

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

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5 CRUMB RUBBER MANUFACTURING  
6 7 CAVANAUGH DRIVE - REVIEW AND ACTION ON SEQRA,  
7 CONCEPT ACCEPTANCE ON PROPOSED CONCRETE PAD  
8 FOR OUTDOOR STORAGE  
9 \*\*\*\*\*

10 THE TAPED AND TRANSCRIBED MINUTES of the above  
11 entitled proceeding BY NANCY STRANG-VANDEBOGART  
12 commencing on November 17, 2009 at 7:43 p.m. at the  
13 Public Operations Center 347 Old Niskayuna Road,  
14 Latham, New York 12110

15 BOARD MEMBERS:

- 16 JEAN DONOVAN, CHAIRPERSON
- 17 THOMAS NARDACCI
- 18 CHARLES J. O'ROURKE
- 19 TIMOTHY LANE
- 20 ELENA VAIDA
- 21 PETER STUTO, Jr. Esq., Attorney for the Planning Board

22 Also present:

- 23 Joe LaCivita, Director, Planning and Economic Development
- 24 Joe Bianchine, ABD engineers
- 25 Barry Takallou, Crumb Rubber
- Joe Grasso, Clough Harbour and Associates
- Mike Lyons, Planning and Economic Development

1                   CHAIRPERSON DONOVAN: Also on the agenda  
2 this evening we have the review and action on  
3 SEQRA and concept acceptance for Crumb Rubber.

4                   Crumb Rubber is location on 7 Cavanaugh  
5 Drive, off of Albany Street.

6                   One of the issues that I had and we  
7 addressed this afternoon at a meeting up at  
8 Town Hall with Joe LaCivita and the Town  
9 Attorney was a concern about the history of  
10 this project. I know that Crumb Rubber is  
11 there and I didn't know the history of how it  
12 got there.

13                   Joe, I know that you're going to explain  
14 that this evening for the other members of the  
15 board because I'm not certain what kind of an  
16 issue it is for them, too.

17                   MR. BIANCHINE: I'm Joe Bianchine with  
18 ABD Engineers and surveyors. With me tonight  
19 is Barry Takallou who is the owner of Crumb  
20 Rubber.

21                   Crumb Rubber came to the Town of Colonie  
22 in the year 2006 and purchased a warehouse on  
23 Cavanaugh Drive. It's the last warehouse on  
24 the right. There are four big warehouse  
25 buildings.

1                   If you're not familiar with Cavanaugh  
2                   Drive, it's located off of Albany Street just  
3                   in from New Karner Road. It backs up to the  
4                   railroad. They actually purchased 14 acres of  
5                   land.

6                   CHAIRPERSON DONOVAN: Those are the  
7                   railroad tracks there?

8                   MR. BIANCHINE: Yes, they are right here  
9                   (Indicating). New Karner Road is right here  
10                  and this is Albany Street over here  
11                  (Indicating). There are three other warehouses  
12                  that are right there.

13                  MR. O'ROURKE: So they don't own the  
14                  Goodyear -

15                  MR. BIANCHINE: They do not own the  
16                  Goodyear.

17                  What Crumb Rubber does is they take  
18                  shredded automobile tires and they super cool  
19                  these things down to about 400 degrees below  
20                  zero. When they do that, the rubber shatters  
21                  and breaks into small crumb size particles.  
22                  That's how it gets its name; Crumb Rubber.  
23                  They separate it and sort it here to it grated  
24                  state. They take out the nylon and the steel  
25                  belts from the tires and so forth and then

1 that goes away as a waste product.

2 The crumb rubber is used primarily for  
3 athletic fields and many colleges and high  
4 schools and pro athletic fields and so forth.  
5 It's the base underneath the Astroturf. It  
6 works very well and it acts better than the  
7 actual turf because there is no slipping and  
8 tearing and so forth. It is beneficial to the  
9 athlete's muscles and so forth. So, that's  
10 what's being done within the building.

