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P U B L I C H E A R I N G M I N U T E S

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TOWN BOARD

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TOWN OF BRUNSWICK

7

336 Town Office Road

8

Troy, New York 12180

9

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TUESDAY, MAY 18, 2010

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6: 30 P. M.

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APPLICATION OF:

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S. M. GALLIVAN, LLC

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FOR

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PLANNED DEVELOPMENT DISTRICT

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A P P E A R A N C E S

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3 TOWN BOARD MEMBERS:

4 Philip Herrington, Town Supervisor

Susan Quest, Town Clerk

5 Thomas Cioffi, Esq., Town Attorney

Patrick Poleto, Councilman

6 Daniel Casale, Councilman

James Sullivan, Councilman

7 Sam Salvi, Councilman

8 ALSO PRESENT:

9 Tuczniski, Cavalier, Gilchrist & Collura, P.C.

54 State Street, Suite 803

10 Albany, New York 12207

BY: Andrew Gilchrist, Esq.

11

Laberge Group

12 Engineering, Architecture, Surveying, Planning

4 Computer Drive West

13 Albany, New York 12205

BY: Ronald J. Laberge, P.E. and Vice President

14

Young, Sommer, Ward, Ritzenberg, Baker & Moore, LLC

15 Executive Woods

Five Palisades Drive

16 Albany, New York 12205

BY: Jeffrey S. Baker, Esq.

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P R O C E E D I N G S

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SUPERVISOR HERRINGTON: I'd like to call the

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meeting to order. If you would, please rise.

4 (Pledge of Allegiance.)

5 SUPERVISOR HERRINGTON: When we built our new

6 facility here, we were hoping that the room was large

7 enough. It's better than the old one. It only held about

8 twenty people. I know our chairs are probably more

9 comfortable than yours are. So I'm going to try to keep

10 this moving along also.

11 I'd like to ask the Town Clerk to read the Notice

12 of Public Hearing.

13 MS. QUEST: "Public Notice. Notice is hereby

14 given that the Town of Brunswick Town Board will hold a

15 Special Meeting for the purpose of conducting a Public

16 Hearing on Tuesday, May 18, 2010 at 6:30 p.m. at the

17 Brunswick Town Hall, 336 Town Office Road, Troy, New York to

18 allow public comment on the application for a Planned

19 Development District ("PDD") submitted by Oakwood Property

20 Management, LLC. The application seeks approval for
21 rezoning of an area comprising approximately 71 acres
22 located on Oakwood Avenue to Planned Development District
23 (Tax Map Nos. 90-1-14; 90-1-13.1; and 90-1-12.2). The
24 application has been submitted pursuant to Section 10 of the
25 Zoning Code of the Town of Brunswick for a Planned

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1 Development District. The Public Hearing will allow comment
2 on the PDD application, Full Environmental Assessment Form
3 and supplementary information. Copies of the PDD
4 application, Full Environmental Assessment Form and
5 supplementary information are available for public

FW Transcript of Public Hearing on 51810 Gallivan application for PDD

6 inspection during regular business hours at the following

7 location: Town of Brunswick Town Office, 336 Town Office

8 Road, Troy, New York 12180. All interested persons will be

9 heard at the Public Hearing." And that's dated April 28,

10 2010, Brunswick, New York, by order of the Town Board of the

11 Town of Brunswick, Philip H. Herrington. And that was

12 placed in The Record on the 2nd day of May, 2010.

13 MR. HERRINGTON: All right. Susan, I thank you.

14 Now, the Town Board is here to listen to the comments

15 tonight, and we will consider all the comments that's

16 received. I want to thank everybody for being here. It's a

17 great turnout, and that's our job, is to listen, and you

18 know, it's great when people do show up to this, to show

19 interest I should say.

20 Now, the comments tonight, the applicant will

21 answer them, not tonight. The important thing here is this

22 is not a question and answer period. There's a lot of
23 people. Other towns have two-minute limits on comments. I
24 don't like to do that. I want people to get up and be able
25 to talk. However, work with us. I mean, I don't want

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1 somebody for a half hour, but there's a lot of people here.
2 I'm going to ask our attorney to get up in a
3 minute and give a few more ground rules, but depending on
4 the comments tonight, we have an option, which Attorney
5 Gilchrist explained to you. We can close the Public Hearing
6 at the end of the evening, or we can keep it open. My
7 concern by closing it is the fact there's going to be a lot

8 of questions here, I'm quite sure, a lot more study. So I
9 personally think we'll probably be inclined to keep the
10 Public Hearing open and have another one. What we need to
11 do is schedule that, because as I mentioned, if you read the
12 paper, this has seemed to take a little bit longer than we
13 would like to see and probably some of you would like to
14 see. So I would like to keep this moving at this point.

15 I think I covered everything I need to cover at
16 this point. I would like to turn it over to Attorney
17 Gilchrist. Andy. We have a stengrapher, which he will
18 explain to you.

19 MR. GILCHRIST: Yes. As Supervisor Herri ngton
20 just said, the purpose for tonight is to first hear a
21 presentation of the PDD application by the applicant. That
22 will start tonight's process, and then the Board will
23 entertain comments from the public. What we'll ask is that

24 if you do come to the podium is speak into the mic. As the

25 Supervisor mentioned, we do have a stenographer who is

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1 making a written transcript of the comments tonight, but as

2 we're speaking into mics, this is also being taped. So if

3 you'd come up to the podium with your name and address, that

4 will be noted for the record. As I said, the stenographer

5 will be making a written transcript. That will take a

6 period of time to prepare. So we'll have that shortly after

7 the meeting tonight.

8 I do want to reiterate what the Supervisor said,

9 which is the purpose for tonight is to receive comments from

10 the public. Let the Board, let the applicants and the
11 consultants hear those comments and be able to respond to
12 them. The purpose is not for a question or answer. So
13 don't be disappointed if that's not occurring tonight, nor
14 should it be a debate or an argument. It's for the purpose
15 of making sure the Board hears your questions, your comments
16 and your concerns and making sure that they are fully
17 responded to appropriately by the applicant and reviewed by
18 the Board and consultants.

19 With me here tonight is Ronald Laberge from
20 Laberge Engineering, which is the engineering firm that's
21 been retained by the Town to assist it on technical issues
22 associated with the application.

23 So as indicated, there will be a presentation of
24 the application by the applicants, and then the Supervisor
25 will open the floor to entertain public comment.

1 SUPERVISOR HERRINGTON: At this point, we ask
2 Gallivan to come forward, Andy?

3 MR. GILCHRIST: Yes.

4 SUPERVISOR HERRINGTON: Mr. Baker.

5 MR. BAKER: Thank you, Mr. Herrington. My name is
6 Jeff Baker. I'm an attorney with Young, Sommer, Ward,
7 Ritzenberg, Baker & Moore, Attorneys for Oakwood Property
8 Management and the Gallivan Companies. I'm just going to
9 give you a very brief overview of why we're here and the
10 nature of our presentation. I'm going to be followed by Tim
11 Allund, who is going to talk about the specifics of what

12 Gallivan Companies do. And then Scott Reese, our Project
13 Engineer, will take us through in some detail on the site
14 plans and how they have been involved and discuss the
15 studies that have been undertaken, primarily on noise and
16 odor, which I think are the primary concerns of the
17 neighboring property owners of the operations surrounding
18 this.

19 Oakwood Property Management is the owner of the
20 properties. It is Gallivan Corporation and S. M. Gallivan
21 which do the operations on the site. Can we get the overall
22 site plan (indicating). That is an aerial view of the area.
23 The lower left-hand corner and extending into the back and
24 into the middle is the original five, approximately
25 five-acre parcel where operations began in 2001. It is in

1 the Industrial Zone and has all the necessary approvals from
2 the Town.

3 In approximately 2003, the area expanded into the
4 larger area going off to the right and a little bit into the
5 back and comprises approximately 71 acres. It was
6 understood -- it was the understanding of the Gallivans at
7 the time that it was a permitted use to do the expansion
8 within there. Some of the area where the stockpiles are to
9 the right is an area there where fill has been deposited.
10 The fill was deposited pursuant to a fill permit issued by
11 the Town. And in 2005, the Town applied for and approved
12 the Empire Zone designation for this and other properties in
13 the Town, and then the operations were continuing.

14 Subsequent thereto, as a result of some complaints
15 from people in the North Forty subdivision, an issue arose
16 as to whether site plan approval had actually been given to
17 the expanded area. In the course of obtaining that site
18 plan approval, it was determined that the property may not
19 be appropriately zoned or that there are various ambiguities
20 in the Town Zoning Law and Town Zoning Maps. The best way
21 to put it is the underlying zoning of that parcel is
22 probably Agricultural.

23 The issue then, obviously, is to bring the
24 operations in compliance with the Zoning Code and get the
25 necessary permits. We had two options, and one was to

1 simply designate the whole area as an Industrial Zone as it
2 was expected and as it was planned to be used or to get a
3 Planned Development District. And in consultation with the
4 Town, we agreed that a Planned Development District is
5 probably the better way to go, and the reason being is the
6 Planned Development District, as being proposed, would limit
7 and define the activities as currently occur there. In
8 contrast, if this was zoned Industrial, while the Gallivans
9 certainly don't have any intention of turning it into a
10 separate industrial planned use, you know, things change.
11 They may sell it sometime in the future. Nothing is
12 forever, and that would allow somebody else to come in and
13 could put in any kind of a wide range of industrial uses,
14 including, you know, light industrial and heavy industrial
15 under the existing Zoning Code. And I think it's a safe bet

16 that many of the people in the North Forty subdivision would
17 find that much more of a concern than the operations that
18 are there.

19 So what we're doing is trying to go for the PDD to
20 define the activities that are currently happening at the
21 site. There is no proposal and no intention to increase the
22 scope of the activities to branch into areas different from
23 the range of activities that are occurring now, and the
24 proposal is to limit the area of activities, essentially to
25 the area that you see in that picture (indicating). There's

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1 some slight variations, and Scott will go through it, in the

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3 This process has gone on some time. We have
4 already received comments from the community. The Gallivans
5 have communicated with numerous people at the North Forty
6 subdivision, and as a result of that, Scott will go into
7 more detail. We had originally proposed a further expansion
8 to the south, not for immediate use, but again to preserve
9 the rights and an interest for an expansion to the south.
10 We have taken that proposal off the table, and there is no
11 provision for an expansion. Like I said, largely the
12 picture you see there are the parameters of the and the
13 boundaries of the activities. And should in the future
14 Gallivans or any subsequent purchaser desire to expand into
15 other areas of the property, that would be subject to a new
16 or an amended PDD issued by the Town Board. So the Town
17 Board, as the legislative body, the elected leaders of the

18 Town, you would have control to do, and it would not be an
19 issue simply of getting a special use permit or a site plan
20 approval from the Planning Board. So I want to make it
21 really clear that we're not using this as a way to expand or
22 change the range of activities from what's presently been
23 there, and we're talking about how we're going to make
24 measures to mitigate any potential impacts that are
25 currently happening from the activities at the site.

11

1 So at this point, I'd like to turn it over to Tim.
2 There he is. He's standing over there with our people here,
3 Tim Allund, who is associated with the Gallivan Company.

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
4 MR. ALLUND: Good afternoon. My name is Tim

5 Allund, and I'm here to introduce the Gallivan Companies and
6 what they do on this site. Maybe we can move it over. This
7 is the map where the site is located here in Troy
8 (indicating).

9 We're going to start with the Gallivan
10 Corporation. Gallivan Corporation is a locally based Troy
11 owned company. It was started in 1993 and currently employs
12 over 87 people today. We have a 3.7 plus million dollar
13 payroll going on right now. We have 87 families right here
14 in Brunswick that we positively affect.

15 Can everybody see this by the way?

16 FEMALE MEMBER OF THE PUBLIC: There's people in
17 the hall. Is there any more room for people to come in?

18 MR. ALLUND: I don't see any more, unless they are
19 my size.

20 MALE MEMBER OF THE PUBLIC: There's one seat over
21 there.

22 MR. ALLUND: So what we do at the Gallivan
23 Corporation is a professional landscape design company, and
24 it's committed to excellence in the landscape industry.
25 Most of the customers that they service are folks like

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1 you'll find in the North Forty and in a more upscale
2 environment, Lake George, Loudonville. The inhouse design
3 staff are all engineers. There's architects with licensed
4 electricians. There's certified irrigation technicians and
5 ecologists. These are some of the things and the products

6 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
and services that the Gallivan Corporation provides right

7 now, commercial landscape design, lighting, landscape

8 management, snow and ice management services, snow removal.

9 And these are just some of the prints that we put out for

10 some of the homes you find maybe in the North Forty.

11 You can run right through it. The products you'll

12 see in these photos are either organic in nature or recycled

13 products, and everything you'll see in these photos, most of

14 it comes right off of the site in Troy, things you'll find

15 in your own front yard, mulch, stone, block and pavers.

16 Now, we're going to get to the big one, S. M.

17 Gallivan. This is what we're talking about here today.

18 It's the same situation. The boys started this back in '93.

19 Sean Michael Gallivan is a diversified company which

20 specializes in truck transportation. You'll see those

21 trucks on the highway with the heavy haul equipment. You'll

22 see those white pier trucks with the green fenders. That's
23 S. M. Gallivan. In that same diversification of companies,
24 he makes a variety of landscape products, not only mulch but
25 other products you can use to feed your lawns. We work

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1 closely with the Scott's Corporation on things like this,
2 wood recycling.

3 If you want to talk about a green company,
4 everybody in Town is talking about being green today. Well,
5 you can't get any greener than this. So from wood recycling
6 to snow removal services in the winter, a lot of the
7 municipalities call on these trucks and this equipment to

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
8 move a lot of that snow when streets are plugged or when the

9 storms hit Troy and the trees are going down or the

10 devastation we had in Mechanicville years ago. So here's

11 some photos of what happens there. If you're curious about

12 what goes on on the site, these photos will show you.

13 So I'd like to introduce Scott Reese now, and he

14 is our engineer.

15 MR. REESE: Hello. All right. What this plan

16 represents is the existing conditions on the Gallivan

17 property. On the upper corner is the existing industrial

18 area.

19 MR. LABERGE: Do you want to use that?

20 MR. REESE: Excellent. Thank you. This is the

21 existing five-acre parcel, and now, the present location,

22 it's coming down through there (indicating). What they have

23 are multiple mulch piles, bark mulch in these facilities.

24 They also operate the topsoil making facilities in these
25 areas. What they also have is timber and stumps as far as

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1 piles that they process and that they grind. They also have
2 this area, which is the material that they get from towns,
3 which are the leaves and the grass clippings, which it was
4 remarked earlier that we're going to be taking the grass
5 clippings off every seven days and leaves every thirty days.

6 They have operational equipment also on the site.

7 They have the tumblers and the grinders, and then they also
8 have the screeners at these locations. That will be shown
9 in more detail in the noise study.

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
10 They also have a location for pallets that they

11 also take that they also will grind and mix with their mulch
12 in their dying facility that they also have large stockpiles
13 of on their current Industrial Zoned areas. All this is
14 also owned by the Gallivans, as far as existing topography
15 and woodlands surrounding the project.

16 If you want to move to the next slide. What they
17 are asking for for the site for the PDD is that they are
18 looking to manufacture, package and store landscape
19 materials, also to reprocess, reduce and store all the wood
20 products, and they are looking to park and maintain for all
21 their equipment that they use for the facilities. They also
22 have greenhouse and nursery operations for their landscape
23 company and also for their landscape design and the
24 construction and maintenance which also includes all of the
25 trucks and trailers that go along with that business and

1 also the collection and separation of the yard waste that
2 they get. But again, as I mentioned before, the grass
3 clippings will not be stored on the site longer than seven
4 days, and leaves will not be stored for longer than thirty
5 days on the project.

6 Now, this is our original plan that we submitted
7 to the Town. Basically, what needed to be done was it
8 needed to address stormwater issues. So, originally, we
9 were creating stormwater management areas here and along
10 this basin (indicating). We are also proposing to construct
11 a berm. We're borrowing material from this for the berm,

12 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
and also, they were interested in what our future operations

13 were, and we are planning to do an expansion down to the

14 south. As a result from neighbors' concerns, we came up

15 with this second plan, which is now emitting this area for

16 expansion.

17 We were going to use some of this material to

18 build this berm. So what we're doing is that we're

19 extending this little graded area to pile some more material

20 so it can a finished berm. That area goes on the interior

21 of the operational area to keep away from the residences as

22 much as possible.

23 FEMALE MEMBER OF THE PUBLIC: Can you show us the

24 residences on there?

25 MR. REESE: Okay. The residences, this is Lindsay

1 Drive. Let's see. That is the court. Let me just get the
2 names. I'm sorry. You've got Naples Court right here
3 (indicating), and then you also have North Star Drive right
4 here (indicating).

5 FEMALE MEMBER OF THE PUBLIC: Where's Stone
6 Arabia?

7 MR. REESE: Excuse me?

8 FEMALE MEMBER OF THE PUBLIC: Where's Stone
9 Arabia?

10 MR. REESE: Stone Arabia is probably -- that's
11 more located off the project site here (indicating). These
12 are the bordering properties.

13 MALE MEMBER OF THE PUBLIC: That's not correct.

14 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
It's south. It's in direct line of sight view on the plan.

15 MALE MEMBER OF THE PUBLIC: In fact, everyone on
16 Stone Arabia within 500 feet of that site received
17 notification of this, and all my neighbors received it. So
18 you should be considering Stone Arabia.

19 MR. HERRINGTON: Let me interrupt here. When it
20 comes to notices, Andy, you want to mention that? What I
21 try to do when it comes to notices, I try to go beyond,
22 above and beyond. I mean, we used to talk about 500 feet.
23 I try to stretch that. Andy, do you want to explain that in
24 terms of the notices? When you hit 500 feet, you're right
25 in the middle of the development.

