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PUBLIC HEARING FOR DRAFT GENERIC ENVIRONMENTAL IMPACT

STATEMENT FOR THE SOUTHERN

AREA OF THE TOWN OF NEW HARTFORD

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HELD AT: Ralph Perry Junior High
New Hartford, New York
August 10, 2009

PUBLIC HEARING.

APPEARANCES:

FOR THE PLANNING BOARD:

JEROME F. DONOVAN,
Chairman Town of New Hartford Planning Board
111 New Hartford Street
New Hartford, New York 13413

DORY SHAW, Secretary Planning Board
JULIUS V. FUKS, JR., Planning Board Member
ELLEN S. RAYHILL, Planning Board Member
G. BRYMER HUMPHREYS, Planning Board Member
PEGGY S. ROTTON, Planning Board Member
BOB WOOD, Planning Board Member

Jaclyn Bellino-Conte,
Reporter.

MR. DONOVAN: Good evening, Everybody. I'm Jerome Donovan. In February I was asked by the Town Board to fill a vacancy in the post of chairman, which runs through the end of this year, and to help guide the Draft Genetic Environmental Impact Statement through its final stages of review.

At this time I would like to call to order this public hearing on the Southern Area of the Town of New Hartford Draft Genetic Environmental Impact Statement. Would everyone please join in standing for the Pledge of Allegiance.

(Pledge of Allegiance takes place)

MR. DONOVAN: As required, a notice of the hearing was published in the Observer-Dispatch on July 27, 2009. Including in the record of this hearing will be a copy of the resolution adopted by the Planning Board on July 13, 2009, accepting the Draft Genetic Environmental Impact Statement as complete, with respect to its scope and content, as required by the State Environment Quality Review Act, prior to commencing public review. On behalf of the Planning Board, I want

to thank you for taking the time tonight to be here, either to comment or to simply take the opportunity to learn more about this statement. To help you better understand the history and background of the GEIS, it's multiple land use strategies and the next steps in the process, our consultant, Peter J. Smith is with us tonight. He will make a presentation prior to the Board taking your comments.

I want to remind everyone, if you wish to offer comments, you need to register at the table just outside of the door here. If you haven't already done so, please feel free and get up and do so.

At this time I want to introduce the other members of the Planning Board: Bob Wood, from New York Mills, he's our Senior Board Member and Vice Chairman. Ellen Rayhill, Peg Rotton, Brymer Humphreys and Julius Kuks, Junior. Julius and Brymer are our newest Board members, who joined us in April. And we have one vacancy, currently.

I would be remiss if I did not acknowledge the work on the issue by three past

Board members. First and foremost, our former chairman Hans Arnold, who led this Board through most of its deliberations on the statement prior to his resignation in February. I want to recognize, for the record, the many contributions of long time Board member Bob Imoberstag and, more recently, Roger Reynolds. I'd also like to note our Town Attorney, Gerald Green, is with us tonight.

The purpose of tonight's hearing is to receive your comments as to whether the statement fully assessed potential adverse environmental impacts in the study area and whether the methodologies employed in the statement fairly measure those impacts. We also want to receive your comments on the growth management alternatives contained in the statement.

The statement is a conceptual growth management plan for the study area. It's a generic planning document. It changes nothing on its own. Before any recommendations contained in the statement can be entered into Local Law, it will require additional studies and additional public hearings.

If I could use a baseball metaphor, we're in the 4th inning of a 9 inning game.

The statement details the cumulative environmental impacts of potential development in the study area and includes measures to lessen those impacts and finance improvements. It's been available for residents to read, in its entirety, for some 30 days.

In addition, frequently asked questions have been available on the Town website since March.

This public hearing is a culmination of more than 2 years of work, including nearly 30 meetings devoted wholly and partially to the subject at hand, 3 public workshops, attended buy some 300 town residents and 3 preliminary draft statements.

Contrary to what some might believe, this statement isn't something concocted by the Planning Board, rather it's the direct result of the 2007 Comprehensive Plan Update, adopted by the Town Board, which lays out a 20-year vision for the Town.

The recommendations in the statement are

in accord with division outlined in the Comprehensive Plan Update.

The Town Board asked the Planning Board to service as lead agency, as designated under State Law. It's a designation reserved by the public body best deemed equipped to carry out an environmental study.

I'm sure some of you might be asking why it's taken so long to get to this point. Is it just another example of government ineptness? No, the answer is. And the record will show, the Planning Board rejected the notion of a boilerplate approach to striking a balance between conservation and development, our mandate under the Comprehensive Plan. We asked the consultants to make revisions to earlier drafts based on input received at public workshops.

The consultant has done a considerable amount of work, at their own expense. I might add, to produce a statement that identifies and measures the environmental impacts associated with continued development in the study area and has recommended 1 of 4 growth management strategies determined to best balance the need to minimize

and mitigate adverse environmental impacts and responsibility, manage future residential and commercial growth. Some residents have shared with this Board and the Town Board land management techniques and zoning approaches to address one of the overriding issues addressed in the statement, mainly storm water runoff. While those ideas are salutary, they are more appropriate for consideration at a time when any zoning members may be considered by the Planning Board and the Town Board. It is the Planning Board's views, that techniques such as incentive or performance zoning or green building ordinances should be fully explored in context with the statement's recommendations before any zoning changes are enacted.

Our consultant will point out that one of the benefits of conducting a Generic Environmental Impact Statement is to give the Town the legal basis to implement voluntary fees in lieu of mitigation or FILM. With a FILM those who create adverse environmental impacts through their developmental activities can pay to mitigate those impacts so that the cost does not fall to you, the

taxpayer.

If the Town had done this GEIS 8 years ago, when it was first discussed and had enacted a FILM, the voter approved $2,000,000 store water bond issue would, no doubt, have been considerably less, as some problem areas would have been identified earlier and mitigated by developers, not the Town's general fund. The Town has successfully used this approach in two other areas for nearly 20 years, saving taxpayers millions of dollars.

Your comments, be they spoken or written, will become part of the official record tonight and incorporated into the final generic impact statements to be delivered to the Planning Board, most likely, in early October. All substantive comments will be responded to in the final Generic Environmental Impact Statement and given every consideration by the Board prior to its taking any final action.

The final statement will be available on the Town's website, once it's received by the Planning Board.

If something is said tonight that you

might want to comment on, but not take to this podium, I would remind you that written comments will be excepted through August 20th, at the Planning Board office. The address is on the public hearing guidelines that you picked up on your way in. It's on the bottom of the guidelines. If you have anything written you'd like to submit, please do so by the 20th to ensure it's included in the record. I want to remind you, again, if you want to speak, please register. As say I call your attention to the hearing guidelines and ask you to adhere to them.

Speakers will be heard in the order called for in the guidelines. You're asked to identify yourself and give your address and the township you may live in prior to addressing the Board. If applicable, please indicate any organization that you may represent. I would urge speakers to avoid repeating what other speakers have said, as a courtesy to others. If a previous speaker has stated what you had planned to say, and you wish to have the record reflect your input, you might consider, simply, stating that you share the comments or views of an earlier

speaker. We have a stenographer, Jaclyn Conte, who is with us tonight, transcribing the proceedings. I want to thank you all, at this time, for your cooperation in this respect.

The Planning Board is here to receive your comments, not engage in a dialogue or debate this evening. However, members may, from time to time, ask questions of speakers for the purpose of clarification.

Because this is a public hearing and not a public workshop, we cannot entertain questions following the consultant's presentation. Rather, we will be begin taking comments from those of you who are registered to speak.

Before I call on the consultant, I would recognize Board member Ellen Rayhill, who would like to make an opening statement.

MS. RAYHILL: Okay. Just a few remarks. I'd like to make 3 points. I have 3 points regarding the Genetic Environmental Impact Statement, which I hope all of you will keep in mind throughout this hearing tonight. First, we're talking about a study, a study of current and potential future environmental impacts on the

Southern portion of the Town. It is not a zoning law.

In order to complete this study, we have to select a conceptual approach to future development, so that we can study these impacts in hard numbers. There are a number of reasons that this process is important to the Town of New Hartford. It enables the Town to participate in environmental impacts and gives it a method by which it can negotiate with future developers to help ameliorate future impacts caused by their development. It makes the Town eligible for certain State and Federal infrastructure funds and for grant money and it helps the Town to consider how it can most efficiently and cost effectively provide services, such as snowplowing and salting of roads, storm water management, sewer systems, water, police services, etcetera. That's the first point.

Second, it does not matter whether development occurs in the Southern part of the Town at a rate of 1 house per year, 10 houses per year or 20. The Genetic Environmental Impact Statement does not predict how many houses will be

on the hills in the Southern portion of the Town over a certain period of time. It does consider what the environmental impact will be under certain conditions.

Initially, this Planning Board was presented with three alternative, conceptual approaches to development in the Southern portion of the Town, and the potential environmental impacts were studied under each alternative. Under the first 2 alternatives the future impacts appeared to be unduly burdensome to current land owners and that there would be significant storm water management issues and traffic congestion at existing intersections at full buildup. However, the third alternative of residential development on the hills, equivalent to 1 house per 10 acre lots. That would be the third alternative. It seemed too restrictive to some of us, so we requested that P. J. Smith request a fourth alternative. That is, a look at the environmental impact if the residential development on the hill were to be the equivalent of 1 house per every 5 acres. Upon review of the environmental impact, the fourth alternative, at full build out,

resulted in the environmental impacts that could be addressed through adequate planning, while the same time being less restricted for development by property owners on the hills. Therefore, we have asked P. J. Smith to use a fourth alternative to run the numbers for the final statement.

Third, this GEIS process has never been about agriculture preservation versus development. I was very disappointed to see this as a headline in the front page article in Sunday's newspaper. The parameters for the GESI were set forth in the Town's Comprehensive Plan, which very clearly sets forth the goal of preserving agricultural land in the Southern portion of the Town. The GESI is providing us a means By which we can anticipate and plan for growth, whether or not it occurs next year or in 20 years. By anticipating and planning for growth, the Town of New Hartford will be in a better position to continue to provide services and, hopefully, avoid substantial and expensive failures of infrastructure which we are currently experiencing with store water management and the sewer systems.

In conclusion, the GESI is a study of

environmental impacts. It does not predict actual development, but does consider environmental impacts as a variety of development scenarios. It is the useful and necessary part of the Town's planning process. And I congratulate the Town Board for contracting for this GEIS.

Now, finally, if you've fallen asleep, I'd like you to wake up for this part. It's very important to me. I've been quoted in the paper as supporting the for the 5-acre alternative for the GESI, which is true. That was absolutely true. But I would like to make my position clear. While I support using the fourth alternative for the final statement, I do not support 5-acre residential zoning in the hills. The zoning discussion, I hope, will take place after the GEIS has been accepted and final. I hope your interest continues and we can come up with a plan that takes into consideration the interest of both present and future landowners in the Town of New Hartford. Thank you.

MR. DONOVAN: Thank you, Ellen. If I could add one point. There's no member on this Planning Board that supports 5-acre lots. No

member of this Planning Board who ever supported 5-acre lots. At this time, I'd like to recognize Peter J. Smith, Principal of Peter J. Smith and Company, from Buffalo, our consultant. Mr. Smith is accompanied this evening by his trusty aide, Dan Leonard. Peter, it's all yours.

MR. SMITH: I'm only take to take 15, 20 minutes. This is a 200 something page document. It's a big book. But I want to give it to you in a nutshell. I want to give it to you as clear as I possibly can so, I think, it will be much more understandable when I'm finished. Tonight I'm going to talk about the history and the background of the GEIS. Briefly, what is a Genetic Environmental Impact Statement and why are we doing one? What does it do in this community? What is the purpose of the design plan, which is a little different in this GEIS. Finally, 1 of the 4 alternatives and the preferred alternative and then the next steps. Next slide, please.