11 They actually are currently the largest  
12 crumb manufacturer in the northeast. They  
13 employ 25 people here and on a monthly basis  
14 they are using about 500,000 tires. So, they  
15 are getting rid of a product that otherwise  
16 would wind up in the landfill someplace.

17 Over the years since 2006 we've had many  
18 minor applications before this board. We've  
19 had applications before the board for various  
20 pieces of equipment that went on the outside,  
21 nitrogen tanks, dust collector pads and  
22 conveyors along the west side of the building.  
23 We've also added a ramp to get into the back  
24 of the building. We've have a scale house over  
25 here (Indicating). We've had approval for

1 storage pads when they were built. We had  
2 approval for - at first it was a shed and then  
3 it became a building addition for a little  
4 over 8,840 square feet. It has a contract to  
5 be constructed but it hasn't been constructed  
6 yet. It's in this location here. Everything  
7 here in the pink has had minor site plan  
8 approvals through the Town of Colonie.

9 MR. NARDACCI: Joe, are each of those  
10 separate? Each piece was a separate - minor,  
11 minor, minor?

12 MR. BIANCHINE: Sometimes there were two  
13 or three little things together like a pad  
14 over here and another pad over here. But there  
15 were several steps.

16 MR. NARDACCI: Was that purposeful to do  
17 it a minor at a time?

18 MR. BIANCHINE: It was as they have  
19 expanded. They came in here and they've added  
20 a third line. Each time they expand, they need  
21 something else and they come back.

22 MR. LACIVITA: Joe, if I could?

23 Back in 2004 or 2005 this was a statewide  
24 initiative because they have to address the  
25 problem of waste tires throughout the State of

1 New York. The State of New York actually  
2 invested twice in Crumb Rubber to employ their  
3 cryogenic line which Joe talked about the  
4 freezing. They are actually working with the  
5 town's IDA for it. It's a pass through with  
6 the Town of Colonie. We monitor their contract  
7 and their production rates through the Town of  
8 Colonie IDA. The State of New York, like I  
9 said, invested both times in their additions  
10 to the cryogenic line.

11 CHAIRPERSON DONOVAN: They've invested a  
12 lot of money?

13 MR. LACIVITA: I don't want to speak for  
14 how much they have invested but you're talking  
15 both contracts were in the \$300,000 to  
16 \$400,000 range, plus there is a current one  
17 pending at the state as well.

18 MR. O'ROURKE: What's the concrete runway  
19 back there?

20 MR. BIANCHINE: That's what I was just  
21 going to say. One of the things that was not  
22 approved through the Town of Colonie that got  
23 started there was a concrete pad here that is  
24 about 20,000 square feet of pad. It was built  
25 right through here without an approval from

1 the Town of Colonie. The Town of Colonie, when  
2 they found out that it was being constructed,  
3 red tagged it and stopped the construction on  
4 it. That's why we're here tonight. This is for  
5 approval of a major project because what they  
6 actually want to do here is construct a total  
7 of 88,000 square feet of exterior slabs for  
8 the storage of their crumb rubber. They bag  
9 it.

10 If you've been out there you can see  
11 these big bags that are about 4 by 4. They're  
12 about four feet high. They sit out there and  
13 they use that to store it.

14 MR. LANE: Would this have proceeded if  
15 the town hadn't identified that they had done  
16 that work without any permit? What would have  
17 occurred otherwise if the town hadn't red  
18 tagged it?

19 MR. STUTO: It would have been a major  
20 application.

21 MR. BIANCHINE: Absolutely.

22 MR. NARDACCI: If you had to go to a  
23 minor application - the work just started  
24 without any approvals?

25 MR. BIANCHINE: Just started without

1 anything.

2 MR. NARDACCI: Can you explain why?

3 MR. BIANCHINE: The owner felt that it  
4 was just an outside slab that wasn't used for  
5 equipment or anything. It wasn't a building.  
6 It wasn't anything like that.

7 MR. LANE: Didn't he know that it was in  
8 a conservation overlay?

9 MR. BIANCHINE: He didn't know it at the  
10 time. When this property was purchased in 2006  
11 it was industrial zoned property. There was no  
12 conservation overlay district. The  
13 conservation overlay district came in with the  
14 zoning change in 2007. The owner was not aware  
15 of that.