1 MR. GILCHRIST: The Town Clerk did read the Notice
2 of Public Hearing earlier, and it was published in The
3 Record. Just for our record, note that the Town does post
4 the notices on the web site. And as the Supervisor just
5 mentioned, it's not required in the Town Code, but it's been
6 the practice of this Town Board to send out written notice
7 to the property owners within 500 feet of a project site,
8 and so some of you may have gotten direct mailings regarding
9 the Public Hearing tonight. The reason for that was this
10 Board's policy of providing extra notice, particularly to
11 those residents located in close proximity to a project
12 site, so you are aware of what's going on. So that is the
13 nature.

14 I will add just for our record as well that the
15 project site is also located adjacent to the City of Troy

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
16 boundary. In fact, part of the property, one of the parcels

17 is located in the City. So we've also placed the City of

18 Troy Planning Department on the notice as well. That went

19 out with the Notice of Public Hearing as well for the

20 record.

21 MR. REESE: Also on this plan, with some of the

22 comments that were made, in this area (indicating), we are

23 no longer doing pile locations but doing it for equipment

24 storage, which then will be shown in this next slide. These

25 are just showing the areas that we're planning to leave for

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1 the site and operational areas. So what you see in green is

2 going to be, well, the remaining actual vegetation. It's

3 not saying that the vegetation is going to be removed in
4 this brown area, but the brown area is showing the
5 topography, the height of the topography. So the topography
6 is what's being left, and it's part of the berm area that's
7 being reflected as far as there's a hill that's located
8 between the area that's going to be untouched and unused,
9 except for, you know, how the berm is going to be remaining.

10 As far as this gray area that comes through, this
11 is just going to be for your storage or equipment, placing
12 greenhouses, storage and parking of the trucks that they
13 have, you know, for the facility.

14 The blue areas that we're showing on the plan are
15 going to be the location of the stockpiles, the stockpiles
16 of all the material that we're leaving on the site.

17 And the purple areas that we're showing are going

18 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
to be the areas where the operational equipment will be, the

19 screener, the grinders and stuff like that. So what we're

20 trying to do is keep a vegetation buffer along the side,

21 which then you have the topography as the buffer, and then

22 we have just the haul roads and the parking areas and the

23 greenhouses. And then we have the heights of the

24 stockpiles, and then on the opposite side of all that is

25 having the mechanical equipment and operation.

19

1 Next slide, please. This is just more of a

2 graphical representation. Again, this is a cross-section

3 that goes from Oakwood Avenue all the way to Lindsay Drive.

4 As you can see, this is Oakwood Avenue, and this elevation

5 then rises up to the berm. This is their stockpile areas.
6 This is the topography that I was talking about as far as
7 being the buffer and as well as with the vegetation. This
8 location over here is Lindsay Drive (indicating), and this
9 is where the homes are located, along through in this area.
10 So this is where your homes are.

11 Next slide, please. This is also another
12 cross-section. This is on the southern location. This
13 southern location is going up to Naples Court and going
14 across the site, as you can see, with the berm and the piles
15 and also the topography slope that goes up from where Naples
16 Court is located up above there.

17 FEMALE MEMBER OF THE PUBLIC: Are you saying the
18 berm is over there (indicating)?

19 MR. REESE: There is topography as far as where

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
20 the topography already goes up. The only thing -- this is a
21 stockpile. This is your existing topography line. So
22 that's actually the ground. This, the green representation,
23 is the woods, okay? So as far as taking the cross-section
24 from this point on the lower part, there's your berm -- not
25 your berm. Let me correct that. That is your stockpile

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1 area, and then this is your existing topography, that
2 there's no work being developed, and then the residents of
3 the location. We added additional cross-sections on to
4 Lindsay Drive showing that there is still some existing
5 topography that's going up and where Lindsay Drive is
6 located down below.

7 The Noise Assessment Program was done by
8 Continental Placer, Inc. They are a firm that provides
9 interrelated geological and environmental services to a wide
10 range of clients. They used the methodology from the New
11 York State Department of Environmental Conservation guidance
12 program policy in mitigating noise impacts. So they
13 followed certain guidelines of the New York State DEC.

14 The report that they made addresses standard
15 noise standards, the criteria of the guidelines, different
16 ambient noise levels, which are existing noise levels; and
17 these existing noise levels were taken on like a Sunday
18 morning, sort of a conservative measure, and most of the
19 noise levels that they picked up was the activity on State
20 Route 40 or Oakwood Avenue, you know, where you have a lot
21 of traffic and truck traffic that's going up and down. But

22 FW Transcript of Public Hearing on 51810 Gullivan application for PDD
then they also have taken certain manufacturers'

23 recommendations of what noise levels are given by the

24 different equipment, and then they actually did noise

25 receptors at three different locations around the site and

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1 where they come up with actual noise data, and then they

2 come with their recommendations.

3 Now, through the process, what was done is that

4 three receptors were installed, one at each of the existing

5 drives, and what they did was take the distance to the three

6 main noise making, producing facilities on the project, the

7 one being -- the greatest one is the Peterson 4700 grinder

8 which creates around 85 decibels, which I'll explain

9 decibels in this next slide.

10 Sixteen -- well, I'll have to describe what
11 decibels are is different levels. As far as weakest sound,
12 of course, is zero decibels. Normal conversation is sixty
13 to seventy decibels. City traffic is 85 decibels, and then
14 it goes on and on. As far as power motors, it goes up to
15 107. What the Federal Highway Association considers an
16 acceptable outdoor noise is at 57 decibels.

17 This chart was taken also from the report, and
18 basically, what that chart is taken from is what is being
19 also looked at by the Town Engineer, with the comments and
20 other things that were going through, but in short, with all
21 the technical information, we took the loudest producing
22 mechanical equipment and generally looked at it at 100, 200
23 feet distance that that equipment would produce. And the

24 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
higher decibels that we were getting around is at 61.8. But

25 they also took into effect the topography, you know, the

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1 topography at the other receiving end, which can have a
2 reduction of 12 decibels for this facility. And tell them
3 -- what they do is then they compare it to the ambient noise
4 levels that they were taking, you know, at those three
5 receptors on Sunday morning, which were 46, 54 and 43 at
6 different locations.

7 Now, as you can see, the different levels that
8 they were producing, and then when you get the attenuation
9 from the topography, you get the decrease of sound levels
10 around 49 and 45, which does not exceed the Federal Highway

11 Association's decibels of 57. But the number that we're
12 also looking at is between the difference between what's
13 being produced and what was existing, and then there's the
14 differences. There is differences in this manufacture noise
15 level and how the calculations are put together. And the
16 way that the New York State DEC takes a look at it is if
17 there's a certain threshold, and if there's a zero to five
18 number, it's not much of a noticeable outcome. When you've
19 got six to ten, they find it intrusive. So this is just the
20 paperwork that's being done.

21 The next slide is actually showing the actual
22 recordings that they took at different locations, which
23 later they did two different readings, one in the morning
24 and one in the evening. And from this location, different
25 readings of up to 54.6 were taken, you know, but with that

1 ambient location existing was only 50.3, which you only had
2 a .2 increase. But what we have here is at Recipient Number
3 1 which was on Lindsay Drive. We did have a situation where
4 it went up from 53.3 which is a 7.4 difference, but that is
5 without mitigation, you know.

6 So what we need to do and what the report
7 addresses is that we need to mitigate that, and through
8 mitigation of that to reduce the sound level is to add a
9 berm, you know, stockpile placement, making sure that the
10 distance of the equipment is further, and each of those,
11 you know, we will be looking into through addressing this.

12 But what it doesn't take into account right now is the

13 standard of reduction of a berm, and topography can decrease
14 it by 12 decibels. So we think that we can be in compliance
15 with the noise levels.

16 SUPERVISOR HERRINGTON: Scott, what you mentioned
17 for the area, what you're saying is Lindsay Drive is the
18 most affected?

19 MR. REESE: Out of those three receptors we found
20 one that went up higher than the others, and it went up
21 higher than -- it went into that area of the New York State
22 DEC guidelines. It went up, you know, .7, which once it
23 goes up to -- you know, when it goes from zero to five, it's
24 kind of intrusive. But once it goes six to higher, it's a
25 little intrusive, and it should be somehow probably

1 mitigated. So that's what we're going to do, okay?

2 MR. HERRINGTON: Yep. Thank you.

3 MR. REESE: Next slide, please. We're also, of
4 course, looking at the odors that are being produced by the
5 site. Generally, a lot of the odors are created by the
6 decomposition of organic material, or when it's kind of
7 compressed, it's heated. It's called an anaerobic
8 condition. And basically, what creates the largest smell,
9 what happens a lot is when you have the large pile of grass
10 clippings, because they are nitrogen, you know, they reduce.
11 They decompose quickly, and they can produce a strong odor,
12 and you know, with that --

13 MR. POLETO: Can you stand near the microphone so
14 Sue can pick it up?

15 MR. REESE: Okay. Certainly.

16 MR. POLETO: You've got to move over.

17 MR. REESE: Sure.

18 MR. POLETO: Thank you.

19 MR. REESE: But mitigation measures can be as far

20 as they produce to soils and we'll no longer be using the

21 raw, non-composted material to turn into the --

22 MALE MEMBER OF THE PUBLIC: Can you define that?

23 MR. REESE: Excuse me?

24 MALE MEMBER OF THE PUBLIC: Can you define that

25 raw non-composted material for me?

1 MR. REESE: Okay. Yes.

2 SUPERVISOR HERRINGTON: I don't really want to get
3 into, too much into this question and answer, but go ahead.

4 MR. REESE: Okay. Just briefly, raw materials,
5 it's just things that are not fully composted. Anything
6 that needs to be broken down in organic matter that needs to
7 be fairly broken down. So that's what that means. Grass
8 clippings, you know, so to help out, we're not going to keep
9 the grass clippings on-site for more than seven days, which
10 is a higher breakdown in speed, and then we'll also make
11 sure that the leaves are moved from the site. Within thirty
12 days of that, they will not be used as amendments to their
13 topsoil.

14 MR. HERRINGTON: I can ask questions. Is that a
15 change in policy from what's happening now, I wonder, the
16 seven days to the thirty days?

17 MR. REESE: Yes. It is much quicker. I mean,
18 because before there were other uses for grinding and
19 breaking down the material or you know, just trying to
20 remove it from the site to different locations, but this is
21 a quicker turnaround to get it off the site.

22 SUPERVISOR HERRINGTON: Okay. Thank you.

23 MR. REESE: Okay. You know, but with this, with
24 the noise and the odors, and everything has been generated
25 by the Town Engineer, you know, where also part of the

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1 mitigation techniques was to create a best management plan,
2 and you know, we're going to be in agreeance to work with

3 the Town and the Town Engineer to make sure that we serve
4 the site and the community as best as we can through this
5 process.

6 So from here, I would like to turn it over back to
7 Tim to discuss the impacts, positive impacts.

8 MR. ALLUND: I'm okay with this. Thank you. I
9 would just like to close my portion of this whole
10 presentation. What people don't realize in companies like
11 this is what positive impact they make on a community. If
12 you look at what has been happening over here since the boys
13 took it over and improved the site, in 2009, they paid over
14 \$260,000 in New York State sales tax, which comes back to
15 the community. Rensselaer County sales tax alone is
16 \$45,000. That's their portion. Highway taxes which pays
17 for the road improvements you see on Route 40, you see on
18 Hoosick Street, come out of what they paid at \$160,000 for

19 the right and privilege to use the roads. So total taxes so
20 far, a half a million dollars in 2009. Okay. Here's just
21 another list of the taxes they pay in order for the
22 privilege to do business in the Town of Brunswick.

23 The negative impact is, if anything ever happened
24 to this company, there would be a \$3.5 million not paid in
25 wages. A lot of the employees are here tonight because they

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1 are very, very interested in what takes place in this
2 facility, and it is a huge impact on this community. Go
3 ahead. I'll turn it back over to Jeff.

4 MR. BAKER: Just to wrap this up, what we've tried

5 to demonstrate here is, we have been modifying our proposal
6 sensitive to the community and its concerns with the
7 mitigation we're putting in place for the berms and the
8 commitment not to use backup alarms on any of the equipment.
9 There will not be any adverse impact from the facility in
10 regard to noise. We are voluntarily agreeing to restrict
11 the amount of the organic material on the site by removing
12 the leaves and the grass clippings in a much shorter period
13 of time, far shorter than is required under DEC regulations,
14 again, to mitigate many potential impacts that come from the
15 site and, again, restricting the operations to the side.

16 At this point, we appreciate -- we want to hear
17 the comments from the public, and as you mentioned, Mr.
18 Herrington, we will respond to them in due course. Just for
19 the record, I'd like to -- we have presented two letters to
20 the Town Board, one from Assemblyman Ron Canestrari in

21 support of the project, another letter from Robert
22 Pasinella, Jr., who is the Director of the Rensselaer County
23 Economic Development and Planning Department, and I'd like
24 to read that into the record. It's a short letter. "Dear
25 Town Supervisor and Town Board members: As the County

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1 Director of Economic Development and as someone who is well
2 acquainted with the businesses operated by the Gallivan
3 Companies in the Town of Brunswick, I wanted to provide this
4 letter of support to the Town Board.

5 "The Town Board has an important responsibility in
6 weighing the needs of residential property owners and those

7 of businesses in the Town seeking to remain healthy in this
8 challenging economic climate. As you know, one of the ways
9 in which both the County and the Town have supported the
10 Gallivan Companies in the past is through the designation of
11 an Empire Zone for these properties. It is my understanding
12 that they applied for Planned Development District would
13 assist in the operation of these successful, locally grown
14 companies while allowing the Town to impose appropriate
15 limitations on the companies' operation on the properties
16 covered by the PDD. Successful economic development depends
17 upon the cooperative efforts of businesses, towns and
18 neighboring property owners in order to allow businesses to
19 thrive and to continue hiring employees while ensuring that
20 zoning issues are appropriately addressed.

21 "I know the principals of the Gallivan Companies
22 and the excellent businesses that they have created in the

23 Town of Brunswick. I am confident that the Town and the
24 Gallivan Companies will be able to agree upon a PDD
25 designation that will allow these businesses to continue and

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1 to also address the town's need to regulate land uses in a
2 manner acceptable to adjoining property owners. If there is
3 any assistance that I can provide, please let me know.

4 Sincerely, Robert Pasinella, Jr. "

5 COUNCILMAN CASALE: Are you going to read

6 Canestrari's, too?

7 MR. BAKER: Oh, sure. It's much shorter. Mr.

8 Canestrari said, "To whom it may concern: I am writing on

9 behalf of Sean, Brendan and Shannon Gallivan who own and
10 operate their business in the Town of Brunswick.

11 "I have known the Gallivans since they were
12 children and am proud of the business they established years
13 ago and the success they have had to date. I know them to
14 be intelligent, hard working and caring people, and while I
15 do not know all of the details of their issues with the
16 Town, I believe they are good corporate citizens who would
17 follow the letter and spirit of the law.

18 "While these types of issues can be contentious, I
19 wanted to express my thoughts directly to the public
20 officials and general public attending this important
21 hearing. Sincerely, Ron Canestrari, Majority Leader."

22 MR. HERRINGTON: I'm going to open this up in a
23 second. One quick comment I want to make, Mr. Poleto and
24 myself have been here for a couple of years, and in the old

25 Town Office that held twenty people, the game plan used to

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1 be from our eyes, when we were on the outside looking in, we
2 would go and the office staff would be sitting in the chairs
3 whenever they had a hearing, correct? And we would be
4 standing outside trying to get in. I brought another 40
5 chairs in here tonight, and I thought I had things covered.
6 It appears I did not because we have a few people standing
7 in the hallway.

8 If we're inclined to keep this Public Hearing
9 open, at this point, I believe we're going to be inclined,
10 I'd like to talk to maybe Tamarac High School where we'll

11 have another meeting and see if they can use their
12 auditorium with speakers, and everybody can have a nice
13 chair and get everybody in. Because we have stood outside,
14 correct --

15 MR. POLETO: That's right.

16 MR. HERRINGTON: -- in the rain when you couldn't
17 hear. I know that's tough. So anybody out in the hallway,
18 once you get going, please feel free to come in and make a
19 comment. The next meeting we're going to have, we're going
20 to have a little bit more room here, too.

21 At this point, I'd like to open the meeting to the
22 public and again ask you to come forward. We have our tape
23 plan. We have our stenographer. We need your name, your
24 address, and again, work with me in terms of the time.

25 MR. MEYER: Hi. Tom Meyer, Seven North Star

1 Drive. I'd like to start off and, first of all, read a
2 petition that was circulated. It was distributed in the
3 areas immediately in the vicinity of the Gallivan
4 properties, primarily the North Forty West Development,
5 Liberty Road and Farrell Road. It's signed by 202 adult
6 Brunswick residents, again, but most exclusively in those
7 areas.

8 "We the undersigned, as residents of the Town of
9 Brunswick, request that the above-described application be
10 denied." I'm sorry. "Petition for Denial. Application by
11 S.M. Gallivan, LLC for a Planned Development District in the
12 Town of Brunswick. We the undersigned, as residents of the

13 Town of Brunswick, request that the above-described
14 application be denied. This request is based on the
15 following beliefs: " And I will do an aside. I mean, I know
16 there's a couple of technical inaccuracies in terms of the
17 actual LLC that submitted it and the date that follows.

18 "In approximately 2007, residents began to
19 complain about the stench and noise emanating from the
20 Gallivan property. It must be stressed that the odor is
21 extreme, and for days at a time, residents are forced
22 indoors. Similarly, the noise is extreme and often begins
23 at 6:00 a.m.

24 "Based on firsthand accounts by residents and town
25 officials, Gallivan has, prior to approval by the Town of

1 Brunswick Board, expanded its business substantially.
2 Gallivan has been illegally conducting business operations
3 on the property which is zoned for cemetery and continues to
4 do so.

5 "The applicant has been non-responsive to Town of
6 Brunswick officials' requests to cease operations not
7 permitted by current zoning.

