

STATE OF NEW YORK : COUNTY OF ROCKLAND

TOWN OF STONY POINT : PLANNING BOARD

----- X

IN THE MATTER
OF
DUNKIN DONUT/MINI MART
AT WILLOW GROVE ROAD

----- X

Town of Stony Point
RHO Building
5 Clubhouse Lane
Stony Point, New York
January 25, 2018
7:00 p.m.

BEFORE :

THOMAS GUBITOSA, CHAIRMAN
PETER MULLER, VICE-CHAIRMAN
MICHAEL FERGUSON, BOARD MEMBER
ERIC JASLOW, BOARD MEMBER
PAUL JOACHIM, BOARD MEMBER
JERRY ROGERS, BOARD MEMBER

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CHAIRMAN GUBITOSA: All right, can we please stand for the Pledge.

(Whereupon, the Pledge of Allegiance was recited.)

CHAIRMAN GUBITOSA: All right, if you have a cell phone, just put it on silent or vibrate. All right. Just for the attendance for the record, Mr. Jaslow, Mr. Joachim, Mr. Muller, Mr. Rogers, Mr. Ferguson, and myself are here. Mr. Kraese is absent.

All right, so the first item on the agenda is a continued public hearing for Dunkin' Donuts mini mart. Mr. Joyce, is there anything new you want to add before I get to the public hearing, new information?

MR. JOYCE: No, I don't believe so, no.

CHAIRMAN GUBITOSA: All right. I know, before I go to the public to get any comments, we did receive two correspondence that I just want to get into the record. This was, I just received this tonight, I guess. A letter from Mr. Maher to the Planning Board, so we'll put that in the

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2 record.

3 And then we did get a review from our
4 traffic consultant Mr. Sarna. And just to
5 briefly sum up his summary of findings for
6 the traffic study is -- in the summary of
7 findings he has one, the traffic impact study
8 methodology and the presentation of the
9 findings and supporting material are
10 acceptable.

11 Two, the additional site generated
12 traffic will not have a significant impact on
13 the surrounding road system in terms of
14 roadway capacity and traffic operation.

15 Three, the increase in queue lengths and
16 frequency of queuing can be expected on
17 Algonquin Drive and approach to Willow Grove
18 Road. These queue lengths may impact
19 vehicles exiting the site, but should not
20 impact any other driveways along Algonquin
21 Drive.

22 And four, the 28 provided parking spaces
23 should be sufficient for all but the highest
24 occasional peak periods provided you add
25 additional cashier positions are manned at

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2 peak business time.

3 So we'll just get that into the record
4 and put that there. Eric, can you hand me
5 the sign-in sheet?

6 BOARD MEMBER JASLOW: Sure. Thank you,
7 sir.

8 CHAIRMAN GUBITOSA: All right. Tonight,
9 I'm going to open the public hearing. And as
10 we've had in the past, if any new comments
11 that, anything that hasn't been brought up
12 yet, and if you can keep it within three
13 minutes. We have a lot on our agenda
14 tonight. So first person on the list is
15 Kevin Conway.

16 MR. CONWAY: Thanks, Mr. Chairman, Board
17 Members. I will cover new as opposed to what
18 we spoke about previously.

19 CHAIRMAN GUBITOSA: Thank you.

20 MR. CONWAY: My office address is 664
21 Chestnut Ridge Road, Spring Valley, New York,
22 and I'm here for the objector neighbors.

23 As the Board may recall, the first time
24 we appeared at a public hearing, I presented
25 with regard to what I believe is the

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dishonesty of this application pursuant to the legal reasons why the applicant on their own application, and I'll provide Board a copy, checked off that they didn't have to go to the Zoning Board for any sort of interpretation.

And as we talked about at length, that even pursuant to the Town Code 215-95 in the case law, that this is clearly an expansion of a nonconforming use which is not permitted by the code and not permitted by the law, the case law authority that this Board as the Planning Board can't make that determination.

And irrespective of whether an applicant chooses to list that has to go there or not, or even if the Building Inspector were to make a recommendation, it's ultimately up to this Board as the Planning Board. And in an attempt to go through site plan approval, that this Board independently has to make that determination. And I haven't heard this Board make that determination yet, other than that there was mention that that was not the intention of the Board.

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2 The next meeting -- and also the fact
3 the Building Inspector has applied to this
4 application when the applicant seeks to apply
5 the residential bulk tables. This, while it
6 might be in a residential zone because it's
7 preexisting nonconforming. Certainly the
8 commercial bulk tables would apply to this
9 application irrespective of where it's
10 located because it's a commercial application
11 for use.

12 So that to use the generous bulk tables
13 for the residential when there's no such type
14 of building like this in the residential code
15 or in the residential zone, and you don't get
16 the benefit of using the residential bulk
17 table to avoid both a litany of variances
18 that this would require, even within a
19 commercial zone, if this was located within a
20 commercial zone.

21 And then the last meeting, we spoke
22 about the dishonesty of the application
23 itself by presenting this as merely fixing
24 up -- and I listened to the applicant at
25 those prior meetings -- merely fixing up, and

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repairing, and making this building look nicer, from its 1,400 square foot appearance of a one-story building with the pumps in the front and a small convenience store in the back, to now what's going to be a two-story multiple use, enhanced use, 4,000, almost 4,000 square foot building. That clearly is a dishonest application.

And we spoke about it. And even from the Planning Board perspective applying the code of 215-16A and all the factors, that even if this was located within a commercial zone, this site, the way it's configured, does not make sense for this large an operation.

Tonight, I'm going to talk about the dishonesty of the application, and the applicant itself, and how they're representing this. They've told you from the beginning that this is just a continuation of a mom and pop operation. It was mom and pop when Hollis Griffin presented this back in the 80s when it truly was a mom and pop operation at 1,400 square feet.

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2 This application itself is -- they're
3 not being honest with you. The application
4 is from a large conglomerate. It's
5 businessmen, all savvy businessmen with the
6 last name of Patel. They have holding
7 companies for seven properties that are
8 interrelated. Rockland, Orange, Kings, and
9 Long Island. The company itself and the
10 individuals are all from New Jersey.

11 Interestingly, none of those individuals
12 or corporate representatives have been here
13 at any point in the proceedings to describe
14 themselves, what the operations are, what
15 they consist of, and what they're going to
16 become. And the reason is that they can't.
17 Because if they were, they would either have
18 to tell the truth, or they'd have to remain
19 silent, or they'd have to lie.

20 Instead, what they've done by not having
21 a corporate representative here, and you have
22 every right to call them here to have them
23 describe for you what it exactly is that's
24 going to take place inside that building
25 because we still haven't heard for the record

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2 as to what it's going to be and what it's not
3 going to be.

4 Instead, they have good old Dave here,
5 who's well-respected locally, and good old
6 Dwight, well-respected locally
7 representatives because the fact of the
8 matter is we've heard nothing from these two
9 local representatives as to what the nature
10 of the company is, the nature of the
11 individuals, and what they have planned. We
12 have done our own investigation, however, to
13 help fill in what hasn't been presented.

14 Kirit Patel, P-A-T-E-L, is the principal
15 of the liquor licenses that are held by this
16 company and the other seven companies.
17 However, the current liquor license has
18 expired over, almost ten years now. There's
19 no enforced liquor license that exists with
20 regard to this property. We checked with
21 SLA, and in fact, it's been expired for
22 almost ten years now.

