

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

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4 \*\*\*\*\*  
5 PUBLIC HEARING REGARDING THE PROPOSED REZONING OF  
6 CORDELL ROAD, MORRIS ROAD, CURRY ROAD, KINGS ROAD  
AND 8 LUPE WAY  
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7 THE TAPED AND TRANSCRIBED MINUTES of the above  
8 entitled proceeding BY NANCY STRANG-VANDEBOGART  
9 commencing on June 15, 2010 at 7:03 p.m. at the  
Memorial Town Hall, 534 Loudon Road  
Newtonville, New York, 12128

10

11 BOARD MEMBERS:

12 CHARLES J. O'ROURKE, CHAIRMAN  
13 MICHAEL SULLIVAN  
14 ELENA VAIDA  
15 TIMOTHY LANE  
16 PETER GANNON  
PAUL ROSANO  
TOM NARDACCI  
PETER STUTO, Jr. Esq., Attorney for the Planning  
Board

17

18 Also present:

19 Joe LaCivita, Director, Planning and Economic  
20 Development

21 Paula Mahan, Supervisor

22 Neil Gifford, Albany Pine Bush Preserve Commission

23 Victor Caponera, Esq.

24 Paul Ruth, Ruth's Automotive

25 Charles Stokes, Callanan Industries

1 Joe Bianchine, ABD Engineering  
2 Lynne Jackson, Save the Pine Bush  
3 Tim Curran, Underwriters Rating Board  
4 David Raber, Northeast Petroleum Technologies  
5 Jan Metzger, Millivac Instruments  
6 Patrick Quinn  
7 Priscilla Couchman  
8 Helen Romano  
9 Tom Romano  
10 Suzanne Perry-Potts  
11 Shelley Lupe  
12 Ralph Schimmel  
13 Jennifer Barone  
14 Teresa Scicchitan  
15 Michael Flynn  
16 Judy Hauser  
17 Jim Corridan  
18 Denise Sheehan  
19  
20  
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1                   CHAIRMAN O'ROURKE: If you're signing in  
2 right now, take your time. We are going to get  
3 started this evening. I would ask that as we  
4 start if all cell phones could be muted or  
5 turned off entirely. I would appreciate that  
6 as we move forward tonight.

7                   As we start the meeting, this is the  
8 first public hearing in the action that has  
9 been brought before us.

10                  Mr. Caponera, There has been a  
11 determination made in regard to your clients.  
12 We are not going to request that you submit  
13 your own resolution to the Town Board. We are  
14 going to piggy-back that.

15                  There is also a Mr. Martin. He was an  
16 attorney for another client.

17                  Is he here this evening?

18                  He represented one other client. We are  
19 also going to allow him to piggy-back onto  
20 this proposal and resolution that was moved  
21 before the Town Board.

22                  Again, as I stated, this is the first  
23 public hearing and this is a fact-finding that  
24 the Planning Board has been asked to take on  
25 from the Town Board. We are asking anyone to

1 speak, obviously, and understand that this is  
2 fact finding and if there are questions in  
3 regard to your statements, they will be in the  
4 record and they will be researched. Board  
5 members may have questions for you, as well.  
6 Understand that, as you sign up to speak this  
7 evening.

8 We are limiting all speakers to three  
9 minutes. You can defer those three minutes, if  
10 you so choose. Anybody that has checked to  
11 speak, we are only going to allow three  
12 minutes.

13 Just briefly before we do open this to  
14 the rest of the board to see if there are any  
15 general comments, there have been some e-mails  
16 that I have gotten. I just want to assure  
17 everybody that has taken the time to come out  
18 to this board and this hearing that this in no  
19 way is an assault on the Town Comprehensive  
20 Plan. This is strictly fact finding. We want  
21 to find out how, in fact, some of the zoning  
22 and some of the things that happened in the  
23 Comprehensive Plan happened in this area and  
24 look at it appropriately and fairly as I think  
25 anybody would want done to them. That's the

1 mission that the Planning Board has taken on.

2 With that, I'm going to ask Joe, do you  
3 have any comments?

4 MR. LACIVITA: No, C.J. I'm getting  
5 e-mails and calls myself about people who are  
6 either for or against the rezoning. Is that  
7 something that you just want in the record at  
8 a later date?

9 CHAIRMAN O'ROURKE: I think that it's  
10 important that everyone's voice is heard in  
11 this application. Whatever you deem best, Joe.  
12 Please ensure that the Planning Board members  
13 are privy to those e-mails or any  
14 correspondence in regard to this resolution.

15 Anything else, Joe?

16 MR. LACIVITA: No.

17 CHAIRMAN O'ROURKE: Peter?

18 MR. GANNON: No, thanks.

19 CHAIRMAN O'ROURKE: Tim?

20 MR. LANE: No questions.

21 CHAIRMAN O'ROURKE: Elena?

22 MS. VAIDA: No questions at this time.

23 CHAIRMAN O'ROURKE: Paul?

24 MR. ROSANO: No.

25 CHAIRMAN O'ROURKE: Tom?

1 MR. NARDACCI: No.

2 CHAIRMAN O'ROURKE: Again, there is  
3 another sign-in sheet and certainly everybody  
4 will get an opportunity.

5 Again, what I would ask anybody that does  
6 speak, please clearly give your name for the  
7 record. Everything in this resolution will be  
8 transcribed so there is a record of it.

9 Mr. Patrick Quinn, 3 Thistledown Court.

10 MR. QUINN: I'm Patrick Quinn from  
11 Thistledown Court. I'm probably in the very  
12 small minority here because I'm a relative  
13 new-comer to the area. I moved here four years  
14 ago in retirement with my wife. We were very  
15 attracted by the beauty of this general area  
16 that runs all the way over to the other side  
17 of the city.

18 Last week I read the minutes of the  
19 applicant's and I was very interested because  
20 I was impressed by the reasonable way in which  
21 the applicant presented her case with several  
22 others.

23 I concluded that there were three issues  
24 here; one is property rights, one is community  
25 rights and the other is legal fact.

1           I would simply ask the following: I would  
2 ask the board to review before any decision is  
3 ultimately made, the reasons for rezoning in  
4 detail.

5           I looked at satellite photographs on  
6 Google Earth this afternoon and I was  
7 astounded that this whole parcel, not just the  
8 parcels under consideration but the whole  
9 parcel of land which is rezoned, is  
10 approximately three square miles. In that, I  
11 noticed on the environmental constraints map  
12 there are some very, very important water  
13 ways. There are a lot of small indications of  
14 water shed lands and so on. I was amazed when  
15 looking at a satellite map that there is so  
16 much woodland in this parcel, even still.  
17 There are some large areas which have been  
18 gouged out of that three square miles.

19           For example, I didn't know what an auto  
20 placement center was. Now I know. It looks  
21 quite modest from Kings Road. But if you go  
22 in, there is about 20 acres gouged out of the  
23 woodlands. That's quite a lot. I found that as  
24 I looked further that there are many parcels  
25 like that.

1           Now, when I looked at the proposed return  
2           to the original rezoning, I find that it's  
3           very spotty and has to do with particular  
4           properties, almost helter skelter. I think  
5           that the reason why this community called in  
6           some experts to prepare a rezoning was to do  
7           something in the best interest - not in the  
8           present, but in the future of this community  
9           and all of those children who would eventually  
10          inherit this community.

11           So I would ask the board to look very  
12          carefully at the reasons for the original  
13          rezoning; not in general, but in specific. I  
14          would suggest that they overlay those  
15          specifics on the specifics of the  
16          environmental constraints land.

17           Thank you, very much.

18           CHAIRMAN O'ROURKE: Thank you.

19           In regard to that, this board does plan  
20          to call Saratoga Associates and subpoena them  
21          before this board at some point during these  
22          hearings. As Mr. Quinn did mention, we are  
23          looking for the reasons behind some of the  
24          things that did happen.

25           Priscilla Couchman.

1 MS. COUCHMAN: I just had a few things to  
2 say. I'm Priscilla Couchman. What I'm asking  
3 is behind my property there is a protected  
4 water course. When I first moved here, my  
5 survey said that the Town of Colonie had an  
6 easement to that.

7 When I first moved in, that water would  
8 sometimes dry out, and also when you had a  
9 period of dry spells. Now, that water  
10 basically sits behind my house and my  
11 neighbor's home and in my area it's totally  
12 water.

13 If you look in both directions, it's all  
14 grass. No one seems to care about keeping that  
15 water -- they come and they tell us it's  
16 draining a little bit. You've got logs and  
17 things like that where water does not drain  
18 like it should be. It's not flowing the way  
19 that it should be. Nobody seems to really  
20 listen to us and as a result, in the middle of  
21 my property and my neighbor's property, the  
22 water now is making like a gap between us. At  
23 the end of the winter, we've got a big long,  
24 narrow piece of waterway, basically. It's not  
25 a lot.

1 I have pictures, but I don't think that I  
2 captured it well enough. So I just want to  
3 know who is really responsible for taking care  
4 of that protected watercourse.

5 CHAIRMAN O'ROURKE: Do you know what type  
6 of easement that it is, ma'am?

7 MS. COUCHMAN: All I saw is easement to  
8 the Town of Colonie on my survey. I have that  
9 survey and I can show that to you if you like.

10 CHAIRMAN O'ROURKE: We have your address.  
11 Joe, it's 12 St. Marie Street. If you can  
12 check on that so that we can get an answer  
13 back to Ms. Couchman?

14 MS. COUCHMAN: One other thing that I  
15 wanted to ask is if they revert back to the  
16 industrial thing, if you ride down Cordell by  
17 the railroad track, it looks like hell. You've  
18 got all these jalopy trucks in the back and  
19 it's terrible looking. Is that what we're  
20 going to head towards? That's my comment.

21 Thank you.

22 CHAIRMAN O'ROURKE: Just so you know,  
23 because something would be zoned industrial,  
24 doesn't give anyone the right to make it look  
25 unsightly.

1 MS. COUCHMAN: And it is unsightly. If  
2 you go past there, it's just a little way from  
3 the railroad track, it's very unsightly.

4 Thank you.

5 CHAIRMAN O'ROURKE: Thank you.

6 Next are Helen and Tom Romano. They would  
7 both like to speak.

8 MS. ROMANO: First of all I can answer  
9 that question. It's a drainage easement. It's  
10 behind on the creek. That's what it is.

11 My name is Helen Romano and I live on  
12 Kings Road in Colonie. I'm here to express my  
13 opposition to the petition to rezone the  
14 western end of the town. I have submitted  
15 petitions with over 325 signatures who also  
16 oppose the rezoning.

17 We live in this area and we barely impact  
18 the businesses that operate in this part of  
19 town. As residents, we believe that our voices  
20 should be heard loud and clear as your  
21 decision will impact our quality of life. For  
22 years we have endured negative impacts of some  
23 of our business neighbors. As a result, we  
24 urge the town to adopt a moratorium on  
25 development.

1           There was a committee formed for the  
2 purpose of discussing a moratorium for this  
3 area. I have a sign-in sheet from the meeting  
4 stating its purpose.

5           Ms. Perry-Potts incorrectly asserted that  
6 this was a special meeting formed to make  
7 zoning decisions. This is not the case and she  
8 was told this at a Town Board meeting  
9 October 22, 2009.

10           Despite their stated opposition to the  
11 Pine Bush Preserve, Alan Potts sold land to  
12 the Nature Conservancy on August 27, 2004 for  
13 \$85,000. This is particularly ironic given  
14 that these are the same people now complaining  
15 about the expansion of the Pine Bush Preserve.

16           The advisory committee that the town  
17 formed to guide the development of the  
18 Comprehensive Plan included a diverse group of  
19 people that included the business community.  
20 The Chamber of Commerce was at all the  
21 meetings. There were plenty of articles and  
22 public notices in newspapers and flyers mailed  
23 out by the town to all property owners.

24           Members of the board have expressed their  
25 concerns about the Land Use Law. I would urge

1           you to not hide behind legal procedural issues  
2           and recognize that the law has been in effect  
3           for more than three years and the Comp Plan  
4           has served as a guide for development for the  
5           past five years. I would ask that you not play  
6           politics and wipe away years of hard work by  
7           residents across the town. Instead, I urge you  
8           to respect the spirit and intent of the Comp  
9           Plan and make your zoning recommendations in  
10          accordance with that plan.

11                    The petition submitted to you was signed  
12                    by over 300 people stating that they wanted  
13                    the zoning to remain as is. Not only are these  
14                    people Town of Colonie residents, but they are  
15                    also voters. Many of the commercial business  
16                    land owners who signed a petition own land  
17                    here, but do not live in the Town of Colonie.  
18                    Therefore, they do not vote in the Colonie  
19                    elections but they want to change the zoning  
20                    of residents who live in the Colonie.

21                    The current zoning does not preclude  
22                    development. It does recognize that this is an  
23                    environmentally sensitive area that is  
24                    surrounded by residential property. Future  
25                    development should recognize and be consistent

1 with these factors. I would like to comment  
2 that there are legitimate businesses in this  
3 area that do not negatively impact surrounding  
4 neighbors. They maintain their property and  
5 comply with town rules and regulations.

6 However, there are a number of businesses  
7 who openly ignore the Town Code. As you  
8 consider the petition, you should make every  
9 effort to ensure that you do not reward those  
10 businesses that are not in compliance with the  
11 Town Code and have developed land without the  
12 necessary town approvals. I recommend that you  
13 review aerial photos and compare them to the  
14 town record to identify those cases where  
15 unapproved development has taken place.

16 Finally, I find it ironic that  
17 Ms. Perry-Potts, who has petitioned the town  
18 for this rezoning - her name does not appear  
19 on any property deed within the Town of  
20 Colonie or any other local community.

21 CHAIRMAN O'ROURKE: Do you have the  
22 petition?

23 MS. ROMANO: Yes, I do. I will get that  
24 to you.

25 CHAIRMAN O'ROURKE: And the sign-in

1 sheets that you were referring to were  
2 meetings for -?

3 MS. ROMANO: That was for a moratorium  
4 before the Comp Plan was put into effect and  
5 Ms. Perry-Potts stated that it was a secret  
6 committee -

7 CHAIRMAN O'ROURKE: Was Arnis on that  
8 committee?

9 MS. ROMANO: Yes, he was. Actually he was  
10 in charge of it, basically. There is a sign-in  
11 sheet there where it states at the very top,  
12 moratorium.

13 CHAIRMAN O'ROURKE: And were any of these  
14 meeting ever held at your residence?

15 MS. ROMANO: One. Some of them were held  
16 at the town. Some of them were held at the  
17 Fire Department.

18 This is the petition. I don't have the  
19 rest of them, but I will hand them in.

20 MR. LACIVITA: C.J., do you want  
21 documentation this evening for the board or  
22 keep it on file?

23 CHAIRMAN O'ROURKE: Joe, I'm going to  
24 make a pile and it will all go to you and the  
25 board will all get copies to review.

1                   Yes, sir.

2                   MR. ROMANO: I'm Tom Romano. I live on  
3 Kings Road. The western area of the town was  
4 rezoned approximately three years ago to  
5 residential, it's a conservation overlay, per  
6 the recommendation of the town's Comprehensive  
7 Plan. Both of the existing businesses were  
8 grandfathered. They continue to operate  
9 business as usual and I haven't witnessed any  
10 businesses leave the area due to hardship the  
11 existing zoning has caused. If any of the  
12 existing businesses were sold and become  
13 nonconforming and are subject to certain  
14 monetary fees imposed by the town, the town  
15 should lower those fees to a more reasonable  
16 level if they are causing a hardship. Better  
17 still, offer the legitimate existing  
18 businesses a one-time exemption from the  
19 zoning change, but all undeveloped land should  
20 remain zoned as is with no change.

21                   Regarding conservation overlay zoning:  
22 This zoning permits responsible development of  
23 environmentally sensitive lands. This benefits  
24 the developer by clustering housing units.  
25 That lowers building and infrastructure costs

1 and follows the recommended guidelines set  
2 forth in the Town of Colonie's Comprehensive  
3 Plan and the current 2010 Albany Pine Bush  
4 Preserve Commission management plan.

5 The town has been threatened with a  
6 lawsuit according to a letter dated  
7 March 5, 2009 and submitted to the Town  
8 Attorney's office by the commercial business  
9 special interest group. I recommend that the  
10 town leave the current zoning as it and let  
11 the special interest group proceed with their  
12 threatened lawsuit against the town. The town  
13 has an excellent attorney's office headed by  
14 Town Attorney Michael Magguilli that is more  
15 than capable of defending the zoning that is  
16 currently in place.

17 The current zoning is pursuant to the  
18 town Land Use Law which reflects the town's  
19 Comprehensive Plan.

20 The Comp Plan was legally adopted in 2005  
21 and the Land Use Law was legally adopted and  
22 filed on January 4, 2007 with the office of  
23 the Secretary of State of the State of New  
24 York. Any zoning changes or changes of the  
25 Land Use Law must be consistent with the

1 Comprehensive Plan and if those changes are  
2 inconsistent, the town must amend the Comp  
3 Plan through a public process. This could  
4 easily become a slippery slope and lead to a  
5 host of unintended consequences across the  
6 town.

7 As you consider the petition to rezone,  
8 as well as the threat of a lawsuit, I would  
9 urge you to recognize that the special  
10 interest group should not be given greater  
11 weight than that of a full body of the  
12 committee for the Comp Plan and the Land Use  
13 Law which involves considerable effort, public  
14 notice, participation and feed back.

15 Finally, there were 27 advertised public  
16 Comprehensive Plan Advisory Committee meetings  
17 between June 22, 2004 and May 25, 2005 which  
18 covered all areas of development and  
19 conservation in the Town of Colonie. Anyone  
20 owning land or living in the Town of Colonie  
21 had the opportunity to attend these public  
22 meetings and provide input. There is no reason  
23 to change the current zoning in the western  
24 end of town, since so much time and effort  
25 went into the Comprehensive Plan. The vast

1 majority of landowners favored leaving the  
2 zoning residential with conservation overlays  
3 to protect this globally rare sensitive  
4 ecosystem and to protect the character of our  
5 neighborhood that we live in that's known as  
6 the Pine Bush.