8 "Applicant has denied access to the property to
9 town officials.

10 "Applicant has frequently violated current
11 restrictions regarding hours of operation.

12 "By virtue of the applicant's operations in the
13 restricted area, the applicant has fully demonstrated that
14 their use of the land does and will continue to cause

15 serious disruption to adjacent land parcels in the form of
16 extreme noise and odors (best described as a heavy sewage
17 odor).

18 "Though we believe mitigation is not possible, the
19 applicant's disregard for current laws and official requests
20 creates legitimate doubt that any mitigation restrictions
21 will be respected, monitored and/or regularly inspected."

22 And it is signed by 202 residents.

23 Lastly, I'd like to just read a prepared statement
24 of my own.

25 "Dear Board Members: As you know from previous

1 attendance at Board Meetings, there is a great deal of
2 concern over current operations on the Gallivan properties
3 and the application submitted by Oakwood Property
4 Management, LLC.

5 "As the awareness amongst the residents in
6 adjacent parcels has grown, it has been a challenge to
7 understand all of the details on issues relevant to the
8 applicant's operations and application. To name a few,
9 land acquisitions, current land use, zoning laws and
10 ordinances, site plans, PDD processes, SEQRA processes,
11 Empire Zone designations and numerous other areas requiring
12 expertise and technical knowledge. Though I, by no means,
13 feel that I yet fully understand all of the relevant issues,
14 I've taken the time to summarize the major concerns and
15 observations that I have developed to date."

16 What follows are some comments based on the

17 document entitled The "Oakwood Property Management PDD

18 Project Narrative", dated January 14, 2010.

19 "The described narrative contains a number of

20 troubling statements and outright deceptions:

21 "The Introduction contains an inherent

22 contradiction, first noting that 'The PDD will permit the

23 continued operations and expansion of businesses . . .'. It

24 then goes on to state that the PDD is 'intended to conform

25 the zoning with the existing uses'. Of course, this is also

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1 a tacit admission that they are currently violating the

2 current zoning with intentions for future expansion.

3 "In the same Introduction, they make the case that
4 the PDD is 'intended to conform the zoning with the existing
5 uses and to do so in a manner which controls the uses to a
6 range approved for the PDD instead of the broader range of
7 uses that would otherwise be permitted in Industrial
8 Districts.' It further states that 'By limiting the range
9 of permitted uses, the PDD protects residential uses in the
10 vicinity from the potential for more intensive industrial
11 uses.' Apparently, if the Town grants authority for them to
12 operate on their expanded terms, the Town can avoid the
13 broad range of forbidden uses they may otherwise decide to
14 pursue.

15 "In the background section of the same document,
16 they indicate that they bought the original 5.4 acres of
17 land in 2001. Based on documentation supplied by the Town
18 of Brunswick, we have further determined that the site plan

19 for the original 5.4-acre operation was granted April 18,
20 2002. The narrative also states that they bought the
21 additional 71 acres on or about October 2003. Despite
22 having purchased these large parcels of land from St.
23 Peter's Cemetery, they assumed that the land was zoned
24 Industrial. They further assumed that no site plan was
25 required. With no specific time frame mentioned, they also

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1 indicate that, 'As operations expanded into those parcels,
2 Oakwood and the Gallivan Companies worked with the Town of
3 Brunswick and Rensselaer County to obtain Empire Zone
4 designation for the property and the Gallivan Companies'

5 operations.' Not until the Fall of 2008, was it
6 'discovered' that a site plan was necessary and 'a question
7 arose as to the zoning classification for the parcels.'

8 "This leads me to a stunning conclusion based on
9 the applicant's own description. Three levels of
10 government, presumably unwittingly, were involved in
11 planning and granting an Empire Zone designation, with all
12 of its inherent tax and capital benefits, to a company that
13 was running its operation without a site plan and in serious
14 violation of zoning restrictions.

15 "The narrative then delves into the topic of the
16 zoning designation, 'Schools and Cemeteries'. They posit
17 that perhaps this 'is an apparent reference to its previous
18 ownership by St. Peter's Cemetery.' They further state that
19 'the Town Zoning ordinance makes no reference to such a
20 district and under the ordinance, none exists. Therefore,

21 the underlying zoning is unclear and is either Industrial or
22 A-40.' Personally, I prefer to think that the usage for
23 schools and cemeteries is self-explanatory and quite simply
24 didn't require a description.

25 "At the conclusion of the narrative, it is stated

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1 that the Town's Comprehensive Plan 'supports the further
2 development of commercial uses along Oakwood Avenue.' The
3 actual text and context of the only portion of the plan that
4 mentions Oakwood Avenue is as follow:

5 "The survey respondents also were allowed to put
6 in their own words those things they liked and disliked

7 about the Town of Brunswick. When asked why they lived in
8 the Town, most respondents indicated the following: Country
9 atmosphere, convenient to work and shopping, good school
10 system, scenic, born and raised here. When asked what the
11 important goals and values for the Town of Brunswick are,
12 the majority responded: Keep it scenic and rural; fix
13 traffic congestion; do not over develop; controlled growth;
14 low, fair taxes; clean environment; and control commercial
15 growth. The respondents saw the means to this end through
16 public input, long-term planning, tougher development laws,
17 building a bypass and improving Route 7.

18 "The majority of respondents did not favor more
19 commercial activity and suggested that areas for development
20 would be the Route 7 corridors, along Oakwood Avenue and in
21 Clums Corners. Many respondents favored small, family-owned
22 businesses. When asked if there are areas for industrial

23 development in the Town, the majority answered 'no,'
24 indicating that there were better areas for industrial
25 development, including the City of Troy and the Rensselaer

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1 Technology Park. Some, those who favored industrial growth,
2 proposed light industry and suggested locations for light
3 industry in the Oakwood Avenue and Route 7 areas.

4 "This is hardly a ringing endorsement for what's
5 being proposed. On the contrary, the majority of
6 respondents did not favor more commercial activity, and the
7 majority answered no for industrial development. Even from
8 the minority that favored industrial growth, they proposed

9 only 'light industry' for Oakwood Avenue.

10 "At previous Town Board Meetings, I have heard the

11 sentiment, 'We don't want to put them out of business.'

12 Neither do I; however, that sentiment should not be used to

13 cloud the facts. This company is rightfully approved to

14 operate a mulching operation on 5.4 acres. Aside from their

15 failure to abide by several stipulations in their original

16 site plan, I respect their right to that operation. I do,

17 however, take issue with their illegal, long-term violation

18 of the zoning restrictions and any insinuation that

19 restraining this use would create a hardship or put them out

20 of business. They created this situation, and they have no

21 legal right to move an industrial operation onto that land.

22 On the other hand, I recognize the applicant's desire to

23 continually grow their operation, and I would point out that

24 it is not uncommon for successful businesses to outgrow a

25 given location and relocate to an area more conducive to

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1 growth and line-of-business expansion.

2 "The silver lining to the chronology I've laid out

3 is the first-hand experience that we have all gained in

4 experiencing the Gallivan expansion. Tonight you will hear

5 from other land owners in the vicinity of the Gallivan

6 operation. Having experienced these issues first-hand and

7 discussed the issue with numerous neighbors residing at

8 various points surrounding the Gallivan property, you can't

9 ask for a more vivid display of the negative environmental

10 impact it is having on adjacent land owners. In addition,

11 the granting of this PDD would be tantamount to changing the
12 zoning to Industrial. Specific complaints aside the zoning
13 change alone would have a serious effect on the property
14 values in the adjacent parcels.

15 "If a wholesale change in zoning to allow
16 Industrial operations adjacent to large tracts of
17 residential homes can pass, is there a single Brunswick Town
18 resident who is safe from having nearby land rezoned for
19 similar industrial use? If the Town won't take action
20 against an entity that is openly and grievously violating
21 existing zoning laws, is there any doubt that the Town of
22 Brunswick will see a steady increase in this type of
23 behavior?

24 "Despite any mistakes the Town may have made in
25 the past concerning these properties, I believe that you

1 have a clear obligation to restrain Gallivan's current
2 activities and deny the PDD application at the first
3 juncture that the process allows. Respectfully, Tom Meyer. "
4 Thank you.

5 SUPERVISOR HERRINGTON: Thank you, Tom. One
6 comment I would like to make, it is true when we received a
7 complaint a few years ago, unfortunately, whenever, 2008,
8 whenever, our code people did go down to the Gallivan
9 property unannounced, told them they wanted to go on the
10 site. They were told by an employee, not by any of the
11 Gallivans, that they were not allowed to go on the property.
12 They called me, the code people. I jumped in my truck and

13 drove down there. The same employee told me, "I'm sorry. I
14 can't allow you to go on there." I said, "Well, I'm going
15 on there anyway. I guess you can take me to Town court if
16 you'd like." Sean Gallivan arrived about a half hour later
17 and explained to me, which I understand, the situation there
18 was the employee because it is a work site, there is a lot
19 of equipment, as everybody knows, everybody has attorneys
20 and we have insurance, and he was instructed not to let
21 anybody on without an appointment. Mr. Gallivan told me
22 that any Town official was allowed on there. He would just
23 like notice for an appointment, maybe thirty minutes. So a
24 few of us have been. Ever since then, they have been
25 cooperative. We understand the rules. I'm not sticking up

1 for them, but I mean, I do understand that the employee had
2 a job to do, and there's a lot of equipment like grinders
3 and chips flying and everything else. So he has been
4 cooperative in terms of letting all of us on the site with
5 an appointment.

6 Anybody else at this point, come on up and grab
7 that microphone. Name and address, please.

8 MR. SCHONGAR: My name is Michael Schongar, and I
9 live at 21 Lindsay Drive in Brunswick. I just want to read
10 a prepared statement. I'll pass it over to Sue later, and I
11 also have questions on the application that I'd like to give
12 to the Board. You can certainly give them to the Gallivans
13 if you'd like, no problem, okay?

14 My name is Michael Schongar. My wife and I have

15 I lived at 21 Lindsay Drive for over eleven years now. We had
16 a nice quiet neighborhood and peacefully co-existed with the
17 Gallivan mulching operation when it was at 5.4 acres.
18 However, about three summers ago, we started to be subjected
19 to rude awakenings at 6:00 a.m., even on Saturdays, by the
20 trucks of the Gallivan Corporation. We have also endured
21 extremely loud noise during the day until early evening by
22 the mulching operation which is so irritating that it drives
23 me inside the house on otherwise beautiful days. I can't
24 sit on my own deck and have a drink while this mulching
25 operation is going on.

17 has not gotten a court order to do so. What is he hiding?
18 How can the Town approve an application when the applicant
19 refuses to allow Town employees onto the property who can
20 verify the information in the application? I reviewed the
21 application, and I found a number of items not completed and
22 other items that are questionable as far as their answers.
23 The incompleteness of the application is another reason
24 right now to deny it outright.

25 I petition the Board not only to deny the

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1 application but to do what it should have done two years ago
2 and get a court order to have Mr. Gallivan to immediately

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
3 cease and desist using the property he is now seeking

4 approval for. In addition, I want the Planning Board to
5 readdress the noise issue and the hours of operation for the
6 original 5.4-acre site. It was noted in the 4/18/02 Minutes
7 of the Planning Board that if the noise became an issue, the
8 Town would require Mr. Gallivan to appear in front of the
9 Planning Board concerning the elevated noise and would
10 require noise reduction as part of the amendment to the site
11 plan. I will suggest that the hours be changed from 7:00
12 a.m. to 6:00 p.m. and include trucks into the original
13 mulching operation, as they are both part of the business
14 also on the original 5.4 acres.

15 As an aside, the original application noted that
16 mulching was going to be from 7:00 to 7:00 or whatever, and
17 the trucks weren't involved. I want the trucks included in
18 that, too, because they are the things that are keeping us

19 up at 6:00 in the morning every day. Some of this is not in

20 this statement, obviously. I'm regressing, digressing.

21 If the Board approves this application, it will

22 set a dangerous precedent to any other business and to

23 individual homeowners that in Brunswick you can flagrantly

24 disregard Town Codes and then later get approval. This is

25 no small operation, considering the application itself notes

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1 260 trucks a day are passing through that facility, and it

2 should not be adjacent to a residential setting. It belongs

3 in the country. We have endured over two years of noise and

4 odor. We don't want a third.

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
5 I can assure you that if any member of this Board

6 right now were living in my house, you would be writing
7 exactly the same letter. In closing, my wife and I are
8 again respectfully requesting that the Board correct the
9 egregious situation and do the right thing by denying this
10 application and requiring Gallivan Industries to immediately
11 stop operations on the unapproved land. Thank you.

12 MR. HERRINGTON: Thank you, Michael.

13 MR. SCHONGAR: Now, I also have in here -- the
14 Town has a section of application that you have to fill out.
15 I don't know. I haven't seen it yet. It's been blank every
16 time I FOIL'ed it, okay? I have questions on that
17 application for the Board to take a look at. Maybe it's
18 something that you guys may not have noted, but it's here
19 for you. There's five copies, but not of everything, just
20 of my letter.

21

MS. QUEST: I'll get a copy of it later.

22

MR. MAURER: Good evening. Before I get into

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these prepared -- oh, my name is Don Maurer. I live at 10

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Stone Arabia Drive. Before I read these statements, I would

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like to say that for the past thirty years, I've made my

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living in Crisis Communications. In an event of this

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importance, I am surprised that a representative or a

3

leading member of the company isn't here talking to you but

4

instead using a lawyer, okay?

5

The first one is a statement from my wife, who is

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unable to attend, and it says, "When we purchased our

7 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
property at 10 Stone Arabia Drive in 1997, we did so because

8 the property bordered a cemetery which promised a future of

9 tranquil country living. However, in 2007, our peaceful

10 surroundings changed to where we hear the constant drone of

11 land moving equipment from sunup to sundown. Not only is

12 the noise an annoyance, but the smell, which I compare to

13 the smell of vomit, is so repugnant, we cannot be outdoors.

14 Since I am an avid gardener, it is extremely disturbing that

15 I cannot enjoy our property and hobby. It has also taken

16 away other simple pleasures such as cook-outs, entertaining

17 and allowing our grandchildren to play outdoors.

18 "I am concerned about the potential for fire as

19 the mulch and compost piles heat up. The steam from these

20 piles is ever present and cause for alarm during dry spells.

21 It is my understanding that controlling fires such as these

22 can be extremely difficult. Please consider these concerns

23 and how they can be eliminated by not allowing this illegal

24 use of property to continue."

25 "Dear Supervisor Herrington: My name is Donald

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1 Maurer, and I live at 10 Stone Arabia Drive. I am joining

2 my neighbors in stating my opposition to rezoning the

3 additional property owned by S. M. Gallivan, LLC.

4 "In addition to the constant noise and smell, I

5 have watched the mulch piles continue to expand across the

6 former cemetery property.

7 "Phil, if you remember, last year I called you and

8 asked if the Zoning Board had reached a decision on

9 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
Gallivan's request. You assured me that the request had not

10 been granted. I then asked how could he expand without the
11 zoning change requested. You said he couldn't and asked,
12 since Town officials had not been allowed access to the
13 Gallivan site if a representative of the Town could take a
14 photo from my property to document the ever expanding mulch
15 pile. I gave permission and the photograph was taken.

16 "The smell is bad. The noise is constant. But
17 the most compelling reason for denying the Gallivan's
18 request is his demonstrated arrogance and attitude of 'My
19 neighbors and Town officials be damned. I'm doing as I
20 please.' Sincerely, Donald Maurer."

21 SUPERVISOR HERRINGTON: Thank you.

22 MRS. RANDALL: Good evening. My name is Beth
23 Randall. I live at 200 Oakwood Avenue. The proximity of
24 our home to the Gallivan Corp. headquarters makes us the

25 most vulnerable to the adverse and negative effect of their

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1 business operations. Our family suffers the most of the
2 environmental impact caused by Gallivan's operations. The
3 home is located a few hundred yards south of Gallivan's
4 major headquarters. We have lived there for 46 years. The
5 first 35 years were peaceful, private and quiet. We are
6 completely surrounded by the Oakwood Cemetery, so we don't
7 have any noisy neighbors.

8 Speaking of noise, daily, continuous noise as
9 early as 5:25 a.m. through late evening, last night at 3:00
10 a.m., huge trucks are being loaded and leaving, driving both

11 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
north and south on Oakwood Avenue from early morning till

12 late evening. Secondary to this noise, lawn mowers are run
13 from Gallivan's office south to St. Peter's Cemetery as
14 early as 6:15 to 6:25 a.m. disturbing everyone's sleep. At
15 all hours of the day as trucks arrive at Gallivan's site, it
16 seems that they are using "jake" brakes causing a great deal
17 of noise and vibration. Very loud noise coming from heavy
18 machinery that grinds full-sized trees into mulch in a
19 matter of minutes. Another heavy machine sounds like it's
20 pulverizing big rocks into smaller rocks or rock dust seems
21 to be the loudest.

22 The most important is the water contamination. We
23 live in a Hudson River watershed. Piles of products, the
24 mulch and other products, are at least fifty to sixty feet
25 high. There is one within the last two days that went from

1 twenty feet higher and the length of your hallway longer in
2 two days. That took a lot of trucks. The water
3 contamination, these piles of products fifty to sixty feet
4 high, they are often dyed red, black, whatever other colors
5 they use, and the rain causes to drain off --

6 MS. QUEST: Excuse me. Mrs. Randall, could you
7 just move closer to the microphone.

8 MRS. RANDALL: Sorry. The rain causes to drain
9 off and flows into a culvert that passes under Oakwood
10 Avenue into what was once a lovely clear creek winding
11 through our property. This creek feeds two lakes that are
12 in Oakwood Cemetery. These once beautiful clear lakes are

13 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
now severely covered in algae. I talked with one of the

14 gentlemen who works in the cemetery this afternoon, and we

15 talked about the steady more and more and more algae. I

16 grew up in farm country. I know what happens when there is

17 too much farm fecal matter, what happens to the waterlands.