The Comprehensive Plan was done for the entire Town. It was completed and adopted in 2007. It was prepared in 2005 to 2006, that period. It recognized the Southern area as being

unique. It recognized it as an area of special significance and recommended additional planning because of the impacts of growth and sprawl. It's the third GEIS, as Jerry said. The first one was adopted in 1991. It is the Seneca Turnpike, Commercial Drive, Middle Settlement Road GEIS. And the other one was adopted in 1994, and it is the French Road, Burrstone Road and Champlin Avenue GEIS. So it is not unique. The community has been doing this form of planning for quite a while. And this project began in 2006, so it is finishing up almost 3 years later, and it is being done under the auspices of the Planning Board.

Now, what is a GEIS? As Jerry said, it deals with cumulative impacts. We take the entire area, the entire Southern area, and what will happen is that builds out over time. It's not one subdivision, it's not one McDonald's or one psych plant. It's all of the development looked at together. And the main concerns in this community were traffic congestion, were storm water and flooding, were loss of agricultural land and open space, natural open space, tree areas, and then scenic resources; as you stand in the valley and

look at the hills, you see hills and you see development. Those are the 4 main issues that came up in the GEIS. It forecasts the future impacts as development continues. So it's making some projections. It can't tell you exactly what that development is going to be, but it makes projections over a period of time and recommends ways to mitigate the impact of that development.

In the end result, it creates and preserve and strengths the character of the community, which is always being, in all of the years I've been planning in New Hartford, a very significant issue in this community, is your community character.

Now, what does this GEIS do? The Comprehensive Plan. Ellen talked a little bit about the Comprehensive Plan. The goals of that Comp Plan were to balance conservation and development, were to preserve and strengthen your neighborhood, direct or focus development in appropriate areas, preserve and enhance the natural parts, the ecology and the environmental and natural development and enhance the quality of life.

Again, what does this GEIS do? It identifies ways to limit the growth impact and stop sprawling. I'm going to say it over, and over again. It focuses development on a very specific area.

Now, you're looking at this area, and you'll see this is the entire Town. That line across there is the borderline, so that this becomes the Southern area GEIS. These are building permits that were mapped from 2000 and 2008, just to show you that, generally, those building permits tend to be up on the sides, going up on the slopes.

And, also, what does this GEIS do? Well, different from other GEISs, we use design plans for both of the hamlets, Chadwicks and Washington Mills, and we used design, in other words, 1-acre, 5-acre and 10-acre lots, outside of the growth area to determine what we could do for future zoning and protect future agricultural land.

And so the purpose -- these are the 9 principals of the GEIS: Define the growth boundary, define the area where we're going to try

and focus development, development density patterns - and I say patterns - in both those areas, and out of that growth area, retain, revitalize mix-used centers, primarily the hamlets, manage storm water, reduce flooding, protect the natural heritage features, preserve agricultural land, create an integrated circulation network. In other words, make it save. Develop walkable, safe neighborhoods and respect the significant views to the hills.

Principal Number 1 is to define the growth boundaries. And the growth boundary was established by the Planning Board with some different options given to them by us. And this is the growth area. This is the Southern area. The growth area is primarily the Soft Point Creek Valley. And we looked at 15 different areas for analysis. One of them -- we have 3 in the hills, basically the 2 hamlets and then there are 10 micro water sheds in that area. You'll see that this, then, along the Soft Valley Creek becomes that growth area, so the multicolor part is the growth area.

Now, we looked at Principal Number 2:

Developing Density Patterns. And what we looked at was the building permits that I showed you a minute ago, and we extrapolated in the 8 years, from 2000 to 2008, the number of building permits, and projected that out in a straight line and came up with 248 units. I don't care if it's 448, 443, or 300,000. That's not the point. The point is there's going to be growth and change. The point is the GEIS plans for that growth and change. But we needed to look at something that would start to give us an idea of a trend, and that's all, and given that trend, where is it going to go? You see 143 in the Western hills, 71 in the Eastern hills.

So you're going to see a number of these maps. The maps show, just graphically, the kinds of numbers and where they could potentially be developed. And you'll see, simply in this, just because of the trends, that the 2 hills, which have the greatest impact, especially on storm water, especially on the visual assessment, had the greatest impact, also have the greatest potential development over time.

Now, we looked at Principal Number 3,

Retaining the Mixed-Use Centers. What we did, is we looked at, primarily, revitalizing, restrengthening these communities of both Chadwicks and Washington Mills. We looked at underutilized areas, vacant areas, potential development areas. We looked at different types of lands, and we created conceptual master plans for those communities, incorporating in them the potential to do water retention or water detention and using green space back bone to define both of those hamlets.

Now, Principal 4: Manage Storm Water Impacts. These are the micro-water sheds for the creek. And when we looked at the water sheds - this isn't rocket science - there were 2 areas that were primarily the commercial areas; they were also primarily the intersections of 4 water sheds in each of those areas that has a very significant impact on, obviously, flooding. So what we looked at, then, to mitigate flooding, with our storm water specialist, was try to preserve or have less development up in the hills where the water runs down in the valley, focusing development in and along the creek, and really

creating the creek, which is the back bone as a regional water detention and retention area.

Principal Number 5 is to Protect Natural Heritage Features; cemeteries, archeological sites, historic buildings. Principal Number 6 is Preserve Agricultural Land. We talked that. You can see the agricultural land is primarily up in the hillsides. How do we do that? We can do it through cluster development or through either purchase or transfer of development rights, which can be incorporated in zoning. I'll talk about those in a minute.

Principal Number 7: Is Create an Integrated Circulation Network, and what we look at is creating hierarchy of roads, trying to fit a stronger bridge of roads and make a more safer, more functional circulation pattern in the community and develop walkable neighbors. Again, in the street circulation, we looked at developing walkable concepts in streets -- developing street scape, parking on some of the streets, bike routes, just pedestrian areas, just an organization of the streets, minimizing curb cuts, so that traffic can flow better and pedestrians

can move safer. A number of things to make it a safer, more walkable neighborhood.

Principal Number 9: Respect The Significant Views. Those areas, the hillsides are the areas of significant views as you look up out of the valley. Now, this brought us, then, to 4 developmental alternatives, as Ellen said. First, a development alternative is, basically, a build out under current zoning. It's really do nothing, leave it alone. Second alternative is 1-acre lots, and that's what we call a suburban-style growth. The third one is an agricultural preservation of strategies of 10 acres. And the fourth one or preferred one is the 5-acre agricultural preservation strategy. Alternative 1 is, do nothing. And you'll see in both of these cases development focuses out of the growth area, focuses on the hillsides and increases or has greater environmental impact along the corridor and in the community. Alternative Number 2, the suburban-style. Again 60 percent of the development focuses out on the 2 hillsides of the valley. And in this case there is some more in the growth area, but it still does not mitigate

the problems of the environmental impacts. Alternative Number 3: 10 acres focuses everything, almost, into the center, into the growth area. But what this does, is it was construed to be too difficult to implement. It was too much. So then Alternative 4, we looked at, was to develop a concept of 5-acre units. And we can see that we can focus more development into that urban growth area and minimize some on the impacts on the outer hills.

Now, how does that happen? I think this to a lot of people, this is one of the main questions. As Ellen said, this is not a zoning ordinance. This has 2 components to it. It has streetscapes, it also has a zoning side or recommendations to a zoning side of this. The first way of implementing the development on the hillsides -- or minimizing development on the hillsides is by minimizing cluster development. This is a typical subdivision plan. We can take that same plan and put it into a cluster development, and we preserve whether it's common open space or agricultural land or whatever.

Now, let me use some numbers, and these

are not numbers in zoning. I'm only using the numbers to explain what it is we're talking about. Let's say, if you have a 100-acre farm, and you want to know what your development rights on that 100-acre farm are. Based on what we're talking about, you have 5-acre units, that means on 100 acres, if you do the math, you have 20 units that you have development rights to build. Now, what the zoning would do, is encourage or incentivize you to do either one of those 2. When it incentives you to do a cluster development, it may increase your incentive by 4 units or 8 units, perhaps. So if we took 100 acres and developed it in 5-acre lots. The whole 100 acres is gone. We now develop a cluster development of 20 units at 4 units per acre. We've used 5 acres, and we've preserved 95 acres of farm and natural area. If we incentivize this, another 4 units or 8 units, that means we only developed, now, 6 acres and 7 acres and have still preserved a major portion of the farm land and the natural zone. Purchase of development rights. There's 2 things, purchase of the development rights and transfer of development rights. Purchase of the development

rights means that the community could get funding, usually through an Agricultural Protection Plan or we can transfer development rights. So let me go back to the same example, where you have 100 acres and you're going to develop, under a zoning that allows 5-acre units, 20 units. What we can do now, is increase the incentive from that 28 units that we used under cluster development; and it could be 36 units. So, then, the preference for development will be to transfer those development rights and preserve 100 percent of that agricultural land or open space area that's being preserved. And these numbers, again, I'll reiterate, are not hard numbers. These are numbers that I'm using just as an example. But what you would do is create incentives into the program. That transfer of development rights is sold to a developer in one of the hamlet areas that may be trying to mitigate an environmental impact, and so by mitigating environmental impact, they buy development rights and preserve agricultural land. This concept is used all over the country. I think every state -- as far as I know, every state I worked in, which is half of

them anyway, it's legal. And it is used in every state that I've worked in. This is an example from the Town of Porter, on the Niagara River, in New York State. And you'll see, this is, actually, right out of their zoning ordinance. It's a graphic on the zoning. And you'll see this is the development of 20 units, and this is the preservation of the agricultural land and the green belt or the conservation area. That's an example that comes right off a zoning ordinance.

Our next steps are to analyze and respond to the comments that are made tonight at this public hearing. And we will then incorporate those into the FGEIS, which will go, then, back to the Planning Board, and then we will issue a finding statement. It is our role tonight to listen. We're not hear to respond or answer questions. This is your time, your time to talk and tell us any issues or concerns you have. But I want to point out, in the end, this is not a zoning ordinance. This, in the future, at some point in time -- and the Town has been talking about it for a number of years -- the Town will be re-writing their zoning ordinance. The

environmental impact statement helps to have guidance into the re-writing and understand what needs to go in those future zoning ordinances. Mr. Chairman.

MR. DONOVAN: Mark this as Exhibit 1, please.

(Exhibit 1 marked for Identification)

MR. DONOVAN: We'd like to open up for public comments now. I'd like to start in accordance with the guidelines, where we're going to acknowledge public officials and individuals representing organizations. And the first person I'd like to call on would be Bob Payne, Councilman for the Town of New Hartford.

MR. PAYNE: As Mr. Donovan stated, my name is Bob Payne. I'm the Councilman for New Hartford, for the first ward, which has the majority of the land affected by the GEIS. I live at 5 Forest Road and have been the Councilman for the past 3 and a half years now. Some of the folks here in this room I've met with. Some of the folks are in the first ward, some of the folks are in the second ward. Regarding the limitation to the land use; it was very interesting for me to

hear and very pleased to hear that, again, this is a model that the Planning Board has assisted in putting together for us, to let us look at what is going to potentially happen when growth or buildup takes place in the Town. I have heard from residents, definitely, not in favor of limiting their land use. And I can't speak for the rest of the Town Board, but I'm not in favoring of limiting the land use, devaluing anyone's property. I am in favor, though, of creating a tool that will allow us to mitigate the storm water issues, to mitigate the issues to our infrastructure that is caused by development. And I am in favoring of having that tool so that any major developers that come into that area are part of the solution, not just the problem. As I've been the councilman for the past 3 and a half years, the biggest concerns that I have heard are, number one, make sure our roads are clear. I think we do a pretty good job in doing that with our highway department. The other one, keep the green waste off the roads. The third has been storm water. That's been, by far, the most emotional issue that I ever heard from any of the

residents who have contacted me. I think the Town Board in the past has tried to solve this problem. But I think now, with definitely the commitment from the Town Planning Board and with the Town Board, that we need to seriously look at how we can continue to implement the things that we're doing today, the storm water projects, this GEIS that eliminates that storm water issue. I've been a resident in the Town for the past 16, 17 years. I'm not at the bottom of the hill; I'm right in the middle of the hill, and I, too, have been getting flooding issues in the past 3, 4 years. I know how emotional having someone's property, whether it's in their backyard or basement, effects them. I applaud this effort, this meeting in allowing us to give information back, so we can solve these issues. Thank you.