23 However, that hasn't stopped the liquor
24 sales. We've contacted, we've had people go
25 into the store. They sell beer. They're

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2 located right next to the school.

3 I can't imagine that Chief Moore or the
4 local police are aware of that because most
5 municipalities, when you either go in to get
6 your original application, because an
7 individual has to go in, not an entity, you
8 normally have to check with the local police.
9 They have to advise the Town Board, the
10 Master Board as to whether or not there's an
11 objection, and even when there's a renewal
12 that hasn't taken place.

13 Mr. Kirit Patel holds the license for
14 all the liquor stores, for all seven
15 companies that exist with regard to this
16 corporate structure, including the recent one
17 that they set up in Blooming Grove, which is
18 a short distance from here, right next to the
19 back end of Kiryas Joel. They've set up a
20 large, what I call megastore that you would
21 see, and we've talked about this before, very
22 much like this one -- I'm going to show you a
23 picture that's in there -- where it's a truck
24 stop, large convenience store, a big gas
25 station. It's very big for the site, very

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2 big for that neighborhood.

3 Same thing as here. What their MO, they
4 go into an area that there's little or no
5 competition from other similarly situated
6 operations. And they're not going in to meld
7 with the neighborhood and just operate and
8 serve the neighborhood. They're making it a
9 destination, a destination store, a
10 destination gas station. And that's what
11 they've done with each and every of the other
12 operations they own.

13 The mega Dunkin' Donuts truck stop
14 that's located in Blooming Grove is a stone's
15 throw from the back from Lake Anne and to the
16 back end of Kiryas Joel. Kirik Patel holds
17 the expired license for this store, and he
18 holds all the licenses for the remaining
19 stores that they operate. And he's listed as
20 the owner of the South Blooming Grove store
21 as well as the owner -- according to SLA,
22 he's representing himself that he's the owner
23 of this operation.

24 When they closed and bought this
25 operation from Mr. Griffin's client back

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years ago, they set up a holding company to own the property, and a holding company to operate the business. Mr. Patel lists himself as the owner for those companies when, in fact, he's not. We did a corporate search, which we'll provide, that he's not the listed owner.

Jagdish Patel, who lists himself as the owner on this application, purports to be the owner. The question is why are they telling the SLA one thing and telling you something else? With regard to -- just a moment.

The fact that there's a Dunkin' Donuts here where there's not an approval, that's a code issue that hasn't been dealt with before. And as I just mentioned, there's an increase of the usage of the Dunkin' Donuts operation that's not lawful now. Same thing with the liquor license. I can't imagine. That's a code issue and an issue for the police that hasn't been dealt with up to now.

And my position is this isn't a game. This isn't a jury trial where the jurors are asked to go search for the truth to figure

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2 out what happened. The applicants, when they
3 come before you in a land use process for an
4 application for a site plan, they have to
5 self disclose everything. They can't hold
6 back, they can't hide, they can't conceal,
7 they can't lie. That's what's gone on here.

8 The corporations performed all the exact
9 data. The property was closed. Most of all,
10 this is anything but a mom and pop operation.
11 And the fact that they're selling beer on an
12 expired license with a school nearby, the
13 fact that they're listing different
14 individuals as the owner, and the company's
15 based in New Jersey, my question is why are
16 they not here before this Board?

17 And forgetting the issues that I'm just
18 raising, they should be here before this
19 Board to describe what is the nature of the
20 operations that are going to take place
21 inside there? Because the further lie that's
22 been presented to you is that to call this a
23 Dunkin' Donuts.

24 This is not a Dunkin' Donuts. You can't
25 have it both ways. Either it's a Dunkin'

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2 Donuts, and it's a restaurant and that's what
3 it's -- and the Dunkin' Donuts is listed by a
4 restaurant by its own description. Or it's a
5 mom and pop gas station. It's not either.
6 They're not being honest with you.

7 Dunkin' Donuts right now is in the
8 process of rebranding to increase their
9 traffic to 85 percent with drive through
10 operations, and to have greater selection
11 from convenience stores. We have this, we
12 have this Dunkin' Donuts that's getting a
13 facelift.

14 It's a basically a corporate
15 announcement that at a conference in Orlando
16 last week, the CEO Nigel Travis said that in
17 the event that new in-store technology and
18 drive through concepts that will help
19 customers in a rush. They want to increase
20 customer traffic in their stores, including
21 this store.

22 One notable thing he says about
23 different locations. A store in an urban
24 environment -- this is not urban -- doesn't
25 need a drive through, but would benefit from

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2 a pick up section for mobile orders.

3 Elsewhere, they're seeking to have 85 percent
4 drive through. Right now they have 75
5 percent.

6 There's 9,000 US stores. They want to
7 double that number. They will open 30
8 concept locations to test out different
9 versions of the Quincy store, the one they
10 base this on, and expect to finalize a new
11 store once the testing's done.

12 So that, I present to you, is why we
13 were concerned from the outset. Because
14 whenever you go to a Dunkin' Donuts where
15 there's a drive through, there's one in Nyack
16 right off of Route 303, they're all over
17 Connecticut when I travel to court, in
18 Superior Court in Connecticut, they all have
19 the similar configuration. There's a one way
20 in and a one way out.

21 And there's two lanes, there's room for
22 two lanes of traffic in, as you see here.
23 There's not parking on the right there, the
24 parking is in the rear. And that's to
25 incorporate a drive through lane and a pass

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2 around lane for anyone that wants to park and
3 walk in the store. And that's what we
4 presented to you from the beginning, that
5 that's what's really going on here.

6 CHAIRMAN GUBITOSA: Mr. Conway, would
7 you remember from the last meeting there was
8 no drive through.

9 MR. CONWAY: Well, that's what they're
10 saying.

11 CHAIRMAN GUBITOSA: That's what's on the
12 map, and that's what we're going with, so.

13 MR. CONWAY: But what I'm telling you is
14 that's not honest from the applicant's side.
15 Every other Dunkin' Donuts of this type is
16 incorporating a drive through.

17 CHAIRMAN GUBITOSA: All right. I just
18 wanted to clarify.

19 MR. CONWAY: No, I understand. But I'm
20 saying that we can't -- we haven't heard from
21 the applicant himself. And although they're
22 telling you that up to now, how did it become
23 a Dunkin' Donuts? It's a Dunkin' Donuts
24 right now.

25 Where was the lawful approval for that?

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2 How come the code enforcement hasn't gone in
3 and served them with a notice to either bring
4 them to Justice Court, or shut them down with
5 a preliminary injunction in Supreme? How
6 come that hasn't happened up to now? But
7 that's what's going on.

8 So if you base it on the history and
9 what the intentions are, that's what you need
10 to look at. It's not, what we're trying to
11 tell you is as bad as it sounds and as
12 terrible as it is to say, but it needs to be
13 said, this isn't and hasn't been an honest
14 application from the outset.

15 With regard to -- and it's not our
16 position or the Board's position to go on an
17 investigation. And I'm going to provide the
18 corporate announcement as well for the
19 Dunkin' Donuts.