18 The drainoff from the lakes cascades down a fifty foot

19 waterfall and continue downhill through Lansingburgh

20 underground to the Hudson River.

21 We do live in the Hudson River watershed area. I

22 highly recommend an environmental impact study be undertaken

23 in order to determine the detrimental effects caused by

24 Gallivan's operation. In addition, I am including two

25 samples of water from my well to submit with this, one from

1 2007, one from 2009. In 2009, our tap water turned brown.
2 The white laundry turned brown and became brittle. This
3 happened as more topsoil, compost manures and who knows what
4 else was directly moved south and was directly across the
5 street from our house. The cost of a water purification
6 system for the well was almost \$7,000. We have lived at
7 Oakwood Avenue for 46 years with regular water tests
8 throughout those times, and never has there been iron in the
9 water. This is Attachment 1.

10 After forty years of peace and quiet, we now have
11 to deal with horrible noise, abhorrent odors and
12 unbelievable traffic. The night before last, driving by
13 just before dark, we counted sixty parked trucks. Those
14 trucks move every day, more than once a day in and out.

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
15 This is not expected, what I expected in my golden years,

16 and I ask that you respectfully deny the request by Gallivan

17 Corporation, because my house isn't fit to live in anymore.

18 We saw some nice pictures of green up there. This is not

19 green.

20 I opened the windows in a small bathroom on the

21 first floor for two days on the sunny days this week, and

22 then I wiped it with this damp towel today (indicating).

23 That's the kind of dirty black gray. That's what my whole

24 house is filled with. This is from the baby grand piano in

25 the front parlor that I got my husband the first year we

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1 moved there as a gift, one of the greatest sacrifices of my

2 life, and the most I miss there these days is the silence of
3 that piano, but I still keep it grand. There is no green
4 around my house. There is just black dust that constantly
5 comes in the house, and it got more and more over the last
6 three-year period.

7 And on that note, I will respectfully again
8 request that you deny Gallivan's application. Thank you
9 very much for your time.

10 SUPERVISOR HERRINGTON: Thank you very much, Mrs.
11 Randal I.

12 MR. HERRINGTON: Does it matter who goes next?

13 SUPERVISOR HERRINGTON: No.

14 MR. HERRINGTON: My name is Kenneth Herrington. I
15 live at 88 Herrington Lane in Troy, New York. It's actually
16 off Tamarac Road. I'm a dairy farmer. I operate about

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
17 1,500 acres of land in the Town of Brunswick. Somebody said
18 that might be zoned Agricultural down there. If it is, you
19 definitely don't want me, if you don't want his odor or his
20 noise. My odor and my noise is probably 24 hours a day. We
21 have 1,200 animals. I live about 200 yards away from him.
22 I probably have a lot more odor than he will ever create.
23 It doesn't bother me. I guess you get used to those things.
24 I'm very concerned because I see things like this happening
25 from time to time as far as public hearings and people

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1 getting up here expressing their emotions because things
2 have changed.

3 I guess change -- you know, that area was zoned, I

4 think, back in 1958 when the Town was zoning, when zoning
5 first came out in the Town, and I think, if I'm correct, and
6 I'm sorry I didn't do as much homework as I should have,
7 that most of Oakwood Avenue north of the Gallivan site,
8 including the present five acres, is zoned Industrial. That
9 means if you don't like him south of where he is, he could
10 move north of where he is, and when he moves north of where
11 he is, he will be legal under the quote zoning laws, and
12 nothing will change. The odors will still be there. The
13 noise that you don't like will probably still be there. It
14 will be a little bit farther to the north but not enough to
15 the north of where he is presently to make any difference.

16 So I think you have a circumstance here that you
17 have to decide, not on the NIMBY factors, but decide on the
18 merits and what the circumstances are surrounding his

19 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
present location. If he moves north, as I said, he will

20 have the same situation, and it will be zoned legally.

21 As far as the PPD goes, people have spoke already

22 that they don't like PPDs. I don't know when North Forty

23 was put in there, and I'm not one hundred percent sure of

24 this, but that probably was a PPD also. PPDs are quite

25 common. There are hearings about them, and boards have to

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1 make a decision solely on the merits of the case rather than

2 on emotions.

3 I don't really believe that he is polluting the

4 water to that extent because it wouldn't happen. We have

5 DEC, and I'm sure if they monitor him in any manner that

6 they monitor me, he is not getting away with anything.
7 People think he is getting away with something, but with the
8 DEC constantly watching what you do and answering complaints
9 of the neighbors, they spent an enormous amount of time on
10 your property. As I said, I live in Tamarac. I don't live
11 next to the site. I do live next to noise and odor, and I
12 do know that DEC, even in the last four to five weeks, has
13 been at my operation because I have noise complaints from
14 neighbors, and they say that they now regulate engines over
15 400 horsepower, or something to that effect, and that they
16 investigated for that size engines on our operation. We
17 didn't have any, so they left.

18 They monitor any runoff that I have from the dairy
19 operation because I am located in the Tomhannock watershed.
20 All of the things that we now do -- we just spent a \$160,000

21 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
collecting rain water, not polluted rain water, just rain

22 water because it may at some time be polluted at a certain

23 high flow time, and so we are spending this money to protect

24 the water quality in the Tomhannock watershed, and it

25 returns nothing to our operation, as I'm sure it would

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1 return nothing to theirs. They are doing that because they

2 are trying to be a good neighbor, and they are again

3 regulated by DEC. So I don't think anybody is getting away

4 with anything as far as pollution, whether it be with the

5 water in the cemetery or someone's well.

6 I hope that you look at the merits. The

7 Gallivans -- the business that the Gallivans run there is

8 one of the last businesses that we have here in Town. We
9 seem to like to run businesses out of Town and out of County
10 and out of New York. We all can't work for the State or the
11 County or the Town. So some of us have to be employed on
12 our own or by a corporation such as the Gallivans. They add
13 a lot of tax base. They bring in a lot of sales tax money
14 to this community which helps build the community. They
15 employ eighty to a hundred people. They pay a lot of school
16 tax, I am sure, and put not one child in any school from
17 that property. Please look at the merits. I am in favor of
18 the PPD, and I hope you take a very serious long look into
19 this before you vote no based on emotions. Thank you.

20 MRS. ALMEIDA: Hi. I'm nervous. My name is
21 Tricia Almeida. I live at 377 Seventh Avenue in
22 Lansingburgh. I'm unaware if a lot of the residents here

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
23 from North Forty realize that we've been dealing with many

24 of the same issues that you have. So I'm here to represent

25 my little neighborhood, only we've kind of been out of the

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1 loop. We've had no idea, starting about three years ago,

2 what this noise was, what the smell was, where it came from.

3 We only recently found out, and I guess that's why I'm here.

4 I'll read the letter that I have written to you.

5 It was almost three years ago when I first noticed

6 the smell. It was toward the end of August 2007, and it was

7 like if you were walking through the Home Depot, the lawn

8 and garden section, but it was a hundred times worse, just

9 overwhelming mulch. That was about 8:30 or 9:00. Over the

10 couple of weeks, I noticed it on and off at night. Then it
11 really started to become an issue that winter. I'd always
12 go outside around 11:00 or 11:30 p.m. to walk the dog one
13 last time before I went to bed, and I noticed this God awful
14 smell seemed to get worse in the colder weather, and it
15 would only seem to be occurring at night. Whatever it is
16 that causes this was probably, in my opinion, purposely only
17 being done at this time so people wouldn't really notice it.
18 I then began mentioning the smell to some of my neighbors to
19 see if they had noticed it. At that point, no one really
20 had. They all said they were never outside at that time of
21 night.

22 I believe it was in January of 2008 that I was
23 sitting in my house and for the first time, I was overcome
24 by the smell while inside. It seemed to me that the colder

25 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
the night, the worse the smell became. I think it probably

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1 -- now, I'm not a scientist -- has something to do with when
2 the air is so cold, that's when it's worse for us, that it
3 must not be able to permeate up into the air as easily. I
4 have since heard that the people who live in North Forty
5 have more of an issue in the summer months.

6 On this particular night in January, one of my
7 neighbors called the fire department because the smell was
8 so bad, and nobody knew what it was, other than that it had
9 to be something awful. I saw the firemen pull up, get out
10 of their trucks and immediately return to them to put their
11 gas masks on. It was this evening that some of the

12 neighbors who I'd mentioned the smell to started calling my
13 house and asking me if that was the smell I had asked them
14 about. I said, "That's it." Everyone smelled it in their
15 houses that night. A neighbor who lives on the next block
16 told me she was running all around her house up and down the
17 basement and the attic to try and figure out what she
18 smelled. It was such a strong odor that she thought it was
19 coming from somewhere in her house.

20 The next day I called the fire department to find
21 out what they had determined it could have been. The
22 Assistant Fire Chief said the report indicated it was some
23 sort of oil-based paint. I'm assuming this was basically
24 for lack of a better explanation. I asked, "How could
25 someone painting in their house, even if they had their

1 windows open for ventilation, have made inside everyone's
2 home smell for a block radius?" I was going to get a call
3 back after the final report came in. Well, that never
4 happened.

5 One of my son's friends, who lives a block away,
6 is also on his basketball team. I had asked his mother in
7 the past if she had ever smelled the odor, and she never
8 had. One night coming home after one of their games, we
9 arrived back at our respective houses at about the same time
10 and the smell was awful. She called my house and asked if
11 that was the smell I asked her about. I told her it was.
12 She said as soon as she stepped out of her car, she felt
13 light-headed and like she wanted to vomit. She called the

14 fire department that night. I also know of at least one
15 other occasion when another neighbor called the fire
16 department. After a while, people stopped calling because
17 clearly they were as unaware as us about what it was and
18 where it was coming from and what to do about it anyway.

19 It was awful. I'd taken to closing off my sunroom
20 doors and trying to keep the kids in the interior rooms of
21 the house where it smelled the least. Around this time, the
22 smell had started to happen earlier in the night, and I
23 think that's one reason more people were noticing it. Is
24 this a normal way for people to have to live? I was then
25 and continue to be extremely stressed and angry over this.

1 What was causing this smell and how could it be
2 happening? I did at the time only have one child with
3 asthma. My daughter, who was then six years old at the
4 time, up till this point had no breathing issues, then all
5 of a sudden started wheezing all the time and was diagnosed
6 with asthma. I am convinced that this is the cause of it.
7 I'm sure Gallivan Company would say, you don't know that for
8 sure and to prove it. But I'd like to say that they should
9 disprove it.

10 Over the course of that winter, often when we were
11 driving back home at night, all of a sudden at around 112th
12 Street, the smell would just smack us in the face and
13 practically take your breath away as we were approaching our
14 house at 109th Street and Seventh Avenue. The kids would
15 just start screaming, "Oh, my God, it smells! It smells! I

16 fell sick." I ask you again, is this a normal way for
17 people to live in the United States? The kids would then
18 try to hold their breath and run into the house as fast as
19 possible.

20 I then brought our Councilman, Mark McGrath, on
21 board with what was happening. He said he had noticed the
22 smell as well. One night when he and his wife were driving
23 home, they also noticed it.

24 Then one day, another neighbor of ours who had
25 become aware of the situation, smelled it one night and kind

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1 of followed the source in his car, and he at the time

2 discovered it originated at Gallivan on Oakwood Avenue. He
3 pointed out to me that if you look at a satellite map of the
4 area, Gallivan is located directly above our neighborhood.
5 We're all getting the smell. It was a minor victory to
6 discover this. But what exactly was it and how was this
7 being allowed to happen? I mentioned that -- I've heard
8 that they are not even supposed to be doing this. I imagine
9 they shouldn't be if this is the byproduct of it.
10 Apparently, there were supposed to be certain permits -- now
11 this is just hearsay -- but I've heard that they've never
12 been obtained.

13 Also, this explains to me why they were probably
14 doing this at night -- so no one knew what they were up to.
15 And by the way, some mornings at about 7:00 a.m. when my
16 children were leaving for school, there would still be a
17 hint of the smell in the air. Sometimes the smell occurs

18 every night for a week or so, then you'd get a break for a
19 couple of days, and then it comes back. I will say that the
20 past year for us, the activity seems to have dwindled,
21 probably because everyone knows it's them and they are
22 getting a lot of heat about it.

23 But just a couple of weeks ago, on what was a
24 perfect night for going to bed with your windows open, we
25 were not able to do that because of the smell. So the kids

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1 had to be sweaty all night because I couldn't open their
2 bedroom windows. Even if it doesn't smell when we are going
3 to bed, I still can't open them because it may start to

4 smell in the middle of the night. We'd all be sleeping and
5 that poison would be coming in through our windows. We
6 can't even open our windows and let fresh air in on a nice
7 night. I feel sometimes like I am a prisoner in my own home
8 because of this.

9 I am begging you to please, somehow put an end to
10 this. Make them stop this and stop polluting our
11 neighborhoods, our homes and our children's poor little
12 lungs. Don't let them go on about getting the proper
13 permits that they might need now. As far as I'm concerned,
14 there is no right way to do something that produces poison
15 like this. In fact, I'm hoping there is some way you or
16 another government entity can fine them.

17 Perhaps we should gather together and do the only
18 thing that seems to get a response in our society, and
19 that's to form some kind of a lawsuit. Aside from the

20 possible health consequences that we and our children may
21 face sometime down the road, I swear, I sometimes feel the
22 stress of it all is killing me. Then I feel guilty that
23 maybe we should have just moved so my kids aren't exposed to
24 this any longer. When I think of doing that, I feel guilty
25 about the idea of selling my house to another family to have

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1 to deal with all this mess.

2 The only real solution is to stop this. No
3 business is worth putting peoples' health in jeopardy. This
4 has already gone on for far too long. It's time to stop it
5 now.

6 MS. SULLIVAN: My name is Maureen Sullivan. I
7 live at 18 North Star Drive. Again, like my neighbors have
8 mentioned, for at least three years now, we have been
9 dealing with this, and it's been very frustrating that it
10 has taken this long. This is probably my fifth or sixth
11 Town Meeting that I've been at, again, to express concerns
12 and try to get some answers to questions that -- many of our
13 questions have been unanswered. I've looked at some of the
14 information that's been FOIL'ed, and I know one of the
15 things that stood out to all of us was that, according to
16 them, they were going to emit a slight earthy smell. Well,
17 I don't think from anyone here tonight that that's the
18 impression that that odor is a slight earthy smell. It is
19 much worse than that.

20 And you know, I feel sorry for that woman, but she
21 has it only at night? We have it morning, noon and night.

22 And it's not just in the summer. It is all year long, like
23 she said, in the winter as well. You know, you're afraid to
24 step out your door in the morning because you don't know
25 what it's going to be. And Mr. Herrington, you live on a

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1 farm. You chose to live there. You chose to live with
2 animals and manure and the scents that come from that. We
3 did not make that choice. We made the choice to live in a
4 beautiful, quiet residential neighborhood, absent of
5 industrial noises and atrocious smells. So when you choose
6 to live near a farm, I guess you have to take those things
7 into consideration.

8 We bought our homes without that knowledge. We
9 bought adjacent to a cemetery, and like I've said in the
10 past, they were very quiet neighbors. We don't have that
11 now. The trucks, like they said, are running at 5:30 in the
12 morning. Sometimes I feel like they are coming right into
13 my bedroom, six days a week, and it's until 7:00 at night.
14 You want to come home for dinner and sit on your deck, have
15 a drink, relax, have company over, but you're too
16 embarrassed. It's embarrassing. I cannot have company at
17 my pool in the summer, because I never know what the smell
18 is going to be like or what the noises are like. You can't
19 hear each other talk, you know, and if they wanted to be
20 good neighbors, why weren't these berms and things put in
21 before they expanded this far?

22 When they are talking about topography, I'm very
23 confused, because topography is land formation. Are they

24 talking about what's there already? Well, we know what's
25 there. What's going to be there? What are they going to

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1 put there that could possibly stop that noise?

2 And also, when they talk about a State Highway
3 Department and 45 decibels, that may be acceptable noise for
4 highway, but it's certainly not acceptable for a quiet
5 neighborhood. We don't want to live on a highway. If we
6 did, we would have bought close to the highway. We wanted a
7 quiet neighborhood. I know for a fact, one of the days they
8 were monitoring the noise, was the quietest day there ever
9 was, and I know my husband went out and said, "What are you

10 doing?" "We're monitoring for noise." "What noise?" There
11 was no noise that day. So who determines when they are
12 monitoring for noise? Was it a random sampling of noise
13 monitoring? When was it done? There are some days that
14 those machines are so loud, you get a headache.

15 The children in the neighborhood can't play
16 outside. They are constantly complaining about the smell,
17 and it is very offensive.

18 So the noise, the trucks, the odor -- I don't
19 understand. Is there some kind of cover they can put on
20 that mulch? There's got to be something that they can do to
21 make the smells go away because they are atrocious and our
22 concerns, health concerns, we want to know what's going into
23 the mulch. I don't think that's been answered. What is it
24 exactly? We've seen waste management trucks going in there.
25 What are they going in there for? What are they doing?

1 Where is that waste going? We don't know. We don't know
2 what's in the mulch. We've been told it's just wood. Well,
3 I know the Frear Park is a wood mulch. I know everybody in
4 this room rides up and by Frear Park. I don't ever notice
5 the scent coming from that mulch.

6 So these are questions that the residents have
7 that, to my knowledge, have never been answered. We want to
8 know about the noise. Where are berms going to go? How
9 high are the berms going to be. What kind of separations
10 are going to be there? Because what's there now is
11 certainly not nearly enough.

12 And again, it's been three years we've been
13 dealing with this and coming on another summer, and we'd
14 like some answers.

15 SUPERVISOR HERRINGTON: Thank you. Stenographer,
16 are you doing okay down there?

17 (Stenographer okay.)