16 The conservation overlay district  
17 complicates this process because it goes right  
18 through here - this orange line (Indicating).  
19 This side is in the conservation overlay  
20 district. It's approximately 8.25 acres in  
21 here that's within the conservation overlay  
22 district.

23 MR. NARDACCI: Now when they did the  
24 rezoning of the town, were the owners notified  
25 of the zoning change?



1 MR. BIANCHINE: Only through how  
2 everybody else was notified in the town. It  
3 was in the paper.

4 MR. NARDACCI: So did the property owner  
5 know that the zoning had changed?

6 MR. BIANCHINE: Their base zone didn't  
7 change. It was still zoned industrial. It was  
8 just that the overlay district was added to  
9 it. They didn't pick up on it. It was a  
10 mistake and we're here to try to rectify that  
11 mistake at this point.

12 What they would like to do is add a slab  
13 out there to this configuration here  
14 (Indicating). It would total about 88,000  
15 square feet. It's another 68,000 square feet  
16 from what's there now.

17 MR. O'ROURKE: Is that where all the  
18 stone is laid?

19 MR. BIANCHINE: The stone is all over in  
20 this area here (Indicating). I think that this  
21 is all dirt on this side.

22 This would be the storage here and it  
23 would basically be the same bags that are out  
24 there now on pallets.

25 Around these pads we've designed a

1 stormwater management system. This site has  
2 sandy soils out there but it has a high ground  
3 water table. So, what we'd have to do is even  
4 though these slabs are here, we're not going  
5 to be really using those slabs. We'll have to  
6 raise those slabs up about two feet in  
7 elevations.

8 MR. O'ROURKE: What are the storm drains  
9 that are in there, Joe?

10 MR. BIANCHINE: They are drywells that  
11 are there.

12 MR. O'ROURKE: They're just drywells.

13 MR. BIANCHINE: That's all they are is  
14 drywells. Not only is this in the conservation  
15 overlay district, it's also in an aquifer zone  
16 from the state. So we have to design this  
17 thing so that there are three feet of  
18 separation between our stormwater infiltration  
19 period and the high groundwater. In order to  
20 do that, we had to raise the slabs up about  
21 two feet.

22 Then what we have created is what I call  
23 a moat around the outside which would be a  
24 clay lined ditch. The water from these slabs  
25 will run to that ditch. If there is any crumb

1 rubber or anything on the slabs, they would  
2 settle out in this area and then those would  
3 overflow to a larger area here (Indicating)  
4 where it could infiltrate into the sand.

5 CHAIRPERSON DONOVAN: So that system is  
6 not in place now, but this would be an  
7 improvement?

8 MR. BIANCHINE: Oh, yes.

9 MS. VAIDA: I'm sorry I may have missed  
10 this but what do you do with this? You said  
11 you chopped up the rubber using this  
12 procedure. Isn't there contaminates in tires?

13 MR. BIANCHINE: It's just rubber. There  
14 are steel belts in there and there are nylon  
15 belts in some of them. That does get pulled  
16 out.

17 MS. VAIDA: I guess that's my question.  
18 The procedure that this goes through - it sort  
19 of purifies the rubber?

20 MR. BIANCHINE: You're just getting  
21 rubber that comes out as the product. The  
22 byproducts are the steel belts and things like  
23 that and that will be contained within that  
24 building addition.

25 MS. VAIDA: And it's all separated?

1 MR. BIANCHINE: That's right. It's all  
2 separated.

3 MR. NARDACCI: There aren't any oils or  
4 anything like that?

5 MR. BIANCHINE: No, nothing like that.

6 CHAIRPERSON DONOVAN: You don't get  
7 complete tires, right?

8 MR. BIANCHINE: That's right, we get  
9 shredded tires. The tires are already  
10 shredded. We don't shred at this site.

