PLANNING BOARD                      COUNTY OF ALBANY
TOWN OF COLONIE

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MITOLA DENTAL OFFICE
1240 LOUDON ROAD
APPLICATION FOR CONCEPT ACCEPTANCE
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THE STENOGRAPHIC MINUTES of the above entitled matter by NANCY L. STRANG, a Shorthand Reporter, commencing on November 1, 2016 at 8:17 p.m. at The Public Operations Center, 347 Old Niskayuna Road, Latham, New York.

BOARD MEMBERS:
PETER STUTO, CHAIRMAN
LOU MION
BRIAN AUSTIN
TIMOTHY LANE
KATHLEEN DALTON
SUSAN MILSTEIN

ALSO PRESENT:

Kathleen Marinelli, Esq. Counsel to the Planning Board
Joseph LaCivita, Planning and Economic Development Department
Michael Tengeler, Planning and Economic Development Department
Joseph Grasso, PE, CHA
Nick Costa, PE, Advanced Engineering
George Howe
Paula Orshan Patrician
CHAIRMAN STUTO: Next on the agenda is Mitola Dental Office, 1240 Loudon Road, application for concept acceptance, 4,100 square foot professional office.

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

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

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

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

As Joe just mentioned, we were here before the board about four or six weeks ago. This is the proposal on a one acre parcel on Loudon Road that Dr. Mitola is proposing to build his dental office on.
When we are last time, we were requested to come back with some graphics to show what the impact will be to the adjacent Orshan Farm, which is located around the perimeter of the parcel.

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

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

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

CHAIRMAN STUTO: You go over that quick?

MR. COSTA: Sure. This is the 100 foot radius distance from the building. As you can see, a portion of that is within the subject parcel which is here (Indicating). That is about an acre in size. The building is being proposed right here (Indicating). The 100 foot radius falls right along the property line. There is a portion of this land that is
currently being farmed, that is not owned by the
Orshans. It is owned by Patricia. The impact would
really be along this portion of the farm.

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

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

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

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

MR. COSTA: The project, as I mentioned is
exactly an acre in size. What is being proposed is a
4,100 square foot office building, one-story with
associated parking. Utilities are all in close
proximity. There are water mains on Loudon Road. There
is the sanitary sewer force main that runs along the
bike trail. This is the Colonie Mohawk Bike Trail that
is located to the south of the site (Indicating).
Again, the water connection would be made here (Indicating). The sanitary sewer connection would be made to the force main. We would have the parking that would accommodate the patients and the people who are working.

We would have storm water management in the back.

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

MR. GRASSO: Can you describe where those were?

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

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

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

MR. GRASSO: No, I'll talk.

Just to refresh the Board's memory, there is a new letter in your packet where we did review the project previously. That previous review letter is
still included in your packet. It was a letter dated August 12, 2016. Nick touched on some of the salient items. I think it’s important to know our comments about the 40% the restricted area – that was to comply with the zoning that requires 40% of the area to be protected from development if there are resources being worthy of protection by the Town. What we felt was important was to provide a perimeter buffer around the site, both on the north side which is to the right of the page, to the west side which is to the top of the page and then a pretty wide strip along the south side of the project site. That southside was to keep the development out of that portion. I believe it was 50 feet. The purpose was so that the strip would provide access to not only this property, for possible future development further to the west of the property. In order to make that access point lineup with Fonda Road - which there is an existing signalized intersection - we do not support access to this property any place other than directly across from Fonda Road. That concern was shared by DOT as well. So, if development on the site is going to occur, we want the development to be shifted somewhat to the north.

At the last planning board meeting there were
concerns raised about the impacts of the proposed development on the agricultural lands. These were the types of graphics that the Board had asked for was to look at an aerial so that you could get a better understanding of just how the existing agricultural operation affects the project site and conversely how this project will affect those operations.