MR. DONOVAN: I'd like to now recognize Christine Krupa, Councilwoman, Town of New Hartford.

COUNCILWOMAN KRUPA: I'm Christine Krupa. I'm in the second ward, and some of the GEIS that this is regarding, is in my ward. I am also not in favor of limiting it to the cluster or

the 5-acre or the 1 to 5 ratio that is discussed in Alternative 4. I do believe that, if the goal of that is to mitigate storm water as one of the goals, I think that we can provide other means of doing that. There certainly is enough engineering out there to, actually, accomplish that mitigation without having to limit the growth to 5-acre lots or the clustering. As far as preserving agricultural land, I'm not really sure that that would accomplish that, either, simply because the people who currently are using the land for agriculture, aren't going to be required to somehow not or to somehow split up their properties. They can still go ahead and use their agriculture. There are a lot of people who have large tracks of land, who aren't using it for agriculture and don't have a means of providing agriculture, even though they've tried. They don't have any farmers. They've asked farmers to use their land and plant and everything, and they are not getting the interest from that. So I don't think that you need to -- I think the people that are using it for agriculture can continue to do so under any of the alternatives. And for

those people who no longer wish to use their land for agriculture or have never used their land for agriculture, they should not be limited to selling it off in this restrictive alternative. Thank you.

MR. DONOVAN: Thank you. Okay. I'd like to now recognize Eileen Spellman. Eileen is the Director of the Town's Nutrition Center.

MS. SPELLMAN: I'm Eileen Spellman. I'm Director of Human Services for the Town of New Hartford. I'm also not for this 5-acre limitation that was mentioned tonight. This is not fair to these people who have purchased the land and have paid taxes and now they're being told what they can do with it. I spoke to a gentleman today, who is 90 years old and I was telling him why I was coming here tonight, and he looked at me and said "I already thought we fought the American Revolution," because we're being told what we can do with our land and it's not right. I concur with Bob Payne and I also concur with Christine. Storm water management is very important. We can come up with an alternative. Again, please -- I'll read something. I know I'm talking to you,

but I'll read what I have written. Some of my seniors are concerned about the restriction being placed on their property and rightfully so. I can well understand their concerns. I would like my children living close to me as I approach the golden years. In many instances people have been able to subdivide their lots off for their children's homes. Under the proposed legislation, with a 5-acre restriction, this would not be affordable for many. I feel that this 5-acre minimal lot size is not a fair solution or fair to the property owners in our tone. When writing grants the population in our Town is a very important factor. This proposed legislation would cut down on the future population of the Town of New Hartford. I don't want to see that happen. Thank you very much.

MR. DONOVAN: Thank you. Just for the record, just for clarification purposes, this GEIS is not proposing any legislation. The next speaker would be Ben Simons, from Oneida County Farm Bureau.

MR. SIMONS: I'm Ben Simons, President of Oneida County Farm Bureau. I came just a few

minutes late, Ladies and Gentlemen. I'm going to speak a little off the cuff to the Planning Board. I also serve on the Planning Board in the Town of Steuben, and I am a New England transplant. We grew up, farmed in New England, got squeezed out because of the pressures on the land and economics, moved here to New York, and it seems like what's happening here in New York is what happened to us 25, 30 years ago in New England. The Planning Boards need to be applauded for coming up with some sort of building restrictions and preserving the integrity of the communities. But I'm going to speak straight here from the heart here, Guys. I didn't do a speech. Go with me on this. What I saw in New England is starting to happen here. The farmers that own the land, that is their only retirement. And by putting added restrictions onto those farmers, you're, actually, strangling them in the long-term. Short-term, I love your idea, that fourth option, of 5-acre cluster building and then preserving the outreach of the land. That is good in this time and day and age of today. But in the future generation, what's going to happen - and it's

already happening here in Oneida County and I'm sorry to say - we are losing farmers because of the economics of agriculture. By coming up with this, what you'll be doing is, in a few years from now, you won't have -- I skipped a point here. As the farmers continue to go out of business, the infrastructure is also going to go, too - it's just the way it is - because there is only so many equipment dealers that can stay in the business and feed dealers and cattle dealers that can stay in the business. What will happen - and this is going to happen here - you're going to lose your farmers. They either get older and retire or the next generation doesn't take over because the economics aren't there. And then what will happen is, is you're going to end up with these large tracks of land, which is admirable to try to do, but the reality is, if you don't keep the farmers here in the community, to farm that land, that land is going to go to waste. The best person to preserve the agriculture land is the farmer and landowner themselves. As long as the farmers stay economically viable in your community, they will hold that land together, because that is where

they make their living. And then as the farmers get older, and if they don't have a next generation, and the farms are further away you come into your community to farm it, I'm telling you that land will grow the bushes and burdocks and you're going to have sold off development rights where that farmer was only restricted on so many building lots. The best person to preserve your open spaces are the farmers. If you guys really, really want to preserve agriculture in your community, you have to go the one step further than the Planning Board. You have to go to the Town Board and do something with a tax incentive for your farmers, to keep that land open and viable in large tracks. That's the way to do it. And then as your agricultural community shrinks, then the farmer can do what he needs to do, and then the Town can look at some sort of working with the farmer, landowner, developer for not putting too many houses too close together unless the water, sewer and storm water problems are addressed. Really, my point being is, on behalf of the President of Oneida County Farm Bureau and personal experience, the best person to

preserve your open land in agricultural is the farmers themselves. Thank you.

MR. DONOVAN: Thank you. I want to recognize Vincent Johns. Are you also with the farm bureau?

MR. JOHNS: I'm Vincent Johns. I'm the Area Representative of the Farm Bureau. "We hold these truth to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted young men, deriving their just powers from the consent of the governed." July 4th, 1776, from the Declaration of Independence.

I cannot speak for all this room, but I think I speak for a majority when I say that we have had enough with government, be it local, state, or federal, imposing further, unnecessary regulations on its citizenry. This Generic Environmental Impact Statement is yet another example of such unnecessary regulations.

Throughout the document reference is

made to agricultural preservation. As a farmer, I do not see the course of action recommended by the Planning Board to be preserving agriculture. It would appear to me that the preservation being sought by the recommendations contemplated is strictly that of our current infrastructure.

Large lots typically lead to houses with overgrown lawns which harbor unwanted pests, including insects, rodents and other forms of undesirable wildlife. Take for example rabbits, you consider them cute and furry, that they are a joy to have around, until they start to chew on your shrubs and plants in order to sustain themselves through winter. Further, they procreate quickly, which causes a great deal of damage to the landscape of the home. Rabbits are notorious for carrying fleas, rabies, etcetera.

Large lots will not add to the scenery or create more desirable green space. More often than not people cannot keep up with the house and yard they currently have. Knowing that it will be difficult to find a farmer who would be willing to work the land on a large lot and also knowing that you would want to keep the pest animals down, you

would need to mow this area or it would grow up into dense brush.

We currently mow about 6 acres of land around our farm. It requires a 20-foot wide mower with a 115 horsepower tractor. I had a recent neighbor in the area come and see me, see if he can find anybody with a mower big enough to mow his 4 acres. He was amazed at the price of such mowers and tractors. I suspect most people cannot afford the money to have this done.

Now, to address cluster zoning, since that appears to be the silver bullet of this whole study. For farmers this is not a workable solution. I know Peter J. Smith had mentioned that it was done out in Western New York, where the land is flat. Take a look around here, our land has rolling hills, beautiful vistas. Where are they going to put the houses on a flat land? Where do we try to farm? On our flat land? If you try taking that away, you're going to lose the farmers.

Finally, limiting the population density is not good for the Town. By limiting the amount of houses able to be built in a given area, you

limit the available tax revenue, which causes higher taxes on the existing properties. Higher taxes mean less attractive real estate for additional persons in the area. This is New York State's, Oneida County's and our Town's current dilemma. Fix the infrastructure. Solve the problems without imposing further on the rights of the constituency.

It's my opinion that further changes outside of the development area are unnecessary. I do not agree, however, that land which has been owned by taxpaying, multi-generational families should be unilaterally changed so as to make the land less valuable and less usable for all citizens. Do not use flawed reasons for making suggestions. Do not impose on our rights to property and do not devalue our land. Thank you.

MR. DONOVAN: Is James Kent here? James Kent?

MR. WOLFE: He was not able to come.

MR. DONOVAN: I would like to now recognize Dr. Albert Shaheen.

MR. SHAHEEN: My name is Albert Shaheen. I've been a landowner in the Town of New Hartford

for about 45 years. I've done everything in my power to preserve the scenic beauty of my vista that I purchase. Unfortunately, I'm getting older, I've retired and my income is not what it used to be and my children are not going to be able to afford that luxury. Now, as far as this GEIS study is concerned, I have read this through from cover to cover, and what disturbs me about it, it's 300 pages approximately, 100 pages of pictures of scenic areas, houses, historical sites, park, schools, police departments. 100 pages of boilerplate and about 100 pages of substance. It cost $350,000 so, basically, we're taking $3,500 per page. The part that bothers me, right in the beginning, they make the assumption that, within 20 years, we're going to have full build out of the Town. By 2030 every acre of the land that's usable will be used, if there's unlimited demand. And, of course, if this thing happens, there's going to be significant environmental impacts. Anybody who has lived in New Hartford and knows anything about the area, is the population is aging and declining. 3 building permits in 2009. Where are we going? 13 in '08.

Unless we have a horrible global warning and they grow palm trees on Higby Road, there's not going to be any major growth to the Town of New Hartford, I don't care what you do. The chip factory that's coming won't be here for central several years, because the special engineers hasn't approved the wetlands. Those jobs will pay 40,000 to $90,000 a year. We have 10 top managers who make 90,000. By the time they pay taxes, they have $60,000 left. An acre lot in the Town of New Hartford to build and develop has to cost $100,000. When you're building a house at $200 a square foot, which about what an average house costs, a decent house, which is fairly small, you have $400,000. Then you add an acre lot and you have 500,000. You have to be making 2 to $300,000 a year to build a house in this day and age and especially in the Town of New Hartford. If we go to this 5-acre deal, you're looking at lot prices of several hundred thousands. That's totally unaffordable. There's a nice article that Jerry Donovan wrote, and quoted in the paper, about taking care of the average Joe Blow, having average cheap, affordable housing. That's what we

need in the Town of New Hartford. When New Hartford was booming and growing from 2000 to 2007, and before that we had a zoning effective in the Town of New Hartford where our lawn was 100 feet of frontage. 70 percent of the existing houses in the Town of New Hartford exist on lots that are 100 feet in frontage by 150 to 180 feet deep. That's roughly a third or a quarter of an acre. In our 1A, which is rural agriculture, which is the area we're talking about, it was 120 feet of frontage to 180 or 200 feet deep, which is roughly a half acre. That's affordable. It's usable and practical. This is what we should do, is go back to the drawing Board and reconfigure this lot size. Everybody is here today because they do not want their property depreciated by making only 20 percent of their land usable. And as far as developing rights, that's another thing. In this GEIS study they give the example, if you want to keep your land forever wild, the Town will buy it for you at the fair market value. They give the figure of $2,000 an acre. There was an article in the Wall Street Journal last week, talking about exactly this, the