11 MR. LACIVITA: You get them in chip form.

12 MR. BIANCHINE: Yes, they're about two by  
13 two.

14 MR. LACIVITA: I think that the petroleum  
15 or the concern that Elena has actually comes  
16 when the tire is compromised; that being  
17 either heat or a fire.

18 Barry, you know the industry a lot  
19 better. I think that when you really start to  
20 look at the environmental concern is if the  
21 tire itself gets heated or is in a fire,  
22 correct?

23 MR. TAKALLOU: Yes. In order to get any  
24 oils out of the tire, you'd have to heat it up  
25 to 1,000 Celsius under pressure. Our process

1 is under cold temperature. The rubber is used  
2 at room temperature.

3 MS. VAIDA: That's the advantage to your  
4 procedure that you use.

5 MR. TAKALLOU: Cryogenics.

6 MS. VAIDA: So you're not separating the  
7 petroleum from the rubber?

8 MR. BIANCHINE: Right. Like I said  
9 they're using this on athletic fields all over  
10 the country. It's been proven and tested and  
11 so forth that it's not contaminated or  
12 anything like that. It's the same tire that is  
13 on your car that wears on the road. You get  
14 dust off your tires on the side of the road.  
15 It's the same stuff.

16 The stormwater system goes around the  
17 outside. As part of this process we're also  
18 extending the waterline for fire protection.

19 Currently there is a dead end water main  
20 here (Indicating). We'll be extending that to  
21 a fire hydrant here so that our slabs are all  
22 within 500 feet of that fire hydrant, as  
23 required by the town. Within this, we have a  
24 layout here that separates the bag rubber  
25 products by about 40 feet or 20 feet,

1 depending on the main aisle so that we can get  
2 a truck down in here to load the bags of crumb  
3 rubber into the truck.

4 We've shown two places here for whole  
5 tire storage, if we ever need it. We're not  
6 proposing and we're not using that back at  
7 this point. We had a previous approval for the  
8 tire storage. We're showing it here and this  
9 area will likely be used for the bagged crumb  
10 rubber.

11 MS. VAIDA: So nothing can leach out of  
12 the bagged rubber.

13 MR. BIANCHINE: It's all bagged and  
14 they're all in extra heavy strong bags. There  
15 is nothing like drain water that gets through  
16 to it. The only thing that will fall off is if  
17 there was something on the outside.

18 MS. VAIDA: Why is there a concern then  
19 for the necessity for the moat?

20 MR. BIANCHINE: It's the state's  
21 stormwater requirement. Any time we have this  
22 impervious area, we have to collect the water.  
23 We have to go through a pretreatment process  
24 and a treatment process. That's what we're  
25 doing by having the moat. That's before it can

1 go into the ground.

2 MS. VAIDA: How long do the bags sit on  
3 this pad?

4 MR. BIANCHINE: That depends. That's one  
5 of the questions. We'd like to get permission  
6 to use the pads over the winter because what  
7 happens now is that they're going into the  
8 fall and over the winter they're going to be  
9 producing this product and yet they don't have  
10 a market for it during the winter because the  
11 market picks up in the springtime when people  
12 are constructing athletic fields. So, we will  
13 be storing product at the site. In the  
14 springtime and during the summer it gets  
15 shipped out.

16 CHAIRPERSON DONOVAN: And you've been  
17 storing the product on the site -

18 MR. BIANCHINE: We've been storing the  
19 product here now.

20 MR. O'ROURKE: Why not a steel building?  
21 When I go out and look at a site like that,  
22 I'm a little leery. It just doesn't look  
23 like -- I mean, it's 2009. I would think that  
24 there would be a better way to store your  
25 product and to handle it than to have it out

1           like that.

2           MR. BIANCHINE: A steel building?

3           MR. O'ROURKE: Yes.

4           MR. BIANCHINE: Just expense.

5           MR. O'ROURKE: I'm glad that you answered  
6 my question because if it's expense, then  
7 that's a business thing. So, I think that what  
8 you're asking the board to do is accept a  
9 cheap business plan instead of a smart  
10 business plan.