7 Thank you, very much.

8 CHAIRMAN O'ROURKE: Can you answer one  
9 question for me? Out of the 27 meetings, do  
10 you know how many people that are part of this  
11 resolution that came before the Town Board and  
12 that is presently before this board - how many  
13 of those people attended those meetings?

14 MR. ROMANO: Are you speaking of the  
15 audience participation?

16 CHAIRMAN O'ROURKE: No. You stated that  
17 there were 27 meetings held and of varied  
18 backgrounds. How many people on the opposite  
19 side of what you're feeling is in regard to  
20 this issue - how many people of the other  
21 property owners that are part of the  
22 resolution that Ms. Potts submitted - how many  
23 people were at those meetings?

24 MR. ROMANO: I can't answer that because  
25 we broke it down into focus groups.

1                   CHAIRMAN O'ROURKE: Well, was it one? Was  
2 it 100? I'm not going to hold you to it.  
3 Again, this is fact finding. I mean, 27  
4 meetings is a lot of meetings.

5                   MR. ROMANO: Yes. Each meeting dealt with  
6 something.

7                   CHAIRMAN O'ROURKE: So just by chance,  
8 Ms. Potts or somebody else would have  
9 attended.

10                  MR. ROMANO: No, I did not see these  
11 people.

12                  CHAIRMAN O'ROURKE: Again, this is fact  
13 finding and we're looking for the facts.

14                  MR. ROMANO: What I can say, if I'm  
15 permitted time wise - it seems strange to have  
16 all the people that have residences get  
17 notices. Just the commercial and business  
18 didn't? I mean, that's pretty blatant, if that  
19 was a deliberate act by the powers that be. I  
20 don't think that anybody would really want to  
21 get themselves involved in something like  
22 that.

23                  CHAIRMAN O'ROURKE: I've seen some funny  
24 things in the Town of Colonie in the last 20  
25 years.

1                   MR. NARDACCI: Mr. Romano, did you  
2 receive notices at your home?

3                   MR. ROMANO: Yes.

4                   MR. NARDACCI: Of the meetings?

5                   MR. ROMANO: We received notices.  
6 Primarily, we would find out through  
7 newspapers, Spotlight and we also we would  
8 make phone calls to the town. There was a  
9 number to call like there is for the weekly  
10 Planning Board meetings and that's how we  
11 would get our information.

12                   MR. LANE: So a reasonable person looking  
13 for this - not necessarily looking for it but  
14 they would come across it.

15                   MR. ROMANO: Yes, there were public  
16 notices.

17                   MR. ROSANO: Did you find it unusual that  
18 the people that you say are on the other side  
19 of this issue were never at these meetings?  
20 Did that ever dawn on you that these folks  
21 were never there? You know who they are, but  
22 they weren't there. Did it ever dawn on you to  
23 reach out to them?

24                   MR. ROMANO: I've been involved with the  
25 town for over 30 years. A lot of other people

1 don't get involved the way that my wife and I  
2 have. Some people don't go to meetings.

3 MR. ROSANO: But I mean 27 meetings and  
4 you can't even say that they weren't at one  
5 meeting?

6 MR. ROMANO: There were business people  
7 there. The Guptils were there. They own the  
8 Guptil enterprise there on Route 9. There were  
9 other business people there. I can't tell you  
10 all their names. It was a diverse group, but  
11 not overwhelming like the business people  
12 here.

13 CHAIRMAN O'ROURKE: Does anyone else have  
14 a question?

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

16 CHAIRMAN O'ROURKE: Thank you,  
17 Mr. Romano.

18 Mr. Neil Gifford.

19 MR. NARDACCI: C.J., can I make just a  
20 quick comment?

21 Folks, we understand that this is a  
22 contentious issue, but I think that for the  
23 benefit of everyone and it would be best if  
24 you didn't make comments from the audience  
25 when people are speaking. When you get up to

1 speak, I wouldn't want them to do that to you  
2 either. Just for the sake of maintaining  
3 decorum, everyone is going to have to chance  
4 to speak tonight. We're all ears. I would just  
5 ask that you use the microphone when it's your  
6 turn.

7 CHAIRMAN O'ROURKE: And just so everyone  
8 knows, as this goes forward, there is no way  
9 that 100% of the people are going to be happy  
10 with the eventual outcome. It's just  
11 impossible. It's too diverse. It's too  
12 difficult in terms of the legal issues and in  
13 terms of the Comprehensive Plan.

14 Again, as Tom stated, I think that at  
15 best, it's better to agree to disagree. If  
16 there is nothing nice to say, you're better  
17 off not saying anything.

18 Mr. Gifford, back to you.

19 MR. GIFFORD: Good evening Mr. Chairman  
20 and members of the Board. Thank you for  
21 holding this public hearing and for giving the  
22 public the opportunity to provide you with  
23 information as you consider Town Board  
24 Resolution 482 regarding a rezone and a  
25 potential removal of the conservation overlay

1 development district in the western part of  
2 the town.

3 On May 3, 2010 the commission submitted a  
4 letter to Mr. LaCivita in the Planning and  
5 Economic Development Department for you.  
6 Hopefully, you have that as part of the  
7 information that you have in front of you. I  
8 won't read you the entire letter this evening,  
9 but I would like to highlight some of its  
10 contents as you consider this proposal.

11 Open space conservation in the Town of  
12 Colonie is very well supported by the  
13 residents of the town and the majority of the  
14 town residents responding to the surveys that  
15 went out for the Comprehensive Plan. It not  
16 only ranked open space conservation as a high  
17 priority, but also ranked wildlife  
18 conservation as being very important.

19 The commission believes that the  
20 commission's management plan and the Town of  
21 Colonie's Comprehensive Plan and the local  
22 Land Use Law that came out of that including  
23 seven conservation development overlay  
24 districts throughout the town are  
25 complementary.

1           The plan, of course, of the commission is  
2 a non-regulatory body and it is provided by  
3 way of project review purely as an advisory  
4 document to each of the municipal member  
5 agencies of the commission in addition to a  
6 number of state agencies, as well.

7           In particular I'd like to take the  
8 opportunity tonight as you begin this  
9 fact finding regarding this proposal to point  
10 out some of the reasons that the seven  
11 conservation development overlay districts in  
12 the Town of Colonie and the Albany Pine Bush  
13 or the western Pine Bush conservation  
14 development overlay district is unique.

15           In particular, it contributes to a  
16 nationally recognized 4,600 acre  
17 intermunicipal cooperative conservation effort  
18 that has to date protected more than  
19 3,200 acres. It provides extensive  
20 recreational opportunities unlike those  
21 available elsewhere in the town to more than  
22 100,000 visitors a year including hiking,  
23 biking, hunting, fishing, and horseback  
24 riding. It provides unique interactive  
25 educational opportunities to all of Colonie's

1 public and private schools. Not the least of  
2 which it contains the world's best remaining  
3 example of an inland pitch pine scrub oak  
4 barrens ecosystem that supports six rare  
5 plants and more than 45 species of wildlife  
6 species of greatest conservation need. It is a  
7 New York State bird conservation area. It's  
8 also the original discovery site and supports  
9 one of only four populations in New York State  
10 and one of about a dozen populations across  
11 the nation of the endangered Karner Blue  
12 Butterfly. In particular, it serves as a  
13 critical ecological and recreational linkage  
14 between the Albany Pine Bush Preserve and  
15 Albany County and the Woodlawn Preserve in  
16 Schenectady County, both of which are priority  
17 conservation areas in the 2009 New York State  
18 open space conservation plan.

19 In addition, it contains - as is  
20 illustrated in the town's map and the map that  
21 I brought as well - protected water courses,  
22 extensive state and federal wetlands and in  
23 particular in the Town of Colonie more than  
24 800 acres of protected land.

25 The commission did a similar mapping

1 project like the Planning Department did and  
2 we found that the conservation development  
3 overlay district which contains approximately  
4 2,900 acres is eight acres of steep slopes,  
5 more than 170 acres of stream corridor,  
6 380 acres of flood planes, 790 acres of  
7 regulated wetlands, and more than 800 acres  
8 that are protected as part of the preserve.

9 So when you think about why conservation  
10 overlay development districts make sense in  
11 the Town of Colonie and in particular why a  
12 conservation development overlay district in  
13 the western end of the town makes sense, we  
14 hope that you will consider all of these  
15 factors and weight them accordingly.

16 Thank you.

17 CHAIRMAN O'ROURKE: Thank you, Neil.

18 MR. NARDACCI: I just have a quick  
19 question.

20 Neil, in reviewing projects where we have  
21 encountered the overlay districts, we  
22 sometimes struggle with exactly what that  
23 means for development. It doesn't mean that it  
24 stops development or stops use, but my  
25 interpretation was you had to give special

1 consideration and explain how you would work  
2 to conserve some of the properties.

3 In your words, how should a conservation  
4 overlay district be looked at when we're  
5 looking at new applications and reuse of  
6 properties?

7 MR. GIFFORD: I think that the commission  
8 views it the same. We view our plan with the  
9 exception that your conservation overlay  
10 district has some regulatory weight to it. Our  
11 plan is really an advisory, but as a tool for  
12 the Planning Board and for applicants to weigh  
13 and balance economic development interests  
14 with environment conservation so that both  
15 things can happen well and neither thing is  
16 completely disenfranchised or not considered.  
17 So whether it's commercial development or  
18 residential development that an applicant is  
19 planning and when the Planning Board is  
20 considering those plans, the conservation  
21 development overlay district provides a tool  
22 that helps all of the interested parties  
23 understand up front what some of the  
24 limitations are from an environmental  
25 perspective. Additionally, how then to weigh

1           what is being proposed and trying to protect  
2           those environmental resources in a way that  
3           allows both things to happen. That's what the  
4           commission is trying to do with its management  
5           plan. That's what we believe the conservation  
6           development overlay district is trying to do,  
7           as well, given the environmental resources  
8           that are in this part of the town.

9           CHAIRMAN O'ROURKE: The commission was  
10          very involved in the Comprehensive Plan.

11          MR. GIFFORD: The commission attended all  
12          the public meetings as part of the  
13          Comprehensive Planning process.

14          CHAIRMAN O'ROURKE: And honestly, those  
15          committees took serious your interpretations  
16          some of the sensitive areas; is that fair?

17          MR. GIFFORD: The commission provided  
18          factual information, yes, on the environmental  
19          resources and of course advocated as we do to  
20          all the municipalities and state agencies the  
21          guidelines that are spelled out in its  
22          management plan.

23          CHAIRMAN O'ROURKE: So you weren't part  
24          of any determination of what boundaries the  
25          conservation overlay districts -- I mean did

1           you have an idea what you would like to see?

2           MR. GIFFORD: Initially, the Comp Plan  
3           process was working groups. There were tables  
4           where everyone was literally going around with  
5           markers and highlighting the important  
6           resources where they would like to see paths,  
7           trails, and improvements. Yes, the commission  
8           participated in that process.

9           CHAIRMAN O'ROURKE: So the eventual  
10          overlay districts that you mentioned as part  
11          of the Comprehensive Plan - would you say that  
12          the commission did have a say or didn't have a  
13          say?

14          MR. GIFFORD: As I said, the commission  
15          contributed within each of the public meetings  
16          like everyone else that was at the public  
17          meetings.

18          CHAIRMAN O'ROURKE: Can you explain to me  
19          in this overlay district how the boundaries  
20          ended up to be where they were?

21          MR. GIFFORD: Specifically, I don't know  
22          how the boundaries were drawn, but I do know  
23          that the commission recommended that the study  
24          area boundary, as illustrated in our  
25          management plan, be considered when drawing

1 the boundaries for this particular  
2 conservation development overlay district -

3 CHAIRMAN O'ROURKE: Was it the same as it  
4 ended up?

5 MR. GIFFORD: I would have to go back and  
6 look at the two maps.

7 CHAIRMAN O'ROURKE: Could you provide the  
8 board with what your recommendation was?

9 MR. GIFFORD: All of the commission's  
10 recommendations should be part of the record  
11 for the Comprehensive Plan. In particular,  
12 what we would have provided the town was the  
13 2002 management plan and the study area  
14 boundaries and information about the  
15 environmental resources that we had at the  
16 time. I believe all of that should be part of  
17 the public record on the Comprehensive Plan.

18 CHAIRMAN O'ROURKE: So would you say that  
19 at the end of the Comprehensive Plan and the  
20 Land Use Law and the zoning change that took  
21 place - was the commission happy with the  
22 overlay district that was provided by the  
23 town?

24 MR. GIFFORD: The commission was pleased  
25 that the town considered its recommendations,

1           yes.

2                   CHAIRMAN O'ROURKE: Are you going to be a  
3 politician? I'm not being funny. I'm trying to  
4 ask a question.

5                   MR. GIFFORD: I'm not trying to convey my  
6 own personal opinion, but trying to represent  
7 the facts.

8                   CHAIRMAN O'ROURKE: Right, the facts.  
9 What I'm looking for is the commission had an  
10 idea of what they would like to see as an  
11 overlay boundary area.

12                   MR. GIFFORD: Right. There were six other  
13 conservation development overlays -

14                   CHAIRMAN O'ROURKE: Right, and let's just  
15 talk about this one because that's what all  
16 these folks came out for tonight.

17                   In this one district, would you say that  
18 the commission got the boundaries that it was  
19 looking for, or didn't it? Was it happy with  
20 the overall?

21                   MR. GIFFORD: As I said, the commission  
22 was pleased and satisfied that the  
23 conservation development overlay district was  
24 recommended at the Comp Plan meetings and  
25 included in the town Local Law with the other

1 six overlay districts.

2 CHAIRMAN O'ROURKE: So the commission had  
3 no part in drawing these boundaries, or  
4 helping the town in drawing these boundaries?

5 MR. GIFFORD: Well, sure, we helped the  
6 town - and if you look at the commission's  
7 management plan and the study area boundary we  
8 have a lot of information about the  
9 environmental resources that are within that  
10 boundary. We shared that with the  
11 comprehensive planning team and the town and  
12 asked them to consider using that information  
13 when considering where to draw boundaries for  
14 the development overlay district.

15 CHAIRMAN O'ROURKE: And that was the  
16 extent of your input?

17 MR. GIFFORD: Yes. Much the same as the  
18 commission would participate in Guilderland's  
19 comprehensive planning process when they did  
20 it.

21 CHAIRMAN O'ROURKE: I have proposed many  
22 things in my life and I'm just wondering, did  
23 the commission get what it wanted in terms of  
24 this - where we think that all the boundaries  
25 should be versus where the town ultimately

1 decided they should be?

2 MR. GIFFORD: As I said, more or less,  
3 the commission was satisfied with what was  
4 drawn.

5 CHAIRMAN O'ROURKE: Is it me?

6 Neil, I'm not being funny. I'm just not  
7 understanding the answer.

8 MR. GIFFORD: We were satisfied. We were  
9 pleased with the boundary that was drawn.

10 MR. ROSANO: Can I ask a question? Is  
11 your map going to look remarkably like the  
12 finished product with the exact view on it?  
13 Did you get what you wanted; yes or no?

14 MR. GIFFORD: More or less, yes. When you  
15 look at the conditions and the 2002 management  
16 plan and final environmental impact statement,  
17 the study area boundary in that map is very  
18 similar to the boundary for the conservation  
19 development overlay district. Is it exactly  
20 the same? No. The town was considering a  
21 number of considerations -

22 CHAIRMAN O'ROURKE: You say it's very  
23 similar. I'm a reasonable guy. I look at it  
24 and I'm just not so sure that it's all that  
25 simple.

1           MR. GIFFORD: One of the things in  
2 particular - some of the boundaries line up  
3 with the full protection area recommendations.

4           Because we had specific information about  
5 the environmental resources in those areas, it  
6 was factual information that had gone through  
7 an entire SEQRA process that we made available  
8 to the town and tried to make them understand  
9 the information that was in there. But again,  
10 all of that was done at the public hearings.

11          CHAIRMAN O'ROURKE: In those significant  
12 areas was every significant area that you just  
13 mentioned in terms of your SEQRA that you guys  
14 did - was every significance environmental  
15 area part of these conservation overlays?

16          MR. GIFFORD: They are all of the  
17 commission's recommendations in our management  
18 plan for conservation. They were included with  
19 the conservation development overlays.

20          Our map covers all three municipalities,  
21 not just the Town of Colonie. I want to be  
22 clear as I answer that.

23          CHAIRMAN O'ROURKE: But in your  
24 commission's determination, there are  
25 different levels of significance within these

1 areas, am I correct in that?

2 MR. GIFFORD: Yes, we went through and  
3 evaluated in 2002 all of the open space that  
4 was there within the boundary and evaluated it  
5 on certain criteria. We provided a ranking  
6 system to that scoring that as you added all  
7 that up, the area was recommended either as  
8 open space, remain as it is, or recommended  
9 for partial protection. That would be where a  
10 block of undeveloped land contains some  
11 important environmental resources, but also  
12 some development would be appropriate and some  
13 recommended for full protection that we would  
14 like to see added to the preserve.

15 The boundary that is in the conservation  
16 development overlay district encapsulates all  
17 of those areas within the Town of Colonie, and  
18 not just any one specific recommendation but  
19 that the entire commission's recommendation.

20 CHAIRMAN O'ROURKE: Your highest level of  
21 area which is for full protection area, is  
22 every one of those areas in terms of your 2002  
23 SEQRA document - are they all conservation  
24 overlay parcels in this?

25 MR. GIFFORD: They are all within the

1 boundary of the conservation development  
2 overlay district; yes.

3 CHAIRMAN O'ROURKE: Okay, anybody else?

4 MR. NARDACCI: I just had one follow-up  
5 question.

6 On the conservation development overlay  
7 district - there are ways that the overlay  
8 district may hamstring a development and there  
9 are ways that it may help on environmental  
10 protection. Could you help me understand the  
11 full purpose of an overlay district?