value of farmland around the country. The Northeast is one of the highest. They estimated that the average acre of farmland is would worth about $5,000. In Rhode Island it's 15,000. If you want to go to my Mexico, it's $500 an acre. If I have 100 acres, the Town is going to pay me $5,000 an acre to keep my land forever wild. That would be 100 times 5,000. That's a lot of money. I'll sell my land tomorrow, if you want to do that. But where in God's name is the Town of New Hartford is going to get these development rights and what builder is going to come along and pay 5,000 to build one additional unit. This whole concept for transferring and developing rights, I think is totally not practical and inappropriate. The interesting thing about this study, on 85, it says by 2030 no one particular alternative would grow the Town more than the other. Which pretty much proves the point that we're not going anywhere. There's no population growth. With no population growth, the impact on storm water runoff, on traffic, on environment, on everything else is not going to happen. The infrastructure is of no cost to the Town, because the Town is not

building infrastructure. Every developer that builds has to extend the existing infrastructure. He has to build the roads, the sewers, the waterline, storm line on to his property. If that what happens, what you want is to centralize it, is going to happen automatically, because they can already build where there are already existing utilities, because they can't extend it 2 miles up the road. They can extend it 100 feet or 500 feet. They can't run up the road 2 miles, but the cost is prohibited. The new building and development is has to go adjacent to existing development. And because of this you're worried about sprawls, is nonexistent. The traffic in this Town is non-existence. If you ever lived anywhere else where there's any significant population. I really think that everybody here is upset about this 5-acre deal. The GEIS, as far as the other provisions, which will be beneficial to the Town, we are not fighting and we are not discouraging. We have to make these development and the lot size and the ability to get some value of our land, not for ourself, but for future generations by having reasonable lots. One acre

is excessive. I talked to Bob, who developed Southwoods, he told me if you have raw land and you want to run the road on to your land and bring in all the utilities, it's approximately $50,000 an acre. And if you have 5 acres, it's 5 times that amount. That's just for the cost of the infrastructure, which the builder and developer has to build. As I see it, if you leave well enough alone and don't improve anything. Any development that occurs in the open area and up on the hills will be individual homes, which will never cause a significant problem. I have a nephew or -- but a cousin who's a rather prominent attorney in Washington D.C. he just bought a house, it's a suburban area of Washington D C. This is in the Southern part -- just south of Washington D.C., it's got septic tank and well water. The lot size, I couldn't believe it, as I looked at the real estate brochure, was 125 by 180. So where are we going? That's less than a half acre. An 8,000 square foot house in an area which is really an upscale community. All I could tell you is, I hope that these people will have enough impact on this Board and they will consider

our needs and wishes. Thank you.

MR. DONOVAN: Doctor, you sent a letter into our Town planner on August 6th. Would you like that submitted for the record, as well?

MR. SHAHEEN: Yes, I would.

MR. DONOVAN: Thank you. Mark that, please.

(Exhibit 1 marked for Identification)

MR. DONOVAN: I would next like to recognize Ed Collins.

MR. COLLINS: Ed Collins, 9499 Elm Street, Chadwicks, New York. Those of you who know me probably know that I'd be rather doing anything else in the world other than standing at this podium and speaking to a group of people. I loaned my Teleprompter to Brack Obama and, therefore, I'm going to read this. I've been dairy farming in the Southeast sector of the Town of New Hartford for nearly 40 years. I know the area, know the people, and most importantly I know the land. In looking at this GEIS study there appears to be one glaring oversight. What happens to the land under these various proposals when the farmers are gone?

My sons and I intend to farm as long as we can in the district. However, we would be negligent if we didn't plan for the inevitable decline of agriculture that I foresee in this area. How will implementation of this study promote agriculture. The short answer is, it will not. Is there anything the Town of New Hartford can do that will significantly promote the farming in this area? Probably not.

When the survey people were gathering information for their study, it would have been nice if they talked to some of the farmers. They took lots of pictures, counted intersections, counted cars on the road, inventory, commercial buildings, counted the parks and even looked at the plants and wildlife. But as far as I know, they did not talk to a single farmer. A lot of lip service was given to the agriculture throughout the report. What do city-based consultants for 150 miles away know about agriculture in this community? In my experience, whenever the government tries to interfere with farming under the guise of promoting agriculture, it doesn't work. The whole ethanol fiasco is a

perfect example of this.

What is difficult to farm in this district? In order to survive in modern agriculture a farmer has to become more efficient and competitive. To do this we have to farm larger and larger acreages, with larger equipment. We don't compete with farmers in our immediate area. We compete with farmers across the country and now even globally. We rent land from multiple, small landowners in this area. And we're finding it significantly difficult to do this with any degree of efficiency. Our equipment is too big for the small fields. Many landowners we rent from our imposing numerous and various restrictions on our activities. Some landowners don't want us to spread maneuver on their property or spray our crops or plant corn that might block their view. Some homeowners, particularly moving into the area, object to the sounds and smells sometimes associated with the farm. And in the long run, we feel that the New York State Right to Farm Act will provide little protection.

There used to be almost 100 farms in this district. Now there are only 4 of us left.

Of those 4, 2 are in retirement age. That leaves 2 of us, our farm and my neighbors farm.

My son and I have recently purchased land miles outside of the Town of New Hartford, and I'm concerned that in the not too distant future, our entire farm operation will have to be relocated there.

What will happen to all of the land that farmers abandoned out of necessity? This very same land that the study proposes to leave permanently in agriculture? The same land that will be prohibited or severely restricted from future development? It will begin reverting back to its more natural state, which will be brush land. We know this because we've already stopped farm activity on some of these parcels, and within several years they've grown up to brush. The small landowners do not have the equipment to keep it mowed. You cannot mow 5 to 10 acres of land with a small lawnmower.

Another major reason why farming in the Town of New Hartford is difficult are high property taxes. The end result of implementation of this study, coupled with the decline of

agriculture will result in more and more land being essentially unusable. The assessed taxes on undeveloped land will be more than the land is worth. Property owners will be being, either individually or in a groups, contesting their assessments. The basis of asserting any property is what a willing purchaser will pay. Quite frankly, undeveloped brush land is not worth much.

It may sound like hearsay for a farmer to say this, but in order to stabilize taxes in this Township there has to be an increase in the tax base. We all know that government is unwilling to reduce spending and numbers of bureaucrats. Unlike private businesses, when was the last time you've seen any government officials laid off? In the worse recession any of us in this room have ever seen, local and state governments have done little to reduce their spending. And to account from lost revenue from the recession, state and local governments have increased taxes this year. The Town of New Hartford is no exception.

Apparently, it should be noted that appointed Town officials and not elected officials

seem to be taking the lead in promoting this massive in zoning ordinances. This reminds me of the old adage: An environmentalist is someone who already has his house in the woods.

In conclusion, existing building and zoning regulations should be left in place and the farmers should be left alone. We'll take care of ourselves. The last thing we want is for the government to pretend to be taking care of us and supposedly to be protecting our interest.

This $350,000 was a waste of money. The money would have been better spent solving the storm water runoff problems for those having the worst issues. It was a mistake to fund this study and it will be a huge mistake to implement any of the various alternatives for land use found in it. Thank you.

MR. DONOVAN: Ed, I want to identify with your remarks on the high property taxes. And you and I can go see the school board together, that's why our taxes are high. In terms of why the Planning Board has been charged with this, it's, essentially, the State Law that requires us to do this. We are designated as the lead agency,

and under State Law that comes to us. The Town Board in certain circumstances is a lead agency, and in other circumstances, it's an appointed Planning Board. I wanted to correct that --

MR. COLLINS: Jerry, you have talked to me, but you didn't really want to listen to me.

MR. DONOVAN: Ed, we're not in a dialogue here. No one's mind is made up at this table.

MS. RAYHILL: I would just like to take a moment, because I think some of you will definitely remember this. About a year ago -- probably over a year ago, the Planning Board did reach out to the farmers, and some of you came in -- I believe your sons were there -- because we understood how this would impact landowners on the hills. We were interested to hear what you had to say. And I dare say that we have those meetings to thank for the attendance at this meeting tonight, because we still have been a little bit tripped up on the zoning versus the environmental impact issue, which we haven't, really, been talking about the environmental impacts tonight. We've been talking about the zoning, which we're

not here tonight to decide, nor as I've said before, I'm against 5-acre lots. It's not a zoning ordinance. I said it to Hans, who agreed with the rest of the Board's agreement, as well, we should reach out to the large landowners, because we understand that this impacts them and they should be here for this conversation, so I do have to take issue with saying that we have not considered, but all that we've heard back is, we're against 5-acre zoning. I get it. I mean, I do understand that. I am against it, too. I think, first of all, a couple of you mentioned it, farmland gone wild is not what anybody wants to see on the view ship.

MR. COLLINS: It's not that pretty.

MS. RAYHILL: I understand that. There are significant -- you mentioned there are hills and it's not flatland. Let's talk about, what if you let it go 1 acre at a time and how much would we, actually, be able to develop. Well, the problem is, not that we're going have hundred of houses on the hill, because there's ravines and waterways, there's places we can't develop. The problem is, what the Town is left with, after the

fact, is connecting the dots for services. So at some point -- and nobody, even the study, can't tell us how much in terms of water is there on the hills. How much capacity is there for a septic system are there on the hills, and you, without trying to plan and account for these things, will find that out when it's too much.

MR. COLLINS: Like you've already done, right? You found out it's too much. It's like raising kids, the way you treat the first one, you treat the fourth one. You don't treat them all differently. Now you're taking our retirement away from us. You haven't implemented this at all or anything, but --

MS. RAYHILL: We want you to keep coming to the zoning --

MR. COLLINS: We've been to them, myself or my boys. We tried to give you our information, because we are concerned. Okay?

MS. RAYHILL: We want to continue hearing from you. This is not a done deal, how this is going to look or anything.

MR. DONOVAN: I have a list of several speakers. Otherwise, I'd like to call on Carol

Benton.

MS. BENTON: I am confused. First I here 5 acres yes, then maybe 5 acres no, then maybe I'll think about it. I do know I'm Carol Roberts Benton and I live on the farm on Roberts Road and I'm very proud of it. My remarks are very, very brief. What I'm about to say, is it repetitious? You bet it is. Is our concerns we felt fall on deaf ears. We've all heard how expensive the study was, and I do want to compliment Mr. Smith, I thought his presentation with excellent, I really did. But I think the study is flawed. Again, repeat, a minimum of 5-acre lots would be too pricey and hard to sell. The Town wants to preserve open spaces and apparently, weeds, shrubs and overgrowth are okay. I, personally, am more interested in esthetics. The Planning Board and the Town Board, if they haven't already done so, should go for a drive and witness firsthand some large lots, and see how ugly, distasteful and overgrown they are. My suggestion is leaving the zoning as is. I like number one. My family has owned land on Roberts Road since 1910, approximately 120 acres. We rent

the land to a local farmer, Ed Collins and Family, hence we have no weeds. They take beautiful care of, and it does pay our taxes. Government, Jerry, should not diminish the value of our land, and some day our children should not have to try and sell 5-acre lots. Thank you.

MR. DONOVAN: Next speaker is Patrick Calhoun.

MR. CALHOUN: My name is Patrick Calhoun. I was asked by George Shaheen to come and speak on his behalf. He's out of Town because his daughter is going to college. He wanted to say, first, he'd like to thank everybody on the Planning Board for devoting their time and energy to help enhance the Town of New Hartford for all of its current and future and Town residents. First, he wanted to thank the Planning Board for all their time and devotion for the community and future residents. Oftentimes it's a thankless job with significant issues that have many perspectives. Having served as a volunteer on another Board within the Town, I can certainly appreciate the position many of you are in, making recommendations based on the research that you

perform and the input on behalf of the concerned taxpayers and experts alike.