11           Has anybody gone out and looked at this?

12           MR. NARDACCI: I feel the same way. I  
13 don't understand why the outdoor storage.

14           MR. O'ROURKE: It's Neanderthal, in my  
15 opinion.

16           MR. LACIVITA: I'd like to pass these  
17 around. These are the bags that you see here  
18 that are stored at Crumb Rubber. They're nylon  
19 bags.

20           MR. O'ROURKE: I asked a kid on the fork  
21 truck. I said, what happens if you run a fork  
22 into it? He says, well, if I don't get fired,  
23 we have to clean it up.

24           CHAIRPERSON DONOVAN: Is outdoor storage  
25 allowed in industrial zones?



1 MR. LYONS: Yes.

2 MS. VAIDA: Why does it have to be in  
3 bags as opposed to a big steel bin or  
4 container?

5 MR. BIANCHINE: Those bags weigh 2,000  
6 pounds so it would be hard to move that  
7 weight.

8 MR. LYONS: For example, it would be like  
9 Union College or Siena College if they  
10 actually purchase a bag or a bushel or  
11 whatever you might call it. It's straight  
12 rubber and it hasn't been heated up, as Barry  
13 as indicated. The product is meant to be  
14 outside. Most of the time it is outside on  
15 fields although it's also used indoors for  
16 like the dome here in Latham or the dome in  
17 Halfmoon or Glens Falls. It's not like  
18 sheetrock where when it gets wet, it's ruined.

19 MR. BIANCHINE: If something happens to  
20 it, we're storing it outside.

21 MR. NARDACCI: So when the Zoning Law was  
22 changed and they added the conservation  
23 overlay to this parcel, what was the purpose  
24 of that?

25 Mike, you might be able to shed some

1 light on this.

2 MR. LYONS: The conservation overlay  
3 district basically identified not only  
4 undeveloped lands, but lands located within  
5 the Albany Pine Bush Preserve study area. It  
6 identified much of those lands that have been  
7 undeveloped or were centrally in the study  
8 area.

9 CHAIRPERSON DONOVAN: But this is not in  
10 the Pine Bush Preserve.

11 MR. BIANCHINE: It's not in the Pine Bush  
12 Preserve. It's in the Pine Bush Preserve study  
13 area.

14 MR. NARDACCI: The purpose of the  
15 conservation overlay district - my  
16 understanding is that is to prioritize open  
17 space.

18 MR. LYONS: And conservation.

19 MR. NARDACCI: And the conservation  
20 overlay - there is a reason that they had  
21 that, right?

22 MR. LYONS: I don't have that map with  
23 me. The study area of the Albany Pine Bush  
24 actually goes all the way up to Albany Street.  
25 Then it goes roughly out to Cordell Road and

1           then works its way down to the City of Albany  
2           and the Town of Guilderland as well. So the  
3           study area and anything within the study area  
4           can become part of the actual preserve.

5           MR. NARDACCI: We're talking about that  
6           it's industrial but there was a conservation  
7           overlay placed in this district; conservation  
8           overlay district.

9           The purpose of the conservation overlay  
10          district is to require the use of the  
11          conservation development design guidelines, to  
12          preserve open space and agricultural lands.

13          I'm just trying to get to the sense of  
14          understanding clearly what the zoning is and  
15          what the overlay means for that zoning.  
16          Clearly, while the zone is industrial it has a  
17          conservation overlay. What does that mean? I'm  
18          trying to get to the point of - first of all,  
19          is outdoor storage a permitted use? I assume  
20          that it is.

21          MR. LYONS: Yes, it is.

22          MR. NARDACCI: What was the purpose of  
23          the overlay for?

24          CHAIRPERSON DONOVAN: I think to that  
25          point -- this is not in violation of any of

1 the requirements of the overlay district.