18 MR. TRINKLE: My name is it Carl Trinkle. I'm one
19 of the 87 employees of Gallivan Companies.

20 COUNCILMAN POLETO: You have to move to the
21 microphone or move it with you.

22 MS. QUEST: You can take it right out.

23 MR. TRINKLE: I want to take the opportunity to --

24 COUNCILMAN CASALE: Carl, where do you live?

25 MR. TRINKLE: Where do I live?

1 COUNCILMAN CASALE: Yeah, you have to --

2 MR. TRINKLE: Nassau, New York. Okay. I work
3 there five to six days a week. I'm there 10 to 12 hours a
4 day.

5 FEMALE MEMBER OF THE PUBLIC: We know.

6 MR. TRINKLE: So I'm one of the landscape
7 designers that completed a lot of the projects in the
8 pictures that you see here.

9 SUPERVISOR HERRINGTON: Carl, maybe address us, if
10 you would.

11 MR. TRINKLE: Okay.

12 SUPERVISOR HERRINGTON: I mean, we can hear you at
13 the microphone, so . . .

14 MR. TRINKLE: I just want to take the opportunity
15 to thank Brendan, Shannon and Sean for giving me employment
16 there for the past ten years. I think if some of the people
17 in this room take the opportunity to get to know these
18 people on a different circumstance, they would understand
19 that -- you know, a lot of your people are making them out
20 to be a bad group people. If you look in the room here, the
21 vast majority of these people are wearing green shirts with
22 some kind of Gallivan logo on here. We are all concerned
23 about our employment and what is going to happen to that
24 into the future if this development district doesn't go
25 through. Where are we going to go? What are we going to

1 do? We're dependent and a lot of these -- everybody in this
2 room that is affiliated with Gallivan is dependent on what
3 happens. What am I going to do to support my family after
4 that? As you all know, there's not a lot of jobs out there
5 right now. Where would we go? What would we do? Maybe
6 some of you people in the North Forty have a spare room
7 where we could go in and stay.

8 So, you know, I think, you know, there's a lot of
9 -- I just want to take that opportunity to thank Gallivan
10 for giving me employment, and I hope the Town Board takes
11 into consideration there's a lot of families that are
12 involved along with the people in the North Forty and the
13 employees there. You know, it's a big problem, but thank
14 you.

15 SUPERVISOR HERRINGTON: Thank you.

16 MS. KRUEGLER: Hi. My name is Joan Kruegler, and

17 I do live in the Town of Brunswick. I live at Nine

18 Ledgewood Drive in the North Forty development. And I'm

19 going to keep this really quick, because then everybody

20 wants to go home and watch who wins the next American Idol

21 tonight, so I'll keep this real quick.

22 I've lived in the North Forty development for six

23 years, and it's just been within the past couple of years

24 that I've noticed that my asthma has gotten worse. I do

25 have asthma, and I have since learned this is a mulch making

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1 operation down at the Gallivan Corporation. I think what

2 happens is that -- you know, we've heard from Mr. Allund who
3 talked about how people utilize some of the products in
4 their landscaping from the Gallivan Corporation, but what
5 happens is that when somebody has mulch put on their
6 property or stones or whatever, it's put down. The rain
7 keeps it down. It damps it down, and that's the end of it.

8 For me, it's a constant breathing of fungi and
9 spores that are coming from the mulch operation day in and
10 day out. So I'm breathing this in. It's just gotten worse
11 in the past couple of years, and my concern was so strong --
12 I noticed it in March. This is not a normal thing to be
13 noticing in March. If you noticed it when the trees are in
14 bloom, that's one thing, but this is completely different.
15 I contacted the State Health Department, first, contacted
16 the County Health Department. They told me to call the
17 State. I called the State. They said that they were sort

18 of on to it, and they suggested that I come here tonight.

19 Now, I do recommend that we limit the operation,
20 the Gallivan operation, but I'm also concerned about if they
21 are going to be allowed to continue to make mulch, which is
22 agricultural I believe. Then there needs to be some sort of
23 pollution controls, filters. I'm not sure what they can do
24 that will keep the spores and the fungi from reaching our
25 neighborhood and from reaching Seventh Avenue in Troy so

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1 that the children on Seventh Avenue aren't suffering the
2 same asthma conditions that I have. Thank you.

3 SUPERVISOR HERRINGTON: Thank you, Joan. Joan, if

4 you don't get home in time, call my wife, she's watching

5 American Idol, too.

6 MS. KRUEGLER: All right.

7 MR. LIZINSKI: I'm not a great speaker, so . . .

8 My name is John Lizinski. I'm from Greenwich, New York, and

9 I'm an employee of Gallivan, a truck driver. I just wrote

10 down a few things. My name is John Lizinski. I'm a driver

11 for Gallivans. I was unemployed in December, and I went and

12 talked to Sean in January and told him I could use a job,

13 and he said that he thought he had an opening, he could

14 probably use me, so he hired me. Now I'm back to work, back

15 supporting my family, back paying my fair share of the tax

16 burden. In my time here, I find that Sean runs his company

17 very efficiently and with the needs of the residential

18 community and our good neighbors always in his forethoughts.

19 I always find him to be environmentally sensitive, who makes

20 products to beautify our neighborhood and not damage it. I
21 have an environmentally sensitive hazardous material
22 background. I used to work for Norlite. You think it's bad
23 there? Anyway, why anybody would want to shut down or alter
24 a company that takes homeowners' grass clippings, dead
25 leaves and dead tree limbs that they are trying to get rid

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1 of and make it into an environmentally sound product to make
2 grass greener, shrubs healthier and flowers more beautiful
3 is beyond me. Thank you.

4 SUPERVISOR HERRINGTON: Anybody else?

5 MR. STEVENS: I'm Preston Stevens, One Grant

6 Avenue, Troy. You know, I'm in the Town government quite a

7 bit, and I like to go to different Town Board Meetings.

8 It's interesting, Gallivan makes all natural products. You

9 should hear the Town Board Meetings down in Ravena where the

10 cement plant is and Lafarge. You know, there's a lot of

11 breathing problems there. So maybe there's some fungus and

12 things from these mulch products, but it's good

13 environmental stuff. The stuff at Lafarge, that company,

14 those were issues. So what you're dealing with is actually

15 kind of easy because DEC does monitor -- DEC monitors

16 everybody. I'm sure, you know, you as a Town Board hear

17 about it all the time.

18 So I think that in consideration, you know, the

19 wood products, I think it's a good thing. I haven't worked

20 very long for them, but they are good people, and I think

21 expansion or to work on what they are doing, the people that

22 they are helping, it's a good idea. Thank you.

23 MRS. SCHONGAR: Hi. I'm Marie Schongar. I live

24 at 21 Lindsay Drive, and I wanted to cry when Mrs. Randall

25 said about her home that she's been living in for 46 years.

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1 We moved to North Forty thinking that this was a great place

2 to live, and we can't even sit outside anymore. And one of

3 the things that I said to Mike just the other night is, "I

4 want to leave. I want to leave my home." And that wasn't

5 in my plan, but the reason I want to leave my home is

6 because you can't even sit outside, the smell is so bad. I

7 get awoken at 6:00 a.m. every morning. If I wake up at 5:00

8 or 6:00, I may not hear the rumbling. At 6:00 a.m., I wake
9 up hearing rumbling and then banging, whatever they do. I
10 don't know what they do, but I'd like to see it. And then I
11 hear like leaf blowing, or you know, I can't even describe
12 the noise, and I hear that all day long, all day long. The
13 only day that I don't hear that is on Sunday. So I really
14 look forward to Sundays, and we shouldn't be put through
15 this, and we didn't choose to live near a farm. We didn't
16 choose to live near this kind of a place, and they really
17 should take this into consideration that they are hurting
18 their neighbors. They are not being good neighbors. They
19 are really not being good neighbors. If they think they
20 are, they're wrong, because they would have taken this
21 development and moved it to the country where people know
22 and expect this kind of thing from that kind of position.

23 I work in a very stressful job, and I want to come

24 home, and I want to enjoy my home, and I can't anymore. I

25 can't enjoy my home. So if any of you want to stay in my

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1 house for a day to hear and smell what we smell, you're

2 welcome to do it.

3 And I'm sorry for all these families that have

4 jobs there, but what about us? What about over 200 people

5 who have signed this petition saying that they don't want

6 this in our neighborhood. We don't want to have to deal

7 with this. We pay taxes, too, to the Town of Brunswick.

8 Back when we first moved there, you couldn't even

9 hear the traffic on Oakwood Avenue. You could not hear it.

10 Now, you hear everything, that train whistling in Cohoes,
11 you can hear everything. It's because they have taken down
12 all the trees. Topography? There's no topography. They
13 have taken down everything. So my vote is to cease the
14 operation of this company. I don't want it, and if not,
15 then I'm leaving. I'm going to be leaving this Town.

16 MR. SULLIVAN: Hi. I'm Chris Sullivan, 18 North
17 Star Drive. I was the first person to come in front of the
18 Board. One day I had this incredible smell. I work at
19 home, and I called National Grid. I thought there was a gas
20 leak. I couldn't figure out what it was. Going back a
21 ways, I bought my property, 18 North Star Drive, 20 years
22 ago, built on it 11 years ago. Somewhere around nine years
23 ago, Sean Gallivan knocked on my door. He said, "Do you
24 mind if I walk through your property?" I said, "No. What
25 are you planning to do?" "Well, I'm purchasing some land

1 down on Oakwood Avenue." I said, "Oh, what are you going to
2 do with it?" "I need a place to park my trucks," is what he
3 told me. "Okay. Fine." We had a nice conversation. I saw
4 him coming and going and talked to him.

5 Well, years later, when I found out what the smell
6 was, where it was coming from, I called Sean. And I said,
7 "Sean," -- I called and left a message for him. Then I
8 called again. I spoke to a woman, don't know who the woman
9 was. She said, "Well, we monitor the smell." I said,
10 "Well, I'd like Sean to call me." I called again and said,
11 "I'd like Sean to call me." I didn't know if he was married

12 or had children. I said, "I'd like him to come over with
13 his wife, children, significant other and sit on my deck
14 with my wife and my children and experience what I'm
15 experiencing." He chose not to. He ignored me, never
16 called me back. He had his chance to try to do the right
17 thing before it got too bad, and he chose not to do
18 anything. I'm very sorry there's people who might lose a
19 job, but they chose to work for him. And his character?
20 What can I say? He chose to let it get this far. Thank
21 you.

22 SUPERVISOR HERRINGTON: We've got an open mic.

23 MR. BREARTON: I'd like to say a few words.

24 SUPERVISOR HERRINGTON: Come right up and grab it.

25 MR. BREARTON: My name is Jim Brearton, Four North

1 Star Drive. It seems to me that this company bought some
2 cemetery property zoned for a cemetery, and of course, most
3 people would think it would only be operated as a cemetery,
4 but apparently, this company didn't think that. They must
5 have bought it pretty cheap. Certainly, none of the 202
6 people here want anybody to lose their job, and certainly,
7 they can buy property that's zoned Industrial, lots of
8 places in the Capital District. They are not going to lose
9 their jobs. But what about these people?

10 Now, what I hear is the Town Board might hire some
11 consultants. Well, I think you've got 202 consultants, and
12 you should listen to them. Thank you.

13 SUPERVISOR HERRINGTON: Anybody else at this

14 point?

15 FEMALE MEMBER OF THE PUBLIC: I brought this for

16 you to look at, all right?

17 COUNCILMAN CASALE: All right.

18 MS. VADNEY: I'm Joanne Vadney, and I live at One

19 North Star Drive. I think one of the things that concerns

20 me the most this evening is that all the readings and

21 statistical measurements that have been taken have all been

22 done within a very small radius and ignore my address, which

23 is outside Lindsay Drive, which is way up at the top of the

24 hill. And I don't think any berm is going to be high enough

25 or any tree in the next twenty years is going to be tall

1 enough to break the sound the way the trees did at one point
2 in time.

3 Now, the yellow picture ticket that's on there
4 marks my house, and the other one at the bottom is Mr.
5 Sullivan's house. I can hear the noise quite clearly at my
6 house.

7 SUPERVISOR HERRINGTON: Which is North Star?

8 MS. VADNEY: North Star. I'm Number One. So I'm
9 asking that the Board, please deny this PDD. I was pretty
10 instrumental in acquiring a lot of signatures on that
11 petition that you're in possession of. You would probably
12 be very surprised that people that are in the very far back
13 of the section of our development called The Woods have been
14 experiencing trouble with sounds and noise or noise and
15 odor. I think it extends a lot farther than you think it

16 does.

17 So I've seen Councilman Casale in our

18 neighborhood. I can't say that I've met any of you on the

19 street. I know that I've called Mr. Herrington a number of

20 times to complain. I hope you are logging my complaints. I

21 have been keeping a log at home every day when the odor is

22 unbelievable and the noise is crazy. I, too, work from

23 home. This past week, I was working from the home. Every

24 window in my home was closed, and the noise was unbelievable

25 as I sat at my computer trying to talk to clients on the

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1 phone. So I stepped out on my front stoop, and I called you

2 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
and I left a message.

3 I don't know what the resolution is to this
4 problem, but I'm telling you right now, it's getting out of
5 control. I don't think that the business practices of Mr.
6 Gallivan have been above board and honest. I feel sorry for
7 the people that work for him. He probably is a wonderful
8 employer. He's probably a great family man, and he takes
9 care of his own. So much for the rest of us. Okay. Thank
10 you.

11 SUPERVISOR HERRINGTON: Thanks.

12 MR. TKACHIK: My name is Jim Tkachik, 387
13 Brunswick Road. Ken, I'm next to Welch's farm. When I
14 bought the house 15 years ago, I knew there was a farm
15 there, and I don't mind if --

16 COUNCILMAN SALVI: Jim, you've got to address the
17 Board.

18 MR. TKACHIK: I was just talking as an aside to
19 what Ken had said. All right. I live next to the Welch's
20 farm. I knew there was a farm there when I bought the
21 house. I accepted it. I don't mind the Herringtons, you
22 know, spraying. I expected this. I don't mind if there's a
23 little bit of noise. In fact, there's very little from, you
24 know, tractors three or four times a year. It doesn't
25 bother me. But once again, they were there first. The farm

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1 was there first. I came in after the farm. I accept this.
2 I mean, there's no way I would ever complain about the odors
3 there, even though they are like at midnight at times. But

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
4 it's a farm. It's a farm, and I accept this. This is

5 rural and I want to keep it more of a rural nature, farming
6 communi ty.

7 SUPERVISOR HERRINGTON: The good news on a side
8 note here is the Welch's farm was just sold, the flats on
9 Route 2 on the right. I've been scared to death of them --

10 MR. TKACHIK: Not as much as me.

11 SUPERVISOR HERRINGTON: -- of them putting in
12 thirty or forty homes in there because of the zone, 9,000
13 square feet or something, but the Engel family from Albany
14 Airport, the vegetable farm, purchased that land, and they
15 are going to build a house, put up a farm stand and grow
16 vegetables, and they don't have liquid manure. So the smell
17 might be better for you, Jim.

18 MR. TKACHIK: There's corn there this year. I
19 don't have to deal with it. All right. But you know,

20 listening to this, sometimes I even have a hard time taking
21 this PDD seriously, because it's like a comedy of errors.
22 It really is. You know, from the documents from the
23 applicant in the Town in the office file here, they admit
24 they didn't know what the zoning was here. They assumed it
25 was Industrial. They didn't do their due diligence on this.

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1 They didn't do their homework.

2 And also, Mr. Herrington said they could go to an
3 Industrial Zone, but if they went there, at least in the
4 Town of Brunswick, they would have to have a site plan
5 filed. They couldn't just go and do this operation. They'd

6 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
have to have approval of at least the Planning Board. This

7 is like what we were talking about at the last Town Meeting.

8 This is like Wal-Mart buying across the street on Welch's

9 farm. They buy this property. They put in the Wal-Mart

10 there, and then after they open the business, then they go

11 for the permit. This doesn't make any sense to me. This

12 just doesn't make any sense to me.

13 People have gone through the chronology of this,

14 when it was bought in '03, and I really have to -- I don't

15 know the Gallivan people, but I have to admire their

16 audacity for doing this. They just said, The hell with you,

17 we're going to do it. And you have to admire that, you

18 really do. But I don't know.

19 On the other hand, you know, the Town Board, the

20 Town has the responsibility to enforce the zoning. So you

21 just can't -- I'm not sure what the Town was doing. I

22 really don't. The Town has a legal responsibility to do
23 this, but I'm not sure what happened. I was at the last
24 Town Board Meeting. We discussed this, some of the
25 chronology here, but the Town certainly had a knowledge of

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1 what was going on. The Town, you know, in the files here,
2 there are aerial photos from the Google maps from somewhere
3 in '08 that shows the operations here. So there was a lapse
4 here.

5 And also in fairness, I think the Town was unable
6 to get on the site. I've talked to other people, other Town
7 employees, and they were just saying -- one comment was, "If

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
8 you're going to want to go on Gallivan's site, you're going

9 to have to take the deputy with you. That was pretty much a
10 direct quote. There's not what I'd call a voluntary
11 cooperation from these people. That's just the general
12 impression that I get, and correct me if I'm wrong. And
13 then judging from, you know, the comments of the neighbors,
14 I've been involved with tracking some of these PDDs for the
15 last, I guess four years now, and it's hard to get people to
16 come to meetings, and people don't come to meetings unless
17 they have a reason to come to the meetings. And don't think
18 these neighbors here are a bunch of crackpots, and I don't
19 think the employees are bunch of crackpots either. I think
20 they have legitimate concerns for this.

21 Now, I would like to -- speaking about the
22 employment, let's go back to the PDDs. The PDDs are a way
23 of changing the zoning, and I have the impression, in theory

24 at least, they're to meet a specific need or provide a very
25 specific compelling benefit for the Town, all right? And I

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1 just don't see this. What's the compelling benefit or the
2 compelling need? You know, for example, in the application,
3 which was pretty sparse -- somebody mentioned the answers
4 aren't very complete in there. And if you look at this and
5 it says, "How many jobs will be provided by this expanded
6 operation?" And it says, "Zero." How many jobs will be
7 lost if this is denied, and it says, "Zero." It says this
8 on the application. If anyone has an application here,
9 correct me if I'm wrong, all right?