20 CHAIRMAN GUBITOSA: All right.

21 MR. CONWAY: With regard to -- just one
22 moment.

23 BOARD MEMBER JOACHIM: I'd like to say
24 one comment.

25 CHAIRMAN GUBITOSA: Go ahead.

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2 BOARD MEMBER JOACHIM: I'm going to make
3 a comment on this. You know, we have to go
4 with what's on the maps. We can't speculate
5 what's going to happen. I mean, if we have
6 somebody that comes across, if we have
7 somebody that comes across and wants to put
8 an addition on their house, or they want to
9 do something, we have to go by what's on the
10 map. You know, we could sit there and
11 speculate that this applicant's going to do
12 this stuff, but --

13 MR. CONWAY: Well, I would advise you
14 that normally when that happens, the
15 homeowner comes in. The building owner comes
16 in. The consultants present. And they're
17 there to answer any questions and say yes,
18 what they've presented is true. Or they'll
19 actually say if the Board wants restrictions,
20 yes, I can live with that restriction.
21 That's what's missing from this equation.

22 BOARD MEMBER JOACHIM: We go with what's
23 on the maps.

24 MR. CONWAY: And my position is -- no.
25 My position is that it's disingenuous for

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2 them not to present, to have the corporate
3 owner tell you what's going on inside that
4 store. That's not on the map, okay.

5 And what we're showing you, and what
6 they built elsewhere is what their intention
7 is here. It's no longer a 14 square hundred
8 building. That's on the map, it's now almost
9 4,000 square feet. It's no longer two way in
10 and out with parking all around, it's now one
11 way in with a wide entranceway and an exit
12 onto Algonquin.

13 That's all new, that's on the map, but
14 no one's telling you why. I still haven't
15 heard why. You as a Board have a right to
16 have the applicant come in and answer those
17 questions. Because their other corporate
18 properties, what they just put up in Blooming
19 Grove is what they want to put up here. And
20 that's not normal.

21 Something of this size and this
22 magnitude, there's always typically an owner
23 representative present. Consultants aren't
24 owners. I'm not an owner, he's not an owner,
25 Dave's not an owner.

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2 They may present for the majority of the
3 applications up here, but something of this
4 magnitude, the Shop Rite property, the owners
5 come in. Any properties Pat Magee has had,
6 Pat's always at the meeting. He's there to
7 speak if the Board needs to hear. That's
8 what missing from this.

9 And it's of such a magnitude that it's
10 changing into -- you absolutely, the
11 neighbors have a right to know, the Board
12 should know. You can't tell from this map.
13 This is a blank check for these guys. That's
14 what I'm saying.

15 So I would ask the Board and implore the
16 Board not to reward this dishonesty, but to
17 hold them accountable because that's your
18 job. As unpleasant as it may be, make the
19 application, have one of the Patels come in
20 and tell us what exactly -- tell us about
21 your other stores. What exactly are you
22 doing here? How much traffic do you expect
23 to come in with the enhanced Dunkin' Donuts
24 and everything else that's going on here?

25 We still haven't heard. That's not -- I

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2 do a lot of applications for and against.

3 That's what's missing.

4 BOARD MEMBER JOACHIM: I got one more

5 question before we start getting too much.

6 Last month, you referenced a couple case

7 laws. And again, I don't know, I'm not going

8 to claim to know everything, all the law. If

9 I did, I'd be in your shoes. But you

10 referenced some case law. I don't know if

11 our attorney -- Steve, have you received that

12 case law that he referenced?

13 MR. HONAN: No, I have not received it

14 yet.

15 MR. CONWAY: I'll be happy to provide

16 the court with cases, the Board with cases.

17 BOARD MEMBER JOACHIM: No, listen, you

18 reference it. I want to educate myself. And

19 I'm sure the rest of the Board does, as well.

20 MR. CONWAY: As well as the Town Code

21 Section 215-95 that deals with the expansion

22 of a preexisting nonconforming use. It's a

23 very short section. It lays out exactly that

24 the Town Law and the Zoning Code requires a

25 termination of it, not preexisting

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nonconforming use over time. And they don't allow an enlargement, and it defines it. That's right there, that's by your own Town Code. So I'll be happy to provide both of them.

BOARD MEMBER JOACHIM: Yes, I know the Board would like --

BOARD MEMBER JASLOW: You said the last two meetings that you were going to send it.

MR. CONWAY: Well, it costs money for my clients to have to pay for me to do a memo. You have able counsel.

BOARD MEMBER JASLOW: You offered. We didn't ask.

MR. CONWAY: I'll provide the --

CHAIRMAN GUBITOSA: All right, wait, wait. Mr. Conway, can you just, like, sum it up? I want to make sure everyone gets --

MR. CONWAY: My position is at the end of the day, that this Board has not had an adequate representation from the owner, and an adequate disclosure from the owner. And this map does not provide all those missing pieces. And when you see what this owner has

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done at the other sites, at the other places,
it's clear what they're presenting to you is
not accurate.

And it's not enough for the Board to
say, well, we can only go what's on the map.
No, you're allowed to require the applicant
to come in and offer testimony. That's
what's needed here.

And there's a fear from the applicant
part not to do that for the obvious reasons.
He'd either have to not answer, or he'd have
to lie, or he would have to disclose. And if
he disclosed, this would fill in the map, and
the Board would have a different impression,
and it certainly would allay the fears of the
neighbors. Thank you.

CHAIRMAN GUBITOSA: I got that. Thank
you, Mr. Conway. Next, Mr. Potanovic? Go
ahead, George.

MR. POTANOVIC: Okay, thank you.

Members of the Board --

CHAIRMAN GUBITOSA: Just state your name
and address.

MR. POTANOVIC: I will. And members of

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the public, I'm George Potanovic, president of the Stony Point Action Committee for the Environment, SPACE. And my residence is at 597 Old Gate Hill Road, Stony Point, New York. Last name is spelled P-O-T-A-N-O-V-I-C.

I'd like to read the following comments to the Board regarding the comments for this public hearing on the proposed Dunkin' Donuts mini mart expansion. I am all for encouraging business in the Town of Stony Point, but not when it comes down to, comes to a burden and negative quality of life of existing residential neighborhoods. And that any slight increase in tax revenue is not a fair tradeoff for all of us paying, taxpaying town residents, and especially the neighbors.

It seems clear and obvious for anyone who knows about the actual current traffic problems at this store firsthand that this expansion is too excessive for the size of the property. Existing traffic issues will only increase. Existing traffic issues will

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only be increased with proposed expansion of this existing nonconforming commercial use in a residential zone.

Entrance and exits are already becoming severely congested, cause accidents as patrons pass by, enter, and exit the property. The proposed expanse does not address the current traffic problems entering past the gas pumps, traffic flow, or exiting the property. So now the applicant proposes redirecting its primary exit that will increase by hundreds of cars per day, traffic from its property on to a town road, Algonquin Drive, since the applicant does not have sufficient space on the property to provide safe egress.

Many neighbors have raised issues to you concerning the size and scope of this project. In fact, they have had to hire their own attorney because they believe that this Planning Board is representing the developer's interests and not their own best interests as current town residents that you should. And I agree with them.

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This Board is not representing the neighbors and the residents of the town who, by and large, want well considered, thoughtful land use planning from this Board. When Board Member Peter Muller served as Chair for one of the prior meetings, he even tried to stop neighbors from speaking at the public hearing.