In terms of that 40% and where the development is located - you can see that hundred foot buffer - when it goes to the West it is still pretty much included within the project site. That portion of the farm fields is actually a farm portion of the project site. I assume it is by an easement to the adjacent owner. That hundred foot buffer - when you go to the North side, it does come out of the project site and includes both the access road as well as the agricultural field along that strip. So, there is going to be an impact there after the project gets developed. We would not support a change to the project where the building was shifted to the south because it will conflict with the concern raised regarding the access management along the Route 9. We understand that there are impacts of the project on the operation of the adjacent agricultural use, but we still feel like when you have to weigh all of these
issues we feel that where the building in the parking
is located, it is appropriate given the restraints of
the property and taking into account the adjacent
agricultural use.

CHAIRMAN STUTO: George Howe.

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

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

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

For example, here are a couple of documents,
statements and goals published in our very own comprehensive plan; Section 2.2, Goals: encourage conservation of viable farmland. Section 3: there's also a growing recognition that the town's remaining farmland and large open spaces are rapidly disappearing. Section 3.9.1 Support Farm Operations. A plan is built over time. It is based on input from community members and elected officials. I believe that the job of our local Planning Board is to make decisions on what is best, long-term, for our community. We have laid out our plan and we have stated our goals. I ask you to keep the plan’s stated goals in mind when making a decision on one dental office. I bring this up because if a dental office is allotted by the Town, I feel that it will limit the ability of the Orshan Farm to continue as it does today. I feel that the cost associated with adhering to change will be too much for them to bear and we will see an end of one of the last remaining farms in our community. Change costs money. Change costs time. Change costs loss of production and income. As we know in communities like ours, once a farm is sold out, the farm is gone forever. All that remains is the houses and office buildings. As a member of this community, I think that we
owe it to the Orshans not to make decisions that could
impact the ability to make their living as they have
been doing for 97 years but to impact their living as
they have been doing for 97 years. I realize that
this is commercial property and the owner has every
right to sell to whomever they wish. I realize that
finding the perfect business to fill that lot and not
cause a burden on the farm operations will be
difficult. I think that ensuring the farming needs is
worth the time and effort and fits directly into our
Comprehensive Town Plan, moving forward.

CHAIRMAN STUTO: Thank you.

Tom Gallagher.

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

Do you know when this aerial photo was done?

MR. COSTA: It was 2012.

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

Let me move forward.

MR. GRASSO: So, your Tom is about when the air
photo was taken?

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

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

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

MS. ORSHAN: Where there is the little strip –

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

MS. ORSHAN: The north side – we own the barn. We figured that we own less on the north side is, but –

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

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

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

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

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

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

    The other concern is that where he mixes and
The loads his pesticides is less than 200 feet from where the dental office would be about 170 feet away. So, again, you get more odors and things from that.

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

Just a couple more things here.

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

Just one other section of interest is: When a buy/sell agreement is written up -- and this has to be in the agreement when you buy the property -- when
any purchase and sale contract is presented for the
sale/purchase or exchange of real property located in
Albany County, partially or wholly in an AG district –
blah, blah, blah – it talks about the sections of the
State Law -- or within 500 feet of the AG district,
the perspective grantor shall present to the
perspective grantee a disclosure notice which states
-- and farming activities within the area, such
farming activities may include but are not limited to
activities that cause noise, dust and odors.

Seems like we just heard about that earlier
tonight.