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
10 So I'm not sure what the economic impact would be,

11 and also people talk about the taxes that have come in

12 because of this. Now, I talked to our tax collector a few

13 weeks ago and asked her, "How much more money has come in

14 because of this expanded operation on here?" And what's the

15 answer? Does anybody know? The answer is zero, because she

16 cannot do a reassessment because they have not filed a site

17 plan for any improvements. So in other words, the Gallivan

18 Company is paying the same taxes on this operation here, not

19 the five-acre bit, but the expanded operation. As far as

20 the tax collector is concerned, there have been no

21 improvements. They are paying the same tax rate as when

22 they bought this property as a cemetery, school,

23 Agricultural. That's what she said. I'm taking her at her

24 word. We had a ten-minute conversation about this, all

25 right? So with respect to the taxes and the income into the

1 Town -- now, they have been running this operation for, I'd
2 say three years. That's the length of time the odor has
3 been coming up. The Town hasn't gotten anything from this.
4 What's come along has been noise and odors, all right?

5 And I do have some questions for maybe the
6 engineer or some of the operations people. We still haven't
7 had -- what is it? I would like to see a description of a
8 mulch operation.

9 SUPERVISOR HERRINGTON: Jim, put it right on the
10 record here, and we'll get you some answers.

11 MR. TKACHIK: And what does this consist of? Is

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
12 it grinding? Is it dry piles? Are they wet piles? Are

13 there any additives put onto this? Are these things soaked

14 down with water or what have you? I have no idea. I have

15 no idea how this is done. When they do the different colors

16 of mulch, what are the additives that are put in there?

17 What makes these colors for the -- I can see very commonly

18 it's very red, or it's a very dark black. What are these?

19 Where are these operations done? What contains any runoff

20 from these operations? Where does this stuff go? This may

21 be going into this stream that the lady referred to before

22 that goes under the highway and down eventually into the

23 river.

24 Also, it seemed to me, on one of the maps there

25 was like a concrete rubble pile. Is there such a thing in

1 the operation? Do you grind -- do they grind or break up
2 concrete? I think that was on one of the maps. Now, I
3 haven't heard anything for like a stone crushing operation
4 here. They are talking about mulching. Is there a stone
5 crushing operation going on here? Is this done from
6 construction debris, for example? Is there any possibility
7 the construction debris might have asbestos contamination
8 here or some other mineral contamination that you don't want
9 flying into the air?

10 I also have another comment about the sound
11 testing. I had a real quick look. The sound testing report
12 that was in the Town for like two days last week, and it
13 came right at the end of the week, I think. The sound tests

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
14 were done for one hour. That's it. One hour. Who knows if

15 this equipment was being run, I mean, the equipment, the

16 grinding equipment, that this was being done run at full

17 board? Was it a normal operation, or was it something just

18 to do a sound test on?

19 The other comment I have is, on these maps --

20 actually, these maps, this is not the original site plan.

21 There was a site plan before this one that's in the files in

22 the Town which was slightly smaller than this. It may be

23 something probably similar to this. So they went from that

24 size to that size and said, Oh, maybe we better back off.

25 But on here, if you look at this, what they call pile

1 limits, I'm not sure what a pile limit is. Is that the size
2 of the eventual mulch piles on here? Otherwise, I have to
3 assume that. I assume that this thing that says "pile
4 limit" in here, this whole thing could be one huge pile
5 eventually, okay?

6 Now, the other -- I have one other question.

7 Could you put one of your slides up for me?

8 MR. REESE: I already shut it down.

9 MR. TKACHIK: Could you turn it back on for me?

10 MR. GILCHRIST: Jim, if you have comments.

11 MR. TKACHIK: I had a comment about the slip, the
12 current operation, and I had a question about something
13 specific, where it was located, namely, if you go into St.
14 Peter's Cemetery, you see a huge mulch pile showing. You
15 look at it, and it's not on that drawing, and I would like

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
16 to see if I'm mistaken from my orientation of where that

17 would be. I don't know if that's out of the line or not.

18 They are the ones that put that up there. What I'm saying

19 is, I think there's something --

20 SUPERVISOR HERRINGTON: We can check that.

21 MR. TKACHIK: I think there's something -- you

22 know, for example, if you go into St. Peter's, if you look

23 there, and you're looking up here, and it doesn't show that

24 on there -- I think that's one of the deficiencies here,

25 that what they are saying is there is something other than

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1 what's there. And I think it's the lack of the ability to,

2 you know, to inspect it. We're not talking about Gestapo
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3 going in there, marching in there and demanding and breaking
4 down doors. Just people don't know what's in there is one
5 of the problems.

6 Now, on the other hand, when this PDD -- if the
7 PDD is approved, who's going to monitor the size of those
8 piles, for example? Who's going to do it? Is the Town
9 going to do this? Or are you just going to have to trust
10 the company? If you are going to trust the company, well,
11 the company has a certain track record as far as what I
12 would call, I don't know, sort of like a sense of like civic
13 duty or cooperation with the neighbors or what have you.
14 And just I don't see a very good track record with this, and
15 I also can't see the Town wanting to, trying to monitor
16 something like this. You can't be asking John Kreiger to go
17 down there with a transit and mark out these piles. This

18 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
pile is in the wrong place. This pile is too high. You

19 just can't do it. You need a full-time enforcement officer

20 in there to do that. This is -- I guess one of my points,

21 if the PDD is approved, you're relying on these people to

22 police themselves, and I don't think it's warranted.

23 I think in closing here that, right now, I think

24 they are probably on their best behavior, and believe it or

25 not, this is the honeymoon. This is the honeymoon. This is

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1 the best that it's going to be. I think if the PDD is

2 approved and also in comparison to other PDDs, you know,

3 there's no speculation necessary as to what this thing is

4 going to look like. Like usually if you have a residential

5 PDD with apartment buildings and houses, there might be some
6 discussion of what the effects are going to be, good or bad.
7 You don't have to worry about that here. You know what the
8 effects are. Here they are. What you see is what you get.
9 And if you don't like it, then you're going to have to vote
10 this thing down. It's as simple as that.

11 MR. EFSTATHIADIS: Hi. My name is Harry
12 Efsthadiadis. I'm at 116 Hickory Court, and I'm a new
13 member of this community. We moved April 1st. I have three
14 kids, and the reason we moved into the community and into
15 the area was because we have some friends and we also find
16 out after several trips we took into the area of the
17 Ledgewood and Hickory Drive, Court that it was very nice and
18 quiet and clean, air clean area. One of my kids has asthma
19 and that played a role in selecting the area. Very quickly,

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
20 I find out that while I was outside on a Saturday sunny day,

21 a terrible noise into the area. So I went around the house

22 because I thought somebody was digging, and I thought that

23 that was the case in the very beginning because the noise

24 was coming behind the trees and behind the hill between

25 actually Hickory Court and Kestner Lane.

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1 I found to my surprise that that noise and at some

2 times also during the night, especially when it's cold,

3 there was a terrible smell, too, and that was coming from

4 the Gallivan Corporation. I didn't even know what Gallivan

5 is and where it was located. So the very first thing I did,

6 I went to the web site, and I found out some of the

7 information. So I saw some of the slides that were
8 presented, and it appears to be or it was given the
9 impression here to the audience that it's a nice landscaping
10 company. And to my surprise, when I was walking in, I saw
11 those nice posters out there, that I thought that this
12 meeting is actually building a nice Las Vegas styled hotel
13 into the area, okay? But that's not the case. Even though
14 the presentation that I saw that they mention about
15 landscaping, well, from reading the mission here of the
16 company, and that's from their web site, I get copies all
17 ready for the meeting that says, "S. M. Gallivan is a
18 diversified company specializing in truck, manufacturing of
19 landscape supplies." Okay. It's not just a nursery but
20 it's manufacturing of landscape supplies, "wood waste
21 recycling, concrete and asphalt crushing," and here is a

22 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
nice picture of the crushers and all the dust reducing and

23 polluting heavy equipment. Each of these pieces of

24 equipment is forty, fifty, sixty tons of weight. How many

25 of those are they going to bring there when they expand to

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1 the area that they are currently operating that generates so

2 much noise and dust? And the mission continues. "And the

3 commerce of agriculture commodities."

4 So I want to answer to the previous speaker that

5 members of the Town here have problems accessing the area.

6 So how are we going to trust that the Gallivan Corporation

7 will follow the guidelines and the rules, and I guess that

8 they are just going to get the permit, and then they won't

9 allow anybody into the site after that, and good luck to
10 anybody who wants to access that area.

11 I guarantee the employees here that they are going
12 to be required by Gallivan or Mr. Gallivan to not allow
13 anybody there, and if they do allow anybody, they will be
14 escorted to the nearest exit. So we in the area, who live
15 in the area with our families, live into that area 24 hours
16 or at least a time we are not working, all those employees
17 that I sympathize with, they only go there, they are
18 selected to work there during business hours, but none of
19 them bring their families over there. And I also wanted to
20 mention to Mr. Herrington that he doesn't smell it or he
21 doesn't hear it. It's almost covered by the lovely animals'
22 noise, but I'm pretty sure that he and the animals breathe
23 it. And those very products that we all consume today, five

24 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
years from now, they are going to be all contaminated the

25 same way with the towels that one of the speakers before

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1 presented. So when those animals, they start to develop
2 cancer symptoms or any other illnesses and those end up
3 through the recycling into the community, then I want to see
4 what the result is going to be.

5 So that's basically the comments that I have, and
6 I thank you very much for listening to me, and I'd also like
7 to ask you to deny the application of Mr. Gallivan's
8 expansion. Thank you.

9 SUPERVISOR HERRINGTON: Thank you.

10 MR. BROSNIGHAN: Hi. My name is Ron Brosnighan,
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11 and I live at 14 North Star Drive. Just a couple of quick
12 questions for you. I certainly appreciate, Phil, you noting
13 that we'll continue an open hearing here. I think you can
14 realize that many of us are very committed to the process,
15 and in fact that's where my question comes from. I would
16 very much like and request, and I think it's reasonable for
17 you to meet my request, that you either place on the Town
18 web site or provide in minutes in one way or another the
19 rationale for you to continue to allow the operation when
20 it's not zoned. It's a very simple question. How do you
21 folks arrive at that decision? I mean, putting it down on
22 paper or with counsel's help, we deserve to know what you're
23 thinking.

24 Along those lines, I'd very much like to have an
25 understanding, and at the last Town Meeting I asked the same

1 question, but now at this point, at least it should be
2 committed to the record: What is the specific criteria for
3 acceptance and/or denial of the PDD application? Black and
4 white. I mean, there are people that have got -- there's a
5 lot of emotion here, understandable. All of us or most of
6 us are business people. So we've got both sides of the
7 argument or the position. But we deserve to understand what
8 the people -- it's you that are going to make the call here.
9 We deserve the right to be able to prepare ourselves to come
10 and make a case to you as to, based on your criteria, here
11 is the objective evidence or support of the position that we
12 hold.

13 I am a resident. I live very close to the
14 Sullivans. I live on North Star Drive, the corner of North
15 Star and Lindsay. My house is elevated pretty well, where
16 my second floor windows are over the trees. So there's no
17 question -- noise. There's no question -- smell. But
18 that's objectively the case. Now what do you tell me is too
19 loud or not too loud? Too smelly, not too smelly? Pre-six
20 a.m. operation? I mean, this is pretty objective. You
21 know, that's objective. The rest of the stuff, we need to
22 understand more about what you think, and you owe it to us,
23 to tell us what's what.

24 So I thank you, and I look forward to seeing you
25 either on the web site or in the Minutes of the Meeting, but

1 give us the opportunity to, you know, bring to you our best
2 thinking. I mean, it is unfortunate that should this
3 operation be limited to its original zoning, yeah, there's
4 probably not that much work, or it's going to be greatly
5 reduced. But all we're asking for is, if that's what it's
6 zoned, that's what it should be. None of us -- and you
7 heard it before at other meetings -- put up a shed. Go for
8 a pool. Put a deck on. Expand your house. What do you
9 have to go through? All we're -- we're not asking for
10 anything unfair. We're asking that the residents be treated
11 equally as a business citizen or a business, you know,
12 community. So we don't begrudge anyone, but this is not
13 playing by the rules that we play by. I want to know what
14 your rules are. Thank you.

15 SUPERVISOR HERRINGTON: Anybody else?

16 MR. BROWNE: Good evening. My name is John

17 Browne. I live at 148 Maple Avenue in Troy, and I am a City

18 Council member in the City of Troy. As the Town Attorney

19 pointed out this evening, we were notified of the proposed

20 PDD, which is why I'm in attendance this evening.

21 As disturbing as it is that the Gallivan

22 Corporation would move forward with this expansion, despite

23 the lack of a site plan and a lack of a zoning change, I'd

24 like to point out that they created a unique opportunity for

25 the Board. Normally when faced with making this type of

1 decision of a zoning change and dealing with disturbed
2 neighbors, you're speculating as to what the side-effects of
3 the development might be. In this case, you know exactly
4 what the problems are as a result of the new expansion.
5 What I would suggest to the Board is that the Gallivan
6 Corporation has suggested a way in which they might mitigate
7 these problems. Well, hold their feet to the fire. Give
8 them a timeline in order to come in or to resolve and
9 mitigate these problems.

10 They suggested that the removal of these grass
11 clippings and leaves are going to limit the odor. They
12 suggested a berm and perhaps tree plantings are going to
13 mitigate the sound. They are a landscape corporation. They
14 should be able to do that kind of change in short order.
15 Give them a timeline. Force them to comply, or else I think
16 you need to take a negative vote on their proposal. Thank

17 you.

18 SUPERVISOR HERRINGTON: Thank you.

19 MS. DIWAN: Hello. I'm Joice Diwan. I live at 15

20 North Star Drive, and if I could just borrow the pointer, my

21 property is right down here (indicating). I had not earlier

22 signed the petitions with the neighborhood group. I think I

23 was one of the last people in the neighborhood to hear about

24 all of this. So instead, I had communicated my anger and

25 concerns directly to Gallivan Corporation, And I do

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1 appreciate that they have addressed some of my concerns, and

2 in fact, it was very valuable to me they have eliminated

3 this so-called Phase II from the plan. I figure if Phase II
4 was in operation, my property value would probably had
5 dropped ten to twenty percent of what it was, whatever the
6 going rate is. I think with Phase II gone, my property
7 value is probably only down to perhaps fifty percent of what
8 it otherwise would be.

9 Though I am again grateful to the Gallivan
10 Corporation that they have been somewhat responsive to my
11 concerns, I still have concern about this issue of values of
12 property once there's an Industrial site next to it. I
13 think if any members of the Board were planning to buy a new
14 house in a fancy development, you would have a real estate
15 lawyer look into the purchase first, and they would
16 immediately put up a red flag and say there's an Industrial
17 site right next to property. I think, though, the Gallivan
18 Corporation does perhaps or will in the future bring in

19 significant tax dollars. I think when all of the residents
20 of the North Forty see, you know, sooner or later people
21 will sell properties, people who get old or move on or their
22 jobs transfer them, and one by one as houses sell at way
23 less than what the going rate was earlier, you're going to
24 find that tax revenues in the Town will also go down
25 significantly.

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1 So that's the remaining concern of mine, is
2 basically what this is all doing to our property values.

3 SUPERVISOR HERRINGTON: Thank you. Anybody else?

4 MS. CROSON: Good evening. My name is Kathy

5 Croson. I live on Eight Stone Arabia Drive. I came here
6 saying, I'm not going to stand up and say a thing, but I
7 stand here in front of you now as a very concerned resident
8 of the Town of Brunswick. We residents are here in good
9 faith that you, our Councilmen and our Supervisor, are
10 listening to our concerns. We appreciate the fact that
11 Gullivan employs many people who work here, but they can
12 leave and go home after their shifts. I don't have that
13 choice.

14 When my family was looking for a piece of land to
15 buy, we knew we wanted to build our own home. We looked all
16 over the Capital District area, and we chose Brunswick. The
17 particular piece of land which we chose backs up to the back
18 of St. Peter's Cemetery. Earlier when they were going
19 through the many different site presentations, you will
20 notice that Stone Arabia was not presented or shown on any

21 of those plans. We are directly downwind of those mulch
22 storage piles. The mulch storage piles produce so many
23 abusive and offensive odors that my family, too, is driven
24 inside on nice days. I would liken the smell to sauerkraut
25 that's gone bad.

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1 I, myself, had called the Town Office over the
2 past two years, and it has gotten worse and worse. We also
3 deal with the noise, as you've heard again and again.

4 Back to my point about us residents being here in
5 good faith, we're here hoping that you do not have
6 preconceived notions as to what your decisions are going to

7 be. We're here so that you will listen to us and understand
8 that, although we can't produce a letter from Mr. Canestrari
9 which in the letter that was nicely presented, it said that
10 the Gallivan children were very successful businessmen and
11 hard working. My family, my husband, myself and my
12 neighbors, we are all hard working people. We are working
13 very hard to pay for and maintain the greatest investment
14 which is that of our home. It is very disheartening not to
15 be able to use your house as you would choose. I, too, have
16 had people over and have been embarrassed by the odor.

17 We've heard that the Gallivans employ a number of
18 people that work hard and depend on them for their paycheck.
19 My husband and I also work hard. We've worked very hard to
20 pay for one of our greatest investments, as do all of my
21 neighbors.

22 Further, I understand that Gallivan generates a

23 Large amount of taxes. However, we, especially those in the
24 North Forty because of the name of the place where we live,
25 our taxes are assessed higher because of the name associated

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1 with our neighborhood. I have been to the Assessor's Office
2 and I have shown comparable homes compared to mine. Mine --
3 they are the exact same two homes, but because mine is in
4 North Forty and has that up-class designation, our taxes are
5 higher.