As with any application review, process is as important as content. As a town resident, I want to feel confident that the Members appointed to this Planning Board are competent and truly represent the interests of the community. However, I do not feel that you do.

You ask questions about fencing and bushes instead of real issues that need attention and need to be addressed, including a half-baked, incomplete traffic study submitted by this applicant. In fact, I am truly amazed and extremely disappointed regarding the elementary questions this Board has asked, and the concerns and questions you have not raised to the applicant.

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One gets the feeling that the Planning Board review is nothing more than a charade, a paper shuffle, and that you had intended to approve this proposed expansion even before the review got started. Has the Rockland County Planning Department and Department of Highways reviewed and submitted comments to this application? If so, can you please summarize the County's findings as submitted.

I had been attending most of the Stony Point Planning Board meetings now for 28 years. That is a lot of meetings. I have seen a lot during those years. I'm familiar with the SEQRA review process and training programs offered by the Rockland County Municipal Planning Consortium, and with the Pace University Land Use Alliance Training programs, and many more.

Every resident in this town should have an interest in good, sound planning. I am here tonight to say that this Dunkin' Donuts review has to be one of the most poorly conceived, most disjointed, and most disappointing project reviews that I have

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2 ever seen in this town.

3 If you approve the expansion with the
4 many questions that remain unanswered, and
5 the neighbors are forced to hire their
6 attorney to bring an Article 78 against this
7 Town, then the New York State Supreme Court
8 will have to decide if you did your job, or
9 if you failed in your responsibility and
10 acted in an arbitrary and capricious manner.
11 In other words, that you did not fully
12 consider the facts before you. In that case,
13 you will also incur unnecessary legal costs
14 to the neighbors, as well as the residents of
15 the Town of Stony Point. Think about that.
16 Thank you for your attention.

17 CHAIRMAN GUBITOSA: Next, George Harris.

18 MR. HARRIS: George Harris, 327 Willow
19 Grove Road. I brought a newspaper in. It
20 happened to be the newspaper that the -- this
21 is the Rockland County Times. And there's
22 a -- she took a photo of the group.

23 And I think the majority of people here,
24 they got vote no signs. I don't see any vote
25 no signs. Oh, somebody's got them in the

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2 back of the room. Good.

3 But anyway, what I wanted to ask you
4 guys, you guys like this -- I don't know if
5 you like the project or not. But there is a
6 little -- I just want to quote her. She took
7 down, the applicant is basically trying to
8 upgrade the site, said Gubitosa.

9 Now me, when I had objection to this, I
10 had to be recused, whatever, from the
11 Architectural Review Board because I brought
12 it up in a objection there. There, you're
13 not allowed to do it. So I had to recuse
14 myself.

15 But anyway, and what I would like to ask
16 you, are there any people from Grassy Point
17 here?

18 CHAIRMAN GUBITOSA: George, George.

19 MR. HARRIS: No, no, no. Are there
20 anybody from Grassy Point?

21 CHAIRMAN GUBITOSA: You got to talk to
22 the Board. It's not an open discussion.

23 MR. HARRIS: Are there any -- I'm asking
24 you, then. Are there anybody from Grassy
25 Point here? Is there anybody from Tomkins

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2 Cove here? One person from Tomkins Cove.

3 Where are most of these people from?

4 They're from the Willow Grove Road and this
5 area. That's who you guys should be looking
6 out for. They do not want this.

7 Now, what's this -- wait a minute.

8 What's the brouhaha over this site? Well,
9 the thing is, it's the people, they bought
10 their houses up here, and they're asking you
11 to protect the value of their investment and
12 their home in Willow Grove Road.

13 We want this area to increase in value
14 and look better all of the time. We don't
15 want somebody coming in creating a problem
16 and what have you. But we want it to
17 increase in value and look better all the
18 time. It should be a project that is going
19 to enhance our community, and this is not
20 going to do that.

21 CHAIRMAN GUBITOSA: Peter, was it
22 Pulice?

23 MR. PULICE: Pulice.

24 CHAIRMAN GUBITOSA: All right. With a
25 P, right?

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2 MR. PULICE: Yes.

3 CHAIRMAN GUBITOSA: Just state your name
4 for the record.

5 MR. PULICE: Yes. Peter Pulice,
6 P-U-L-I-C-E. I'm a registered New York State
7 architect and land use planner. I was
8 retained by the neighbors to weigh in on some
9 of my professional experience regarding this
10 application.

11 Just my file plans. The existing
12 building is a one-story 1,410 square foot
13 building, 20 parking spaces. Less than
14 50 percent of the site is utilized at this
15 point.

16 What is proposed is a new building,
17 basically two stories, 3,396 square feet on
18 the first floor, 1,500 square feet on the
19 second floor that will be used as a storage
20 floor, for a total of 4,896 square feet. So
21 that's 4,896 square feet.

22 Seventy-five percent of the site will be
23 redeveloped with substantial site and
24 building improvements. As a perspective, the
25 first floor will be increased 2.5 times. The

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2 entire proposed building is three and a half
3 times bigger than what it is right now.

4 The building mass and height are two and
5 a half times larger than what exists. The
6 building height that exists is 12 feet. It
7 will be reframed to a height of 25 feet based
8 on plans.

9 The storage attic that is indicated is
10 really a legitimate second floor. It's got a
11 ceiling height of eight feet. Under New York
12 State Building Code, it will be an occupiable
13 space. Whether it's storage or whatever, it
14 will be an occupiable space, and
15 misrepresented on the plans.

16 The proposed scale, height, and scope of
17 this building is clearly not an alteration or
18 expansion, as represented by the applicant.
19 The application is further flawed by the
20 Township's decision to send this application
21 to a Planning Board instead of a Zoning
22 Board. This application is for the
23 construction of a new two-story structure in
24 a nonconforming zone.

25 The filed architectural drawings were

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filed as proposed store alterations for Dunkin' Donuts. And the application that was filed was expansion to an existing Dunkin' Donuts. And I'll get into that in a little bit further on the uses perceived.

However, back in 1992, the certificate of occupancy that's listed in town records, Number 292-10, dated January 10th, lists the occupancy and uses as a convenience store with gasoline sales. Somehow, back in August 2004, there was a document that was for a revised certificate of occupancy that was to amend the use to add Dunkin' Donuts kiosk to a convenience store, deli, and gas station.

So we went from a convenience store with gasoline sales to a convenience store, deli, and gas station, and a Dunkin' Donuts kiosk. And now we're at the juncture where we're calling this a Dunkin' Donuts, and other multiple uses.

So, I think going back to Mr. Conway's comments, there's got to be some kind of clarity, or some kind of understanding of

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what this application's all about. And I think the townspeople really need some kind of guidance on this and some kind of clarity on this. So there's a lot of confusion, misinterpretation, and deception in this application. And we want to really know for the record, who is -- what are the uses, and who is, what is the principal use of this application?

So at this point, I'm questioning procedure, rulings, jurisdiction of this application. In my professional opinion as an architect and planner, the application is before the wrong Board. The reality of this application is that the so-called expansion and alteration is neither.

The facts are clear, in my opinion. The existing structure cannot be used. Less than five percent of this structure will remain. The existing building is inadequate to be integrated in the new construction.

This application is basically for a new building. It's for the construction of a new building. And basically, it's an elephant

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2 with nine dormers and a service window.