12 MR. GIFFORD: I'm not sure that I can  
13 fully answer your question because I'm the  
14 environmental planner. I'm not a municipal  
15 planner. Again, that's one of the reasons why  
16 the commission provides information that we  
17 have. Until I read the Local Land Use Law and  
18 read through the Comprehensive Plan, I didn't  
19 fully understand what the conservation  
20 development overlay district was. I understand  
21 it better now, but I'm by no means an expert.

22 MR. NARDACCI: The best that you can from  
23 a commission standpoint, when you look at  
24 conservation overlay district and all the  
25 municipalities, Albany, Guilderland and

1           Colonie - what are the things traditionally  
2           that applicants include in their applications?  
3           I'm just thinking that when we get a new  
4           application, new development project, or  
5           commercial project and they're in the overlay  
6           district, what do they need to do that's in  
7           addition to if they weren't in the overlay  
8           district?

9           MR. GIFFORD: I'm not sure of that. From  
10          my understanding is that they would be  
11          required to evaluate -- the one difference  
12          which would be getting in versus out of the  
13          conservation development overlay district is  
14          that there is additional environmental review.  
15          There is a summary that folks need to do of  
16          constrained lands and the environmental  
17          resources that you wouldn't necessarily  
18          capture in the SEQRA short form.

19          MR. NARDACCI: What we've seen in the  
20          overlay district is applicants have submitted  
21          a narrative. Part of their narrative is yes,  
22          we understand that this isn't a conservation  
23          overlay district.

24          MR. GIFFORD: Right and I don't believe  
25          that would be required outside of the

1 conservation development overlay district.

2 MR. NARDACCI: I was just wondering if in  
3 your experience if it seriously hamstrings  
4 development. Just from what I've seen, the  
5 projects that have come before us - it hasn't  
6 stopped the project.

7 MR. GIFFORD: When I read the Land Use  
8 Law and Comprehensive Plan - what I walked  
9 away with was that this is a tool that's  
10 ideally going to be flexible and that's why I  
11 mentioned earlier that it's designed as a tool  
12 to balance conservation and economic  
13 development, rather than just purely doing one  
14 or the other.

15 MR. NARDACCI: I think that's the point  
16 that I was trying to drive at, in just trying  
17 to create a dialogue. There are industrial  
18 type projects that we're in the process of  
19 reviewing now that are in the overlay  
20 district. There hasn't been anything that has  
21 spiked up that says stop. It doesn't stop the  
22 project. It doesn't stop, but it's taken into  
23 account and provided the narrative how you  
24 intend to address the resources that are  
25 around the site or on the site.

1           MR. GIFFORD: That's the commission's  
2 understanding as well. It's a tool for  
3 balancing.

4           MR. NARDACCI: Thank you.

5           MS. VAIDA: I just had a question. From  
6 what you see today, would there be anything  
7 different from your recommendations back then  
8 if you were to do that all over again today in  
9 terms of significant areas and where the line  
10 should be?

11           MR. GIFFORD: I think that we would put  
12 more emphasis on the western area and beyond  
13 the commission of 2002 boundary of its study  
14 area. The study area previously did not go all  
15 the way to the county line. Since the  
16 Comprehensive Plan concluded because of the  
17 work that's been done in Schenectady County  
18 with the Woodlawn preserve, we learned of an  
19 additional butterfly colony in the western  
20 part of the Town of Colonie. We probably would  
21 have made stronger recommendations about  
22 protecting some of those resources, beyond  
23 what was in the 2002 plan.

24           MS. VAIDA: Thank you.

25           CHAIRMAN O'ROURKE: Thank you, Neil.

1 Ms. Suzanne Perry-Potts.

2 MS. PERRY-POTTS: Hi, my name is Suzanne  
3 Perry-Potts and I live at 1050 Kings Road.

4 I have a few things. One is that Neil  
5 said that he didn't have anything to do with  
6 the CDO, the conservation development overlay.  
7 I have a copy of a letter here from him and  
8 it's his initial attempt at directing design  
9 stages for that CDO. He obviously did have  
10 something to do with writing up that law  
11 concerning the conservation development  
12 overlay.

13 CHAIRMAN O'ROURKE: Could you turn that  
14 into the board, please?

15 MS. PERRY-POTTS: I'll copy it, yes. This  
16 is my only copy. I will copy it for you. I  
17 can't copy everything that I have. I have a  
18 pile this big (Indicating). I gave you quite a  
19 bit. I'll copy this and give it to you.

20 CHAIRMAN O'ROURKE: Again, because this  
21 is fact finding, we'll let anybody say  
22 whatever but the board won't consider it  
23 unless we're able to look at it and research  
24 it.

25 MS. PERRY-POTTS: Also, he not only

1 attended all of those 26 meetings the town  
2 had, he also attended approximately six or  
3 seven of those meetings with the Pine Bush  
4 Committee at Helen's house, the Stanford  
5 Heights Fire House and at the conference room  
6 by Mary Brizzell. He attended those meetings  
7 too. I have a sign-in sheet for maybe a  
8 half-dozen of those.

9 I also have the sign-in sheet for when  
10 they did the west side - when they did like  
11 five different community meetings. I have the  
12 sign-in sheet and none of these business  
13 people attended that. The only people that are  
14 really in that area were two people on  
15 Lupe Way, the Romanos and Mr. Gifford from the  
16 preserve.

17 For the business meeting that they had, I  
18 have a sign-in sheet and none of those  
19 businesses that are on that map that are  
20 asking to be rezoned attended it. They're not  
21 in there.

22 MR. NARDACCI: What businesses were in  
23 attendance?

24 MS. PERRY-POTTS: Well, we have the  
25 Albany County Economic Development,

1 in Latham, the William Sanford Library,  
2 someone from the marketing department from  
3 British American, someone from Creighton  
4 Manning Engineers, Rocky [SIC] Coco from  
5 Latham, someone from Hanley Sign Company,  
6 someone from [SIC] Gelizi, Walter King from  
7 Loudonville, someone from Siegel Goldman and  
8 Mullaney, someone from the center for economic  
9 growth in Albany, Lark and commercial  
10 properties in Albany, Picotte Companies in  
11 Albany, Remax Premier from Albany, the  
12 literacy volunteers down in Albany, someone  
13 from Young Sommer, LLC, someone from In Any  
14 Event from Loudonville, someone from  
15 M & T Bank, Tracy Metzger Associates, National  
16 Planning Associates from Clifton Park, Diane  
17 Morgan from the Pruyn House, someone from the  
18 Chamber of Commerce, William Ziglewski from  
19 the Towers of Colonie, a commercial business  
20 development officer from Troy, Troy  
21 Landscaping in Cohoes.

22 CHAIRMAN O'ROURKE: I think that we have  
23 the idea.

24 MS. PERRY-POTTS: Nobody from this area.  
25 I can give you a copy of that, if you want.

1                   CHAIRMAN O'ROURKE: Joe, can you get  
2 upstairs and make copies while she's here  
3 tonight?

4                   MS. PERRY-POTTS: Or I can copy them off  
5 and drop them off in a day. It's up to you.

6                   CHAIRMAN O'ROURKE: Everybody on this  
7 board works.

8                   MS. PERRY-POTTS: I'm fully aware of  
9 that. You guys are here working hard on this,  
10 too. I'm fully aware of that.

11                  MR. LACIVITA: She's been getting  
12 information back to me the next day.

13                  CHAIRMAN O'ROURKE: Okay, that's fine.

14                  MS. PERRY-POTTS: The only other comments  
15 that I had were that I wanted to clarify that  
16 six-year challenge. I know that Joe had said  
17 to me - and you had made some statement that  
18 there were going to be several public  
19 hearings.

20                  CHAIRMAN O'ROURKE: Yes.

21                  MS. PERRY-POTTS: Well, we want to be  
22 able to still have the ability to challenge  
23 the Comprehensive Plan because that is a  
24 legislative action.

25                  CHAIRMAN O'ROURKE: Six years is the

1 statute.

2 MS. PERRY-POTTS: Six years is up in  
3 October of 2011.

4 CHAIRMAN O'ROURKE: Peter, the question  
5 came up with the six-year statute of  
6 limitations. Ms. Perry-Potts brought up that  
7 she doesn't want to be cut out as these public  
8 hearings go forward.

9 MR. STUTO: I'm not sure what the statute  
10 of limitations that she is referring to. She's  
11 saying in challenging the Local Law of 2007?

12 CHAIRMAN O'ROURKE: Yes, there is a  
13 statute of limitations that is six years for  
14 deficit in procedural town processes for  
15 zoning and there is also a six-year state  
16 statute.

17 MS. VAIDA: What is your question,  
18 exactly?

19 MS. PERRY-POTTS: My statement is that I  
20 want to be able -- whether the Town Board can  
21 make their final decision or not, I don't  
22 know. But by the end of January 31, 2011 if  
23 there is a decision made by then, if someone  
24 opposes it, they have four months to file an  
25 Article 78. If they decide to file an

1 Article 78 on the last day of that four  
2 months, I want to be able to have time to be  
3 able to challenge the Comprehensive Plan  
4 because I believe that it is based on  
5 misinformation and it's based on fraud. So I  
6 do not want to lose the ability to challenge  
7 that law. I'm just telling you that you can  
8 drag it on or whatever, but it's going to come  
9 to a point where we're going to say that we  
10 need to have a decision by now or we're going  
11 to do it another way. I know that I had  
12 mentioned before six years from the Local  
13 Zoning Law and that would give us two and a  
14 half years.

15 CHAIRMAN O'ROURKE: You have Mr. Caponera  
16 on your side, then I guess.

17 MS. PERRY-POTTS: Sort of. I want you to  
18 realize that we wanted to be able to challenge  
19 the Comprehensive Plan adoption also. That law  
20 was based on that and there was some  
21 misinformation and that was based on fraud.

22 CHAIRMAN O'ROURKE: If you're asking my  
23 opinion, there is no way that this Planning  
24 Board is - we're not going to be done by  
25 January of 2011.

1 MS. PERRY-POTTS: Well we can continue to  
2 go forward and try but I wanted you to  
3 realize -

4 CHAIRMAN O'ROURKE: If you're going to  
5 sue, you're going to sue. It's America.

6 MS. PERRY-POTTS: I don't want to sue,  
7 but I'm just saying that -

8 CHAIRMAN O'ROURKE: I'm just telling you  
9 that there is no way that we're going to be  
10 done in eight months with this. There is no  
11 way.

12 MS. PERRY-POTTS: I hear you.

13 CHAIRMAN O'ROURKE: I'm being fair and  
14 I'm being honest here.

15 MS. PERRY-POTTS: Well we'll look forward  
16 to seeing how that happens. Who knows?  
17 Miracles can happen. That's all I had to say.

18 Thank you.

19 CHAIRMAN O'ROURKE: Thank you.

20 Shelley Lupe.

21 MS. LUPE: Shelley Lupe,  
22 100 Cordell Road.

23 We own numerous properties on  
24 Cordell Road, as well as my cousin who owns  
25 numerous properties. We were rezoned from

1 industrial to commercial office space. We are  
2 on a road of warehouses, trucking companies, a  
3 gravel pit, nurseries and whatever. We have  
4 been located on this road - our businesses for  
5 over 60 years. Any of the residences that are  
6 surrounding our property have come far after  
7 that time frame. So we were there first.

8 As far as the notice goes for any of this  
9 rezoning of our property from industrial to  
10 commercial, we never received any notice. We  
11 do not receive notices in the mail. The  
12 surrounding residences do get notices. We do  
13 not. The Spotlight is maybe interspersed. I  
14 don't know where. I've never even seen the  
15 paper.

16 We are commercial developers. If we had  
17 known somebody was going to take the  
18 properties that we own with our warehouses on  
19 it and arbitrarily change it to commercial  
20 office, we would have attended the meetings.  
21 We are developers. We attend many meetings. We  
22 are extremely involved in very active.

23 As far as being grandfathered in, that is  
24 not the scenario that everybody pretends that  
25 it is. First of all it adds an unbelievable

1 amount of cost. I mean, they talk about the  
2 overlay zone. It's just not a simple  
3 environmental form. You have to hire an  
4 engineer, and developer, and a do a full  
5 SEQRA. You can't say that doesn't have any  
6 effect on our property. Now that we're  
7 non-conforming, we have to go through months  
8 and months of approvals. This costs money. Not  
9 only do we have to hire engineers where we  
10 shouldn't have to hire engineers just to  
11 change a tenant, we have to hire engineers and  
12 lawyers now. I mean, it has cost me over  
13 \$10,000 just to put in the three tenants that  
14 I have that were completely conforming and now  
15 they're not. That's over \$10,000. I don't get  
16 that much. I get twice that in rent for a  
17 year. That is not considered a reasonable  
18 expense.

19 The Town of Colonie for greenspace  
20 requires 33%. My understanding is if you have  
21 an overlay on top of that, it is another 40%.  
22 So that leaves me 25% of my property that I  
23 can develop. That's the property that I have  
24 that's industrial, but now it has to be  
25 commercial building.

1           So, you asked about did it cause any  
2           problems for other people? Well, they may have  
3           been in an industrial zone with an overlay so  
4           instead of 33% greenspace, they have to have  
5           40% but they're not in the same boat as us  
6           where we have to become commercial office  
7           space. Nobody is going to buy our property.  
8           When my tenants leave, nobody is going to want  
9           to rent there. Who is going to want to take a  
10          year and a half to get put into a building to  
11          become a tenant? Who is going to do that? They  
12          have decreased the value of our properties. We  
13          can't sell. We can't lease, at least not in  
14          reasonable terms and reasonable amounts of  
15          money.

16                 As far as open space and wildlife and the  
17          benefits to the community - that's all fine  
18          and good. I have no problems with the Pine  
19          Bush, but we are not the Pine Bush. We are  
20          industrial properties that have been here for  
21          over 60 years. We just want to use our  
22          property the way that we have always used it.

23                 If the community and the Pine Bush want  
24          our property, then they have to come to us and  
25          offer us fair market value and then guess

1           what? We have the right to turn it down. We  
2           don't have to sell our property, if we don't  
3           want to.

4                     As far as taking horseback riding around  
5           these properties, we have a gravel pit as our  
6           neighbor. I don't know anybody who wants to  
7           ride a horse around a gravel pit. This gets a  
8           little ridiculous.

9                     The notice, I think, is quite obvious  
10          that we were eliminated with intent. You can't  
11          get a balanced Comprehensive Plan if you don't  
12          approach and make an effort to include the  
13          properties that you are rezoning. Why would  
14          you talk to everybody else around there and  
15          not the people that you are rezoning their  
16          properties?

17                    As far as the list that Suzanne just  
18          read, they are all in Albany. These people  
19          weren't rezoned from industrial to commercial  
20          office or residential. They weren't rezoned.  
21          They heard about the Comprehensive Plan and  
22          they went. They didn't go for any reason like  
23          we would have showed up for if we had known  
24          that they were talking about our property and  
25          rezoning it.

1 I believe that's all I have to say.

2 CHAIRMAN O'ROURKE: Do you live in  
3 zip code 12303?

4 MS. LUPE: No, 12304.

5 MR. NARDACCI: I have just a couple of  
6 quick questions.

7 In the conservation overlay  
8 district - I just double checked the language.  
9 It's required that there is 40% greenspace -

10 MS. LUPE: On top of the 33%.

11 MR. NARDACCI: Not on top of. That's 40%  
12 total.

13 MS. LUPE: We were told that it gets  
14 added to that.

15 MR. NARDACCI: I just want to confirm  
16 what the number is.

17 MS. LUPE: It's 40 plus 33.

18 MR. NARDACCI: So it's 73% greenspace?

19 CHAIRMAN O'ROURKE: I believe so.

20 MR. NARDACCI: Some of the tenant changes  
21 that you talked of - we don't see those. I was  
22 curious if you could just walk us through the  
23 process of your tenant change and what was the  
24 cost to you and what did you had to do. You  
25 said you had to hire an engineer. I'm trying

1 to get a sense of the impact.

2 MR. LUPE: First of all, we're  
3 non-conforming. You have to go to zoning and  
4 you have to get turned down, and then you have  
5 to seek an appeal. So, that takes about four  
6 to six months. That would be one thing that  
7 you didn't have to do. That's all loss of  
8 rent.

9 MR. NARDACCI: You're not conforming now  
10 after the zoning change, right?

11 MS. LUPE: Right. Then you have to go in  
12 and go through the process of the Building  
13 Department and a planning review.

14 What they do is they go to your property  
15 and instead of assessing it like it's an  
16 industrial property, they assess it like it's  
17 commercial so we can't have our tractor  
18 trailers on our property. We can't have the  
19 normal stuff that an industrial piece would  
20 have on it. So, we'd have to eliminate all of  
21 those things. We'd have to have the buffer and  
22 the zoning has to be commercial.

23 MR. CAPONERA: I represent this young  
24 lady and I came in after she put her name  
25 down. But in answer to your question, real

1           simply, everyone here should know what a  
2           zoning verification is. You can't do anything  
3           in the town without getting one and getting an  
4           approval in the Building Department.

5                        What Shelley is saying is that now that  
6           this zoning has happened, any tenant change  
7           requires a zoning verification and if it's not  
8           the exact same use, it gets denied. You go to  
9           the Zoning Board and you wait four to eight  
10          weeks. If you're lucky enough to get the  
11          Zoning Board to approve the variance, you have  
12          to refile a new zoning verification, get that  
13          approved with the attached variance to it and  
14          then go to planning and have planning review  
15          it. It's a long process and depending on who  
16          you have to hire, it can be very expensive.

17                      For the record, she did not pay me that  
18          kind of money though. She has hit all of the  
19          salient points.

20                      MS. LUPE: It was four months before we  
21          got the zoning approval.

22                      MR. CAPONERA: She is one of the five  
23          clients that I represent who owns property on  
24          Cordell Road.