2 MR. BIANCHINE: This is 9.24 acres into  
3 the overlay district. We need to determine  
4 what the amount of developable land is within  
5 that. They take out any federal wetlands. So  
6 it requires you to take out any steep slopes  
7 or unique lands and subtract that from your  
8 total gross area to determine what your net  
9 developable land is. That requires you to  
10 preserve or set aside at least 40% of that  
11 land as greenspace. In this case, of the 9.24  
12 acres that we are going to be utilizing with  
13 the stormwater management system are the slabs  
14 here (Indicating) - about 3.5 acres. We still  
15 have 5.5 acres that we're not touching.

16 MR. NARDACCI: And I guess that's part of  
17 where I'm getting at. I'd like to understand  
18 that the future there is not going to be more  
19 paving. There is not going to be more need for  
20 storage. What does the future hold? The  
21 conservation overlay district is intended to  
22 protect the town's natural environment and  
23 provide a balance between developed and  
24 undeveloped land.

25 I understand the balance and I understand

1 the percentages but I guess - what does the  
2 future hold?

3 We have a situation now where paving has  
4 already started. It's in the conservation  
5 overlay district. Okay, fine. You can come in  
6 and try to fix it, but what does the future  
7 hold for this parcel that is in an overlay  
8 district? That's what I'm trying to get at.

9 MR. BIANCHINE: I understand. All I can  
10 say right now is that right now there are no  
11 plans to develop anything here. If you live  
12 right by the rules, technically we are still  
13 meeting the 40% and we could still develop  
14 100,000 square feet.

15 MR. NARDACCI: What could have been  
16 beneficial, I think, is that if you came in  
17 with your plan that says this is the part that  
18 we're developing and this is the part that  
19 we're going to preserve.

20 MR. BIANCHINE: Essentially, this is this  
21 area here (Indicating).

22 MR. NARDACCI: I'm just trying to get  
23 there. You said, right now we don't have plans  
24 for that. That's not a plan. The plan would be  
25 to come in and say, look we are developing

1           this and this is set aside as part of -- I  
2           think that we've gone through this with a lot  
3           of different developments. They were trying to  
4           get developers and businesses and trying to  
5           strike a balance between developing, allowing  
6           development but also too, having property  
7           owners and developers and businesses take the  
8           initiative to understand the comp plan.

9                        When Siena comes in, they exceed some of  
10           the expectations. I guess that's where I'm  
11           heading with this. I want you to understand  
12           that this is the plan that we're looking at.  
13           In five years from now there will be another  
14           plan for more outdoor stuff.

15                       MR. BIANCHINE: We have no plans at this  
16           point and we could technically stay at 40% and  
17           develop about 2.3 acres which is 100,000  
18           square feet of this land and still leave  
19           3.6 acres in the back here undeveloped. That's  
20           the maximum.

21                       MR. NARDACCI: I understand that. I'm  
22           just trying to understand and I guess I'm  
23           struggling myself with understanding what it  
24           means to have a conservation overlay issue. To  
25           have a plan that not only presents what's

1           allowable, but also which meets the  
2           requirements. It's not just the requirements  
3           but also the intent of why this was made  
4           conservation overlay.

5           Design development means natural resource  
6           protection and a portion for the town covered  
7           by the overlay districts. Conservation  
8           development to preserve tracks and  
9           environmentally, scenically and recreational  
10          significant undeveloped land, preserve  
11          continuous open spaces -- I mean, it just  
12          seems like there is nothing going on in this  
13          plan that speaks to Article 7, Chapter 190-7.

14          MR. LYONS: Tom, if you go a little bit  
15          more into Article 7, paragraph 8 gets into  
16          special standards for areas influenced by the  
17          Pine Bush.

18          CHAIRPERSON DONOVAN: Where I have a  
19          problem is that this is all zoned industrial.  
20          This is zoned for these uses. So now you're  
21          taking a parcel of land that this gentleman  
22          bought and now telling him that he can't use  
23          40% of it because it's now in a conservation  
24          overlay district.

25          MR. O'ROURKE: And oh, by the way, we

1 didn't tell him. We just changed the Land Use  
2 Law and jammed him.