3 That's what's going to come down the pike
4 here.

5 The application for this 3.5 time floor
6 area, bulk, and mass in a nonconforming zone,
7 it's not reasonable. The site and the
8 adjoining neighborhood is not appropriate or
9 suitable for this intent or use. The
10 development proposed that will have a
11 detrimental effect to the quality of life,
12 public safety, traffic, and congestion.

13 The design has been revised a minimum of
14 seven times. In fact, it's as large -- it's
15 larger now than what it came in at. And I
16 find that bizarre.

17 The current plan increases the second
18 floor storage area and changes the traffic
19 flow direction. None of these changes
20 benefit the neighbors or reflect the purposes
21 of a good zone plan, or the intentions of the
22 zoning ordinance.

23 CHAIRMAN GUBITOSA: Do you have much
24 more?

25 MR. PULICE: Just one more minute. The

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application is defective and poorly conceived. It is a new commercial building in a residential zone that is not permitted by zoning. A use variance is required. To believe anything else is not realistic. The original intention of this was to keep it a local and neighborhood use. It has now become a commercial use with corporate branding.

CHAIRMAN GUBITOSA: Thank you. All right, next, Lou, is it Luglio?

MR. LUGLIO: Luglio.

CHAIRMAN GUBITOSA: Luglio, all right.

MR. LUGLIO: Lou Luglio, I'm a registered professional engineer, State of New York, also hired by the neighbors.

Since my last appearance here, where I presented a number of exhibits and talked about the traffic generation, the parking, talked about truck turning movements, I read through the most recent letter, the review of the traffic impact study. And I'll just go to the findings.

The summary of findings as was pointed

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out by the Chairman, the traffic study, and the methodology, and the presentation of the findings in supported material were found acceptable. And I guess the point of that is this project would have basically doubled the amount of traffic that's out here today that's accessing the site. So yes, in the sense that doubling of the traffic is what they have proposed in the proposed project and the traffic impact study, and if this is constructed, that is what would be out here.

The additional site traffic, it says here, will not have a significant impact on the surrounding road system in terms of roadway capacity. There is no change to the roadway capacity. The capacity is what it is today. They're not planning on increasing the number of lanes or turning movements.

So that is a true statement. There is no widening of the roadway. But there is going to be an effect on the traffic operations. It will definitely have an impact with respect to not only the vehicles coming in and out of this proposed site, but

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2 also of the neighboring motoring public that
3 use this roadway on a daily basis.

4 Item Number Three, increased queue lanes
5 and frequency of queuing can be expected.

6 And that is true. There will be additional
7 queuing of vehicles on the side street.

8 There will be additional vehicles queuing on
9 the property, around the pumps.

10 That area is not being expanded at all.

11 It's very congested. And now making it
12 one-way circulation also provides less
13 capacity in terms of moving around the site.

14 The last, the end of Part Three, these
15 queue lengths may impact vehicles exiting the
16 site. They certainly will impact vehicles
17 exiting the site. Queues that will generate
18 on the site itself will impact vehicles
19 coming in to park in the back of this
20 building, but also vehicles that are coming
21 to stage at the pumps themselves.

22 One additional piece of information that
23 has been supplied is the truck turning
24 template. As vehicles come into the site,
25 around the back of the site itself, and it

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shows vehicles leaving the exit-only driveway on Algonquin. And as I mentioned before, that proposed driveway is massive. The confusion of drivers for that to be an in and an out remains a safety condition and a safety hazard.

What that plan failed to show, though, was a truck actually using the service driveway along the left side, or the west side of the building, and then that truck coming back out onto Willow Grove Road. Again, an area of conflict.

The last point is that 28 parking spaces should be sufficient for all but the highest occasional peak periods. So it's not sufficient. If you have to say that it should be sufficient except for, then it's not sufficient.

And in fact, it would not be sufficient in all of the peak hours even if they had additional staff. And if they had additional staff here, which we really don't know much about the operation because we have not been told that information yet, but if they did

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2 have additional staff, that staff would need
3 parking, and that would further reduce the
4 number of parking spaces on the site.

5 For the previous reasons that I've
6 mentioned and these reasons here tonight,
7 from a safety standpoint, the operation of
8 this proposed facility is flawed. And those
9 are my professional comments for the Board
10 tonight. Thank you.

11 CHAIRMAN GUBITOSA: Next, Bob, is it
12 Marino?

13 MR. MARINO: Thank you. Good evening.
14 My name is Bob Marino. I reside at 14 Indian
15 Drive in Stony Point. That's Indian Drive,
16 the name is soon to be changed to the Indian
17 Drive Thruway as people look for an
18 alternative to the debacle that you're
19 proposing at the corner of Willow Grove and
20 Algonquin.

21 I'm not an activist. Matter of fact, I
22 usually keep to myself. But I've been here
23 from 1990 because of the ambiance, the beauty
24 of the area. And I raised my family here.

25 And I've stood by to see my taxes more

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than double, see my property value cut in half by a corrupt supervisor that went to jail, by employees that work the pension system and left with thousands of dollars that are ridiculous, and Mirant, who took us to the cleaners. The school is now in desperate straits. They're cutting teachers and programs left and right. Who, what young family will want to move into this area and buy our homes?

Now you're considering to let a greedy carpetbagger owner destroy the esthetics and the ambiance of this area. And the community is overwhelmed and overburdened right now.

The traffic study that I heard tonight that purports a minimal increase in cars is a joke. No business person invests hundreds of thousands of dollars for the same traffic. That traffic is going to be enormous.

If you want to change the traffic flow, which I heard was one of the objects, just put it in clockwise around the place and let the exit come out the other side of the building. That will relieve some of the

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2 problems that you're seeing when people are
3 trying to exit that building.

4 Did anyone on this Board ask for a
5 business plan or projections, why this
6 business person is willing to make this
7 investment? Has anyone asked for that? I
8 don't know.

9 Well, I'm not standing by anymore. And
10 I'm very disturbed over what I've seen. I've
11 seen bias from this panel.

12 I've seen this panel shut down a woman
13 whose family's been here for 300 years, and
14 wouldn't even listen to her. I've seen the
15 applicant's representatives flip flop over
16 all of the various things that they've put in
17 and taken out and put in, reduce the size.
18 No questions from this panel. Softball
19 questions, that's all I've seen from this
20 panel.

21 I've seen bias even tonight. There was
22 an adversarial air when our representative
23 got up to speak and try to help our families,
24 our people here, okay. So this panel has
25 been indifferent and dismissive for all of

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2 the residents.

3 You forced us to go out to hire, at
4 great expense, representation to protect us
5 from you. You, who are supposed to be
6 covering us. The worst part is that we know
7 you can do the job because we've seen you
8 cross examine our representatives when you
9 have no questions for the applicant's
10 representatives. So you do know how to do
11 the job.

12 So with that in mind, I've come to a
13 conclusion. And there's only one thing that
14 I can conclude here, is that if any of you
15 are deciding tonight or whenever to vote yes,
16 you would have to fall into four buckets.
17 And the buckets are these. The arrogant
18 bucket, the ignorant bucket, the incompetent
19 bucket, or, worst of all, the corruption
20 bucket.

21 And I'll let you soul search. You can
22 soul search to see which bucket fits, okay.
23 You can decide that on your own. We won't do
24 that tonight.