6 When my family and I put a swimming pool in, we
7 had to pay taxes, and our taxes went up. We pay taxes on
8 that swimming pool every year. I'm very disheartened to

9 hear that Gallivan went ahead, did this development, and yet
10 there's no taxes that have been assessed to re-adjust that
11 amount of use, the amount of land that they have been using.
12 I'm concerned with the size that the parcel has become, and
13 I have to take issue with Mr. Herrington's statement that
14 we're dealing with a lot of emotion, we residents. Yes,
15 this is our home. We can't leave. And if my family and I
16 decide to sell our home, do we disclose the reason why we're
17 selling?

18 I would like you to enter on the record that I am
19 very concerned about the southern end of the development,
20 which is directly northwind -- it's directly in front of
21 Stone Arabia Drive in front of the storage piles. I think
22 that they did a good job looking at Lindsay and how the
23 noise and the berm would affect that, but Stone Arabia was
24 not looked at. I feel that you really need to look into

25 that, and I would like to please keep in mind that we, the

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1 residents, are counting on you in good faith to make a
2 determination that will allow us to protect our greatest
3 investment and to be able to enjoy our homes.

4 SUPERVISOR HERRINGTON: Sir, your name and
5 address?

6 DR. SCARTON: Supervisor Herrington, Councilmen, I
7 am Dr. Henry Scarton. I live at Number 14 Kestner Lane. I
8 also should say that I have another profession which I
9 believe, which I'd like to address at this time. I am the
10 Director of the Laboratory Motion Vibration and Control

11 Research at RPI. I'm a professional noise control
12 consultant. I do it all the time. I am more than a meter
13 reader. I know how to make acoustical measurements, and I'm
14 looking at the one that Councilman Salvi loaned to me. I
15 looked at it this morning, and then brought it here. It's
16 the official document. It's the "Noise Assessment and
17 Mitigation Study, Continental Placer, Inc." I note that the
18 person who prepared this document is Jeffrey H. Slate,
19 Senior Geologist. I do hope -- I don't really know who did
20 this noise study. Usually geologists are not qualified to
21 make noise measurements. So I hope he hired somebody to do
22 the proper study. I didn't find any other name here.

23 I do know that at the end of the study that they
24 did use a calibrated sound level meter, calibrated within
25 the last year, which is one of the requirements. It's a

1 Type 1 meter. That's very good. But I have no idea of the
2 qualifications of consultant that did this. But I do have
3 very specific comments about the nature of the study, in
4 particular, Receptors 1, 2 and 3. Receptors 1, 2 and 3,
5 which are located on the noise study shown on this picture
6 here -- anybody can get this document. It's in the
7 Brunswick Town Office. It's not mine. I notice that, to a
8 certain extent, as a noise control consultant, you know what
9 your sound level meter is, depending on what story you want
10 to tell. I observed that Stone Arabia Drive have has no
11 sound level meters. I observed that Mrs. Randall, who, yes,
12 lives in Troy, Mr. Browne? She's your person?

13 MR. BROWNE: Uh-huh.

14 DR. SCARTON: Okay. She's in Troy, just over the
15 line. She is the closest one. There's no receptor, not
16 even a receptor in Brunswick on the Town of Brunswick line
17 here. But there's also a church just up the road. I've
18 forgotten the name of it. There's no receptor there across
19 the road. So I notice that Receptor 3 is in a valley.
20 There's a crest of a mountain there, a crest of a hill, and
21 it's not line of sight to the location, whereas Stone Arabia
22 is line of sight. If you're on a second story building, as
23 some of the residents here, will say that they can see it.
24 If you can see it, you can hear it. If you're down in the
25 valley, you're not going to hear it.

1 But also I observe and I live not too far from
2 this location that we have an area that is enclosed. This
3 is where a lot of the new homes are. They are very nice
4 homes, and if you have a temperature inversion, the sound
5 will be trapped and will bounce back. Also, the odors will
6 be trapped. Also, this whole region is downwind of this
7 site. Of course, I'm addressing the noise impacts, and I
8 live a little further away, so it doesn't have that sort of
9 thing back to me.

10 So I'm trying to be impartial here. I'm trying to
11 be objective. I'm not happy with this noise study. I also
12 understand that they are grinding up materials. These are
13 very noisy processes. Did they grind concrete on the day
14 when they made the noise study?

15 There are many unanswered questions here. I
16 really question the validity and completeness of this study.
17 I also would like to know whether or not they have formally
18 applied to the Department of Environmental Conservation,
19 which I guess you're going to be the lead agency or the
20 Planning Board is going to be lead agency. There's a
21 multiple-step SEQRA process that requires a Draft
22 Environmental Impact Statement. Has that been done? Where
23 is it? May I look at it? I suspect it has not been done.
24 There's a huge amount of work that has to be done. All of
25 the environmental impacts have to be mentioned. I think

1 that's basically my comment on noise.

2 I'm not an expert in odor, so I won't comment on
3 that, except I would say that if it's true, just as a human
4 being, if it's true, that they are running this red dye and
5 they're not removing it and they are dumping it into our
6 watershed and it's ending up in North Troy, that's terrible.

7 I grew up in western Pennsylvania in an area which
8 is coal country, and they have a coal washer. They have
9 bituminous which has high sulfur content, and it ruined the
10 stream near my house. I could not go fishing. I was not
11 happy over that. I came to this region. One of the reasons
12 I live here is because this is such a beautiful region.

13 Let's not spoil it. I look over there at the Hudson River,
14 and I see the river is actually getting clean. I see all
15 these people fishing for fish, and actually the river is
16 pretty clear right now if you look out there. I just don't

17 want to see it take a step backwards.

18 I think that if they haven't been given the
19 ordinance and they extended into this region, maybe they are
20 extremely illegal, and I guess probably that's enough from
21 me for the night. Thank you.

22 SUPERVISOR HERRINGTON: Thank you. Anybody else
23 at this point?

24 MR. VADNEY: Dan Vadney. I'm at One North Star
25 Drive. I'd like to start just by saying that I'm not

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1 opposed to the original approval for the 5.4 operation,
2 5.4-acre operation that's been going on, but I am opposed

3 and signed the petition against the expansion. I understand
4 tonight is the night that we can ask a few questions. I'm
5 not sure when I'll get my answers back, but I would like to
6 get them on record. I was curious if on this proposed
7 property if it's evidence that a lot of trees have come
8 down. That natural noise buffer has already disappeared,
9 and I was curious if a clearing permit is required by the
10 Town, if one was ever applied for and granted for the tree
11 removal on the 71-acre parcel. That's question mark. I'll
12 only have three here, keep it short.

13 The other thing is that it's my understanding, and
14 I don't know if any of the Gallivan folks can attest to this
15 or not, but that possibly Gallivan or one of their
16 affiliates may own property that's further out here in
17 Center Brunswick. If that is true, I would propose -- you
18 know, obviously, this location is convenient, but it's

19 causing a lot of conflict, and my suggestion would be that
20 possibly it should move further out in the country somewhere
21 where it's not affecting as many people.

22 And lastly, I'll have to read it. Back in 2002,
23 when the original site plan approval was granted, there's a
24 statement in here that says that, "If noise became an issue,
25 the Town required Mr. Gallivan to appear in front of the

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1 Planning Board concerning elevated noise and would require
2 noise reduction as part of an amendment to the site plan.
3 Mr. Gallivan agreed to such a condition." Obviously, since
4 that time, there's been several complaints both a call-off

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5 and an initial one here also in writing from Mr. Schongar on
6 December 4th, 2009. So I guess my question is this: You've
7 had a lot of complaints. When was Mr. Gallivan asked to
8 come back in front of the Board? What elevated noise
9 adjustments were made and when were they made?

10 Those are the questions that I have, and just
11 listening to what's going on, just to recap, the operation
12 has expanded and operated without formal approval for
13 several years. The Town's efforts to police the 2002
14 guidelines have been futile and has been disregarded at
15 times by the Gallivan operation. Alternate properties
16 possibly exist for this operation to be located somewhere
17 else, other than the convenience of Oakwood, and I would
18 suggest that they go somewhere other than there.

19 Lastly, I got online and checked the Town of
20 Brunswick government, you know. What is your mission

21 statement? You know, I was kind of getting an idea of what
22 you guys promote, what you all believe in. When I got
23 online, I couldn't find a whole lot. I even called up here
24 and asked if there was a copy of some kind of mission
25 statement, and I didn't find one. They thought it was an

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1 odd request and weren't even sure who they would send it to.

2 You know, I go over to the Town of Colonie web
3 site, and all the Board members have their information up
4 there. A lot of it is uniform as to what their beliefs are.
5 I'm going to just cite Nancy Hernandez, who's the Deputy
6 Supervisor over there. On her web page there's a two-line

7 statement that says, "I've always loved serving my community
8 and working with people in obtaining their goals. I want to
9 continue to maintain the quality of life for all our Town
10 residents with a view toward responsible progression and
11 accountability." And I'm hoping that our Board here is
12 thinking along the same guidelines. And with that in mind,
13 I think you should deny this, and I am not opposed with your
14 finding other sources within Brunswick to keep these folks
15 employed, but it affects me and my wife and my kids and
16 would rather not have this. Thank you very much.

17 SUPERVISOR HERRINGTON: Thank you, sir. One
18 comment I would like to make -- I won't talk too long. I
19 just want to mention that I am very, very proud of the Town
20 of Brunswick. I went to a Public Hearing up in the Town of
21 Pittstown -- it gets these attorneys nervous when I get
22 talking. The Public Hearing in the Town of Pittstown, they

23 didn't have a microphone. They weren't making a tape. They
24 were talking about their Comprehensive Plan. People were
25 standing and yelling and screaming because they were trying

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1 to address the Board, with all due respect, to have a nice
2 young lady probably 80, 85 making notes up in front. I
3 couldn't hear. I have a hearing aide now just for that
4 reason. But it was out of control.

5 There is a lot of emotion in this room. You
6 people have your homes that you've spent a lot of money on.
7 You love your neighborhood. These truck drivers started at
8 6:00 this morning probably. You're probably getting a

9 little testy, but this is a class Town, and I just want to

10 mention, I'm proud of the way the meeting is being run.

11 Everybody is getting on the record. We're not yelling and

12 screaming at each other. You can yell at me afterwards.

13 I have another quick statement. I am very proud

14 about the way this meeting is run. There's a lot of

15 concerns and a lot of issues raised, and we have them on the

16 record.

17 Okay. Matt.

18 MR. DORAN: Good evening. My name is Matthew

19 Doran. I reside at 30 Lindsay Drive with my wife, my lovely

20 wife, Faith, and my two wonderful children. Really there's

21 not a lot I can add to the equation this evening.

22 Certainly, I'm going off scripts. We've touched on all the

23 basics, the noise, the smell, the odor. We talked about the

24 economic engine, the economic drive. It's not NIMBY-ism.

25 We've co-existed when the original site was approved. Why

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1 are we here tonight? We're here tonight because the
2 Gallivan Companies through their request for a PDD are
3 seeking what they perceive to be relief from the hardship of
4 a Zoning Ordinance. We're here because they have exceeded
5 parameters of what was approved. That's why they are
6 seeking this PDD. They have demonstrated that they are not
7 necessarily a good neighbor. They have shown no good faith
8 attempt to operate within the previously approved limits,
9 and their actions show utter contempt for the Zoning and
10 Planning Boards, its regulations and the citizens of the

11 Town of Brunswick. So I respectfully ask that this PDD not
12 be approved. Thank you.

13 MR. LEBANOWSKI: Good evening. Mike Lebanowski,
14 born and raised in the Town of Brunswick. I'm sure most of
15 you guys know me or my father in one way or another. I just
16 want to make a few comments.

17 COUNCILMAN CASALE: Where do you live, Michael?

18 MR. LEBANOWSKI: I actually live in Glenville.

19 COUNCILMAN CASALE: Because I know you have your
20 father over there.

21 MR. LEBANOWSKI: Yeah, I do. Everybody knows
22 where my dad used to live, that's for sure. Just a few
23 comments. I've known Gallivans, actually before they were
24 Gallivans. I used to work for their father, Dr. Gallivan,
25 and his horse farm. I respect them. They are good

1 businessmen. They are hard working. I've known them
2 personally and professionally. I've had some run-ins with
3 them, but when they have given me their word, they have
4 followed through on it every time.

5 The two comments I'll make is, you know, when we
6 look around this room, it seems like it's a yes or no, black
7 or white, us against them, win or lose. We are one big team
8 here. We really don't -- the Town needs to be in harmony
9 with the business which needs to be in harmony with all of
10 the owners, and we're one big partnership here. Now, there
11 are a lot of great comments of both sides of the fence. But
12 there are so many smart people in this room, I can't even

13 imagine that we can't come up with a solution to the issue,
14 okay? Because there will be no winners in this, no matter
15 which way the decision goes. We all need to come out of
16 this looking at it as one team in harmony because we all
17 depend on each other to make this stuff work. So let's take
18 a team work approach at it. Let's help everybody succeed.
19 Let's not make people fail. Thank you very much for your
20 time.

21 SUPERVISOR HERRINGTON: Thank you. Anybody else
22 at this point?

23 MR. SCHONGAR: Can I re-address the Board? Mike
24 Schongar. I just had a quick comment. There was a report
25 3/10, 2/10 that I believe Mr. Laberge here sent to you, Mr.

1 Gilchrist. There were 12 questions that still weren't
2 answered in his report. Have they been answered? If so, I
3 would like to see a copy of what the answers were. Okay.
4 Thank you.

5 SUPERVISOR HERRINGTON: Off the cuff again, uh-oh.
6 In the old days, the attorneys used to sit out with you when
7 I first started, and as times changed over the years, I have
8 the attorneys sitting next to me now, and I have a hearing
9 aide so I can hear the guy. As you know, as mentioned, I
10 believe in 2002, the Gallivans bought this property, a
11 five-acre site plan and everything was okay. They bought
12 the land next to them in 2005, whatever. They started
13 expansion. To be honest with you, when you drive down Route
14 40, it's hard to see. I was over there the other night.

15 It's camouflaged or whatever the right term is, but it did
16 get expanded.

17 We started getting phone calls in probably 2007

18 I'm hearing, which is a while back, complaints. At that
19 point, we started moving in checking on things. Still with
20 me, Andy? Getting nervous?

21 MR. GILCHRIST: I'm listening.

22 SUPERVISOR HERRINGTON: We realized there was a
23 situation there. My concern is, in all due respect, and I
24 know there's a lot of attorneys in the room, I was quite
25 sure that if we went in there and shut the door on them,

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1 we're going to end up in litigation. My situation was

2 Brunswick Smart Growth. As we mentioned, they sued us. I

3 want to add, Jim is one of the better members.

4 MR. TKACHIK: Excuse me. Remember, I quit because

5 of the lawsuit.

6 SUPERVISOR HERRINGTON: You know, Jim, I

7 appreciate that. Jim comes to a lot of Board Meetings very,

8 very concerned and he agreed. I said, "Why don't we talk?

9 Why do we have to sue?" And I'm not talking Gallivan. This

10 is a different scope I'm talking. The Smart Growth, they

11 would not even visit with me. They would not even talk.

12 The judge would give his opinions, like frivolous, no

13 merits, in the meantime, over \$40,000. So the situation at

14 that point, we mentioned to the Gallivans, Hey, you have a

15 problem here. Something is going to happen. They chose to

16 do a PDD, a Planned Development District. I figured at that

17 point, we could get some money escrowed. We got \$10,000.

18 So as far as these two gentlemen, I know they are running

19 out of money here. We probably need more in escrow while

20 this is going on. My feeling was, we'd hire experts. We

21 need to understand this operation. We need to know exactly

22 what they are doing, not what they are telling us they are

23 doing, and let them pay for it, not us taxpayers.

24 Now, did I learn something? Yes. As was

25 mentioned, I was brought up, and trust me, the other

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1 Herrington left, but one thing we have got in common is,

2 we'll say what's on our mind. I don't always agree with

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3 that gentleman. If you have two kids, maybe both of them

4 don't agree. But one thing that I do agree, he will say

5 what's on his mind. I will say what's on my mind, and what

6 I'm telling you is, I wanted to try to do this the legal way

7 to keep us out of court. Did I learn that it took too long?

8 Yes. Am I a little bit smarter now? Yes. Two thousand

9 seven until now is too long. I wanted to have this meeting

10 in the wintertime. I thought we could get something

11 resolved. We could either do some mitigation, or we could

12 shut the guy down. If we're going to get sued, then we'll

13 get sued, and I might add, we've got a great track record

14 with our attorney. We haven't lost very many. We fought a

15 cell tower that wanted to go on top of a mountain years ago.

16 They said we wouldn't win that. We won every one. We won

17 every Smart Growth lawsuit. This has taken too long.

18 Councilman Poleto and myself met the Gallivans and

19 their attorney and our attorney a couple months ago.

20 COUNCILMAN POLETO: Six weeks ago.

21 SUPERVISOR HERRINGTON: Six weeks ago and said we

22 had enough. We want this information filed. We want to

23 have a Public Hearing. We want people to come in and tell

24 us what's on their mind, and if we don't have enough stuff

25 on record, then we're going to shut the place down. Let's

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1 do it. We got up and walked out of the meeting. Things got

2 lit up. Things moved ahead. Now, I understand it costs a

3 lot of money to hire these gentlemen, noise studies, every

4 other study. I understand that. So if anybody is to blame

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
5 or whatever the right word is for dragging their feet, I

6 would just as soon take the hit and not the Board members.

7 It was my pushing to work with people and to try to do it

8 without these attorneys, and now we're getting at a point --

9 nobody up here has their mind made up. I'll guarantee it.

10 There's a lot of issues, and we have got a lot of

11 questions. The noise, I respect Henry a lot. His concern

12 about the noise study concerns me. So we need to take

13 another look at things.