25                      MR. LUPE: If I had known that you were

1 going to ask that, I would have written  
2 everything down in detail with costs.

3 MR. NARDACCI: The point is to try to get  
4 a full picture - the full scope of all of  
5 this.

6 MS. LUPE: I can tabulate that and  
7 provide it to the town. I have no problems  
8 with that.

9 MR. NARDACCI: If you would and submit it  
10 to us, that would be great.

11 MS. LUPE: I will do it tomorrow.

12 CHAIRMAN O'ROURKE: I actually have two  
13 questions in regard to this, Joe. I'm looking  
14 to know how many use variances have been  
15 issued on these properties.

16 MR. LACIVITA: All the ones that are  
17 currently asking to be rezoned in this area?

18 CHAIRMAN O'ROURKE: In the whole area. I  
19 want to know how many of those use variances  
20 have been issued and how many of the  
21 businesses are presently non-conforming.

22 MS. LUPE: Well, we're all non-conforming  
23 now.

24 CHAIRMAN O'ROURKE: Not all. I don't  
25 believe that it's all.

1                   MR. CAPONERA: My clients are  
2 non-conforming. That represents approximately  
3 140 acres.

4                   CHAIRMAN O'ROURKE: The board wants to  
5 know every business that is now  
6 non-conforming. We can do that through the  
7 Building Department and we'll present this as  
8 information to the sides.

9                   MR. NARDACCI: There is an orderly way to  
10 gather the information.

11                   CHAIRMAN O'ROURKE: Yes, there is. Well,  
12 we hope there is. We seem to be missing some  
13 documents from the Comp Plan review.

14                   MR. CAPONERA: Mike Rosch will have the  
15 information. All he has to do is look at the  
16 current zoning, and that's a pretty easy thing  
17 to do; hopefully.

18                   MS. LUPE: I do want to just accentuate  
19 the fact that our property has been devaluated  
20 You are not going to find prospective  
21 customers or people out there who want to be a  
22 tenant under these conditions or want to buy a  
23 property under these conditions. This just  
24 limits our pool of perspective buyers or  
25 tenants down to very few.

1                   CHAIRMAN O'ROURKE: Thank you.

2                   Ralph Schimmel, 5 Lupe Way.

3                   MR. SCHIMMEL: Thank you, Mr. Chairman,  
4 and board members for the opportunity to speak  
5 tonight.

6                   My name is Ralph Schimmel and I live at  
7 5 Lupe Way, adjacent and contiguous to the  
8 parcel known as 8 Lupe Way.

9                   Can someone explain to me what 8 Lupe Way  
10 is? What size track of land is that? When I  
11 moved in there, 8 Lupe Way was a single lot.  
12 Now all the sudden it's expanded, I think, to  
13 several acres. I don't know. Can someone tell  
14 me that?

15                  CHAIRMAN O'ROURKE: I don't have that  
16 information, at hand.

17                  MR. SCHIMMEL: I'll make my comments  
18 anyway. What I wanted to say is that I  
19 appreciate the opportunity to present my views  
20 tonight. As you are aware, I was in attendance  
21 at the Planning Board meeting and I made some  
22 protestations which I think were misguided by  
23 me so I apologize to you for that because I  
24 didn't understand the process. I now  
25 understand the process.

1                   CHAIRMAN O'ROURKE: No problem. I'm not  
2 thin-skinned.

3                   MR. SCHIMMEL: At that time, I wanted to  
4 voice my objection to the proposed west side  
5 rezoning and I also wanted to submit to you a  
6 petition that we circulated in opposition to  
7 that. Can I do that?

8                   CHAIRMAN O'ROURKE: You can. I appreciate  
9 that.

10                  MR. SCHIMMEL: Again, I want to voice my  
11 opposition to the proposed rezoning of  
12 8 Lupe Way. My remarks are contained and are  
13 referenced to 8 Lupe Way because I'm a  
14 neighbor of that particular area. This request  
15 is not mine alone and I think that there are  
16 an number of people that are in the audience  
17 tonight that are impacted as a community.

18                  I know that community is known as Rose  
19 Garden and it was built by a gentleman by the  
20 name of Lupe Owen who I believe is perhaps one  
21 of the petitioners tonight of this rezoning.  
22 If you've done your history you'll probably be  
23 aware that there have been several generations  
24 of rezoning required there starting from back  
25 in 2004 or something for a car wash in an

1 industrial zone. It was rejected by the then  
2 present Planning Board. Mr. Gifford can talk  
3 to you since you're in the process of fact  
4 finding. There was a subsequent matter that  
5 was before the board and there was a proposal.  
6 I think that I have the name right; it was  
7 Lupe Owen. I'm not quite sure about that.

8 To have the Pine Bush take over that  
9 track of land back there. There were some  
10 negotiations back and forth, am I correct,  
11 Mr. Gifford?

12 MR. GIFFORD: I don't know. I'd have to  
13 look.

14 MR. SCHIMMEL: You weren't involved in  
15 that?

16 MR. GIFFORD: It was probably before I  
17 started.

18 MR. SCHIMMEL: No, I had conversations  
19 with you about it. You came to my house.

20 MR. GIFFORD: Then I guess I did.

21 MR. SCHIMMEL: Anyhow, that would have  
22 been an area that would have been taken over  
23 by the Pine Bush. I don't know what happened  
24 to those negotiations. Obviously it failed and  
25 there were probably a great many folks in my

1 neighborhood that were upset about that  
2 happening. What I have to say is you can  
3 assign whatever slogans you want to for  
4 planning and zoning with words like  
5 non-conforming and non-consistent with the  
6 overall character or bordering and zoning,  
7 etcetera. In essence, the zoning change  
8 proposal for 8 Lupe Way is in total conflict  
9 with the residential neighborhood and also  
10 with the new subdivision under construction at  
11 the east end of our street.

12 That gentleman might be here tonight to  
13 voice his own objections.

14 I attended those hearings also when he  
15 was given the approval to put in a new seven-  
16 lot subdivision on the east end of our street  
17 and we participated in those discussions. Mr.  
18 LaCivita was at those meetings and we voiced  
19 some objections to those also, but that was  
20 more transportation and traffic oriented than  
21 anything else.

22 You looked puzzled, Mr. O'Rourke.

23 CHAIRMAN O'ROURKE: I'm puzzled when  
24 there is projects that I'm not aware of.

25 MR. SCHIMMEL: Well, it's approved. It's

1 under construction now.

2 CHAIRMAN O'ROURKE: When did it get  
3 approved, Joe?

4 MR. SCHIMMEL: Last year sometime. I  
5 recall the gentleman say that it took him  
6 10 years to get it approved. He'll probably  
7 voice his frustration with that proposal. His  
8 subdivision as well as where we live - there  
9 is a significant impact to the homes and  
10 families in that area. We have like 30 to 40  
11 homes there that were built and sold by  
12 Mr. Lupe and he now is - I take it - the  
13 gentleman who wants to change the zoning to  
14 industrial in our back yard and that is in  
15 total conflict with our living standards there  
16 and we oppose that.

17 So, I just want to reiterate again that  
18 we are opposed to that and those are the  
19 emotional comments.

20 During your Planning Board informational  
21 hearing, Ms. Perry-Potts gave a very lengthily  
22 discussion and I give kudos to her for the  
23 amount of work that she did in putting that  
24 together.

25 I also read in the minutes on the web of

1           that meeting. As I delve through those meeting  
2           minutes, the only reference that I see in that  
3           entire discourse about 8 Lupe Way was a  
4           reference to the developer providing a  
5           101 foot green space buffer. That's the only  
6           substantive remarks that I saw supporting  
7           8 Lupe Way for rezoning; other than the legal  
8           issue that Mrs. Potts raised such as her  
9           14th amendment right, notice, SEQRA, etcetera.  
10          So in terms of that presentation, that's the  
11          only reference that I saw to support rezoning  
12          8 Lupe Way. I think that's significant.

13                 As to the issue of notice that Mrs. Potts  
14          claimed, I think that if she examines her  
15          notes, she'll probably see that perhaps I'm  
16          one of those two people that was in attendance  
17          for Lupe Way during those hearings. From my  
18          perspective, from what I knew and my  
19          involvement in the town, I felt that the town  
20          gave perfectly adequate notice to that  
21          process.

22                 As far as I know, there was a mailing  
23          list and we received a questioner. In fact, I  
24          have the results to that questioner here.

25                 There were ample opportunities and

1 notice. As to whether those people attended or  
2 not, I don't know why but I was aware of it  
3 and my neighbors were aware of it. We attended  
4 the meetings. To say that the town did not  
5 give adequate notice, I don't think that it  
6 contains any merit; at least in my  
7 perspective.

8 Mrs. Potts' remarks on page 11 of the  
9 minutes actually states one of the  
10 justifications to making this request when she  
11 speaks of the dimensions of her property  
12 rights and values.

13 In closing I want to say that there is no  
14 way or any way that we diminished or I  
15 diminished Mrs. Potts grievance and whatever  
16 concerns that she has because those things  
17 are, I think, real to her.

18 What I'm saying to you is that the number  
19 of young families that exist in my  
20 neighborhood - I'm an old geezer in the  
21 neighborhood. I'm not going to be there  
22 probably for the things that go on there in  
23 the future. You've said that this is going to  
24 be a lengthy process, but those people have  
25 young families and have invested their entire

1 life savings into those homes and in their  
2 families. We have like 40 houses and like  
3 60 kids and they're still coming. It's a big  
4 development. I think that what's happening is  
5 if you change that zoning, you're really  
6 putting a big impact on those families.

7 I don't know about these other properties  
8 on Morris Road. I know that Mrs. Potts'  
9 petition contains Morris Road, Kings Road,  
10 Cordell Road and all those properties adjacent  
11 to it. There are a lot of industries there,  
12 but my comments are not relative to those  
13 properties. My comments are relative to the  
14 property that is contiguous to us.

15 I have one more point that I want to  
16 make.

17 I have traversed that area. I heard  
18 somebody tonight say something about horseback  
19 riding. There are riding trails in back of the  
20 area which is 8 Lupe Way. I have walked  
21 through there, myself.

22 I would request that this board to  
23 request a further inventory of the wetlands  
24 because I don't think that they are adequate  
25 on these maps here and I think that they need

1 to be reinventoried, as part of your process  
2 to go forward. I think that there is a  
3 significant area in that track of land that  
4 contains wetlands or at least a habitat to  
5 support wetland life.

6 The last thing that I want to say tonight  
7 is that when I attended the subdivision  
8 meetings for the gentleman - I apologize I  
9 don't remember his name. I have talked to him  
10 a couple of times.

11 I made the point that Bonner, Lupe and  
12 Morocco are in an area where there is lack of  
13 ingress and egress. We have only one way in by  
14 substandard streets into a subdivision that is  
15 up to highway standards. If something should  
16 happen, it becomes an emergency situation.

17 I wrote to Mr. LaCivita by e-mail because  
18 that very thing happened just shortly after we  
19 had that big ice storm. I think it was about a  
20 year ago in December. We had a lot of blow  
21 down in the road and the development was cut  
22 off for a period of time. That's the very  
23 point that I'm referring to is the lack of  
24 ingress and egress. So no matter what you do  
25 with this property; whether you deem it to be

1           satisfactory to be residential or whether you  
2           deem it to be industrial, any access to that  
3           road has to be a different way. Now with  
4           another subdivision down the end of the street  
5           of seven lots, it's becoming dangerous and you  
6           should take that under advise.

7                     I thank you for the opportunity to talk  
8           tonight and if you have any questions for me,  
9           I'd be glad to answer them.

10                    CHAIRMAN O'ROURKE: My understanding of  
11           Lupe Way was that if he was allowed, he would  
12           provide the 101 foot buffer. That was my  
13           understanding.

14                    MS. PERRY-POTTS: For industrial and  
15           commercial, but if it stays residential, that  
16           doesn't apply. The 101-foot buffer would go  
17           toward his required greenspace.

18                    MR. SCHIMMEL: Right, that's what  
19           Mrs. Potts stated in the record.

20                    MS. PERRY-POTTS: I believe he does have  
21           access off of Cordell Road, also. This plan is  
22           to take commercial traffic down Lupe Way.

23                    MR. SCHIMMEL: But we went through this  
24           process about a car wash and an RV storage  
25           thing in there and the previous Planning Board

1 rejected that.

2 CHAIRMAN O'ROURKE: I think that this  
3 Planning Board in terms of development and in  
4 terms of buffering between residential or any  
5 residential and commercial - we haven't had  
6 the opportunity to have any industrial that  
7 abuts residential. However, we have been of  
8 the mindset that we want some type of  
9 buffering between the uses. We would want it  
10 if it was our family. Again, unfortunately  
11 this area is going to be a difficult area  
12 because those people that are coming in now  
13 buying homes in residential areas that are now  
14 being asked to go back to a different  
15 zoning - they have spent their money.

16 MR. SCHIMMEL: Think about this gentleman  
17 who is putting up homes in the amount of  
18 \$400,000 -

19 CHAIRMAN O'ROURKE: But again, this  
20 woman's family has owned property for  
21 60 years. Now, we're asking her -- all I'm  
22 saying is that it's contentious. I appreciate  
23 everyone being civil and just understanding  
24 that there is difficult decisions that are  
25 going to have to be made.

1           MR. SCHIMMEL: The other part of that  
2 industrial zoning is that an aircraft business  
3 which was a former class E or business E or  
4 something. Who knows what that contains? You  
5 could probably have jet fuel stocked over  
6 there. I don't know. That is certainly not  
7 something that is compatible with families  
8 living there.

9           CHAIRMAN O'ROURKE: Thank you.

10          MR. ROSANO: I would just ask that if you  
11 don't know the name of a person, don't mention  
12 them. Don't dance around it. If you don't know  
13 the person's name, then go on to something  
14 else. We need facts. That's what this is all  
15 about. I can't make a note if you don't know  
16 the name of someone. If you can't quote them  
17 or you don't know their name, don't mention  
18 them, please.

19          CHAIRMAN O'ROURKE: Jennifer Barone.

20          MS. BARONE: My name is Jennifer Barone.  
21 I live on Morris Road and I invested my life  
22 savings in my house there. Right after the  
23 real estate deal was done, they slipped in the  
24 fact that my house was zoned industrial. That  
25 was very typically kept a secret until the

1 very last minute. The two properties next to  
2 me are industrial. However, we are all  
3 residential and we've been residential and our  
4 houses have been there - my house has been  
5 there since 1973.

6 The property next to me had a house there  
7 for over 50 years. The lady grew up there, as  
8 a young child and that was industrial even  
9 though that's been residential forever.

10 The house on the other side has also been  
11 residential forever. When the zoning was  
12 changed, I'm assuming that our properties got  
13 rezoned to be commercial, but I'm not sure if  
14 we got rezoned to residential or commercial.

15 The point is that it should definitely be  
16 residential because surrounding us is all  
17 residential. The other side of the street is  
18 residential; adjacent to these properties is  
19 all residential. It's at the very beginning  
20 part of Morris Road in the first third of a  
21 mile before the railroad tracks, before any  
22 businesses start. There have never been any  
23 businesses there. If they change the zoning  
24 back, I think that there is a construction  
25 mine or a dump like Ms. Potts had across from

1 the neighbors house for years and years,  
2 illegally running and dumping construction  
3 debris down the road. We did not want a repeat  
4 of these illegal actions that we had going on  
5 before with the zoning industrial. She didn't  
6 even bother to get permits for those uses  
7 either. So we are completely against the  
8 rezoning.

9 I had a petition signed last year  
10 requesting that the rezoning be changed to  
11 residential from commercial for the properties  
12 that are in fact residential, and are  
13 erroneously zoned commercial. Also that we  
14 oppose any rezoning and that we oppose any  
15 increase in traffic.

16 We already have way too much traffic on  
17 Morris Road. We have way too many accidents  
18 and way too many trucks. It poses a health  
19 hazard. We have many families with young kids  
20 and people that exercise and walk, run, bike,  
21 and walk their dogs. I'm scared to walk my dog  
22 on my own road. I have to drive to parks to  
23 walk my dogs because of the traffic. There are  
24 no sidewalks and there is a very, very narrow  
25 area on the side of the road with a very steep

1           incline on the one side. On the other side,  
2           there are woods that go down into wetlands and  
3           into the Lishakill Stream that runs right  
4           adjacent or parallel to Morris Road, going  
5           down the road. So there is, in fact, wetland  
6           area going down the entire road. In fact there  
7           are some houses that are built, I believe,  
8           right on top of wetlands, right next to the  
9           Lishakill Creek. I believe that is protected I  
10          under the state law. There is a wetland behind  
11          my house, which I don't think that anybody  
12          even knows about.

13                 There is wetland area in the woods behind  
14          my house and my neighbor illegally cut down  
15          several acres - about 90% or more of the trees  
16          on his land. He had more than three or four  
17          acres of land at 66 Morris Road. They share  
18          the same driveway with me. I had dump trucks,  
19          bulldozers, you name it - I don't know even  
20          what they're called - those big machines with  
21          the cherry pickers on them. Next door, which  
22          is still zoned commercially, they have never  
23          got permits for any of this stuff. If the  
24          zoning changes, who knows what he would do  
25          there? Probably, more of the same.

1 I also complained to the town about this  
2 and nothing has been done. He did this three  
3 or four years ago so it's been quite a while.

4 So, as a citizen and as a resident, we  
5 demand that you do something to address our  
6 needs. We vastly outnumber the businesses. We  
7 have been there longer. There have been homes  
8 that have been there for 100 years on that  
9 road. That's much longer than any of the  
10 businesses and before any of these people  
11 bought these businesses, it was residential  
12 and it was wilderness. It continues to be  
13 developed and destroyed and our property  
14 values are going to go in the toilet if it  
15 gets industrial. It's not fair to do that to  
16 the majority of your citizens.