25 But know this. If this gets a yes vote,

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2 we are not going away. We're going to take
3 this as far as we have to to protect the
4 community that we live in. Thank you.

5 CHAIRMAN GUBITOSA: All right.

6 Mr. Maher? If you could just keep it
7 shorter.

8 MR. MAHER: I will.

9 CHAIRMAN GUBITOSA: Thanks, Kevin.

10 MR. MAHER: Kevin Maher, 130 Central
11 Highway. Again, Tom, I thank you for
12 acknowledging my letter. So I'm going to
13 keep it really short for you.

14 Bulk schedule still needs correction
15 because I've looked at Sheet Three, which I
16 believe -- Sheet Two, which I believe is the
17 existing conditions. I think the setback
18 number for off of Algonquin Drive is
19 different. You also have to take into
20 account the granting that's going to take
21 place, which is going to shrink the size of
22 lot there by altering the bulk numbers.

23 I still have problems with the fact that
24 there's no treatment of the hot spot, the gas
25 station, the gas pumps. It's required.

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2 To simply use a hood that's used in
3 New York City, catch basins, that's there to
4 control the fumes that come back out of the
5 combined sewers. That's not going to
6 function to trap any kind of petroleum
7 products, especially gasoline. Gasoline is
8 soluble in water and will pass through. You
9 must put in an appropriate treatment device.

10 The drainage report still has, in my
11 opinion, lots of flaws. I mean, to turn
12 around and say that post construction one
13 year storm goes up and ten, and a hundred go
14 down, that doesn't make sense to me. We
15 should increase the impervious area in the
16 watershed. There's something wrong there.

17 And then when look at the last page of
18 the report, I'm going to hold it up. Mine's
19 in black and white, yours is in color. This
20 is a hydraulic analysis of a storm drain
21 that's supposedly going to the site.

22 The only problem is the size of the
23 pipes don't match what's on the drawing. So
24 it leads you to beg some questions. What's
25 going on with the report?

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2 Also on, I think it's on Sheet -- it
3 should be Sheet Three, which is the site
4 plan, you're now showing trees being cut down
5 alongside Mr. Rutter's property. I don't see
6 a reason for it. And according to
7 Section 198 of Town Code, no legitimate
8 reason unless they're diseased. I don't
9 know, maybe they are. I just think that
10 needs to be clarified.

11 In a nutshell, that's it. I think the
12 rest of my points are in my letter. I also
13 emailed it to Mary so she can distribute it
14 to everyone, so you'll all have a copy of it.
15 And Dave, I'm going to send it to Ryan so
16 that you have it tomorrow, both in PDF
17 format, so you'll see my signature, and in
18 Word format. Okay, that's it.

19 CHAIRMAN GUBITOSA: Kevin, can you just
20 point out which trees you were talking about?

21 MR. MAHER: Oh, well --

22 CHAIRMAN GUBITOSA: I know they were on
23 the map. I just want to make sure I see the
24 right one.

25 MR. MAHER: I believe it's the group of

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2 trees that are back here on the back of the
3 site. Look at Sheet Three. Want me to point
4 them out to you?

5 CHAIRMAN GUBITOSA: No, I'll go to Sheet
6 Three.

7 MR. MAHER: All right, here you go. Why
8 are these trees being cut down? If they're
9 diseased, okay, I agree with that. But I
10 don't see -- if you have a 12-inch maple
11 being cut down, that's a significant tree.
12 The Town Code says anything over
13 three inches, can't touch it, unless there's
14 four or five conditions. I don't believe
15 those trees meet those conditions, unless I'm
16 wrong. That's it.

17 CHAIRMAN GUBITOSA: All right. Are
18 there any other people that want to make any
19 more comments that didn't sign up?

20 MR. POTANOVIC: Did the County Planning
21 Board send comments in, Tom? At the last
22 meeting, they didn't have them, right?

23 CHAIRMAN GUBITOSA: Which one was that?

24 MR. POTANOVIC: The County Planning
25 Board or the County Highway Department. I

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2 don't think we had them at the last meeting.

3 CHAIRMAN GUBITOSA: I think they did.
4 I'll go over that. I think they did send
5 stuff in.

6 MR. POTANOVIC: Yeah, and we haven't
7 heard from them yet.

8 CHAIRMAN GUBITOSA: I'm going to find
9 out. All right, what I'm going to do is
10 we're going to make a motion to close. What
11 we're going to do is we're going to close the
12 public hearing, but we're going to keep it
13 open for written comments up to February 1st
14 since I got the new letters from Kevin. So I
15 just need a motion to close the public
16 hearing.

17 BOARD MEMBER JASLOW: Motion.

18 CHAIRMAN GUBITOSA: Second?

19 VICE CHAIRMAN MULLER: I'll second.

20 CHAIRMAN GUBITOSA: All in favor?

21 (Response of aye was given.)

22 PUBLIC SPEAKER: What is the final vote?

23 CHAIRMAN GUBITOSA: Guys, guys. We're
24 not done yet.

25 PUBLIC SPEAKER: This has been going on

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2 for a very long time.

3 CHAIRMAN GUBITOSA: Because we've been
4 reviewing it.

5 PUBLIC SPEAKER: Because you're not
6 prepared.

7 CHAIRMAN GUBITOSA: Guys, guys. Guys,
8 can you let us talk?

9 PUBLIC SPEAKER: We'd like you to vote.

10 CHAIRMAN GUBITOSA: We're not voting.
11 We're still reviewing stuff. We got more
12 paperwork. We've been reviewing this for
13 seven months. So we have a lot going on.

14 PUBLIC SPEAKER: Right. Can you give us
15 the date that we have to come back again next
16 month? And then what will you do, you'll
17 review it next month?

18 CHAIRMAN GUBITOSA: Listen, I told you
19 we're reviewing it next month.

20 PUBLIC SPEAKER: This is not a part-time
21 job for us. Let's go.

22 CHAIRMAN GUBITOSA: And you know what,
23 it's not -- this is -- we just --

24 PUBLIC SPEAKER: It is your job. You
25 decided to take it on.

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2 CHAIRMAN GUBITOSA: Okay, thank you.

3 PUBLIC SPEAKER: You're welcome.

4 CHAIRMAN GUBITOSA: February 1st we'll
5 do as open for written comments. Now we go
6 the Board. Questions?

7 BOARD MEMBER JASLOW: I have questions
8 for the applicant.

9 CHAIRMAN GUBITOSA: For Dwight.

10 BOARD MEMBER JASLOW: What is the square
11 footage of the building? Because on the map,
12 we see 3,396. There's been comments of that,
13 plus 4,000 square feet, plus another 1,500
14 square feet. What is the total square
15 footage?

16 MR. JOYCE: 3,396.

17 BOARD MEMBER JASLOW: Kevin's comments
18 regarding if there's a gas spill, what is
19 going to be done --

20 MR. JOYCE: If there's a gas spill --

21 BOARD MEMBER JASLOW: -- to protect the
22 environment?

23 MR. JOYCE: The protocol is -- and at
24 that station, first they have fire
25 suppression at the location, at the pump

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sites, both the overhead system as well as a manual fire extinguisher. Each pump line has a disconnect. So if somebody tries to drive away, the pump breaks, gas is shut off automatically. There's an automatic shutoff, an all shutoff outside the building, and there's one inside next to the cash register center.