It seems rather obvious, to me, that this Board is sincerely concerned about the future development of the Town and the impact it will have on all residents, including farmers, business owners and residents alike, not only from an economic standpoint but from an environmental one, as well.

Although, I'm sure that there are many factors behind the study, I believe the main impetus for the GEIS study, which cites land use restrictions in the Southern and Western parts of the Town, was to ensure that the Town remains environmentally friendly, as well as a good and economically feasible place for farmers to prosper. It also seems that part of the charge for this study was to offer viable options for water runoff issues that we currently face.

I find that the restrictive options presented in the study as solutions to these issues not only to be disheartening, but also to be based on little, if any, actual input from people that are supposed to be effected by these

issues, the farmers. I would like to ask what farmers within the Town of New Hartford you interviewed or asked for input on this issue.

After speaking to a number of farmers in New Hartford personally, none of them feel that the options restricting the size or number of parcels developed within the land areas cited in the study will help nor maintain their current farming viability. In fact, the farmers I've had discussions with cite these options as exasperating their farming methods and long-term ability to farm in the Town, at all.

As for the water runoff, storm water issue, if you believe that building homes, stores and public building creates water runoff issues, it seems to be, quite simply, that you are asking people to have kept their land in its natural state, in the geographic areas cited in the study to simply bear the financial burden for all of the other residents, developers and builders in the past that have not had to be accountable for the problems that they have created. I understand that there comes a time when problems must be addressed, regardless of who created them and why.

But I would hope that a community like New Hartford where everyone's position is appreciated and all residents, regardless of their financial positions are given equal rights, that a solution to this problem will be equitable to all, rather than at the expense of a few.

As evidenced by many communities across the country, some of them cited by Dr. Rao, there are other options that are not only more effective and more efficient, but more in tune with the nature of our Town.

If the options you are considering would have a detrimental effect on you individually or personally, perhaps a parent, sister, brother or child while not affecting anyone else, would you be in favor of the proposal?

In closing, I agree that there are problems that need to be addressed regardless of how they were created or who created them. But is this the best solution that we can come up with from a more than a $300,000 study? Thank you.

MR. DONOVAN: Thank you. Mr. Calhoun. Speaking of Dr. Rao, is Dr. Rao here?

MR. RAO: Yes.

MR. DONOVAN: Doctor, before you start, you sent a letter to our Town planner on August 2nd.

(Exhibit 3 marked for Identification)

DR. RAO: Thank you, Mr. Chairman, members of the Board. I know that your efforts are all well intended. However, the solution that's you're recommending is very hard to take that medicine.

The GEIS has identified 3 main problems of the future development. One is the storm water, which is geared to everybody, I'm sure, and you're trying your best to curtail the problem that may come about in the future, or future development. The second one is the traffic, the total infrastructure.

I realize that the Town Board -- the members of the Town Board, none of them have preferred the 5-acre lot, yet according to the chairman, he just mentioned, that the preferred alternative is the 5-acre lot outside of the designated development area. The second thing is the limited development within the center portion, what you call the designated developmental area.

Let me take the issue of storm water. I won't take too much time. According to the New York 1996 -- by the way, this law has been there since '96, which Governor Pataki signed into law. This is the New York State Department of DEC Environmental Review Act, which provides the guidelines for attenuating the peak flow from the construction site. What it says is, that quote, "The development site will generate no greater peak flow than prior to the development for a 2-year, a 10-year and a 100-year, 24-hour storm considered individually. Now, which means that, if we go by those guidelines for any construction that takes place on any site, that means that Type 1 Action Category of the DEC, which means that whether you construct a 1-acre lot or you construct on a 10-acre lot, runoff from that sight, during construction, after construction, should not be any different or more than what was there before you started constructing there. This is the guideline. I can show it to you. Therefore, the restriction, they are limiting the size of the lot outside the designated area would not matter, absolutely not.

Now, let's take the issue of designated development later. What's going to happen? What's going to happen, you are cramming everything in the center of the Town. Thereby, you are increasing the traffic of all the new population that's going to go in there, i.e., if it's a full build out, it's going to double the concentration of the residential units in that the DDA, into designated developmental area. You are increasing the traffic. Because of our love of the automobiles, you're going to have more automobiles going through there. And according to our consultant, there are going to be some new roads put in that designated developmental area. Now, because of this traffic, you're going to have increased traffic congestion, noise pollution, air pollution, and the amount of impervious surface, which is roof and the driveways are going to be almost 50 percent of the lot. Thereby, your interest in the runoff from that lot, because you're concentrating everything in the small area. Second thing is that, now you're limiting that central area. That's the only place you're going to have the development. Therefore, you're going

to inflict the real estate value of the land in that designated developmental area. What's going to happen? The assessed value is going to go up. Therefore, every resident in that area, including me, is going to be assessed at a higher rate, so my property taxes are going to go up, even though I may have land outside. But because my house is located in the DDA, my assessment value is going to go up, so I have to start paying higher taxes. Now, keep in mind there are many, many senior citizens are in that Town, and they are going to be drastically affected by it, i.e., their taxes are going to go up. They are on a fixed income. They can't meet the tax roll. Therefore, they'll be forced to sell their properties, which they've been living there all their lifetime there, and they built this Town, and we are pushing them out. Second thing is, that you are going to devalue the land outside of the DDA. The value of the land could go down as much as 80 percent, because you're only going to put 20 acres -- if it's a 100-acre land, 20 acres for construction, 80 acres left as it is. So you're going to drive the farmers out of their land, because of the value of

the land is gone. Another point is, 2.5 percent of New Hartford land is in the flood zone area, 100-year flood zone area. Now, the majority of that is in the Sauquoit Creek area, which runs right through the DDA. And if you calculate it, it will come close to it, 6 to 8 percent of the DDA is in the flood zone area. You may say you're not going to construct it, that's fine. But when you build out everything, you have to encroach on that. The final point is that, the infrastructure needs -- no matter where you have the infrastructure, it is needed where the population is. Whether the population is in the outside of the DDA or if the population is inside the DDA, you still have to have that infrastructure. It doesn't make any difference if you have a 5-acre lot, or a 10-acre lot, the infrastructure is going to be the same. My point is, the storm water can be handled by the DEC, which says that you can't have any more storm water than what was there before. The traffic problem is going to be exacerbated by everything inside the Town area, which is the DDA, and infrastructure is going to be the same whether you have 5 or 1 acre.

Now, the solution is try to enact the green ordinances. I don't want to be a tree hugger here. Please, do what we have to do, but don't restrict the property uses of the land. Thank you very much.

MR. DONOVAN: Doctor, one question. In my presentation, my opening, I alluded to the green ordinance, green building ordinance. This sounds like something that members of this panel will want to look at, and I'm sure the Town Board, if and when this ever gets to them. But let me ask you a question about the pre-development runoff and the post-development runoff. We have found, in many instances, given incremental growth, that that really isn't a sufficient standard. And we are considering taking a hard look at that and increasing that standard. Is that something, with your background as a civil engineer, you would think would be something to pursue?

DR. RAO: Absolutely.

MR. WOLFE: One question. Are you saying --

MR. DONOVAN: Without objection?

BOARD MEMBER: Without objection.

MR. WOLFE: Are you saying there is a process, the use of which will prevent added runoff?

DR. RAO: Absolutely, yes. It's been there since 1996. It's been there, in the book, since 1996.

MR. WOLFE: Thank you.

MR. DONOVAN: Thank you, Doctor. I think I saw Omar Massoud. Is Omar here?

MR. OMAR MASSOUD: Yes. Omar Massoud, Roberts Road.

MR. DONOVAN: I have to disclose a conflict of interest. I used to work for Omar at his restaurant and he still owes me money.

MR. OMAR MASSOUD: And he also said one day, if I'm not mistaken, at a Planning Board meeting, that you allowed, the Planning Board accepted a dog kennel at my restaurant and you mentioned that the restaurant has gone to the dogs. The way things are going now, our land and farms are going to the dogs, too.

MR. DONOVAN: You just used a minute of your time.

MR. OMAR MASSOUD: Mr. Smith, you alluded that the study was done twice in the Town of New Hartford, is that right?

MR. DONOVAN: No.

MR. SMITH: There are 2 other GEIS studies in the --

MR. OMAR MASSOUD: In the Town of New Hartford?

MR. SMITH: Yes.

MR. OMAR MASSOUD: Commercial only, not residential, am I correct?

MR. DONOVAN: That's correct.

MR. OMAR MASSOUD: All of a sudden the Southern part of the Town is targeted for this study. Make the study available for all residential property in the Town, not only the Southern part, because it all impacts the infrastructure.

MR. DONOVAN: Just for the record, just for clarification, this study had been considered for the last 8 years by 3 different Town Boards. So it's not something that just happened within the last 2 or 3 years. It's been under consideration for the past 3 years. And as a

matter of fact, the study predicted, if we didn't do something, we'd be affected by the Department Environment Conservation Consent Order on sewer hookups. So -- I just want to share that --

MR. OMAR MASSOUD: That doesn't answer my question, why only the Southern part of the Town is being targeted?

MR. DONOVAN: Well, that was the area to be determined by the consultant and staff, in scoping the study, that this was the area that had the most environmental impacts that had to be addressed. Personally, I proposed -- I urged additional areas to be included in the study, but you come up to a situation, at a point in time, where "How much can you spend?" The bigger the area, the more it costs. So that's the answer.

MR. OMAR MASSOUD: I'm going to be a little redundant. I prepared a statement and I'm going to read it, and bear with me on the repetition.

MR. DONOVAN: Would you like it entered into the record in its entirety?

(Exhibit 4 marked for Identification)

MR. OMAR MASSOUD: Yes. The GEIS is

taking the stance that it needs to restrict building to one lot per 5 acres in the Southern part of the Town because of a potential burden on the infrastructure, yet they proposed an unlimited development in a 1 mile radius on the hamlets of Chadwicks and Washington Mills, which sit at the bottom of hills.

The Southern part of the Town, if you folks would take a ride out there, you'll see a blessed topography to handle storm water. We have several gullies and little streams that can handle all of this runoff water. If the present hamlets are further developed, even more pressure will be put on the infrastructure.

All right. This has been said by many. Promoting vacant land does not preserve farm land or make something forever green. You know about the brush and everything else. These restrictions are robbing young families of looking for a country setting. Coupled with the cost of building a new home, as Dr. Shaheen mentioned, a young family might not have the resources to maintain that much land, leaving most of it not manicured and neglected. Give the young people of

this area an opportunity, Eileen Spellman mentioned --. Give the young people of this area an opportunity a country living, as opposed to allowing them to continue to leave.

Homebuilding creates jobs for carpenters, masons, landscrapers, excavators and allows money to stay local. Yet, this study claims these jobs are irretrievable commitment to labor resources, page 269-- Article VI on 269. How is supporting a local economy irretrievable? I would hope the Town would act responsibly regarding this matter. Thank you.

MR. DONOVAN: Is Richard Wolfe here?