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

As far as the Town of Colonie, right now in the
Town of Colonie there are approximately 700 acres of
active farm land within the Albany County Ag District
#3. Owners of those parcels -- about 24 people who
own those particular pieces of property for commercial
farming in the Town. I think that as a part of the Ag
and Farmland Protection Board, we try to protect as
many farms as we can. With the dwindling number of
acres here --- they talked about greenspace, wildlife
habitat and birdwatching in the area earlier tonight.
That’s exactly what you have on the 37 acres here of
the Orshan Farm. You’ve got all of that already. If
this dental office goes in and forces this farm to go
out of business because of all the complaints or the
issues with owners or the issues of noise, keep in
mind that within the State Law, complaints can be made
but there is nothing that they can do as long as they
are using best management practices. When they are in
an Ag district, the Commissioner of Ag and Markets
will come in and rule and say that he’s using best
management practices and he does not have to change
anything. So, if he goes out and plows a field and
customers’ cars get dusty and they complain, there is
nothing that they can do. He is protected on the Ag
and Market’s Law. The dental office is kind of going
to be on its own when these issues arise. They’re
going to have to figure out how to deal with them. We
know that they are going to happen. There is nothing
that we can do. It’s a farm. You’re going to have
noisy tractors.

When you spray, you spray in the morning when
there is no wind. When is that? It’s not 7:00 when
the dump trucks make noise. It’s probably going to be
6:00. So, there is going to be a lot of those kinds of issues.

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

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

MR. GALLAGHER: What we tend to find is that after enough complaints -- if somebody complains about a pesticide, DEC has to come and paperwork has to be filled out. He has to show all of his pesticide records. We have actually had people call and complain almost every time the sprayer goes on in the shed. That takes time and they have to fill out a lot of paperwork. If there are complaints about other things where the police may respond, even though they can’t do anything, there is another situation where they have to deal with it. We find that some of these farms finally throw up their hands and say, I just don’t want to put up with this anymore.
MS. DALTON: Sir, I understand what you’re saying but essentially the response would indicate that the parcel shouldn’t be developed rather than you have a problem. No matter what you put there, they’re going to be affected by all the things that you just talked about. Frankly, in a dentist’s office, they are there for a much more limited of time than if you were some other kind of business there. You could have it zoned for a restaurant and put that there. The things that you are describing would be far more problematic. So, are you suggesting that they simply never develop their land?

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

Yes, because a dentist’s office may only be open from 8:00 to 5:00 but the ventilation systems and things like that –

MS. DALTON: I understand what you are saying but everything that you’re saying will be affected no matter what goes there. Essentially, there is no development or there is development – if there is...
going to be something there –

MR. GALLAGHER: I’m not going to say that the
dentist office is better than something else.

Obviously, yes, if you put a restaurant there that was
open from 7:00 in the morning until 10:00 at night,
that would be worse.

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

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

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

MR. AUSTIN: Sir, just north of that particular
site and also—I’m not sure if they live in the
house there—that is in the path of the pesticides.

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

MR. AUSTIN: The people on the bike path might
be running into the pesticides too.
MR. GALLAGHER: And they do have to post and say that there is a pesticide that is going to be applied that hasn’t been applied and those kinds of issues.

MR. AUSTIN: So, that happens now?

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

Any other questions?

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

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

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

MS. DALTON: Again, the issue for me is not necessarily a particular applicant. The issue is that they either own that property or they don’t, and they
don’t. So, whoever owns it has the right to develop it, and they do. If you can make suggestions for mitigating factors that we can consider, then I would be happy to consider them. What I hear is that there is really not a mitigating solution. The only solution is don’t develop that land and frankly that’s just not a viable solution.

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

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

MR. COSTA: We haven’t done the detailed design to look at.

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

MS. DALTON: I’m sorry. I didn’t hear.

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

MR. GALLAGHER: Something to help with the odor situation which is going to be one of the biggest issues I think right up front from the use of the pesticides. They do have an odor and if we can do something to help eliminate some of that -- but I
don’t think that anything gets rid of the odor 100%.

Some of that might help, though.

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

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

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

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

CHAIRMAN STUTO: Are there any other questions?
(There was no response.)

Thank you.

Paula Orshan Patrician.