17 I didn't get to most of the houses on my  
18 road this time. I did last year though. I got  
19 all the houses on Morris Road going up from  
20 Albany Street to Kings Road, which is the  
21 majority of the residences. Every resident  
22 agreed to sign with the exception of one, who  
23 did support the petition, but just didn't feel  
24 comfortable putting a name on the petition.  
25 Every single person in every single house and

1 apartment on Morris road and some on  
2 Albany Street and surrounding areas that I  
3 also got to sign, is against the rezoning.

4 I got another petition this year with an  
5 additional 18 signatures, some of whom are the  
6 same people. Unfortunately, I didn't have time  
7 to go to all the houses because of family  
8 illness. We are completely against the  
9 rezoning.

10 The Pine Bush is a unique environmental  
11 area that needs to be protected and once it's  
12 gone, it's gone. There is no way to get it  
13 back. Once it's industrialized, it's  
14 destroyed. It's not going to be able to  
15 recover in our lifetimes. It's going to be  
16 something that will take hundreds of years and  
17 we do not want to leave our children a legacy  
18 of destroyed neighborhoods. What we want to do  
19 is strengthen our neighborhoods and keep a  
20 buffer zone between the industrial and places  
21 that you're talking about. Nobody wants that  
22 in their back yard. If Ms. Potts is so keen to  
23 have all of this development, then she should  
24 go live next door to it instead of making us  
25 live next door to it like Ms. Lupe and whoever

1 else wants to develop our neighborhood and the  
2 lands next to our homes. It's just not right.

3 I ask you to accept this and to consider  
4 our opinions and to do the right thing.

5 CHAIRMAN O'ROURKE: Thank you.

6 Teresa Scicchitan.

7 MS. SCICCHITAN: Good evening. Thank you  
8 for allowing me to speak.

9 My dad has owned the property as well as  
10 a few other shareholders of Curry Road  
11 Development Corporation since, I believe,  
12 1968. The parcels that are in question are  
13 2871 Curry Road and 2889 Curry Road. Recent  
14 tax bills shows 311 residential vacant land  
15 and 484 one-use small buildings. It was  
16 rezoned without our knowledge and without any  
17 notification to the addresses on record. We  
18 would like to be notified in the future of all  
19 correspondence and any overlay districts that  
20 the Pine Bush has discussed purchasing. They  
21 have purchased other land from us. If there is  
22 an interest, we want to be made offers of full  
23 market value. We want to know what's going on.

24 That's the real issue here because things  
25 should not be changed while someone pays taxes

1 on industrial E land for a numerous amount of  
2 time and then it gets changed to residential.  
3 They shouldn't be allowed to do that without  
4 notification. People pay taxes at a higher  
5 rate all those years and then they can't use  
6 it for that use. What's the point?

7 Thank you for listening.

8 CHAIRMAN O'ROURKE: Jan Metzger.

9 MR. METZGER: Hi, my name is Jan Metzger  
10 and I represent Millivac Instruments at  
11 2818 Curry Road.

12 The first thing that I'd like to say is  
13 that the signage for this meeting - I don't  
14 know if the board has seen the signs for this  
15 meeting. These were actually posted on the  
16 telephone poles up and down the property in  
17 question. At 30 miles an hour, you can't see a  
18 thing. So unless you're ready to stop and pull  
19 over, this is a worthless piece of paper that  
20 I'll give to you later because my notes are on  
21 the back. I know that it was your intention to  
22 elicit comment and have people here but this  
23 is clearly not the way to do this.

24 CHAIRMAN O'ROURKE: So you think like a  
25 plane with a -- you know, I'm open for

1 suggestions.

2 MR. METZGER: You know, when it's  
3 election time and they have those things on  
4 the ground, it's very clear. You can say,  
5 public meeting. It's big and it's bold. A  
6 telephone pole is obscured by trees.

7 CHAIRMAN O'ROURKE: At least we noticed  
8 the meeting. It hasn't always been done.

9 MR. METZGER: And I appreciate that.

10 CHAIRMAN O'ROURKE: I apologize for  
11 interrupting.

12 MR. METZGER: That's all right. It wasn't  
13 until several years ago when Mrs. Perry-Potts  
14 informed us that the zoning had been changed  
15 on our building - that came as a big surprise  
16 because we've been in the building for about  
17 41 years. My dad built it back then. We never  
18 received any notification of the zoning  
19 change. I've been working there since 1988 and  
20 I look through the mail that comes in and if  
21 there were 27 public hearings regarding a  
22 zoning change, I have to tell you that I never  
23 saw it. So either I wasn't paying attention,  
24 or it never came.

25 CHAIRMAN O'ROURKE: You weren't paying

1 attention 27 times?

2 MR. METZGER: I wasn't paying attention  
3 for many years.

4 When my dad built that building 40 years  
5 ago, I believe it was an airport business  
6 district. Now, I'm not sure what it is. I'm  
7 not sure if it's commercial or residential. It  
8 doesn't really matter because the point is  
9 that I resent - not the Planning Board, but I  
10 resent some of the comments here about the  
11 citizens and the residents of the Town of  
12 Colonie versus the business owners in the Town  
13 of Colonie.

14 As far as I'm concerned, we all pay taxes  
15 and we all deserve the same type of treatment.  
16 Businesses should not be disenfranchised  
17 because they don't live here. My dad lives in  
18 Niskayuna and I live in Guilderland and I know  
19 that in those neighborhoods I would be just as  
20 irate and angry if businesses were  
21 disenfranchised there.

22 CHAIRMAN O'ROURKE: You pay your tax  
23 bill, right?

24 MR. METZGER: Yes, regularly. And over  
25 the last four years we probably paid over a

1 quarter of a million dollars in taxes. The  
2 concern that I have for our building is that  
3 with this non-conforming thing - My dad is 84  
4 years old and what if he decides to sell? I  
5 don't know how much longer the business is  
6 going to be viable and he does work every day.  
7 Business is still viable, but in the event  
8 that he decided to sell the business and sell  
9 the building, my understanding is that unless  
10 a very similar business came in, we'd have to  
11 go through these things that we have heard  
12 earlier. I wasn't aware of any of that.

13 So I have learned a lot by coming to  
14 these meetings and I appreciate that. It  
15 doesn't seem like it's really fair to change  
16 your zoning. I also understand the passion  
17 that everybody has for this. I feel that our  
18 company is a good neighbor. I consider myself  
19 an environmentalist. I understand that the  
20 Pine Bush is a precious area.

21 I used to live on Old State Road and my  
22 backyard was the Pine Bush. My kids grew up in  
23 Guilderland, came to the Pine Bush, and were  
24 there to see the revitalization of the Pine  
25 Bush.

1           Everybody has to live within a  
2 neighborhood; businesses, residents and  
3 everyone.

4           Not being on a Planning Board, I don't  
5 know if this is possible, but in your  
6 consideration and in your fact finding, maybe  
7 it's possible to take a residential  
8 neighborhood that now exists, make it  
9 residential, and give back to the businesses  
10 their industrial zoning. I know that makes a  
11 mess of the map, but it is a thought for  
12 consideration.

13           Thank you, very much.

14           CHAIRMAN O'ROURKE: Thank you, sir.

15           MR. NARDACCI: I have just a quick  
16 question. To try to get to this issue of  
17 non-conforming use, what type of business have  
18 you guys had?

19           MR. METZGER: We're a manufacturing  
20 business.

21           MR. NARDACCI: So manufacturing would  
22 traditionally fall under an industrial?

23           MR. METZGER: Actually, it's light  
24 industrial, but it is industrial. It's not a  
25 commercial building.

1                   MR. NARDACCI: And when you built the  
2 business back then when it was airport  
3 business, it was industrial when it was built?

4                   MR. METZGER: Yes. It was light  
5 industrial and had the same use for many  
6 years. I think that we comprise two and a half  
7 or three and a half acres back there. I  
8 believe that the area beyond our property is  
9 completely cleared. It's an emergency airport  
10 landing strip, if I'm not incorrect. That  
11 whole area is clear.

12                   MR. NARDACCI: That answered by question.  
13 Thank you.

14                   CHAIRMAN O'ROURKE: David Raber.

15                   MR. RABER: My name is Dave Raber. I'm a  
16 partner in business and part owner of the  
17 business property at 2940 Curry Road. We are  
18 currently zoned residential. We were light  
19 commercial business prior to this.

20                   I own a farm in the New York City water  
21 shed down in Delaware County. I own a home in  
22 Salt Lake City, Utah, and I own a couple of  
23 other commercial properties. I'm a farmer and  
24 a contractor.

25                   Whenever the New York City Watershed is

1 proposing to do anything that effects the  
2 agricultural lands down in Delaware County, I  
3 receive a written notification inviting me to  
4 the process.

5 When the City of Salt Lake was installing  
6 a new gas line across the corner of my  
7 property in Salt Lake City, I received written  
8 notification.

9 I have a camp in a rural area in the  
10 Catskills in a little town called Andes,  
11 New York. When they were redistricting the  
12 fire district, as a property owner, I received  
13 written notification; all registered letters  
14 by the way.

15 Mrs. Potts was kind enough to let us know  
16 that our property had been rezoned.

17 I'm not a lawyer, but I do understand  
18 fairness. I've been in business working for  
19 myself for almost 30 years. I have never been  
20 involved in a process, especially of this  
21 magnitude, where this process has taken my  
22 property value and I can't even tell you what  
23 it is now. I could tell you by a fair  
24 appraisal of what it was when I purchased it  
25 with my partners and I can tell you what it

1 was before in my mind when we revalued our  
2 property by a realtor and did an assessment of  
3 our property. But then when we got word that  
4 we were rezoned to residential, right away my  
5 heart sank.

6 We are buffered on three sides by the  
7 Pine Bush. When any action is taken in the  
8 Pine Bush - burning, chemical control and/or  
9 just activity, they come and knock on our  
10 door. They say, howdy neighbor. We're here to  
11 do a prescribed burn, if the wind is blowing  
12 right. No problem. It's a handshake. They give  
13 us hats and shirts. We like living in the Pine  
14 Bush. We like working in the Pine Bush. I  
15 happen to live in Schoharie County and I enjoy  
16 having a business in the Town of Colonie. I  
17 just think that something went wrong with this  
18 process. I haven't been involved and I plan on  
19 getting more involved.

20 I heard tonight that the business owners  
21 that are currently working in the Pine Bush  
22 did not attend 27 of the meetings and didn't  
23 know that 27 meetings were being held. I am  
24 shocked and dumbfounded, as a matter of fact.

25 With a little town like Andes, New York,

1 when they're redistricting the fire district  
2 and going to 911, by golly, I get a written  
3 notification. I pay my taxes and I think  
4 that's the way that business should be done.

5 I don't show up at many of my customers  
6 and say, hey you need some work done. Or  
7 maybe, I think that you need some work done  
8 and I'm going to do it for you and I'm going  
9 to send you a bill. Well, gee, I don't have a  
10 contract and you didn't ask me to do work. You  
11 know what I mean? We need to communicate. So  
12 the process needs to take a step back as far  
13 as I can see as far as fairness goes.

14 I've heard some things tonight. Somebody  
15 broke a law. Somebody cut down a tree. If  
16 that's in fact wrong, then that's wrong. But  
17 that doesn't need this process to tell any of  
18 us that's wrong. We all know what zoning laws  
19 are. We all know what building codes are.  
20 Those are the laws, regardless. We're talking  
21 about being a community.

22 Again, my business - we purchased it in  
23 2005. It may have been 2004. I don't recall  
24 exactly, but I will bone up on that  
25 information.

1           The fact of the matter is I never  
2           heard of any of this. The realtor that sold us  
3           the property never told us, hey, you might be  
4           rezoned. Who would have thought that we would  
5           have got thrown into a situation like this?  
6           Yet, it's workable. We have to work it out.  
7           It's a community thing.

8           There are a lot of good businesses around  
9           us in our area of Colonie that have been there  
10          a long time. I don't know of any new ones that  
11          have started, but we're new since 2005. We  
12          didn't build the building, but we get along  
13          with our neighbors and like I said, we're  
14          buffered on three sides by the Pine Bush and  
15          we thought that was a real positive when we  
16          bought the property. My partner bought the  
17          property. I was out working out of state and I  
18          came back and said wow, this is awesome being  
19          a country boy. I live out in Schoharie County  
20          in the woods and farmed and I thought this was  
21          a great use of multi-use space.

22          I look at the maps and the first speaker  
23          said there is a lot of woodland. He's right.  
24          There is a lot of woodland. You should all  
25          consider yourself blessed. You live in the

1 Pine Bush.

2 If we need to tweak it and make it a  
3 little better - if we need to roll less dump  
4 trucks at certain times, if we need to be more  
5 careful with what we do with the wetlands and  
6 the woodlands, there are laws on the books  
7 already about that. We just need to say, okay,  
8 as neighbors we need to work those things out.

9 I would like to be notified in writing  
10 and I think that's the correct legal process.

11 CHAIRMAN O'ROURKE: Is your business now  
12 non-conforming?

13 MR. RABER: Yes, we're now zoned  
14 residential. I just found out what a problem  
15 that is.

16 CHAIRMAN O'ROURKE: How big is your lot?

17 MR. RABER: We have seven acres. We have  
18 a branch office, but here in Colonie we have  
19 24 employees. We have 6,000 in a sub-office in  
20 Utica. Like every other small business in New  
21 York, we're struggling to make it in New York.  
22 It's not easy. Just like it isn't easy paying  
23 taxes when you're a homeowner. But now I see  
24 that I'm residential and I'm paying commercial  
25 taxes. I'm carrying more than my weight right

1 now. I've been carrying it.

2 MR. LANE: It's all the same now.

3 MR. RABER: Okay, so you've taken my  
4 property value down. I bought it as commercial  
5 property. Those buildings are commercial,  
6 regardless of taxes. I'm not here to argue  
7 with anybody.

8 CHAIRMAN O'ROURKE: No, you're factually  
9 correct. We are fact finding here.

10 MR. RABER: My buildings are worthless if  
11 I'm residential. Nobody would take my  
12 buildings and want to remodel them into a  
13 house.

14 CHAIRMAN O'ROURKE: No, it would cost you  
15 money to rip them down.

16 MR. RABER: It would cost me money and my  
17 property is not conducive to development. Most  
18 of my property is wild, some are wood and  
19 wetlands so to speak. Part of it, I enjoy. I  
20 take my dog out back and we see deer and  
21 turkeys and we walk back there and people hunt  
22 there and it's just awesome multi-use. We're  
23 just a little off from what we have here.

24 Thank you.

25 CHAIRMAN O'ROURKE: Thank you, sir.

1 Mr. Bianchine.

2 MR. CAPONERA: Rich and I were going to  
3 speak together.

4 CHAIRMAN O'ROURKE: Mr. Raber, what type  
5 of business is yours?

6 MR. RABER: Light commercial business.  
7 It's petroleum.

8 MR. LANE: What's the name of it?

9 MR. RABER: Northeast Petroleum  
10 Technologies.

11 MR. CAPONERA: Mr. Chairman and members  
12 of the board, thank you for allowing me to  
13 come up at this point.

14 I've heard a lot of very passionate  
15 comments tonight and two words come to my mind  
16 and you're going to hear it more than once.  
17 The words are fundamental fairness. Something  
18 happened along the way here where fundamental  
19 fairness was not followed. All you got to do  
20 is look at the maps.

21 I'm representing five property owners  
22 that are shown on this map right here that  
23 Mr. Bianchine has and these are the properties  
24 along Cordell Road. It's over 140 acres of  
25 land. The properties that Joe is outlining

1           were rezoned from Industrial to CO, commercial  
2           office, and not residential like a lot of the  
3           other properties. The point is that  
4           fundamental fairness didn't happen along the  
5           way when the whole property was being  
6           considered to be rezoned. I'm going to tell  
7           you where something went wrong.

8                       Everybody knows that is sitting on this  
9           board and most of the people behind me knows  
10          that when the town enacted its new Land Use  
11          Law on January 4, 2007, every square inch of  
12          the town was rezoned. There wasn't one  
13          property that was left out. Let's think about  
14          this for a second. What happened?

15                     In most cases residential got zoned to  
16          residential. Commercial got zoned to  
17          commercial. It was just renamed. Business E  
18          went to CO. Residential 1234 got rezoned to  
19          single family residential. In a sense, it  
20          became the same as it was before. Not in every  
21          instance. This is one glaring example of where  
22          it didn't happen.

23                     This is an example of hard working  
24          families like the Lupe's and the other four  
25          property owners that have owned industrially

1           zoned property for 60 years on this piece. All  
2           you have to do is look at the aerial  
3           photograph. I defy you to tell me that this  
4           wasn't used industrial. Just look at it. You  
5           have a gravel pit, they're manufacturing  
6           cement or what have you. You get the picture.

7                        Not one of these property owners got a  
8           notice that said, hey, by the way, we're going  
9           to take your property and disenfranchise it.  
10          We're going to devalue the hell out of it and  
11          make it from industrial to commercial office.  
12          Fundamental fairness was not followed. It's as  
13          obvious as I'm standing here talking to you  
14          right now. It was a problem.

15                       There was not a lot said about the  
16          statute of limitations. I frankly disagree  
17          with the six-year statute. In my mind, you  
18          have 120 days to file a lawsuit; 120 days from  
19          when the statute was filed in the Secretary of  
20          State's office to file a lawsuit.

21                       There is one person that came to me about  
22          this back when this was zoned. She was a  
23          lawyer, too. I said you've got to do it within  
24          120 days and she did. I didn't even know  
25          myself that this was happening over on the

1 west end of the town, but it did. Fundamental  
2 fairness was not followed.

3 Essentially, I'm not going to repeat it.  
4 I've submitted everything to the board. I gave  
5 you all the aerials. I'm not going to repeat  
6 what I said before, but clearly there is  
7 emotion that's running very high here.

