

7 MS. LAZARO: I'm sorry.

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

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

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

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

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

25 MS. LAZARO: Can I ask what kind of

1 property that is?

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

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

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

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

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

11 CHAIRMAN STUTO: Okay, thank you.

12 Ralph Coon.

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

15 CHAIRMAN STUTO: Thank you.

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

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

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

1 MR. COON: They went up on Friday?

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

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

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

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

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

22 MR. LACIVITA: What is your address?

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

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

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

5 MR. COON: About 360.

6 MR. LACIVITA: Okay.

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

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

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

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

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

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

10 CHAIRMAN STUTO: Thank you very much.

11 Patricia Thorne.

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

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

21 CHAIRMAN STUTO: Shirley Coon.

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

24 CHAIRMAN STUTO: Thank you.

25 Councilman Bailey.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 CHAIRMAN STUTO: Thank you.

24 Anybody else?

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

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

17 CHAIRMAN STUTO: Thank you.

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

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

1 occurred in November of 2007.

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

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

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

7 MS. BARBER: It burned in May.

8 MR. NARDACCI: Of 2007?

9 MS. BARBER: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 CHAIRMAN STUTO: Anyone else?

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

8 CHAIRMAN STUTO: Yes, there are.

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

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

12 MR. LACIVITA: Correct.

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

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

20 MR. OTT: Which was both sides.

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

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

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

1 other applicable provisions in the Town Code.

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

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

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

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

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

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

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

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

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

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

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

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

12 Anything else to comment on?

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

20 CHAIRMAN STUTO: Anybody have an motion?

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

23 MR. LANE: Second.

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

1                   **(Ayes were recited.)**

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

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

5                   CHAIRMAN STUTO: The ayes have it.

6                   MR. CAPONERA: Thank you very much.

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

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