There's also absorbent material inside in case there's a fuel spill. There is monitoring of the tanks, as well as the pumps, by the manufacturer -- in this case, Sunoco, the provider of the petroleum -- to look for either infiltration or any material leaving the tanks or the site. If there is a spill, they have booms they can put out. There is, again, absorbent material.

There's a protocol in the telephone book which they have to follow. They have to notify hazmat, obviously the fire department, the police department, as well as the petroleum manufacturer of any spills that occur.

BOARD MEMBER JASLOW: There is no --

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2 like last week, you know, if there is a
3 spill, and we have the Daily News now is
4 coming down, what's preventing it to go into
5 the sewer?

6 MR. JOYCE: Well, if it happens during a
7 rain, there's really nothing to prevent it
8 other than the absorbent material and the
9 booms that they would have to put out. If
10 you're thinking, let's say, like the filler
11 truck overflows the tank -- likely, unlikely,
12 I'm not going to speculate -- but there's
13 booms that they have available, like they put
14 in the water in order to catch any petroleum
15 product which may hit the water.

16 PUBLIC SPEAKER: But that's not on the
17 site. If that happens, it's going to go in
18 the water. I know, I own a gas station for
19 40 years. And if there's a flood and the
20 water goes in the tanks, the gasoline comes
21 out, the water pushes the gasoline out.
22 There's nothing to prevent that, either.
23 You're talking about spills and customer
24 errors. Every gas station has that.

25 BOARD MEMBER ROGERS: Can I just add one

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2 thing?

3 PUBLIC SPEAKER: That made a lot of
4 sense.

5 BOARD MEMBER ROGERS: I just wanted to
6 ask, I know there are special oil and water
7 separators that are constructed into the gas
8 pipes and the gas pumps. You know, it's
9 newer stuff. And I'm just wondering if that
10 would counteract any spillage that would
11 happen. Is that something the applicant
12 would consider?

13 MR. JOYCE: Well, we would consider
14 anything that either the County or the State
15 law requires us, you know, as part of the
16 protocol to have in place for this site.

17 BOARD MEMBER ROGERS: I'm not sure if
18 the County requires this particular thing.
19 But what I'm saying is that, you know, it
20 would basically be something extra other than
21 just putting out booms and other things like
22 that. That would prevent any problems from
23 it going into the ground water.

24 MR. JOYCE: Well, you mean ground water
25 or the storm drain?

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2 BOARD MEMBER ROGERS: The storm drain,
3 sorry.

4 MR. JOYCE: Well, anything that would do
5 to a storm drain on a County road would have
6 to take their permission, anyway. So we'd
7 have to follow their protocols.

8 BOARD MEMBER ROGERS: Would you be
9 willing to look into doing a cost analysis on
10 that?

11 MR. JOYCE: I would certainly ask Dave
12 to take a look into it, yes.

13 VICE CHAIRMAN MULLER: I have a
14 question. Kevin had mentioned that on the
15 maps and from what he had observed there
16 doesn't match the pipe size. Can you comment
17 on Kevin's concern that drainage and piping
18 on the property will not properly match?

19 MR. NASHER: I'm Ryan Nasher from Atzl,
20 Nasher and Zigler. We are the engineers for
21 the project. Kevin, will you just specify
22 what you're talking about in terms of you're
23 talking the hydraulic grade or the treatment
24 of the petroleum?

25 MR. MAHER: Do you want me to do -- is

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2 it all right, can I answer his question?

3 CHAIRMAN GUBITOSA: Yeah, go ahead.

4 MR. MAHER: First off, I know you've
5 attended some of those seminars up at CC
6 Middletown. John Dunkel has said on numerous
7 occasions, when you're dealing with gas
8 stations, they are hot spots. You have to
9 put a treatment device in there to contain
10 any runoff from the area and treat it.

11 That's a DEC regulation, Chapter Nine in the
12 design manual, I believe, or it would be
13 Chapter Five. This is a redevelopment, which
14 definitely falls under Chapter Nine.

15 Now, what I was talking with the
16 hydraulic grade line analysis, there's a
17 profile that's drawn in the back of the storm
18 water report that alleges to show the
19 hydraulic energy line, the grade line.
20 That's the total energy of the water. Water
21 not only moves through the pipe, it has its
22 own natural energy. And water tries to get
23 to its lowest energy level by releasing
24 energy. But if it's contained in a vessel,
25 it pushes up.

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2 If you look at the profile that's in
3 there, first of all, the water goes like this
4 and then back up again. Uh-uh. Doesn't do
5 that.

6 Then the pipe sizes don't make sense.
7 They got a 36-inch pipe going into 30-inch
8 pipes. And I looked at the plan, I didn't
9 see any 30-inch pipes downstream of 36-inch
10 pipes. So it made me say to myself, hmm,
11 something happened. Maybe the wrong profile
12 is in here.

13 CHAIRMAN GUBITOSA: Kevin, talk this way
14 so I can hear you.

15 MR. MAHER: Yeah.

16 CHAIRMAN GUBITOSA: Thank you.

17 MR. MAHER: The wrong profile is in
18 there.

19 CHAIRMAN GUBITOSA: All right.

20 MR. MAHER: So I think that whole report
21 needs to be revisited. And then to turn
22 around and say that the one year storm post
23 construction runoff, deep runoff goes up, and
24 not the ten and the hundred, I don't think
25 you'd find anybody here that's going to

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2 believe that, including me. Because I've
3 done quite a few drainage studies. I've been
4 doing this for 37 years.

5 Let me tell you something. If you're
6 going to increase the one year storm, the ten
7 and the hundred are going to go up, too. I
8 don't see how it could possibly change.

9 CHAIRMAN GUBITOSA: All right. Kevin, I
10 think what we could do is, your comments you
11 had in this, in the letter you just dropped
12 off.

13 MR. MAHER: Right, yeah. It's in more
14 detail.

15 CHAIRMAN GUBITOSA: It's in more detail.

16 MR. MAHER: And I told Brian I was
17 definitely going to send that.

18 CHAIRMAN GUBITOSA: Yeah, and we'll give
19 it to our Town Engineer too, also to review,
20 so he will be able to review it.

21 MR. MAHER: I sent it to Mary via email
22 so she can --

23 CHAIRMAN GUBITOSA: So John will be able
24 to review it.

25 MR. MAHER: Yeah.

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2 CHAIRMAN GUBITOSA: All right.

3 Mr. Joyce, I have a couple questions. I know
4 on the -- I want to make sure the map notes
5 that we had on there, for the map notes, just
6 to clarify, there's no drive in and there's
7 no drive in proposed for this site, right?
8 And we have it as a map note.

9 MR. JOYCE: Exactly. It's a map note,
10 there's no drive through, there's no tables
11 inside.

12 CHAIRMAN GUBITOSA: Right, there's no
13 tables inside or outside. Now, the second
14 floor, the height of the second floor, I
15 think last meeting we talked about, was it
16 six foot?

17 MR. JOYCE: I think it was six foot,
18 six inches.

19 CHAIRMAN GUBITOSA: It was six point
20 two. All right, so I just want to make
21 sure --

22 PUBLIC SPEAKER: How high is the whole
23 structure?

24 CHAIRMAN GUBITOSA: And the map notes.
25 Guys, guys, please. Just so you know, the

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2 stenographer, she's trying to record
3 everything. So when you yell out like that,
4 she's not getting everything. I want to make
5 sure we get everyone's comments.