8 For the folks that I represent, the five  
9 property owners own 140 plus acres. Not one of  
10 whom got any notification of these so-called  
11 27 meetings. Something doesn't add up here if  
12 my property is going to be rezoned, I'm going  
13 to lose my rights, and every time I have a  
14 tenant change or want to sell a  
15 property -- by the way, I've represented  
16 several of the property owners on this  
17 property and I had to go in front of the  
18 Zoning Board and get the zoning variances. By  
19 the way, there is a difference between a use  
20 variance and an area variance.

21 An area variance is fairly simple. The  
22 use is allowed in that zone, but for a setback  
23 or a size, that's it. It's a balancing test.

24 A use variance is what Ms. Lupe had to  
25 get on several of her tenants on tenant

1 changes, as well as my client, Mr. Fusco, who  
2 owned property at 151.

3 Clearly, there is a problem.

4 On top of that, I would like Joe to  
5 explain. I think that he has a better handle  
6 on this than any of us as to what this  
7 conservation overlay district is. This is  
8 important. Again, you're fact finding and I  
9 think that it's important to know the facts.

10 Joe, can you come up here and explain  
11 what this overlay district means to the  
12 property owners?

13 MR. BIANCHINE: I've been before you on  
14 other projects with the conservation overlay  
15 district. Basically, what you have to prove on  
16 a conservation overlay district is you have to  
17 take out all the wetlands and all the  
18 constrained land. You take that out so if your  
19 property has 50% constrained lands, that 50%  
20 comes off right off the top. You can't claim  
21 that. Then, on the balance of that, you still  
22 have to have 40% greenspace. So what Shelley  
23 was saying is that could be possible that you  
24 only have 20% left to develop. Then you have  
25 to go through a fairly elaborate process to

1           prove that and to show that and to show what  
2           that land is used for. So, with an industrial  
3           property, it gets very complex and very  
4           expensive to go through the process.

5           MR. STUTO: You're not just adding 33  
6           onto 40. It's not quite that simple.

7           MR. CAPONERA: No, it's not quite that  
8           simple.

9           CHAIRMAN O'ROURKE: You have to  
10          delineate.

11          MR. STUTO: Constrained versus  
12          unconstrained.

13          CHAIRMAN O'ROURKE: And then 40% of the  
14          unconstrained land.

15          FROM THE FLOOR: Can you give us the  
16          definition of constrained lands? Is that just  
17          wetlands or is there something more to it than  
18          that?

19          CHAIRMAN O'ROURKE: It includes the  
20          buffer, right?

21          MR. BIANCHINE: It could be wetlands, it  
22          could be buffer zones.

23          FROM THE FLOOR: Anything that you decide  
24          is too special to touch.

25          MR. BIANCHINE: Right.

1 FROM THE FLOOR: And who decides that?

2 MR. BIANCHINE: Again, there is a process  
3 to find out who decides that and how it's  
4 decided. So, it's not a simple determination.

5 CHAIRMAN O'ROURKE: It can actually be  
6 easements as well or steep slopes.

7 MR. CAPONERA: Is there any reason in  
8 your mind -- you've done a lot of work in this  
9 area, from an engineering standpoint; is that  
10 correct?

11 MR. BIANCHINE: That's correct.

12 MR. CAPONERA: Is there any reason in  
13 your mind as an engineer why this property was  
14 rezoned from industrial to CO, commercial  
15 office?

16 MR. BIANCHINE: It really befuddled me as  
17 to why this was rezoned from industrial, which  
18 is what it's used for, to commercial office  
19 because you really can't use it for commercial  
20 office when you're next to a blacktop plant or  
21 next to a gravel pit.

22 CHAIRMAN O'ROURKE: I kind of wish that I  
23 was invited to the Romano's for those  
24 meetings.

25 MR. BIANCHINE: It just totally devalued

1           their property.

2           MR. CAPONERA: I'm not going to go any  
3 further with that. You have a lot to hear and  
4 I could go on forever, but I think that you  
5 get the point. Fundamental fairness wasn't  
6 followed here.

7           Thank you.

8           MR. NARDACCI: I just have a couple of  
9 questions.

10           Victor and Joe, you guys are both folks  
11 that do a lot of work in town. You're very  
12 familiar with the process with your clients in  
13 this town and not just this area. In your own  
14 words, can you describe to us what you recall  
15 of the Comprehensive Planning process? I'm  
16 sure that you had clients at the time who you  
17 were engaged with who were paying closer  
18 attention than maybe landowners that you  
19 didn't represent. So I'm just curious, did you  
20 participate in any of the discussions?

21           MR. CAPONERA: I did not.

22           MR. NARDACCI: Did you go to any of the  
23 public hearings or meetings?

24           MR. CAPONERA: I didn't.

25           Did you Joe?

1           MR. BIANCHINE: I didn't, but my partner  
2 did and did speak out at a couple of the  
3 hearings. It was hard to get the information,  
4 in terms of what are they proposing? What's  
5 happening? We didn't see it and it wasn't  
6 there. We didn't see a copy of the final  
7 version until just before it got approved.

8           MR. NARDACCI: That's really my question  
9 is that at that time when they were doing the  
10 plan, they were doing the rezoning and you had  
11 active clients, I assume, in the town or maybe  
12 big clients and looking at the maps saying  
13 what's going to happen? They want to know from  
14 you, what are you hearing?

15          MR. BIANCHINE: Oh yeah, we had some  
16 clients there. That's why my partner went to  
17 some of those meetings and spoke out. Again,  
18 the information wasn't readily available as to  
19 what was going to happen, or what they were  
20 going to rezone it to, or what the new rules  
21 were going to be.

22          MR. CAPONERA: That's exactly true.

23          CHAIRMAN O'ROURKE: Somebody knew, and it  
24 was more than one person.

25          MR. CAPONERA: There was a recent

1 rezoning that I did about a year or so ago.  
2 There were comments made about the hearings  
3 and what have you. One of the gentlemen that  
4 owns the property said, yeah, I was there but  
5 he said, you know what? You talk about  
6 everything but rezoning my property. You never  
7 said this is what we're going to do because if  
8 you did, we would have raised holy heck.  
9 That's the point. There really wasn't, in my  
10 experience, a real definition of what exactly  
11 was going to happen.

12 MR. NARDACCI: As far as the zoning maps  
13 themselves, being available, you had  
14 copies -- I assume that they were available  
15 for public review.

16 MR. CAPONERA: There were some available  
17 but it wasn't clear exactly what the new rules  
18 were going to be. Sixty-four square miles,  
19 which I think is what the town encompasses,  
20 that's a lot of land and it's a lot of  
21 rezoning. Clearly, there was some rezoning  
22 that was done and was mistaken and I've worked  
23 on some of those. Then there was another  
24 rezoning that was done that was intended.

25 MR. LANE: Were they large plots or were

1           they generally small?

2           MR. CAPONERA: Generally small and not  
3 anything like this.

4           MR. NARDACCI: You had come before the  
5 Planning Board last year and did five parcels  
6 or so -

7           MR. CAPONERA: Ten.

8           MR. NARDACCI: Okay, can you just refresh  
9 my memory on that?

10          MR. CAPONERA: It was on Route 7. It was  
11 just west of NYSUT and they rezoned that to  
12 multi-family residential. Note that there is  
13 no multi-family residential along Route 7 and  
14 Route 2. I was told that they had meetings and  
15 the meetings evolved into this rezoning. I  
16 said clearly, this is wrong. One of the  
17 property owners went to one of the meetings  
18 and said you never told me that you were going  
19 to rezone my property. It just disenfranchised  
20 my rights.

21          In fact, what happens is that they hired  
22 me and we ended up having the town look at it.  
23 We went to your board and you made a  
24 recommendation and the town rezoned it to back  
25 where it should be, which is a commercial

1 zone. That's what happened.

2 MR. NARDACCI: It made sense in that area  
3 because it was consistent with what was there.

4 MR. CAPONERA: It was 100% rezoned with  
5 all the surrounding properties that were there  
6 and that's all we're looking for here. Listen,  
7 we're not looking to take a cow and turn it  
8 into a goose. We just want the property back  
9 to the way that it was.

10 CHAIRMAN O'ROURKE: Again, Victor, it's  
11 much more complicated.

12 MR. CAPONERA: Absolutely.

13 CHAIRMAN O'ROURKE: Because now that it's  
14 been rezoned to residential, folks have bought  
15 houses thinking that it's residential. So,  
16 although property rights -

17 MR. CAPONERA: Not in this area. Not on  
18 Cordell.

19 CHAIRMAN O'ROURKE: Not on Cordell.

20 MR. CAPONERA: This is why you guys get  
21 the big money. You're here to make the hard  
22 decisions. You're absolutely right; this is a  
23 tough one.

24 MR. NARDACCI: I have one other quick  
25 question.

1           In this area that you mapped out, there  
2           is a track of land owned by the Nature  
3           Conservancy. I know that there is industrial  
4           there. I would assume that they wouldn't be  
5           interested.

6           MR. BIANCHINE: That was a piece of land  
7           that we actually looked at for a client that  
8           owned it. Because there are a lot of wetlands  
9           on it, there really wasn't anything that you  
10          could do with the property. That's why they  
11          ended up selling or donating it to the Nature  
12          Conservancy.

13          MR. NARDACCI: Was it donated, do you  
14          know?

15          MR. CAPONERA: I don't know what the deal  
16          was. You're probably right, Tom. I can't  
17          imagine that they would be willing to say,  
18          yes, let's bring this back to industrial. But  
19          based on the engineering firm of ABD, it  
20          doesn't sound like it's usable. And with the  
21          overlay development, what can you use? Two and  
22          a half feet of it or something like that.

23          MR. NARDACCI: Thank you.

24          CHAIRMAN O'ROURKE: Anyone else?

25          Thank you, gentlemen.

1 Charles Stokes with Callanan Industries.

2 MR. STOKES: Good evening,

3 Chairman O'Rourke and members of the board.

4 Mr. Caponera does represent the company  
5 and we're one of the clients that he has in  
6 regard to what he and Joe just spoke about. I  
7 just thought that I would like to give a  
8 little bit of history of this particular site  
9 that we have that is Callanan Industries.

10 We own Kings Road Materials on Cordell  
11 Road and just to give a little background on  
12 it, I thought it would be appropriate to read  
13 off what I wrote earlier today.

14 I think that many people think that the  
15 name of King Road Materials is because its  
16 operations are located only a few hundred  
17 yards from Kings Road in the western part of  
18 the Town of Colonie. The real reason is that  
19 it was all started as a business by Bernie and  
20 Victor King in the late 1940's. The two of  
21 them had a tractor dealership - an equipment  
22 repair business on the current construction  
23 business manufacturing site at  
24 145 Cordell Road.

25 The King Family business proved

1           successful. They expanded into a heavy  
2           construction equipment repair and in the mid  
3           1960's they purchased a Ballard two-ton  
4           blacktop plant and installed it on the  
5           property to service Colonie, Rotterdam, and  
6           the Schenectady markets for paving materials;  
7           hence the name King Road Materials.

8           The Kings, also in the 60's, started to  
9           do construction site work and road paving with  
10          the Cordell Road location as the base of its  
11          operations.

12          Next in the early 1980's the road  
13          building industry redeveloped processes for  
14          recycling of old asphalt pavement, commonly  
15          called today RAP; recycled asphalt pavement.

16          The King family added a state of the art  
17          process for rejuvenation and recycling of  
18          blacktop. It was normally being dumped in  
19          landfills. They also installed a RAP crushing  
20          plant on the site to process old pavement that  
21          was lumped up, congealed, and basically to be  
22          crushed and for recycling as a new product.

23          In 1986 the King family sold King Road  
24          Materials to Callanan Industries.

25          In 1997, Callanan Industries expanded the

1           versatility of the operation again by  
2           installing a ready-mix concrete plant  
3           operation on the site under the name of  
4           Clemente Concrete. This concrete source was  
5           instrumental in 2006 with the reconstruction  
6           of Route 7. It was done a few miles away in  
7           Schenectady.

8                       Also located on the King Road property  
9           which is just a little unknown to many people  
10          there is a New York State DEC permitted sand  
11          mine that's been active since 1989. It  
12          supplies some of the sand that goes into the  
13          blacktop on that site.

14                      Beyond the reclamation of this mine is a  
15          wildlife habitat. That was given a national  
16          award in 2007 recognized by the Wildlife  
17          Habitat Council. The habitat is also a  
18          sanction and is visited almost weekly by DEC  
19          biologists who provide regular recommendations  
20          since it has been identified as a haven for  
21          certain species of concern. That is their  
22          terminology for it. They actually have certain  
23          animals that have chips on them because they  
24          want to identify the path that they are using  
25          within that area and the surrounding wetland.

1           This abbreviated history, I think, speaks  
2           for itself. The property has been in an  
3           industrial use for over 60 years. The rezoning  
4           of it and the surrounding businesses done in  
5           2007 was done contrary to any logical thinking  
6           and should be corrected to match its obvious  
7           and continuous industrial usage.

8           Thank you very much.

9           CHAIRMAN O'ROURKE: Thank you,  
10          Mr. Stokes.

11          Jim Corridan.

12          MR. CORRIDAN: Thank you. My name is Jim  
13          Corridan and I own four acres of property at  
14          112 Morris Road.

15          I operated a business there for a period  
16          of 10 years and I'm contemplating starting  
17          another business there. With the current  
18          conditions, I don't know whether I will or  
19          not.

20          I also wanted you to know that I did not  
21          receive any notices which is further ironic  
22          because from 2004 to 2006 I underwent an  
23          expansion.

24          I was at the Building Department and  
25          before the Planning Board on numerous

1 occasions. I was at the Building Department in  
2 some cases twice a day. Nobody ever mentioned  
3 a word to me. Here I am applying to operate a  
4 small manufacturing company, applying for  
5 permits and variances and nobody mentioned a  
6 word to me. I got a certificate of occupancy  
7 60 days or less before the zoning was changed.  
8 I just think that was kind of ironic.

9 I did want to second what Ms. Lupe said  
10 regarding the grandfathering. That does not  
11 change the difficulty of having things done or  
12 the expense. As a matter of fact, I don't  
13 think that this is asking for a change. This  
14 was industrial and had been for many, many  
15 years. I bought it under those pretenses. I  
16 operated my business there under those  
17 pretenses.

18 One of the reasons that I'm trying to  
19 have another businesses is that I sold the  
20 previous business. By the way, those jobs left  
21 New York. That was not my intension. I was in  
22 a rat race trying to expand a larger company.  
23 My expansion took longer than I anticipated by  
24 a couple of years and it cost much more than I  
25 anticipated. I could not fight them. They were

1 a publicly traded and much larger company and  
2 that's why I got out of that.

3 One of the reasons that I wanted to start  
4 another business there was to lure my children  
5 back to this area. I've lived in the Pine Bush  
6 for 31 years. I don't think that it's any  
7 news. But 112 Morris Road is not the Pine  
8 Bush. As a matter of fact, one of the  
9 variances that I had to apply for and permits,  
10 etcetera - they actually they came onto the  
11 property and counted the trees. We're  
12 operating under the misconception that  
13 thinking that this area is the Pine Bush and  
14 it's not the Pine Bush.

15 It's hard to imagine that somebody would  
16 want to build housing where my property is.  
17 It's a 20,000 square foot warehouse with a  
18 31,000 foot ceiling. No one is going to want  
19 to live next to that. We have a buffer zone,  
20 etcetera.

21 One of the other things that ought to be  
22 thought of about: The Town of Colonie budget's  
23 woes, New York's budget woes, the federal  
24 government's budget woes. They are in the  
25 paper every day. A great deal of the tax

1           burden falls on industrial and commercial  
2           property. It's hard being a business. It's not  
3           easy and it's complicated unnecessarily by  
4           some of the battles that you have to do with  
5           local office governments, etcetera. It's no  
6           secret that New York is looked upon as one of  
7           the worse taxed states and one of the worst  
8           places to do business on anybody's charts. I'm  
9           here because I like it here and as I said,  
10          I've been in the Pine Bush for 31 years. It's  
11          kind of gone - a great deal of it. It's fine,  
12          but a lot of this area that is looked on as  
13          the Pine Bush is not the Pine Bush.

14                 Anybody that has a residence there and  
15          bought it more than three years ago bought it  
16          in the industrial zone. So, from that regard,  
17          I don't see what the argument would be. I feel  
18          for the people afterwards who bought property  
19          thinking that it was residential.

20                 There was a previous Ms. Barone who said  
21          that she found out after she bought the  
22          property. I would suggest that she go back to  
23          her legal representation. It should have been  
24          part of the due diligence of when she was  
25          buying the property. It's certainly not the

1 people that own the industrial and commercial  
2 property there as to why it was rezoned.

3 Thank you, very much.

4 CHAIRMAN O'ROURKE: Thank you.

5 Paul Ruth.

6 MR. RUTH: Members of the board, I'd like  
7 to reiterate what everybody has already said  
8 in favor of this rezoning. I am in favor of  
9 this rezoning if it happens, I never got my  
10 notice in any way, shape, or form. I'm not  
11 usually asleep at the wheel especially 27  
12 times. I never got a notice. Mrs. Potts is the  
13 one that told me of the situation, like the  
14 other people that are here.

15 In regard to the people that have bought  
16 residential homes here like the other  
17 gentleman who just spoke, somebody should have  
18 done due diligence to make sure what the  
19 property was before they bought it. When I  
20 bought my property on Kings Road, it was  
21 industrial property. I knew that it was  
22 industrial property and that's why I bought  
23 it. It was done for some later date as an  
24 investment for my children or whatever.

25 I'm a taxpayer like everyone else. I've

1 lived in the Town of Colonie most of my life.  
2 I've paid taxes in the Town of Colonie on my  
3 business. The revenue that we take in is  
4 taxable in my business.

5 I just feel like what the other gentleman  
6 is saying, I have a business in Clifton Park.  
7 If the guy is going to use a toilet across the  
8 street, I usually got a letter that some kind  
9 of change is going to happen.

10 I guess I'm more disappointed in the way  
11 that the system worked. I had faith in it.  
12 Again, I'm here and I'm complaining just like  
13 the other people that are here that never got  
14 their notice.