MR. WOLFE: My name is Richard Wolfe. I'm an attorney for a few of the landowners. After listening to them and other comments by Board members, it seems that they don't need a lawyer. Except for one important point, which I think gives this whole discussion a legal context. If you pass a 5-acre zoning minimum, you effectively price certain citizens out of the market. It's acknowledged that the study area is the desirable residents' area of choice. Middle income people want to go there, and they should be

able to. But the circumstance of a 5-acre minimum lot restriction would permit only the wealthy to buy lots and build there. And the little guy -- no offense intended, the little guy would be excluded. That is, under the Law, exclusionary zoning. Exclusionary zoning is Unconstitutional, and there is case law in which judges say that ordinances which practice or create exclusionary zoning will be set aside. I hope that puts some of this in a legal context for you. I have the case, Jerry, I'll give you the sites if you're -- then there was one other comment that I had with regard to the farming. It's obvious that everybody wants to preserve the farmers activities. And it's advocated that you leave them alone and let him do his thing. The 5-acre restriction relates to that in this way, the farmer works his land his entire life, there comes a time when business is so bad, he needs money. How would he get it? Well, if he owns 150 acres, he can cell a couple acres and get the money to tied him over the tough period. But with your 5-acre restriction, he's trapped. He can't do that. There's nothing he can do. That's simply

not reasonable. They talk about solutions, buy development rights or transfer development rights for $2,000 an acre. Well, we have a three-quarter acre parcel owned by Ed Richards that the assessor says is worth $22,000. That means the acre price ought to be, here, based on the assessor, $30,000 an acre. And you're going to buy development rights for $2,000 an acre? That really does border on the ridiculous. I don't mean to be unduly critical of anybody. I know that the Board wants to do the right thing. I just hope that you will, in some fashion, expand the study to take into consideration the comments you've heard tonight. And you if you do that, I suppose that's all we can ask. I'm done. Thank you. My address is 2803 Genesee Street, Utica.

MR. DONOVAN: Don Backman?

MR. BACKMAN: I'm Don Backman. I'm appear in front of this Board for 2 positions. Number one, as an affected landowner at 9900 Mallory Road, in which I own approximately 12 acres. And Number 2, as a 2 term former councilman preceding Mr. Payne.

and I want to address certain things.

I'm glad that Peter Smith brought up the GEIS in New Hartford. He told you that, yes, there had been 2 previous GEIS in the Town, in the Route 5 corridor and in the Burrstone Road, Champlin Avenue area. What he failed to tell you was, was there was an effect, the end result, that 20 years ago, more or less, that the Town Board, then, was looking to extract money from commercial developers coming into the Town, because it was the Reagan era and things were booming and Then Town Board and supervisor were looking for ingenious ways to get money out of developers to pay for their impact, and GEIS came up, and it was implemented, first, in the Route 5 corridor and then in the Burrstone Road/Champlin Avenue area. I want you to look at this area almost 20 years later, and I want you to tell me what you see. You don't see mom and pop shops anymore. You see multinational big box stores there now. It becomes a money issue. The only people that are going to come into this GEIS area now are those who have money and are willing to spend it here. So, in effect, what you do is you hurt your little people and you end up hurting yourself by doing

it. While you take some money from them initially, is that you hurt yourself in the end. That's not really a good thing. It evidences itself as an economic discriminatory tool in the end. That's not what we want, especially in the First Ward, in the Southern part of the Town. When I was on the Town Board - this was proposed in 2000, I fought it, I fought it, I fought, because I saw what it did in the Route 5, Burrstone corridor, and I would have none of it for the area I represented.

As previously mentioned $350,000 was spent on this study. And I just want to ask how many storm water collectors, how many drain pipes, how much infrastructure could have been put in for this amount of money.

Next thing I want to talk about is how government operates and somehow tends to ignore zoning rules and regulations. I think the best demonstration of this is the Hartford Insurance building that is built outside the clearly designated park boundaries, in which no environmental studies were was done, no SEQOR was.

MR. DONOVAN: Don, would you stay on

point, please? We're here to discuss the GEIS. I'm asking to you stay on point, please.

MR. BACKMAN: The point is, is that, when government doesn't follow its own regulations, bad things happen, as evidenced there. You come in, the tighter you choke your own residents, the faster they flee from this area, as evidenced by our population loss.

I oppose a 5-acre lot proposal. It really doesn't take particular steps to identify traffic and storm water runoff, in the affect that it does not proposed any more roads to handle increased traffic. It does not say we really should have a storm water basin retention pond here, here or here. It just presumes that the water will still be allowed to run off the hill as God places it there at his whim. These are things that should be studied, identified, runoff and how are we going to slow this water off the hill before it reaches the creek at the bottom? It doesn't talk about that.

And while the -- the second point is, that while this is not a physical taking of land, it is an economic taking of land, in such that I

took time to write the Town assessor, and I asked him 3 questions: Number one, could land values be impacted? And this was his answer. "Obviously, the answer to part 1 of your question is, yes, any physical change to a property or permitted use has potential will impact value. There's no way of knowing the impact until a market is created. In other words, you're going to be able to use 20 percent of your land now, if you have developable land, instead of 1-acre lot, 5-acre lot and, obviously, your value is going to be decreased, until that marker is established. Too bad. Question 2, if this is adopted and the landowner submits proof of an appraisal before GEIS and after, are you ready do develop ag land across the board. And the answer is, essentially, no. Is that you have to see the market and determine, and look at sales data and see. Until he sees that, he's not willing to adjust anything. While you're having your land value robbed by government legislation, your property taxes, your assessment does not go down. Question number 3, is it possible that GEIS will lower the value of large tracks of land here? Again the answer is, yes,

it's possible. He says it could also, possibly, raise it, but until the market is indicated by the sales, they'll have no idea. But his answer is clear, land values will be impacted and, most likely, negatively. This imposes a vanilla approach, a cookie cutter approach to problems that should never be cookie cut in a vanilla fashion. There are some areas where 5 acres would probably be a good idea. Then are some areas where 1 acre would also be an excellent idea. You have to identify the area, the topography, the water runoff, what's there in infrastructure and then decide what's best. On an area by area basis, not with a stamp across the whole area, this is it, this is what you get. Again, the issue of 5-acre lots and the ability of a landowner, there, to properly keep that land, it's been talked about. There's not too many people in here that can take care of a 5-acre lot with their resources. It's going to promote unsightly and unkept areas. It is going to impact the farming industry. We already have a population erosion. And, again, the more restrictions you put on your residents, the faster they flee. I don't know

when New York is going to get smart and understand that we should go the other way.

And the last thing I want to talk about is, in 2005 I -- when I was on the Town Board, we worked to secure zero interest loan and build a new water system in the affected GEIS area, Mallory, Mohawk sessions, Roberts, in that area. We looked at different ways of paying for that water system. It came down to what we call an equivalent dwelling unit. If you had a house you were going to need build, to retire the debt in that pipe, at a one EDU, one equivalent dwelling unit, and if you had undeveloped land, you were going to be paying off the debt on that pipe at one half EDU. All of a sudden -- so if you have 1,000 feet of frontage, and the current zoning says 200 feet, 200 feet, 200 feet, 200 feet, 200 feet, 1 acre lot sizes, you have 5 undeveloped lots which are being assessed at one half EDU per unit. Now, you would say, "Well, that's no longer good any more. You have to have 5-acre lots." And you figure out how you're going to cut it up. For the poor guy that doesn't have the land in the back, he's now going to be retiring his water debt

at one half EDU per 5 lots, when, in fact, he may only have 1 lot. That's not what the Town Board intended. That's simply not fair. And I really don't think -- I think you issued go back to the drawing board. I've been through these studies before. I know how they are done. Basically, the developer comes in and says "What do you want, and then he gives it to you." Thank you.

MR. DONOVAN: Thank you. Without objection, I'd like to have entered into the record the E-mail response to Mr. Backman from the Town assessor Paul Smith.

(Exhibit 5 marked for Identification)

MR. DONOVAN: And just to the one point that you made, Don, and I tried to stress this in my opening remarks. This is subject to additional study by the Planning Board, by the Town Board. In the terms of zoning, in the terms of the boundary definition that -- the conceptual growth boundary, that is subject to all sorts of change. This is a conceptual line. I need to stress that. I don't think we've made that clear. That's a conceptual line. If this were to move forward, that would be subject to be reviewed by this Board

and, ultimately, by the Town Board, who would establish the zoning map. This Board doesn't do that. Guy Wilcox, are you here?

MR. WILLCOCKS: My name is Guy Wilcox. I have hearing problems and vision problems, and I can't speak very loud. Are you hearing me? Sorry. Unlike Omar, I kind of appreciated the GEIS is focusing on the Southeast New Hartford. In fact, when I first heard about it, I remember feeling honored that a governmental body had noticed us. By "us," I mean Karen Smith, Ed Richards, Billy Smith, Roger Jones; we all still live on the land that we grew up on over 60 years ago. Right? Our parents were farmers. We learned, I'm sure like Brymer learned, that each small farm, each pasture, each animal is different and special. We also learned, without having anyone point it out to us, that small farmers are in this together. A small farm community involves sharing tools, nohow, land. So when I first heard about the GEIS, about its intention, quote, "To preserve and enhance the unique necessary of the Town," I really thought, "This is great. The farms my neighbors and I have

shared for decades will remain ours forever." That was my initial impression. We would be protected from the recent sprawl that Mr. Donovan referred to in the recent OD. I liked that. But then I had second thoughts. I'm going to sound a little bit like a broken record. Ben started this off. But my question started to be, "How can we have farms without farmers? How can even the wisest municipality and the cleverest developmental rights protect agricultural lands without providing a healthy agricultural economy?" Ridden to protect the Town's unique character, the GEIS surely must address these questions. I started reading what was then the Draft GEIS. And what I found, as those of you on the Planning Committee know, and I'm sure Mr. Smith would recognize, is smart growth. Fair enough? It makes a lot of sense to me. A lot of planners and politicians agree. Just recently Senator Schumer was quoted as saying "Smart growth is the future." But in this GEIS the unique character being protected is summarized by statistics on housing density and pictures of view-sheds. There's nothing said about who we are and what we do. I

have to confess, maybe that's SEQOR's fault, because they tell us to do an environmental impact, not a people impact. I personally find that bizarre. Land here in this GEIS seems to be talked about as if we were a commodity. Cazenovia silt loam as compared to Lansing silt loam, pages and pages, and I don't know what the point is. I found no farms -- I found no analysis of the recent history of agriculture or the potential future of small farms, smaller than Ed's, in a global economy, or the potential futures of farm land when that land is no longer used intelligently and cannot support an income. There's not much about use variance. Maybe it's not appropriate. Maybe it should be. And, yes, despite the "Smart Growth" boilerplate, I was a bit surprised, I found next to nothing about federal conservation programs or regional land trusts.

Even the most valuable things cannot be preserved or not for long, wrote Mr. Berry, merely by the desire to save them or even by the necessary money or even by the necessary votes.

It will not be easy, but I hope there

will be room for give and take on how to move forward. And, frankly, I'm very encouraged about the tone of the meeting in that regard. Whatever you and the Board decide eventually about the GEIS alternatives, the central area will barely have been touched. The health of our community and of our land can be damaged, surely, by unwise planning or zoning, but the land will still be there. And for it to remain productive and economically viable and scenic and a benefit to the whole Town will require a community's effort and imagination. We are moving into a future that none of us can really predict. It may be tougher than we have been counting on, as recently as a year ago. That may just make us more conscious of having and being neighbors and more apt to consider what it is that this, quote, "Unique character of New Hartford means," that the GEIS was commissioned to protect. Thank you.

MR. DONOVAN: Is Gail Laller here?

MS. LALLER: I was told to sign that whether I was going to make a comment or not. I think everything has, pretty much, been said.

MR. DONOVAN: Is Dr. David Wellenstein

here?

DR. WELLENSTEIN: David Wellenstein. I'm on Sessions Road, Town of New Hartford. Thank you, Mr. Chairman. I'd like to thank the Board for enduring our comments through this steamy evening.

Pages 119 and 120 in the study list endangered species. It talks about endangered plants and animals. But 2 species were left off, one was the farmer, and we heard that the farmers can speak for themselves. But the other largely unmentioned, expect for Omar's comments, are young people. That's another endangered species. I don't think there's anybody here who can speak for them tonight. The population of New York State peaked in 1970 and has been in decline ever since. The Town of New Hartford has lost 3.6 percent of its population between the last 2 census. Recent studies have shown that the Town Of Town of New Hartford is aging in place, more so than the surrounding towns. I think we know what that means. It simply means that we're staying, our children are leaving and they are not returning.