MS. ORSHAN PATRICIAN: I’m the owner of the
land that they’re talking about. I lived in the Orshan
house for 33 years plan and never smelled anything.
As far as them putting all these signs - I don't remember my father or brother ever putting signs up. If you look at the spot where my property is and this little spot here (Indicating), they had eight rows of beets growing in weeds there. Of course, I don't speak to my brother and he doesn't speak to the but other people buy vegetables for me from my brother's farm, so I know what's growing there.

As far as the little spot that he's got there, it smaller than the area here (Indicating). It's not like it's going to be detrimental to the farm. If you went by his farm this summer, most of his crops were pumpkins. He didn't even grow them on his own farm. So, talking about this little strip and this little stip around the back and we're talking about chemicals. Most of us get our lawns sprayed. They spray them four or five times a season. Most of the time they spray at the beginning of the season to get rid of weeds and then again they will spray again if there is corn growing to keep the bugs out of the corn. They're not going to be there every day spraying. They're just making it to be a little witch hunt, like I said before. The doctor knows what he's getting into. He said to me tonight that whether he puts his dental office in or not, he's going to buy
the property from you anyway. It's not a big deal. My brother just wants the land. He's got 78 acres of land left. I'm sure if you check to tax record and stuff, since my dad was sick and my dad passed away, it has not been a full fledged bar for at least four years. He used to sell corn to all the clam steam places -- the gentleman who owns Lathiers - he has not sold corn to him in four or five years.

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

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

I'm sure that if there is a day that he is spraying chemical and you have to put signs out, the doctor can call his patients and say hey, we have to
reschedule. They are spraying chemicals today. I would say that they have to give -- what did Mr. Gallagher say? You have to give them 24-hour’s notice.

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

They are just blowing this out of proportion. I feel bad for the doctor because he has a lot of money invested. If I don't sell to him, I will hang onto the property until death do me part. I'll just hang onto
They are talking about their scare guns last time. David's wife was saying the guns -- if you have been near the airport where the people had their little stand were Engalls used to be -- I bought corn there one day and they do have the gun that goes off. They only put the gun in the field when they are picking corn to keep the birds out.

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

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

Does anyone have any questions for me?

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

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

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

CHAIRMAN STUTO: Thank you.

MS. ORSHAN PATRICIAN: Anybody else?

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

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

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

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

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

It's going to be no different than -- people
are going to be complaining about the traffic light.
It's not going to be any different than people coming
up and down Fonda Road, across the street from that.

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

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

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

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

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

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

CHAIRMAN STUTO: A private party cannot take
your land.

MS. ORSHAN PATRICIAN: The developer wants to
buy it, he's going to have to pay the price. If
somebody buys the back property on the farm, there is
no way that they can make me sell my property or take
it; right?

CHAIRMAN STUTO: Correct.

MS. ORSHAN PATRICIAN: Are there any other
questions?

(There was no response.)

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

CHAIRMAN STUTO: Thank you.

MR. GALLAGHER: What is the farm zoned?

MR. LACIVITA: It is office/residential.

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

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

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

(There was no response.)

Okay, I will speak. I agree with Kathy on this
that I do not see how this project kills the farm.

Maybe I'm wrong. I am also convinced that it is zoned
a certain way and they are entitled to develop it. I
think that the way it is laid out and the fact that it
gives access across from Fonda are all positive things. I think the impact on the farm is minimal. That is my opinion. I'm ready, personally, to go forward.

Joe, do have any more comments?

MR. GRASSO: No.

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

MS. DALTON: I'll make that motion.

CHAIRMAN STUTO: Kathy makes a motion. Second?

MR. LANE: Second.

CHAIRMAN STUTO: Any discussion?

(There was no response.)

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

Any other discussion?

(There was no response.)

All those in favor, say aye.

(Ayes were recited.)

All those opposed, say nay.

(There was no response.)

The ayes have it.

Thank you.

MR. COSTA: Thank you.
(Whereas the above entitled proceeding was concluded at 8:52 p.m.)
CERTIFICATION

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

_______________________________
NANCY L. STRANG

Dated __________________________