15 I generate sales tax and property tax.  
16 You name it, we pay it. I have to look at it  
17 that way. I do feel bad for these residents  
18 because they bought their property, but there  
19 was industrial stuff there when they bought  
20 their property and it was that way for years.

21 That's all I have to say.

22 CHAIRMAN O'ROURKE: Thank you.

23 Sorry Paul, what was your address?

24 MR. RUTH: 261 New Karner Road.

25 CHAIRMAN O'ROURKE: And what is your

1 business out there?

2 MR. RUTH: Ruth Automotive.

3 CHAIRMAN O'ROURKE: For the record,  
4 please state your name, ma'am.

5 MS. HAUSER: Good evening. My name is  
6 Judy Hauser and I live on Kings Road. I've  
7 been there for over 40 years. I've been  
8 through the process for over 30 years as far  
9 as rezoning.

10 First, when you talk about 27 meetings,  
11 you're not understanding correctly. Those 27  
12 meetings were not just in our area. What the  
13 town did before they did the Comprehensive  
14 Plan is they went to each of the districts and  
15 asked the neighbors what they wanted to be  
16 done in their areas. It was from those that  
17 they would take the information back, compile  
18 it, and then we each had another informational  
19 meeting telling us what were the most  
20 important things that the people in the area  
21 believed in.

22 You can talk to Paula and Joe Mahan  
23 because they were at our meeting.

24 I'm sure that when you do your fact  
25 finding, you're going to go back and find out

1 that there were many, many ways that these  
2 meetings were posted and sent out to  
3 everybody. It was very important and the town  
4 wanted to do the right thing at the time.

5 Secondly, I would like to give you an  
6 example of someone who said that they had  
7 never been notified of the rezoning and that's  
8 when it went to commercial from the industrial  
9 E. He was there and he spoke at the meeting  
10 when they wanted it to be totally commercial  
11 because they said that there was too much of a  
12 mixture in our area. He was also commercial.  
13 He had a beautiful house on Morris Road. They  
14 had a marital problem and afterwards he found  
15 out that he couldn't build another house on  
16 his property because it had been zoned  
17 commercial and no houses were allowed. He too  
18 turned around and said, I didn't know that  
19 this was going to happen after he spoke at the  
20 meeting for the commercial rezoning.

21 So, if these people did not take an  
22 interest to find out what these meetings were  
23 all about, that's their fault and shame on  
24 them. There were plenty of notices going out;  
25 believe me. As I said, you could talk to Paula

1 to find out about that.

2 Secondly, I'd like to mention that the  
3 commercial that could not be built on - that's  
4 why you had no houses up until recently  
5 because there were no houses that were allowed  
6 to be built out here. The reasons that it went  
7 to residential is so that it could be  
8 considered for building.

9 That's all I wanted to say except that  
10 all of the area that you talked about rezoning  
11 to commercial again - there was no town water  
12 out there and the water that is there is the  
13 drinking water. When we first moved here our  
14 point was 16 feet down. So if you're going to  
15 allow property to be covered by skeletons of  
16 vehicles, hundreds of vehicles sitting there,  
17 there is a very good chance of the water  
18 getting polluted.

19 MR. NARDACCI: Just one brief question.  
20 You mentioned different notices and someone  
21 talked before about the Spotlight. What do you  
22 recall as being noticed?

23 MS. HAUSER: There were many articles in  
24 the paper telling everybody. This went on for  
25 about six months or so. They would notify each

1 area that the meeting was going to be in your  
2 area and this is when it was going to be.

3 CHAIRMAN O'ROURKE: And how did they  
4 notify you?

5 MS. HAUSER: There were newspaper  
6 articles, probably on the Internet, and the  
7 Spotlight. I believe it was in the Times Union  
8 because I don't get the Spotlight.

9 CHAIRMAN O'ROURKE: Again, because this  
10 is factual, I have done some research and I'm  
11 not finding what you're talking about.

12 MS. HAUSER: I wish that I had kept  
13 copies.

14 MR. LANE: Were these just public  
15 meetings on the Comprehensive Plan or were  
16 these notices in reference to specific notice  
17 changes?

18 MS. HAUSER: They were in reference to  
19 the Comprehensive Plan to let us know or to  
20 find out what was the best in the area for the  
21 area. I would say that the one that we  
22 attended in our area - there was probably  
23 about 100 people there.

24 MR. LANE: And they discussed zoning.

25 MS. HAUSER: They discussed what was

1 wanted and everything.

2 MR. LANE: So they took input.

3 MS. HAUSER: Yes, they took all input.  
4 They had whole walls covered with paper.

5 CHAIRMAN O'ROURKE: Who chaired that  
6 meeting? Arnis?

7 MS. HAUSER: I don't know if he's still  
8 there. It may have been Kevin DeLaughter or  
9 maybe Phil Pearson.

10 CHAIRMAN O'ROURKE: Thank you.

11 Mike Flynn.

12 MR. FLYNN: I'm a resident of  
13 4 Morocco and forgive me for coming in late  
14 and for touching on points that have already  
15 been addressed. I apologize ahead of time.

16 One thing that I do want to say is that I  
17 do want to reiterate what was just mentioned.  
18 In my short time at this meeting, I've heard  
19 twice, two business owners talk about the  
20 residents needing to do due diligence about  
21 what the property was, but yet they seem to be  
22 negligent about their due diligence and  
23 participating in the Comprehensive Plan albeit  
24 the residents being very active in it. That's  
25 an interesting statement.

1           The second thing that I want to point out  
2           that was repeated from my short time here was  
3           the industrial and the commercial industries  
4           and the fact that how much they contribute to  
5           taxes. The same is true for the residents. We  
6           live, we pay taxes, we buy in the area, we're  
7           very active members and we're part of the tax  
8           base, too. So, please keep that in mind.

9           I do want to point out also one thing  
10          that I was looking at when I looked at the  
11          previous meeting minutes that generated this  
12          discussion. I believe that a lot of this was  
13          discussed earlier.

14          Being on Morocco, my particular interest  
15          is that 8 Lupe Way was identified and would be  
16          allowed for greenspace of 100 feet, which  
17          relatively is about the size of one lot. If  
18          you read further in that plan, it does say  
19          that if they choose to use that 100-foot  
20          greenspace as a residential area, that would  
21          meet the needs for the greenspace. My  
22          understanding would then be that the following  
23          space could then be commercial.

24          The gentleman who owns the land just over  
25          a year ago came before the previous

1 administration with a suggestion that area be  
2 made into an RV park and that he had existing  
3 property like that in Schenectady. Some of us,  
4 the neighbors, actually went to see what kind  
5 of caretaker and what kind of establishment  
6 that was.

7 What we found in that type of space right  
8 next to other residential areas was a place  
9 that was unkept. We saw used tires thrown over  
10 fences. We saw the place in disrepair, fences  
11 were knocked down, and empty oil cans. This  
12 was abutting a residential area. This is the  
13 crux of our concern that this industrial area  
14 will be literally very shortly in the backyard  
15 of this residential area. This will be heavy  
16 waste and this is what is going on right now  
17 with the same property that this gentleman  
18 owns. That's a very strong concern that I have  
19 because very quickly with that decision and  
20 looking forward, you have to be ready to  
21 anticipate what changes they may be making in  
22 making this rezoning back to commercial.

23 Being residential is great. Having a  
24 great base of family oriented Colonie focused  
25 residential people - that's the future that we

1 want to see and I think that is what the  
2 Comprehensive Plan did. It looked to the  
3 future. It recognizes where we, as a town,  
4 wanted to go. That's what forced change.  
5 Change isn't bad in that sense. Is it  
6 unfortunate that they didn't participate in  
7 the plan? Yes, it is. Is it strange that the  
8 residents did but they didn't? I think so.

9 So I ask you to think about what is the  
10 future that you want and really take that into  
11 account with all the facts that you have. What  
12 is the Colonie that you want to have down the  
13 road? Take the time to look around the area  
14 right now, because you'll see some of the  
15 areas out there and they're not in great  
16 shape. As we start expanding with new  
17 commercial space when the economy is low, what  
18 is the likelihood of that space being rented  
19 out?

20 I just read in this document of these  
21 jobs being afforded that they're going to  
22 have. Are they going to be for town residents?  
23 Possibly not. Where is the town going to  
24 benefit from that? What's better for the town?  
25 Having residents and a family community that

1 we have a future in that they'll be  
2 supporting, paying taxes, buying property and  
3 materials in the town? Or commercial area  
4 where you have a big area, a warehouse just  
5 sitting there gathering dust and falling  
6 apart?

7 Look at some of the existing landowners  
8 for some of them. Some of them are fine. I  
9 don't want to disparage them. I do know that  
10 the particular one that wanted the RV  
11 park - take a look at that. The one in  
12 Schenectady - they should be ashamed of that.

13 Thank you.

14 CHAIRMAN O'ROURKE: Thank you.

15 Again, I just want to put in my two cents  
16 in terms of what we want in Colonie. I think  
17 that's very important. What is it that we  
18 want? I think that smart planning has to  
19 include business and residential. So, it's  
20 great to say that everything should be  
21 residential, but then you have a community  
22 like Clifton Park that is a lot different than  
23 in the Town of Colonie. We don't want to be  
24 Clifton Park.

25 We look at our job in terms of planning

1 to do smart planning. Development is good for  
2 the tax base. Development that is industrial,  
3 commercial development, whether they know it  
4 or not, is why our tax base is what it is. So  
5 it has to be a marriage. It has to work very  
6 well together with the residential and the  
7 commercial and industrial development that we  
8 allow.

9 Now because we do allow those things in  
10 the Town of Colonie, doesn't mean that there  
11 should be wrecks or rotted things. The town  
12 has adopted a state mandate about upkeep of  
13 properties. I'm not sure if the residents  
14 understand that. Certainly if people were to  
15 call, we want these places cleaned up. But  
16 some of the areas that were rezoned - Callanan  
17 Industries, 60 years - it doesn't make sense  
18 in certain areas.

19 I think that we have to look at it in its  
20 entirety; this area in particular. Not just  
21 this area, because there were seven areas in  
22 the town that were rezoned.

23 Mr. Caponera had 10 homeowners that came  
24 before us. Certainly, if it was your property  
25 that got rezoned that didn't make sense, you'd

1           feel as passionately about it too. If someone  
2           told you hey, invest your 401K money and oh by  
3           the way after 10 years, we're going to take it  
4           away, you'd be passionate too. So, this  
5           situation is very difficult. There is not a  
6           residential answer to this issue.

7                       MR. FLYNN: The prior administration took  
8           years for the Comprehensive Plan.

9                       CHAIRMAN O'ROURKE: I just want to read  
10          something on that from Mr. Pearson. This was  
11          after the Comprehensive Plan was adopted. This  
12          is verbatim.

13                      *The Town Board charged the Economic*  
14          *Development Department with modifying the*  
15          *zoning code and updating the subdivision*  
16          *regulation, which is one of the short-term*  
17          *goals and recommendations that occurred within*  
18          *the Comprehensive Plan.*

19                      Not long term but short-term goals.

20                      *On recommendation of the Planning and*  
21          *Economic Development Department,*

22                      Which Mr. Pearson led.

23                      *The Town Board retained Saratoga*  
24          *Associates to assist us in preparing the land*  
25          *use regulation. Since this is a very technical*

1 document, Saratoga Associates brought in  
2 Lawrence Howard as a land use attorney to  
3 assist us in the preparation of this document.  
4 Additionally to the staff planning and to the  
5 planning consultants, the Town Board also  
6 appointed a Comprehensive Plan Implementation  
7 Committee and that committee consisted of  
8 representatives of the ZBA, the Planning  
9 Department, the Building Department, the  
10 Planning Board and the Town Board. They were  
11 charged specifically to continually look back  
12 at the regulations that were being promulgated  
13 to see that they, in fact, were what was  
14 recommended and set for the Comprehensive  
15 Plan. The committee met on a monthly basis for  
16 12 or 13 months. The document is before us and  
17 has been available to the public for about a  
18 month and as Supervisor Brizzell has pointed  
19 out, is the work of many hours of not only the  
20 departments, but certainly many hours of the  
21 time that many of you have spent in giving us  
22 feedback. This whole land use plan is built on  
23 what you told us that you wanted this town to  
24 be when we started our comprehensive town  
25 meetings three years ago.

1           So, again, Mr. Pearson who had a  
2           significant role in this community, I think,  
3           shortchanged us in many things that he did. I  
4           said when I first came on the Planning Board  
5           and when I looked at things, I was on the  
6           outside and I didn't get involved in things  
7           except when you start to hear things that  
8           don't make sense. You're not notified that  
9           Target is going in your backyard. I'm very  
10          skeptical about any political entity because  
11          what we're looking for here is the facts. We  
12          need to treat the residents, the taxpayers of  
13          this town fairly whether you're on this side  
14          or you're on that side (Indicating). That's  
15          what this board is charged with and as long as  
16          I'm the Chairman, that's what we're going to  
17          do here.

18                 MR. FLYNN: I don't disagree with that,  
19                 but I'm just making clear that as residents we  
20                 were actively participating in that plan. I  
21                 keep hearing that the commercials weren't. I'm  
22                 curious about that because we, the laypeople,  
23                 know what's going on with the planning and the  
24                 owners of the land weren't?

25                 CHAIRMAN O'ROURKE: Let me just tell you

1           that I've looked at a lot of documentation  
2           from this. When the Town Attorney is having  
3           meetings at residents' houses that are forming  
4           committees, I have difficulty with that. When  
5           the prior Chairman of the Town of Colonie  
6           Republican Committee had meetings at his  
7           house, there is something that is not right  
8           with that.

9           So all I'm saying is that he just said in  
10          his record that these meetings were held for  
11          13 months and that if these folks that paid  
12          their taxes - not one of them, not even by  
13          accident - not one person on this petition  
14          would show up - it's absolutely improbable.

15          Reasonableness is what I look for. What  
16          I'm saying is that there has to be a level of  
17          reasonableness. I know for a fact because when  
18          they started with Home Depot and Target and  
19          then Wal-Mart 20 years ago, I was a resident  
20          and nobody notified me. Nobody notified me.

21          The one gentleman made fun of our  
22          placards. There wasn't any placards like that  
23          20 years ago. If you didn't show up and see  
24          Mr. Platt -- you might not even get allowed to  
25          speak.

1           Again, I have been around this town a  
2           long time. I know a little bit about a lot.  
3           All I'm telling you is that things are not  
4           always what they appear to be. That's why we  
5           have instituted this fact finding because  
6           ultimately we're going to decide. We're going  
7           to decide the facts of this and their  
8           legitimacy. So in that end, I would wish that  
9           all you folks that have those facts get them  
10          to us because that's the only way that we're  
11          going to be able to give our recommendation to  
12          the Town Board.

13                 MR. FLYNN: The fact is that the  
14                 residents were there and have a voice and it  
15                 seems like the commercial owners didn't. I  
16                 can't speak to them and why they didn't -

17                 CHAIRMAN O'ROURKE: I'm not going to  
18                 break down in this way.

19                 MR. FLYNN: If you want presentations,  
20                 that's fine.

21                 CHAIRMAN O'ROURKE: No, I want facts.

22                 MR. FLYNN: I thought that it was more  
23                 rebuttal.

24                 CHAIRMAN O'ROURKE: No, not at all. That  
25                 was more of my closing statement.

1           MR. FLYNN: Well there are more people to  
2 talk. I don't think that's your closing  
3 statement.

4           CHAIRMAN O'ROURKE: Well, I was just  
5 handed this sheet, sir.

6           Lynne Jackson.

7           MS. JACKSON: Good evening. My name is  
8 Lynne Jackson. I live at 223 South Swan Street  
9 in the City of Albany. I'm a volunteer for  
10 Save the Pine Bush.

11           I have been involved with Save the Pine  
12 Bush for 32 years. Save the Pine Bush has not  
13 been before most of the people that are here.  
14 We are an all volunteer not-for-profit  
15 organization. We have no phone. We have no  
16 office. We do have a website. Our goal is  
17 preservation of all of the remaining Pine Bush  
18 ecosystem.

19           I'd like to talk a little bit about the  
20 history so perhaps people understand a little  
21 more about the difference between Save the  
22 Pine Bush and the Albany Pine Bush Preserve  
23 Commission.

24           Save the Pine Bush is an all volunteer  
25 organization. We have no government funding or

1 anything. The reason that there is an Albany  
2 Pine Bush Preserve Commission is because of  
3 Save the Pine Bush's unrelenting litigation in  
4 the 1980's that forced the City of Albany to  
5 approach the New York State Legislature to  
6 create the Albany Pine Bush Preserve  
7 Commission.

8 Pine Bush preservation is not something  
9 that has been particularly easy over the year.  
10 The Pine Bush is a very rare and beautiful  
11 ecosystem and we need to save it. It's really  
12 important. It's our child. In Africa they have  
13 lions and tigers and endangered species. There  
14 are polar bears and there are all those kinds  
15 of endangered species, but they don't live  
16 here. What is here? What do we have here in  
17 the Capital District that is almost nowhere  
18 else in the world? It's the Pine Bush and it's  
19 our duty and our obligation to preserve it.

20 Save the Pine Bush opposes any changes in  
21 the overlay district because we feel that even  
22 though the overlay district is a little tiny  
23 thing that you could do to work on Pine Bush  
24 preservation, we oppose any change in that.  
25 It's not really enough, but it's a little bit.

1           One of the things that I'm very concerned  
2           about here is that there seems to be an  
3           accusation of a plot of some sort that Save  
4           the Pine Bush in some way was involved in  
5           something that wasn't right. People talk about  
6           these meetings that were held and that Mary  
7           Brizzell formed a committee of meetings where  
8           we had Mary Brizzell, Arnis Zilgme, the fire  
9           district, the Pine Bush Commission, two people  
10          from Save the Pine Bush, the Romanos and some  
11          of the other involved business or such in  
12          meetings. The only purpose of those meetings  
13          was to look at and address the idea of would  
14          it be important to have a moratorium on  
15          building in the Pine Bush while the  
16          Comprehensive Plan process was going on.