I'm sure it's every parent's dream that

their children will go off to college and eventually return to the area. This frequently is impossible, because when our young people return from college or the military, they can't find jobs. There are no jobs, because of the overall Upstate economy. We know that's secondary to high taxes and overregulation. We're not going to fix that problem tonight. The Town Planning Board is not going to fix this problem. Unfortunately, our children will continue to leave and never return.

However, we shouldn't add another impediment to keeping our young people from coming back. No matter how you slice and dice the GEIS study, 3 of the 4 proposals will increase the cost of young people buying a home in rural New Hartford. It doesn't take a lot of thought to realize that a 5-acre parcel of land is going to cost a lot more money to buy and maintain than a 1-acre lot.

We have a very good school system here. We've recently spent approximately $25 million making various improvements. The State Education Department says that our school building capacity far exceeds the student enrollment. This should

worry us. We need students. We need young people. We need to remove every roadblock possible to allow our children to return.

The growth industry in this area seems to be assisted living centers and senior houses facilities. I know we need them. I sure hope there are enough young people left to take care of us in them.

The demographics used for predicting growth in this area are based on building permits issued between 2000 and 2007. I feel any data collected before September of 2008 - and we know what started happening then - really isn't going to be reliable to predict future growth. Zoning ordinances to preserve farmland and open space in the so-called charm of our area, probably aren't a bad idea. I know we have to do somethings to satisfy State requirements. We're obviously going to have to face those issues. But where is the charm when it helps prevent young people from returning?

I feel this plan is, basically, obsolete -- was basically obsolete before it was submitted, based on the new economy. This plan

may work for areas surrounding large, growing cities where there really is urban sprawl. That's not here.

We do have storm water runoff issues. These issues need to be solved now. Any attempt to slow down or stop future growth does not fix the current problem. It's a little like solving the teenage pregnancy problem by closing the delivery rooms.

However, I think we can work towards solving both problems. Let's start by scrapping this entire proposal or, at a minimum, delaying it. Let's wait and see what post-recession New Hartford looks like. I'm scared about the economic future of this area, and I hope you are. Thank you very much.

MR. DONOVAN: Mary Jane Perry?

MS. PERRY: I am against this. My family has been here, they bought our property for pounds and schillings in 1899, and I think that's pretty awesome. We've still been allowed to keep it. I would like to keep it, as would my children, and one of them does live here, and she would like to be here too. I would like to see

the nature of the land. We have planted trees, because we're not viable anymore as a farm, we're too small and with the road and traffic, it's too hard to get to us to use the land. We have trees that will go into tall, big trees and help the surface water, which I know is a problem. I hope it will be kept for all of us who live in this area.

MR. DONOVAN: Sid, can you come up?

MR. PERRY: Sid and Mary Jane Perry. We live at 415 Higby Road, New Hartford. We're in Ward 2. I have given a copy to Ms. Shaw, of the speech I was going to give tonight. I have a few extra copies. She said if any of you members need a copy, she would gladly print it for you. There's an extra three. Most of the information that I was going to talk about has been said, so I don't want to repeat it. Both my wife and myself are, obviously, opposed to this study. We live in an area -- our land is at Valley View and Higby Road. It's viable for building, and we have water, we have sewer both sides. When they put the water, they had to blast with dynamite to put the water in up on Higby Road, and some of the

house developments on Valley View and Higby Road, the realtor went out of business because of the rut formation that is in this area. And it was very costly just to build basements. However, I am opposed to this, like everybody else is, and I see that everything is just moving ahead just fine. I have no more to say. I was going to read it, but it's already been said. We'll submit it for the record.

MR. DONOVAN: Thank you. Kristine Giotto.

MS. GIOTTO: My name is Kristine Giotto, and my husband and I reside at 3823 Mohawk Street, in New Hartford. And between 5 parcels, we own over -- just over 100 acres. I'd like to start by saying, that our family is opposed to the recommendation of the GEIS study, especially with regard to lot size and land restrictions. Dr. Shaheen is right, 1 acre is enough for a building lot. I've written a letter, that I've submitted to Mrs. Shaw, outlining factors, such as blocking all but the wealthy from living in our community, the devaluation of property value, reduction of the tax space due to reduced property

values, rates of construction, storm water, etcetera. All of those points have been made, so I don't want to repeat them.

I'd like to make two different points. The Constitutionality of the recommendation and the rights and actions of those affected. As to the Constitutionality of the recommendations, the Founding Fathers of the United States felt that the right to own private property and to have certain rights as a property owner was so important that they mentioned private property in the Constitution not once, but twice. The U.S. Constitution provides explicitly for the protection of private property in both the 4th and the 14th Amendment. The 5th Amendment states: "Nor be deprived of life, liberty or property, without due process of law, nor shall private property be taken for public use without just compensation." And the 14th Amendment states: "No state shall make or enforce any law which shall abridge the privileges or immunity of citizens of the United States, nor shall any state deprive any person of life, liberty or property without due process of law." So to reiterate, no

one can take our property without just compensation, fair market compensation. The GEIS restriction will result in a devaluation of our property, the equivalent of taking away its worth or fair market value. Now, traditional principals of property rights include four things. Number 1 is the control of the use of the property. Number 2 is the right to any benefit from that property. The 3rd thing would be a right to transfer or sell the property, and the 4th would be the right to exclude others from the property.

Now, historically, when people started coming to the United States from Europe, and more specifically from England, all the land in Europe was owned by the king or queen, who bequeathed land to nobles, and the nobles had the common men do the work on it. The regular folks never owned the land. All of the benefits went to the nobles and then eventually back to the king. When our Forefathers got together to form a new government, they were influenced by people like John Lock. In fact Lock influenced Thomas Jefferson so much, that he wrote into the Constitution, that "We are given by our creator certain rights, which are

life, liberty and the pursuit of happiness, which includes the right to property."

So property is not just available to kings and queens in America, but to everyone. And those of us who own large parcels are especially tuned to the 5th Amendment, because of the whole point that we must be compensated if the government is going to control our privately owned property. It does boil down to money, unfortunately. Money is one of the elephants in the room, so to speak. No one wants to point it out and admit what a significant factor it is. We might as well call it out, because the GEIS study has cost the taxpayers a lot of money to do the study, and the landowners who will be affected by its policy stand to lose a lot of money if we lose control of our property. The GEIS recommendations are, to my sight of vision, the local government trying to have their cake and eat it too. You can't restrict our usage and devalue of our investment and continue to expect that we're going to maintain the property and pay property taxes based on residential rates. We either have the same rights as landowners in other parts of

New Hartford, or if you're going to take away our rights as landowners, discriminating us with different rules from other parts of New Hartford landowners, other parts of the Town, then we must be compensated. And anything else is really land grabbing. The Constitution protects the rights of the people. It does not give rights to the government. Sometimes we think government has a lot of rights and we fear our government, but government only has the power that we give it. Government is controlled by us, the People. This means we can and will exercise our right to vote. We will organize and vote out any government officials who proceed with unfair recommendations for land restrictions and lot size. It is blatantly unfair to punish or penalize one section of the Town because we were good citizens who held and maintained our land.

now, unfortunately, my father always has a saying, you're not here to fix the blame, but we definitely need to fix the problem. So what we need to do is go back to the basics. Our Constitution gives rights to individuals, to people, and one of those rights is in the 5th

Amendment. It's the right to own land, to control the use of that land and to benefit from your own property. To own a piece of America. Thank you.

MR. DONOVAN: If I could just ask you, you mentioned the 5th Amendment several times, Constitutional Protection For Property. Do you have any case law that relates to the regulatory taking under municipal authorities?

MS. GIOTTO: I can get it for you.

MR. DONOVAN: Carleton Corey?

MR. CARLTON: Carleton Corey. I reside at 9011 Red Hill Road, where I own approximately 50 acres of land. And on that land, my wife and I own and operate a garden center. And we probably utilize, oh, maybe, 4 or 5 acres of that land to do our business. And the remainder of that land is gorgeous, if I say so myself. And the reason it's gorgeous and the reason we have to keep the Collins family in business is that 2, 3 times a year they come up with this huge lawnmower, it's 18 feet wide and they mow my lawn and keep it beautiful. I, too, because I'm following a number of folks repeating things, but I'm going to do that. I'm going to highlight the things that I

think are so important that they need to be repeated. A lot of dialogue took place the last couple of weeks. Mr. Donovan and I spent some time on the telephone. Mr. Reed, Mr. Payne, Mr. Backman were all kind enough to come up to my farm and personally take a look at what my operation was and what the lay of the land was, and I really appreciate that. I learned a lot from them and I hoped they learned something from me by seeing the situation that we're in. One of the things that I learned about the GEIS plan was the concept of voluntary fees in lieu of mitigation. And that being one of the major goals of the GEIS. And I think that needs to be applauded. The Town certainly needs that tool to be able to have the developers help take care of problems that they create when developing, rather than putting the entire burden on the taxpayers. I still, as many of you, have the major question about the concept of clustering, the remaining acreage goes forever wild, I don't know if it's an extension of the Adirondack Park Reserve or what it would be, but that doesn't make sense to me. We certainly need more dialog to figure that one

out. I learned a lot about road frontage requirements and the gray impact that they will have on the future of my property. In regards to the Comprehensive Plan, when that Town questionnaire came to me, I personally did check on it, that I was interested in preserving the rural lay of the land and the beauty of the land in Southern New Hartford. But I didn't realize that it was going to be at my expense and at your expense. I think if the question had been worded "Would you like to maintain these open spaces at the cost of yourself and your neighbors," I think my response might have been a little different. We talk about traffic flow. Just, personally, I've never had a problem with traffic flow in the area. It seems to run very smoothly. One problem I do have in the area - it's already been mentioned, but it is important - I do have two children in their early or mid twenties, and neither of them are coming back here. Another of my concern was economic discrimination as it relates to the future homeowner's. Again, it's already been mentioned. But are we restricting future homeowners to only a certain economic class

and discriminating against others. Economic discrimination as it relates to current and future landowners, and plenty has been said about that. One thing that I found useful tonight was just listening to people and the dialogue and the information that they have. And the one thing that I'm walking away from here tonight with is, I'm certain that we need a lot more dialogue. Without it, there's going to be mistakes made, huge mistakes and mistakes we're going to have to live with for a very long time. No matter if it's with the Planning Board or the Town Council, elected officials, we certainly need to keep talking, like we're doing tonight, and let them know how important this matter is to us. Thank you.

MR. DONOVAN: The list I have in front of me, it shows three more people. In this order Lou Leogrand, Bill Smith and Nancy Shaheen. Is there anyone else wishing to be heard tonight, that hasn't signed in? Could Lou Leogrand -- is Lou still here?

MR. WOLFE: I think he left. I think George Massoud might want to say something.

MR. DONOVAN: Okay. We'll get to him. Is Bill Smith still here?

MR. SMITH: It's repetitive.

MR. DONOVAN: Nancy Shaheen?