14 As I mentioned, I don't know your feelings. Do we

15 do another one in Tamarac High School so people can get it?

16 Usually at the second one, you've got more people. I don't

17 know.

18 With that, Andy, I mean, I don't want this to

19 continue forever. They've got to have enough time to put a

20 lot questions, and, Ron, I don't know what you're thinking

21 for a time frame, if there is such a thing or we notice it
22 and start to get the questions answered.

23 MR. GILCHRIST: Well, let me give it an initial
24 thought. Practically, you see the transcript being made
25 tonight. That will take a period of time to turn out the

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1 transcript. We can request of the stenographer to do that
2 on an expedited basis. When that happens -- you've seen me
3 taking notes. You've seen Mr. Laberge taking notes, and I
4 have seen the applicants consultants taking notes. These
5 issues clearly, they have been discussed a lot tonight. To
6 make sure that the record is complete, we are going to want

7 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
access to the transcript just to make sure all the comments

8 are listed and fully addressed. So as a practical matter to

9 keep the process moving, yes, the Board should consider

10 scheduling another meeting, but take into account that we

11 need the transcript. We need that reviewed and we need the

12 applicant to have a reasonable period of time to respond to

13 this information, and quite frankly, to have everyone in

14 this room and any other interested members of the public

15 access to that additional information prior to an additional

16 Public Hearing. So you should take that into account

17 scheduling that. I think, Mr. Baker, you had a thought on

18 that.

19 COUNCILMAN POLETO: We also leave open a period to

20 accept letters.

21 MR. GILCHRIST: Well, that's always open. Any

22 member of the public can submit a written comment. What the

23 practice of this Board has been, when the Public Hearing has
24 been closed, there is still a period for submission of
25 written comments to complete the record. We're not at that

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1 point yet. What I'm hearing from the Board is that they
2 will entertain keeping the Public Hearing open. You can
3 always submit written comments for consideration, but there
4 will be another Public Hearing to submit verbal comments as
5 well.

6 MALE MEMBER OF THE PUBLIC: And what happens with
7 the noises and smells in the meantime?

8 SUPERVISOR HERRINGTON: Yes, Jeff.

10 generally agree with Andy. And let me suggest the
11 following, and I was trying to save money for everybody. I
12 don't think we need an expedited transcript to find out what
13 the normal course is. I've got good notes. I know the
14 substantive issues. I'm not going to count on the spelling
15 of anybody's name, though, and we appreciate the comments.
16 The concerns are heart-felt and we appreciate them. We need
17 to go back and refine some of our work. I think we should
18 continue working with Laberge Engineering and review some of
19 these things. I think we should look at generating -- and I
20 don't want to put a time frame on it because we have to do
21 our work, but of generating responses to comments, see if we
22 need to provide you additional information. Certainly, some
23 things need some clarification in questions that come up
24 that I'm sure we can address.

25

I think at that point, you should evaluate that

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1 and decide if you want to do another Public Hearing. I
2 don't think a Public Hearing in the meantime serves much of
3 a purpose. I'm not minimizing peoples' concerns, but it's
4 getting somewhat repetitive. We're not getting new
5 information, but of course, if anybody has any written
6 comments they want to submit, we'll be very interested in
7 seeing those. Obviously, the more substantive the peoples'
8 concerns are, the easier for us to respond to them. So I
9 would say let's go back and do our work and continue working
10 with Laberge and come back to you and supplement the record,

11 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
and we'll take it from there.

12 COUNCILMAN SALVI: But what kind of time frame are
13 we talking about?

14 COUNCILMAN POLETO: We're getting into the season
15 again when people want to be outdoors, and we keep, you
16 know, pushing it off.

17 COUNCILMAN SALVI: Not only that, as you approach
18 July and August when people are going on vacation, we want
19 to maximize the amount of people that we can get to the
20 Public Hearing. I think it needs to be sometime in June.
21 This has been going on for a few years now. I mean, I think
22 it's time to put the pedal to the metal here and get the
23 next Public Hearing up and going so we can get all these
24 folks back in and finish the comments and finish it up.

25 MR. BAKER: I'm checking. I don't want to make a

1 representation that's wrong here. We are, and I'll confirm
2 this, the Gallivans are already implementing the proposal
3 that we had talked about of reducing, keeping the leaves and
4 grass on site, agreeing to the seven days and thirty days on
5 leaves. Leaves are primarily a fall and winter problem
6 anyway. I'm going to confirm that they are doing that. We
7 will continue to do that. I think the suggestion from, who
8 I believe was Mr. Browne from Troy, was a good one. Let's
9 start essentially the mitigation measures that we had talked
10 about. That can start alleviating the problems. I don't
11 think we can do the berm yet. I don't think you want us to
12 do the berm yet, but we can discuss that as a possibility if

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
13 there are other measures. In the meantime, it allows us to

14 start getting a track record of the activities and allows

15 you to evaluate when that happens. I certainly think we can

16 aim for, like your normal June meetings the second week --

17 COUNCILMAN POLETO: Second Thursday.

18 MR. BAKER: It's getting a little close in terms

19 of getting the transcript of the meeting done. But I think

20 we certainly in mid June or sometime can give you an

21 additional submission on some of this information. I don't

22 think it's going to be that difficult to do. We have to

23 consult with our side, and I think, like I said, can

24 maintain the communications with Andy and Ron to evaluate --

25 in fact, Ron gave us new comments today on some of the odor

1 issues that we need to evaluate and respond to those.

2 SUPERVISOR HERRINGTON: Andy, what do you think?

3 I mean, it's hard to take a -- we want to make sure

4 everybody gets time and you understand it.

5 MR. GILCHRIST: Based upon what the applicant just

6 said, the Board could consider scheduling, as you did this

7 evening, a special meeting per your regular June meeting for

8 a later date in June. If the applicant can get that

9 information in by mid June, it would be on file here at Town

10 Hall for people to review and in time for Laberge

11 Engineering to review. Timing-wise that could happen

12 starting in --

13 COUNCILMAN SALVI: I just don't think it needs to

14 drag on. You know, we tried to make this happen in the

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
15 winter. Now we're approaching the summer season. You wind

16 up with a whole bunch of conflicts for everybody. I would

17 like to see it happen, if we can get a date at Tamarac for

18 the 28th, 29th or the 30th. If the information is back in

19 by the middle of June, which is the week of the 14th, right,

20 that will give you two and a half weeks to look at it.

21 MR. GILCHRIST: I'm trying to think when

22 graduation is.

23 MR. BAKER: Graduation is the 25th or so.

24 SUPERVISOR HERRINGTON: Can you get it done that

25 fast?

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1 MR. GILCHRIST: If there's a scheduled Public
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2 Hearing for either the 28th, the 29th or 30th of June, to be
3 effective we would need additional submissions clearly prior
4 to that and preferably ten days, at least, prior to that.

5 SUPERVISOR HERRINGTON: Ron, you have to be
6 available, too.

7 MR. LABERGE: We would want about two weeks for
8 the consultants prior to the hearing.

9 MR. BAKER: So you want to aim for the 30th, and
10 we'll get the subdivision on the 18th?

11 SUPERVISOR HERRINGTON: I need to contact Tamarac
12 and try to get the auditorium. I hate to put a firm date.

13 MR. BAKER: But, obviously, that's subject to
14 their availability.

15 MR. GILCHRIST: Any additional Public Hearing date
16 will be renoticed, so you will get notice of that.

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
17 MR. LABERGE: I need an opportunity --

18 SUPERVISOR HERRINGTON: So what you're saying is
19 at the Town Board Meeting set the date?

20 MR. GILCHRIST: You can tentatively set it down.

21 I would not want to wait until -- you could wait until your
22 June meeting to confirm it.

23 SUPERVISOR HERRINGTON: Is that a Thursday?

24 MR. LABERGE: It's a Wednesday. It's a Wednesday.

25 SUPERVISOR HERRINGTON: So are we trying to set it

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1 up Wednesday on the 30th?

2 COUNCILMAN SALVI: Depending on Tamarac. I'm

3 thinking the graduation is on the 25th, which is the last
Page 210

4 Friday, so we'd probably be okay on that.

5 SUPERVISOR HERRINGTON: Now, in the meantime, we
6 can try to do that. We don't need anything formal here.

7 MR. GILCHRIST: No, we can set that as a date.
8 We'll check with Tamarac and the availability of the
9 auditorium. As soon as that's noticed, we will go to the
10 applicant and we'll go on the web site and go on the record.
11 Those who received a written notice, will receive another
12 written notice.

13 MRS. SCHONGAR: A lot of people are gone after
14 graduation. I don't think that's a great time.

15 COUNCILMAN SALVI: July and August is even worse;
16 isn't it?

17 MRS. SCHONGAR: Well, that's what I mean, before
18 that.

FW Transcript of Public Hearing on 51810 Gallivan application for PDD
19 COUNCILMAN SALVI: They need a reasonable time to
20 process everything that went on here tonight and get it back
21 to these guys. So realistically, that's about as quick as
22 you can get it in. I think going past into July and August
23 doesn't work for people. We have done enough of these where
24 I know you need a reasonable time to process this
25 information.

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1 SUPERVISOR HERRINGTON: Can we aim for that, Mr.

2 Baker?

3 MR. BAKER: Yes, I think we can do that.

4 SUPERVISOR HERRINGTON: In the meantime, if you're

5 wondering what is happening, as we've mentioned, with the

6 Gallivan operation, we didn't hear anything. People didn't
7 seem to have a concern on the five acres. Something has
8 changed. To me it's probably just the sheer size of it.
9 With that being said, the Gallivans, to their benefit, of
10 course, will do the best they can. I'm quite sure they
11 will. You know, if you guys can do anything about backing
12 trucks in and starting a little bit later or the back-up
13 beepers or the smells or anything you can do to get us
14 through this period, I would appreciate it.

15 Trust me, I understand the legal system and you
16 can't cut Mr. Baker a little shorter.

17 MR. SCHONGAR: Phil, is there a reason they can't
18 start at 7:00? Six is waking everybody up before we go to
19 work, an hour before we go to work. That's an unreasonable
20 thing. That's something they should be able to do in the

21 FW Transcript of Public Hearing on 51810 Gullivan application for PDD
meantime until this is resolved, because we have been

22 putting up with this for three years, and now, still,

23 nothing is being done.

24 SUPERVISOR HERRINGTON: I don't know if they are

25 loading trucks that early --

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1 MR. SCHONGAR: No. I would think that they would

2 do something to mitigate that. That would be helpful.

3 MR. BAKER: We will discuss what can be done for

4 mitigation, but the reality is, this is a

5 construction-related business, and they have to be on their

6 job sites at specific times, and whenever you're dealing

7 with a construction-related business, it is early morning

8 truck traffic. And there is plenty of early morning truck
9 traffic that goes down Route 40 from other businesses that
10 create noises through the area. So I certainly understand
11 the concerns, and we will discuss if there are means of
12 mitigation that that can be reasonably achieved. But you
13 know, part of it is the reality of the business and the
14 reality of the Industrial Zone that was grandfathered.

15 COUNCILMAN POLETO: But if you're taking notes, it
16 was also said that they had reported truck travel at 6:00 in
17 the morning before this.

18 MR. BAKER: Well, I respectfully disagree with
19 that. I think that there is --

20 MR. SCHONGAR: No, no way.

21 MEMBERS OF THE AUDIENCE: No way.

22 SUPERVISOR HERRINGTON: Now we're getting -- it's

23 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
late.

24 MALE MEMBER OF THE PUBLIC: -- they will start at

25 3:00 a.m. the next time.

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1 MR. SCHONGAR: The problem -- one last question

2 for me, and I'll stop.

3 SUPERVISOR HERRINGTON: All right.

4 MR. SCHONGAR: The question is, the traffic now is

5 so bad because they are using this site with all these

6 trucks. Before we had no problem when they were on the

7 original site. And now they are saying, well, we still have

8 to do this. We're doing business, illegally in an area that

9 they shouldn't be in. So we're still suffering because they

10 are doing something that they shouldn't be doing. So that's
11 my last comment of the night.

12 SUPERVISOR HERRINGTON: Mike, come on up, one
13 more.

14 MR. DORAN: I want to say one thing, and maybe I'm
15 not going to be out of order. Again, my name is Matthew
16 Doran, residing at 38 Lindsay Drive. My wife is still
17 wonderful. No disrespect, but I just sat here, and I was
18 just told that the reality of it is, it's a
19 construction-related business and they have to start early.
20 The reality of it is that they are in violations of their
21 original approvals, all right? That's the reality of it,
22 and that's where we stand. All right. So perhaps we do
23 need to enforce the original approvals.

24 SUPERVISOR HERRINGTON: Okay. Thank you.

25 FW Transcript of Public Hearing on 51810 Gallivan application for PDD
MR. MEYER: Hey, Phil, I would like to say just a

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1 couple words on the discussion.

2 SUPERVISOR HERRINGTON: Repeat your name and
3 address again.

4 MR. MEYER: I'm sorry. Yes. It's Tom Meyer,
5 Seven North Star Drive. I heard a lot of well-intentioned
6 planning on the Board's part discussing moving up the time
7 frames, Phil, your discussion on your concern for litigation
8 and the price of it and then the examples that you gave, but
9 I don't think they are relevant examples. Getting sued,
10 fighting the PDD through its process is a much more
11 debatable set of contentions. You have a company today in

12 violation of Zoning by their own admission in the PDD that
13 they submitted. This is a slam dunk. You need to do this.
14 We just watched a month and a half slip by while you
15 discussed this, and that's not the end game. I don't know
16 what you're going to do after the next hearing. What's
17 next? In fact, I'm going to ask you, what is next? What
18 happens after that hearing?

19 SUPERVISOR HERRINGTON: After the next Public
20 Hearing, whatever the lawyer says we can do, we're going to
21 do it as quick as we can.

22 MR. MEYER: Well, so my pointed question, not that
23 much different than Ron Brosnighan's is, why isn't this Town
24 enforcing the Zoning standard right now? I heard your
25 explanation. I don't think -- frankly, you know, we had one

1 person reference the Town of Colonie. I have never seen a
2 town allow something like this to go on. I think this Board
3 needs to seriously think about addressing it now. Thank
4 you.

5 SUPERVISOR HERRINGTON: Henry, one more.

6 MR. SCARTON: One comment. Henry Scarton, 14
7 Kestner Lane. One comment I didn't make and I meant to make
8 is the Town of Brunswick does not have a noise ordinance. I
9 think it's time. We're getting bigger. We've already had
10 problems in my own development where a certain doctor had to
11 leave because we don't have a noise ordinance. These things
12 don't have to be expensive. The City of Troy's noise
13 ordinance as I understand it is there's no decibels

14 required. If you just have a complaint, you call the cops.
15 The first time they call the offender. They say, Please
16 tone it down; next time, We're going to shut you down. Keep
17 it simple. Keep it cheap. There is a day/night sound
18 pressure level measurement that you could implement, which
19 is a penalty on any noises made between 10:00 p.m. and 7:00
20 a.m. in the morning. That can be part of a noise ordinance.
21 Of course, then that requires you have people who are
22 qualified to make the measurement and all of that, which is
23 more money. Maybe we can't afford that. I think we need
24 some sort of noise ordinance in this Town, and I think it's
25 time.

16 need to do is either declare a negative declaration or a
17 positive declaration and get through that. And one of the
18 options is a positive declaration to require an EIS, but the
19 SEQUA process entails either a negative declaration or a
20 positive declaration. This Board has not yet made that
21 determination.

22 MR. TKACHIK: EIS is Environmental --

23 MR. GILCHRIST: Environmental Impact Statement.

24 MR. TKACHIK: I'm trying to get an idea what sort
25 of length of time. If we had to go through that process,

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1 what would be -- expeditiously, how long would that take

2 from now until the final decision on the PDD would be?

3 What's typically -- what's typical of the time?

4 MR. GILCHRIST: I wish I could give you a typical

5 answer. You've been through this process before. Every

6 application is different. The number of issues raised vary,

7 and the length of time to complete an EIS process, which

8 includes a draft, public hearing and a final findings

9 statement can vary from project to project. There is no

10 specific time frame.

11 MR. TKACHIK: From my just real quick

12 recollection, you know, from like the, some of the

13 residential development PDDs, they would take on the order

14 of nine months.

15 MR. GILCHRIST: It can be nine months. Yep, it

16 can be. Could it be longer? Yes. Could it be shorter?

17 Yes.

18 MR. TKACHIK: What's the shortest it could be?

19 I'm just kidding. If everything was timed right, how

20 quickly could this be done? Could I just ask this question?

21 I'm not trying to -- what's the quickest?

22 MR. GILCHRIST: I'll be happy to answer your

23 question.

24 MR. TKACHIK: Okay.

25 MR. GILCHRIST: And the answer is, there is no

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1 time frame for that process under the SEQRA regulations.

2 There is literally no time frame. Once an EIS is prepared,

3 the studies need to be done by the applicant and reviewed by

4 the Town. You're looking for a specific minimum time frame
5 for that process. There simply is not one under the SEQRA
6 law or regulations.

7 MR. TKACHIK: Okay. That's what I wanted to know.

8 COUNCILMAN POLETO: I'll make a motion that we
9 adjourn this Public Hearing but keeping it open until a
10 tentative date of approximately June 30th to have the second
11 part of this.

12 COUNCILMAN SALVI: I'll second that motion.

13 SUPERVISOR HERRINGTON: Take a roll call or is all
14 in favor okay? All in favor?

15 BOARD MEMBERS: Aye.

16 (Whereupon, the matter was adjourned for a
17 tentative date of June 30, 2010.)

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C E R T I F I C A T I O N

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I, JOANNE R. SOWALSKY, do hereby CERTIFY that the

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foregoing record taken by me at the time and place as noted

6 in the heading hereof, is an accurate transcript of the same
7 done to the best of my ability and belief.

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JOANNE R. SOWALSKY

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DATED: _____

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