17                 What I remember of those meetings was a  
18                 lot of arguments because Save the Pine Bush,  
19                 of course, advocated for preserving all the  
20                 Pine Bush and the town certainly didn't want  
21                 to do something like that.

22                 I will personally say that I don't  
23                 remember meeting at anyone's private  
24                 residence.

25                 We need to look at the issue here and

1           that is how are we going to preserve the Pine  
2           Bush? I went to a couple of the Comprehensive  
3           Plan process meetings. A few Save the Pine  
4           Bush members went to some of the meetings.

5                   CHAIRMAN O'ROURKE: Ma'am, I hate to  
6           interrupt but this isn't the Pine Bush.

7                   MS. JACKSON: Yes, we're talking about  
8           the Pine Bush.

9                   CHAIRMAN O'ROURKE: The overlay?

10                  MS. JACKSON: Yes, the conservation  
11           overlay district in the Pine Bush.

12                  CHAIRMAN O'ROURKE: But it's not within  
13           the preserve.

14                  MS. JACKSON: Okay, let me go back a bit  
15           and explain Save the Pine Bush's position so  
16           that it's clearer.

17                   Neil Gifford talks about -

18                  CHAIRMAN O'ROURKE: You need to  
19           distinguish because I'm not sure that  
20           everybody on the board is as read and  
21           understands the difference between all the  
22           terminology.

23                  MS. JACKSON: The Pine Bush Commission  
24           has a delineation called the study area. The  
25           study area is usually considered Fuller Road

1 as the eastern boundary, the northern boundary  
2 is Central Avenue, the southern boundary is  
3 Western Avenue and the Western boundary is  
4 also out Route 146 and is an arbitrary line,  
5 based on the roads.

6 Save the Pine Bush is concerned about  
7 anything that happens to be the Pine Bush  
8 ecosystem. The Pine Bush ecosystem used to be  
9 58,000 acres. It extended from downtown Albany  
10 to downtown Schenectady. Of course it has been  
11 eaten up by commercial and industrial  
12 development, residential development, roads,  
13 landfills, you name it. That's why it's gone.  
14 We only have about 10% of the original Pine  
15 Bush that still exists today; probably a  
16 little less than that. Perhaps there might be  
17 5,800 acres of the original 58,000 acres of  
18 Pine Bush that exist today. Save the Pine Bush  
19 feels that is enough of a compromise.

20 So the Pine Bush Commission delineates  
21 the study area and that is the area that they  
22 made and make recommendations on proposed  
23 developments in that area.

24 Within the study area, the commission  
25 also has something called full protection. In

1           2002 they had something called partial  
2           protection. They have places like the golf  
3           course, which I can't off the top of my head  
4           remember exactly what they call it. Basically  
5           they have different delineations of what they  
6           consider different levels of protection of the  
7           Pine Bush. We, at Save the Pine Bush, do not  
8           recognize those different levels of protection  
9           because we feel that there is so little Pine  
10          Bush left that we really need to save every  
11          single acre left of the Pine Bush that is  
12          left.

13                 One gentleman said that he has seven  
14          acres of land and that he likes to walk his  
15          dog on the part with the trees. The part with  
16          the trees is the Pine Bush ecosystem. All of  
17          this land that we're talking about west of  
18          Fuller Road, south of Central Avenue in the  
19          Town of Colonie is all Pine Bush, or it was at  
20          one time Pine Bush ecosystem and it still has  
21          the potential to go back to being Pine Bush.  
22          That's why it's so important to protect these.  
23          I know that a lot of landowners are saying, my  
24          goodness, you have rezoned my land, but I  
25          think that you need to look at each individual

1 parcel and say well, what is there? Are there  
2 sand dunes there, do they have pitch pine  
3 trees, do they have scrub oak trees, what kind  
4 of animals or plants are there? That's why  
5 it's so important to look at preserving it.  
6 There are different levels of protection. When  
7 they talk about the Pine Bush, there is all  
8 this confusion.

9 When they talk about the Pine Bush  
10 Preserve, what is the Pine Bush Preserve? Land  
11 in the preserve is land that has been  
12 purchased by either the Nature Conservancy of  
13 the State of New York or another municipality  
14 and dedicated to the Albany Pine Bush Preserve  
15 Commission. We're not talking about that land.  
16 You can't touch that land. That land takes two  
17 successive laws of the legislature to remove  
18 it from protection. We're not talking about  
19 the preserve. We're talking about the Pine  
20 Bush ecosystem because that's land that's not  
21 in the preserve. That's the land that's south  
22 of Central Avenue, west of Fuller Road that is  
23 not in the preserve. That's where all these  
24 properties that we're talking about are. Lupe  
25 Road, Morris Road, Cordell Road; that's all

1 Pine Bush. When you put a house on the front  
2 of the property, the back of the property is  
3 all Pine Bush because it hasn't been destroyed  
4 yet by a house or it hasn't been destroyed yet  
5 by a building, asphalt, roads, or you name it.

6 Does that make it clear about what it is?

7 CHAIRMAN O'ROURKE: I understand.

8 MS. JACKSON: The rest of it is what  
9 we're talking about. Save the Pine Bush looks  
10 at what is the Pine Bush.

11 I talk about Apollo Drive which is one of  
12 my favorites. On Apollo Drive there is a  
13 developer that put four acres of asphalt on  
14 his land about three feet deep because he  
15 parks big tractor trailers on it. Someone else  
16 wanted to buy it. They wanted to build a  
17 go-kart facility. Save the Pine Bush sued the  
18 Town of Guilderland because that's where it  
19 was and we lost all of our litigation.

20 However, the man sold the land to the Nature  
21 Conservancy. That asphalt was removed and now  
22 there are Karner Blues on that land. So it's  
23 kind of the opposite of they paved paradise  
24 and made a parking lot. They took a parking  
25 lot and made it back into paradise. All of

1           this land that we're talking about that is  
2           owned by all these people, ultimately could  
3           revert back to the Pine Bush ecosystem.

4           CHAIRMAN O'ROURKE: So are you willing to  
5           buy it?

6           MS. JACKSON: That's a very good question  
7           because of course what Save the Pine Bush  
8           advocates for is to purchase land that is Pine  
9           Bush ecosystem to protect it.

10          I will agree that we have to have an  
11          order of what land you started with first. You  
12          obviously start with land that is not  
13          developed. That is why your plan is really  
14          good because it protects a little bit, not  
15          much, but a little bit against further  
16          development and encroachment into the Pine  
17          Bush ecosystem that we have. There is,  
18          however, other solutions that have been used  
19          in the Pine Bush. Those are things called land  
20          trades, where land is traded that is owned by  
21          the State of New York and you trade it for  
22          land in the Pine Bush. This has happened  
23          twice.

24          Save the Pine Bush litigated over a piece  
25          of land - 44 acres on Rapp Road and I think

1           that we lost that one, too.

2                   CHAIRMAN O'ROURKE: I hate to rush you,  
3           ma'am but do you have a point on this?

4                   MS. JACKSON: The State of New York gave  
5           the developer an equivalent in terms of the  
6           monetary value of that land and so now CDPHP,  
7           which is the building that they built, is  
8           built north of the state office campus and  
9           that 44 acres in the Pine Bush is preserved.

10                   So, Save the Pine Bush believes that  
11           there are other creative methods to preserve  
12           the Pine Bush. That's why we hope that your  
13           board will be forward looking and think about  
14           what is our duty as residents who live here in  
15           the Capital District. It isn't like that we're  
16           looking to save other rare species. The rare  
17           species and unique ecosystem that we must save  
18           is right here in the Town of Colonie.

19                   You did ask a lot of questions of  
20           Mr. Gifford about how much involvement was  
21           there with -- I don't know if you would ask  
22           how much involvement was with Save the Pine  
23           Bush in the development of the Comprehensive  
24           Plan. We certainly offered our comments and I  
25           will have to say that I was quite surprised

1           that the Comprehensive Plan went as far as it  
2           did. I was surprised and pleased because in  
3           the past, this particular Planning Board has  
4           not been very friendly to Save the Pine Bush  
5           at all. I was very surprised and quite pleased  
6           that the plan went as far as it did. I really  
7           hope that you won't go back to the way that it  
8           used to be because the Pine Bush deserves our  
9           protection.

10                   I'm a small business owner. I understand  
11           what it's like to be a small business owner,  
12           but we have to look at the future. What is the  
13           future? We need to protect the Pine Bush  
14           because there is so little left and we need to  
15           protect it for our children and our  
16           grandchildren.

17                   Thank you, very much.

18                   CHAIRMAN O'ROURKE: Thank you.

19                   Denise Sheehan.

20                   MS. SHEEHAN: Thank you very much. My  
21           name is Denise Sheehan. I live at  
22           11 Kings Mill Court in Colonie. I've spent  
23           20 years working in government and I'm now  
24           working with businesses to develop  
25           sustainability plans.

1           For years I've heard the argument that  
2           environmental protection and economic  
3           development are not compatible. I believe that  
4           this is a false argument. In fact, the best  
5           economic development is development that  
6           considers public health, the environment,  
7           natural resources and balances these issues.  
8           As you have said, this is a very contentious  
9           issue and certainly I'm sympathetic to both  
10          the businesses and the residences.

11           I'm here tonight to encourage you to  
12          develop solutions that balance the needs of  
13          the businesses and the residents with the  
14          environmental considerations present in the  
15          western end of the town.

16           With respect to this specific zoning, I  
17          would encourage you to consider finding a way  
18          to rezone existing established light  
19          industrial businesses as conforming uses. I  
20          don't, however, recommend rezoning the area as  
21          airport business area as that zone permits  
22          prisons and other heavier industrial uses.

23           To clarify, I would urge the board to  
24          carefully craft a solution that allows  
25          legitimate businesses to be considered

1 conforming. By legitimate I mean those  
2 businesses that have followed the rules and  
3 are in conformance with the Town Code.

4 However, in conjunction with that, I  
5 would recommend that the conservation overlay  
6 remain in place on vacant lands, in  
7 particular. This is necessary to protect the  
8 sensitive ecological lands, wetlands, ground  
9 water, which we know supplies drinking water  
10 in this area and to ensure that these lands  
11 remain protected into the future. I think that  
12 with a thoughtful approach you can craft a  
13 solution that addresses the concerns that we  
14 have heard here tonight. I encourage you to  
15 thoroughly evaluate the area, to visit the  
16 different businesses, especially the ones that  
17 have residences that have made complaints and  
18 to continue to involve the community as you  
19 develop that recommendation.

20 Thank you, very much.

21 CHAIRMAN O'ROURKE: You're welcome. You  
22 must be running for office.

23 Paula?

24 SUPERVISOR MAHAN: In looking back at the  
25 process were you involved during the planning

1 at the time of the Land Use Law adoption?

2 MS. SHEEHAN: Actually, I wasn't.

3 CHAIRMAN O'ROURKE: You were part of the  
4 committees. I saw your name on a bunch of  
5 stuff.

6 MS. SHEEHAN: No, I wasn't part of it.

7 CHAIRMAN O'ROURKE: I'll have to recheck  
8 and I'll read it back into the minutes.

9 Sir?

10 MR. CURRAN: I'm Timothy Curran and I'm  
11 manager of the Underwriters Rating Board. Our  
12 property is located at 2932 Curry Road.  
13 Ms. Potts is the one that informed us that our  
14 building has been rezoned to residential. Our  
15 company has made a significant investment in  
16 this property. We have been located in the  
17 Town of Colonie since 1992 and we're asking  
18 this board to consider our land back to what  
19 it was prior and what it was when we purchased  
20 the land.

21 MR. LANE: Which was?

22 MR. CURRAN: I think that it was business  
23 E, but I'm not totally sure.

24 CHAIRMAN O'ROURKE: Yes, it was.

25 MR. CURRAN: The reason that we were able

1 to develop the land was because of the zoning  
2 that we had when we purchased it. It would  
3 really benefit our business as well as several  
4 other businesses.

5 Thank you.

6 CHAIRMAN O'ROURKE: Have you had to get  
7 any changes with zoning?

8 MR. CURRAN: No, everything we built  
9 currently fits our needs, so we haven't had to  
10 go through any expense of any variance at this  
11 time.

12 MR. LANE: Did you say that it was 2933?

13 MR. CURRAN: That's 2932.

14 MR. LANE: And the name of the business?

15 MR. CURRAN: Underwriters Rating Board.

16 MR. GANNON: It doesn't sound like an  
17 industrial use.

18 MR. CURRAN: We're in the insurance  
19 industry. We also have a print shop on the  
20 premises. I think for the print shop we need  
21 the business E.

22 Thank you.

23 CHAIRMAN O'ROURKE: Thank you, sir.

24 Again, we certainly appreciate everyone  
25 coming out and again, helping us with this

1 fact finding as we go forward. The next  
2 meeting, I think, we're looking between four  
3 and six weeks. At the next meeting we're going  
4 to compile some facts and there will be some  
5 facts given at the beginning of the open  
6 period. We will notice the hearing at a  
7 regular Planning Board two weeks prior. So,  
8 Joe will make sure that it gets on the website  
9 and maybe we'll get bigger placards next time.

10 MR. GANNON: C.J., I'd just like to make  
11 a comment, if possible and if the rules allow  
12 can we try to hold the next meeting or some  
13 meeting along the way somewhere in these  
14 folks' neighborhoods?

15 CHAIRMAN O'ROURKE: That's not a bad  
16 idea. Again, we'd have to look into the  
17 logistics of it because as you saw tonight,  
18 there was well over 100 people. We would have  
19 to make sure that there are microphones. Maybe  
20 a fire house or something might be possible.  
21 Certainly, if anybody has any suggestions for  
22 a different meeting place.

23 MR. NARDACCI: C.J., just a quick remark.  
24 I know that we have been here awhile tonight  
25 and I just want to say that from my

1 perspective, I've been on the board for two  
2 and a half years and I truly appreciate the  
3 residents that came out tonight no matter what  
4 the opinion is. From my experience under this  
5 Chairman and under the previous Chairwoman,  
6 this board has really looked to the residents  
7 and the business owners and developers to try  
8 to clearly understand what the needs are. The  
9 balance, as the Chairman mentioned, are the  
10 interests of the residents and the developers.

11 Many times we've had developers come  
12 forward that abut residential properties and  
13 what we have found is that with reasonableness  
14 we ask that developers to sit down with  
15 residents and we have found solutions.

16 I really appreciate that the group here  
17 tonight was calm. I think that we're  
18 reasonable and this is a forum and we're going  
19 to have more forums. There is going to be  
20 plenty of time. It's early in our book. A lot  
21 of our meetings go a lot later than this. We  
22 have plenty of time to fully hear all the  
23 facts and to fully understand all of the  
24 opinions. I just wanted to say that I  
25 appreciate the participation. I appreciate the

1 fact that this board took the time to really  
2 listen. Thank you, very much.

3 CHAIRMAN O'ROURKE: Thanks, Tom.

4 As I was saying, we are going to try to  
5 come up with some facts and things that we're  
6 going to make deadlines on. We'll make public  
7 all of the notifications that we're able to  
8 come across from the Times Union, the Town  
9 Times, and the Spotlight. We're also going to  
10 come up with some of the sign-in sheets for  
11 the Comp Plan meetings. We will try to find  
12 out how many use variances have been issued  
13 since this rezoning took place. We're still  
14 looking for the EAF. I will develop additional  
15 questions from this evenings meeting, as well.

16 Again, Joe, what does it look like six  
17 weeks out?

18 MR. LACIVITA: I'm looking at a potential  
19 of an August 10<sup>th</sup> date. This was a special  
20 meeting that we had to make. August 10<sup>th</sup> has  
21 nothing on right now and that might be a date  
22 to consider, or you might consider making an  
23 off-week date.

24 CHAIRMAN O'ROURKE: I almost think that  
25 it has to be an off week because we're not

1 going to hold up development.

2 So July is out?

3 MR. LACIVITA: July would be out, yes.

4 CHAIRMAN O'ROURKE: So we're into August.  
5 So at best we're probably six weeks and quite  
6 possibly it could be eight weeks until we are  
7 able to come up with some of the information  
8 and have another public hearing.

9 MR. LACIVITA: One other thing that you  
10 wanted to know was how many businesses were  
11 non-conforming?

12 CHAIRMAN O'ROURKE: Yes. I would love to  
13 have that by then.

14 MR. ROMANO: This is technical question.  
15 Are you still accepting comments in writing?

16 CHAIRMAN O'ROURKE: Absolutely. We want  
17 everybody's input.

18 MR. ROMANO: I would like to try to  
19 clarify this moratorium meeting stuff. I  
20 already talked to Liz.

21 CHAIRMAN O'ROURKE: That's fine. You guys  
22 are very organized in getting stuff to Liz.  
23 It's all good.

24 With that I would look for a motion to  
25 adjourn this to a future date. We don't have a

1 specific date, so in the adjournment motion if  
2 we could state just at a later date.

3 MR. LANE: A motion to adjourn this  
4 meeting to a later date to be further  
5 determined.

6 CHAIRMAN O'ROURKE: Do I have a second?

7 MR. GANNON: Second.

8 CHAIRMAN O'ROURKE: All those in favor?

9 ***(Ayes were recited.)***

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14 ***(Whereas the proceeding concerning the above***  
15 ***entitled matter was adjourned at 9:59 p.m.)***

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**CERTIFICATION**

1  
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4           ***I, NANCY STRANG-VANDEBOGART, Notary***  
5           ***Public in and for the State of New York,***  
6           ***hereby CERTIFY that the record taped and***  
7           ***transcribed by me at the time and place noted***  
8           ***in the heading hereof is a true and accurate***  
9           ***transcript of same, to the best of my ability***  
10           ***and belief.***  
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15           ***NANCY STRANG-VANDEBOGART***  
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18           ***Dated July 12, 2010***  
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