MS. SHAHEEN: I'm Nancy Shaheen. I live at 5 Sylvan Glen Road. My mailing address is Utica, but I'm in the New Hartford area. I'd just like to address the Board and say, first of all, thank you for hearing us out. I'm not a large landowner. I live on a little bit less than an acre of land. I am considering myself very fortunate to be a part of New Hartford School District. I just wanted you to know that I feel very, very strongly that we need to do everything we can to encourage the progress and development of New Hartford. Do we need to do it smartly? Yes. Do we need to have 5-acre lots? Absolutely not. No one I know, in my generation, lives on 5 acres. I'm sure most people you know don't live on 5 acres. I can't barely maintain the land that I have. And I to take a little bit of issue about your comment, Mr. Donovan, about the taxes. I have siblings who all live all over the Northeast, I have friends all over the country. Taking the

issue of school taxes out, our property taxes are far and away higher than much greater valued properties in Massachusetts, New Hampshire, Vermont and in the Virginia area. I know for a fact, because I've seen the tax bills of many of my friends and I know what the taxes are. I do think we have extremely high taxes, very low relative real estate values. We need to do everything we can to encourage the return of not only people my age, but the next generation as well. I do consider myself relatively one of the younger generations of this Town. I have kids enrolled in the New Hartford School District. I came back here. I consider myself very lucky to be back here. On a daily basis, I see people who tell me, "Oh, I wish our kids could come back here." We need to preserve the future of this community. It's lovely to have historic landscapes, the scenery is gorgeous, but who is going to take care of you, to provide the Emergency Room services? Who is going to be here to work as EMTs, to work in the nursing home to sustain this local economy? 5 acres is ridiculous. No one I know can maintain 5 acres.

We need to be practical and think about the future of this Town. I mean, New Hartford is a wonderful community. I'm thrilled to be back here. I wish all of my siblings and friends I went to high school with could be here, but they are not. We need to do what we can do encourage their return, to remote the future of this Town and not make it more restrictive. That's all I have to say.

MR. DONOVAN: Come on up. And would you state your name for the stenographer, for the record, and your address?

MR. RESTIVOE: John Restivo, 8 Waterford Lane. I wanted to say something quickly, along the same lines as Nancy Shaheen. I'm not a big landowner. I own a very small parcel of land. I feel very fortunate that I have a beautiful home on it and very fortunate to live in this area. I have not lived here my whole life. I've only been here 12 years. It's a beautiful place to live. Everybody I met who has grown up here, is a special person. This is a great place to raise a family and have children and, hopefully, have children stay. The only thing I will say is, it's beautiful to drive out of Utica and out of

New Hartford and be in the country in two or three minutes; it's great. You really -- really it's a special place and you don't feel like you're in a City of Utica or Town of New Hartford. It feels like it can be congested, but in two minutes you're out of that, and that's great. The burden has fallen to the farmers and the large landowners outside of the more congested areas for a long time. They've held onto that land, they've maintained the land; that's why it's beautiful. Okay. But I think we need to remember, it's not a museum. People own this land. They've used the land. Times change. People change. People move on. Needs for how you use land changes. It's great to have a lot of farmland. It's great to have open tracks of land. That's beautiful. But the cost of that can't fall to those people who happen to own that land, because the benefit of driving two minutes outside of New Hartford is, that you're in that country, but -- I won't have to pay for, but the people who have lots of land will have to pay for that. I don't think that's fair. This is a Town of a population that's spread over a grade area, different demographics

and it shouldn't fall to one demographic. That's all I have to say.

MR. DONOVAN: Thank you. We have received two written comments, one from Concetto Mazza and one from Jean Hunt that I would like to have entered into the record. As I said earlier the open comment period runs through August 20th, so if there's anything you heard here tonight, that you wish to comment on additionally, you may submit additional written comments through the Town Planner. And his address is on the bottom of the hearing guidelines. So other individuals wishing to be heard --

MR. MESSA: James Messa. 29 Sherrill Lane, New Hartford. Some of you may not know me. I'm the third candidate running for the First Ward Councilman. I do want to applaud everybody for putting up with the sickness in the room and coming forth and giving your thoughts. I'm a little perplexed by hearing some statements from some of the Planning Board and council people, themselves, as in terms of opposing the 5 acres. I'm, kind of, misunderstood as to why we're actually here then, if we're actually opposing the

5 acres. But having said that, I hope you take forth all of the residents' comments and take this very seriously, because they do bring forth a lot of input and insight, and they are taxpayers here and the voice needs to be heard and not just fall on deaf ears. And I do appreciate your time to listen to myself and them and I do believe that the 5 acres is excessive and I think that we can come to a compromise that all parties involved will be satisfied with. Thank you.

MR. DONOVAN: Thank you. This is our last speaker.

MR. MASSOUD: My name is George Massoud. I'm an attorney. I live in Utica, New York and I do represent some of the landowners here today. I think one of the first things that we must address here, and everybody has to be aware of, although, there was some discussion here earlier, and I believe from Jerry, that this is not a zoning issue and we're not here for a zoning law. Certainly, the GEIS and any recommendations that may be made by the Planning Board and, ultimately, addressed by the Town Board can serve as a basis for future zoning laws. So, of course, whatever

is adopted and may be adopted through this Board and subsequently the Town Board, will, certainly, affect legislation and then, of course, it is a zoning issue. And we had talked about zoning, many of the issues, I think, especially take, for example, the storm water issue, could be addressed in specific manners through zoning laws pertaining to development of individual parcels of land. I think, maybe, what some of the efforts should be centered upon is, studying the storm water issues, see how those issues could be addressed, whether it is in very small parcels or separate areas, and then when the developer or landowner or whoever wishes to develop that property, would have imposed upon them through, whether it's zoning ordinance, of what have you, specific guidelines that would have to meet in order to develop their land. Therefore to address those concerns, versus a cart blanche restriction on a lot size, which does not specifically address the issue, I think is a bit counterproductive. I'm a little concerned, also, about the discussion about the sale of development rights. To me it seems that, if things can, quote, unquote, "Go out to be bid,"

perhaps to developers that that, itself, can lend itself to some abuses. I think that the people should be concerned and the Planning Board should be concerned that this could invite some wealthy developers, maybe out of state, out of town developers that come on in and try to buy up development rights from people who may panic and feel that their land is not going to be worth anything, and then you're going to have a situation where you have the have nots, now, where are those development rights are going to be utilized, if ever and how does that promote the growth of this Town or address any of the issues. I also feel that, perhaps, and what must be considered here, is that by restricting lot sizes could also be counterproductive to the overall goal of preserving resources, storm water runoff and any of the other issues, in that some of the landowners may be, now, be forced into a situation where they're going to have to try to have cluster developments in order to get their value out of their land. I think what's happening more in the Town than not, is the incidental sale of building lots. I think there's many farmers, there's many

people, landowners in this Town who are selling a lot here, selling a lot there. Many of the farmers, they don't have a 401-K plan. They don't get quarterly statements to tell them what they're able to do or how they're able to retirement. There retirement is in the ground. They buy their property; that's all they have. They sell a lot, they sell a lot there. They live humbly. To force them to, maybe, have to get into a situation where they have to cluster develop or come up with master plans, first of all, is cost prohibitive to the landowner and really, I think, would be counterproductive, if successful and these people would be forced cluster develop is going to be to counterproductive to what the overall goal here is, which preserving some of these resources. That's it. Thank you.

MR. DONOVAN: Thank you. George, to your point about transfer development rights, as you know, that would have to be established in zoning law and that the Town Board would have to designate sending and receiving zones. Just so folks understand the concept. That's all. As I said earlier -- and by the way, thank you everyone

for coming. Thank you for enduring the two and a half hours in this warm room. And as I said at the beginning, we're in the fourth inning of a 9 inning ball game here, and all the substantive comments raised here tonight, that going to be in the final report will be addressed in the final report. Any recommendations in -- from you folks tonight will be considered. It's he ever possibility there will be amendments to this in the final report. We've listened. We've heard what you said. Frankly, some of the things that you've said, we have discussed as a Board. We're looking for other techniques, other avenues to address some of the concerns that you have. So I want to share that with you, and I also want to remind you that we expect the final draft to be before the Planning Board, perhaps, as earlier as October. As I said it, will be on the website. We'll keep you posted. I'm going to yield to Ms. Rayhill for a comment or two.

MS. RAYHILL: I have listened to everyone's comments. I have a couple of things to say to follow up with, which I'm against 5-acre lots. I don't want anybody to be frightened about

the GEIS, because that is not what it says. If we accept it and -- then the Town Board, which is the process, at the end of the hearing process. It does not mean that we have disregarded what we have heard here tonight and that we're moving for 5-acre lots. Absolutely not. There's a whole zoning process that has to take place. What it does mean is, this is what we were hoping to get to tonight, we understand there's impact and we have to get them to run numbers on impacts at certain levels. From what we saw in the report, leaving it as it is, the impacts are too great and it would effect development, because what we'd have to ask for from developers would be a lot in order for them to devote to mitigation what they would need to do take care of future conditions. I've taken a particular interest with -- someone mentioned water ways, someone mentioned the slope on the hills in terms of whether all of the land was developable. I'm very interested in the green design standard and how that would be helpful. Mr. Wilcox mentioned having incentive for small farms. We're trying to do this starting from scratch. And I'm wondering if -- because I'm not

from here. I grew up, actually, in Virginia, which is a completely different place than what I grew up in. I moved from there to here in '91. I don't remember the order of things, but Griffiss sold, GE sold and Lockheed Martin and then that moved to Syracuse, boom, done, the beginning of the end. I understand what everybody is saying. There's not been development here since I've been here. Where I've lived, it's been just the opposite. Do I expect that kind of growth to happen here? No, I do not. As I've spoken with my husband, Peter, who did grow up in the area, he said when he was young, people scoffed at putting Sangertown Mall in a marsh. They were laughing. When he left for college, he remembers there was no mall and people were laughing about putting a mall in a wetland. So you don't know what will, come and it's worth wild, in my opinion, doing this planning. I would like to take a look at the land -- again, I'm not from here. Almost everybody who spoke seems to have lived here all of their lives. Maybe we could figure out waterways which are not developable. Maybe it would make sense to incorporate those into some

storm water. As Mr. Massoud said, there are natural ravines that support of things. I don't want the fact that if whatever we decide to do with the GEIS, for anybody to think they've made up their minds, they're done. That couldn't be farther from the truth. We're trying to get a handle on the impact. We're trying to figure out how the Town can handle those future impacts. I also have children, they're in the schools and I would like to see the area grow. That's all I have to say. I don't want you to think we didn't hear you. I'm very interested in hearing more, please.

MR. DONOVAN: Do any of the members of the Board wish to make a statement?

MS. ROTTON: Peggy Rotton, Board member. I live on 18 Danberry Road. We've lived here 50 years and I moved about 4 or 5 miles, always in the Eastern part of Town. I also grew up on a farm and I understand the farming problems. I have been very sensitive to that. But I think the other part of the concern of mine for this study being as good as it can and doing the best we can for our community, is that downhill from the

farms, we have problems with erosion, we have water problems, we have the Sauquoit Creek problem. The DEC is not happy with this. And I think that we have to look at the impact of what the farmland does to the land below us. So we need good farming practices for those farmers who do practice and I know - you know - it's rotation of crops and all of that. I grew up with that. I can see what it's done in some places on Higby and Mallory and Roberts, because I drive around that area a lot. I also see this happens to some of my neighbors down off of Oneida Street, where one woman has lost a third of her property. It's all runoff. This community in the Eastern part has developed enormously in the last 15 years. There's a lot less farmland and we have a problem with grass. And, hopefully, you'll have patience with us and, hopefully, you too will be responsible to get back to us and talk to us about what you can do, so we can have the best community problem.

MR. DONOVAN: Thank you. I'm going -- Omar, is there a question we can do after the meeting?

MR. OMAR MASSOUD: Is there a timetable on when the decision will be?

MR. DONOVAN: As I said, the final draft could be to the Planning Board in October. We need to look at that, and we'll take a look at it in October. And when we act on it, I can't tell you tonight. So thank you. Meeting is adjourned.

(Whereupon, the Hearing concluded)

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C E R T I F I C A T E

I, **JACLYN BELLINO-CONTE,** a Shorthand Reporter and Notary Public in and for the State of New York, **DO HEREBY CERTIFY** that the foregoing is a true and correct transcript of my shorthand notes in the above-entitled matter.

Date: October 9, 2009

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JACLYN BELLINO-CONTE,

COURT REPORTER.