6 MR. CONWAY: Mr. Chairman, it's listed
7 at eight feet. It's not six feet.

8 CHAIRMAN GUBITOSA: We'll review that.
9 We'll go like this. Mr. Larkin, from the
10 fire department, they've reviewed, you've
11 reviewed the, I guess the plans, too.
12 Everything with the traffic flow and the
13 exiting.

14 MR. LARKIN: Well, we've reviewed it. I
15 reviewed it. But as long as it meets the
16 radius of turn test.

17 CHAIRMAN GUBITOSA: Right.

18 MR. LARKIN: As far as the traffic
19 study, the first I heard, you know, the first
20 I heard of it tonight was when you read it.

21 CHAIRMAN GUBITOSA: Right, the traffic
22 study. But for the fire truck, for the
23 radius, for the turning.

24 MR. LARKIN: Yes, it meets our radius of
25 turn test.

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2 CHAIRMAN GUBITOSA: Okay. One other
3 thing. I think we talked about this last
4 time, I just want to make sure I understood.
5 To go out on Algonquin, I think we said at
6 the last meeting that this piece of property
7 was part of that subdivision?

8 MR. JOYCE: Right. Back when the
9 subdivision for Algonquin Drive was made,
10 this parcel, in exchange for giving the
11 portion which is the dotted line here to the
12 subdivision, there was a sewer installed at
13 this location. So it's actually part of the
14 subdivision plan which was approved, I think
15 it was back in '89 or '88.

16 CHAIRMAN GUBITOSA: Thank you. Oh,
17 before we get more questions, I know when we
18 closed the public hearing, I didn't take a
19 vote. So I just need on the public hearing
20 that we closed it.

21 BOARD MEMBER JOACHIM: I make a motion
22 to close it.

23 CHAIRMAN GUBITOSA: You made a motion,
24 Jerry seconded. I need a vote. All in
25 favor?

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2 (Response of aye was given.)

3 CHAIRMAN GUBITOSA: Opposed? All right,
4 so it's a unanimous vote on the closing of
5 the public hearing. But we're going to keep
6 comments open until the first. Yes, Paul?

7 BOARD MEMBER JOACHIM: All right. So
8 actually, my question is to our attorneys.
9 So just to let you guys know, there's no
10 letters at the end of my name. I don't have
11 a law degree. I'm not an engineer, anything
12 on that. So we rely on these guys that are
13 back here, all right.

14 So over the last couple months, we've
15 been hearing the word land use, that they're
16 in violation of their land use,
17 nonconforming, right now. In your opinion,
18 are they conforming to the land use of
19 what -- the Dunkin' Donuts right now, not
20 what they're applying for.

21 But you know, I'm hearing comments
22 saying that they're not nonconforming land
23 use of a Dunkin' Donuts. And whatever
24 happened back -- and I don't know if, I'm
25 sure you weren't involved in the 80s, but you

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might have been, when they went for the land use, is it currently valid?

MR. HONAN: The use of the premises now is as a convenience store, and the convenience store use. The sale of pastries such as Dunkin' Donuts is allowed. It's not unlike what you see in your local 7-Elevens that sell Krispy Kreme donuts and other pastries.

This particular piece of property needed a use variance in order to sell something more than gas. The owner at -- the exact day, I'm not quite sure what year it was, 2004. I believe Hollis Griffin did speak at a meeting concerning that. He represented the landowner at that time and the business owner.

Two applications were made. One application was made years earlier, and it was rejected by the Zoning Board of Appeals. A later application was made by Hollis Griffin on behalf of his client. Sufficient proof was submitted to the Zoning Board of Appeals.

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And the Zoning Board of Appeals granted a use variance for the property that permitted this type of use on the property. The applicants at that time did not seek to limit the size of the building or the amount of the use. They merely asked for the use.

And Mr. Hollis, being a good lawyer, did not restrict the use at all. There's nowhere on the record that that was done. So the use is proper, and no further variance is needed for the use of this property in this matter. That was already done years ago.

BOARD MEMBER JOACHIM: So now going forward, from what you see from this applicant, would they be in any type of violation with the land use in this?

MR. HONAN: They're not making a use variance. They already have their use variance for this use.

BOARD MEMBER JOACHIM: Right, right. So they already have a variance for this use.

MR. HONAN: That's correct. This is not a nonconforming use. This is a use that was granted by law by the ZBA previously. There

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were many meetings concerning it, and the use was granted.

BOARD MEMBER JOACHIM: Thank you.

MR. HONAN: That's a matter of record.

BOARD MEMBER JOACHIM: Thank you.

MR. HONAN: We cannot dispute that.

CHAIRMAN GUBITOSA: Thank you, Mr. Honan. And I think for the record, I know we have it back in October. I know the Rockland County Highway, the Planning responded a few times back in May. They wanted to make sure about the erosion, no increase runoff.

Back in October, Planning did the same thing. They wanted to make sure we sent it to Haverstraw. We did send it to the Town of Haverstraw and haven't gotten any responses.

For the Planning, they just wanted the same things. No increased runoff, use additional pervious pavers, signage must conform to Town standards, bulk table is required for them. So the County Planning has looked at it.

Highway has looked at it. Rockland

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2 County Highway, they just wanted to make sure
3 they were going to review the traffic study.
4 I don't think -- they might have commented, I
5 didn't see anything yet. Drainage study,
6 they wanted to review, and a work thing.

7 The Health Department has looked at it.
8 They just wanted to make sure with the
9 mosquito control. I think the DEC looked at
10 it, and they said -- I think they wanted to
11 make sure there was no natural heritage in
12 the area.

13 But right now, so the way everyone
14 understands is our Town Engineer's been
15 reviewing it. Our Planner's been reviewing.
16 Our Town Attorney, our Fire Inspector. We've
17 had Planning and Highway, so we're getting
18 all that information. And that's why
19 tonight, we got more, the letter from Kevin.

20 So we need to go back and review a lot
21 of the paperwork. We got to get more
22 details. Just let them go through the
23 paperwork and see if there's anything else we
24 need.

25 Board, any other -- Bill, do you have

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2 any questions at this point?

3 MR. SHEEHAN: Not at this time.

4 CHAIRMAN GUBITOSA: All right. Does the
5 Board have any other questions?

6 MR. HARRIS: Can we ask a question?

7 CHAIRMAN GUBITOSA: No, not tonight,
8 George. So what we'll do is for this
9 application, we'll see you, Mr. Dwight, we'll
10 see you next month.

11 MR. JOYCE: Okay.

12 CHAIRMAN GUBITOSA: And just so the
13 public knows, we're still reviewing it. You
14 know, we have a lot of information. We have
15 our Engineer, our Planner, our Attorney,
16 Highway, our Building Inspector. So we're
17 reviewing all this stuff.


18 All right, so what we'll do is we'll see
19 you next month. And I'll do a five-minute
20 recess before I get to the next public
21 hearing. All right, February 1st will be the
22 next for written comments, and the next
23 Planning Board meeting will be February 22nd.
24 We're going to take a five minute recess.

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THE FOREGOING IS CERTIFIED to be a true
and correct transcription of the original
stenographic minutes to the best of my ability.



Jennifer L. Johnson