3 CHAIRPERSON DONOVAN: Obviously when he  
4 got this parcel of land, he thought he had 14  
5 acres or whatever -

6 MR. O'ROURKE: Less the wetlands.

7 MR. NARDACCI: Jean, I think that at the  
8 end of the day -- where I'm going and what I  
9 feel is that we need to make sure that we're  
10 giving all due diligence here. What I'm  
11 leading into with this is the letter that we  
12 have from the Pine Bush. I'm not saying no  
13 developers, but let's also take into  
14 consideration that conservation need.

15 MR. BIANCHINE: Take into consideration  
16 the land that is developed around us. This is  
17 all developed all down through here  
18 (Indicating). This is developed here with self  
19 storage. There is a landscaping development  
20 there and there is a trucking company back up  
21 here (Indicating). The only undeveloped  
22 portion is right here.

23 CHAIRPERSON DONOVAN: So you're the only  
24 one that has been able to comply with the  
25 provisions of the overlay district.



1           MR. O'ROURKE: It goes right back to that  
2 Land Use Law of 2007 and what a useless piece  
3 of legislation that really was.

4           CHAIRPERSON DONOVAN: You know some  
5 you're trying to grasp with the reality of  
6 what is there and then you're trying to grasp  
7 what the Land Use Law is trying to achieve - I  
8 don't know other than this out of all the  
9 other sites that are in this area, I don't  
10 know if any of them -- I mean, all of them are  
11 developed.

12           MR. O'ROURKE: Yeah, the train tracks are  
13 right there.

14           MR. BIANCHINE: There is a whole dump  
15 right along here. It's all junk and we're not  
16 adjacent to any Pine Bush Preserve land that's  
17 owned by the Pine Bush.

18           CHAIRPERSON DONOVAN: Here is another  
19 question: Nothing has physically changed with  
20 that area. It's all the same natural resources  
21 that were there back when the building was  
22 used.

23           What type of SEQRA was adopted in each of  
24 the proposals that went in?

25           MR. LYONS: Some of the smaller projects

1           like the gatehouse or maybe one of the tanks  
2           that was less than 4,000 square feet of site  
3           alterations - those are classified as a  
4           Type II action. So there is no further SEQRA  
5           responsibilities.

6                     CHAIRPERSON DONOVAN: I thought that  
7           there were some unlisted, too.

8                     MR. LYONS: There are some unlisted. The  
9           88,000 square feet was going to be a shed and  
10          then it was going to be a building. The  
11          applicant is doing that to help control the  
12          nylon byproduct.

13                    MR. BIANCHINE: To keep the byproduct  
14          from blowing away.

15                    CHAIRPERSON DONOVAN: This is where I  
16          have trouble with the logic of requesting the  
17          long form. The building went in and the use  
18          went in. It was an unlisted SEQRA action. So  
19          the use is going on in the property. There are  
20          some minor changes to protect the SEQRA action  
21          and all of the sudden he just wants to store  
22          the materials that he's making in the building  
23          which was an unlisted SEQRA action and now it  
24          becomes the long form?

25                    MR. LYONS: Actually, if I could step

1 back and clarify that a little bit? All the  
2 work up to date with the exception of this  
3 proposed concrete pad extension has been  
4 proposed or has occurred in the existing  
5 developed area of concrete and blacktop or  
6 within the existing building.

7 The tanks on the side -- they actually  
8 had to remove railroad tracks to put those on  
9 that far side. That was previously developed  
10 maybe not as concrete but railroad tracks -

11 MR. BIANCHINE: Most of the site over in  
12 this area was previously developed years ago.  
13 It was a foundation back here and as Mike  
14 said, there was a railroad that came in  
15 through here (Indicating). It's all flat. It  
16 was leveled out years ago. This is federal  
17 wetlands here. It's a man-made ditch through  
18 there that was put in so that they could use  
19 this land.

20 MR. LYONS: We're not saying that this is  
21 undevelopable land. It's just saying that this  
22 is within the conservation overlay district  
23 and extra attention needs to be provided to  
24 the environment. That's why Joe provided it as  
25 part of the conservation overlay district

1 requirement, conservation analysis plan and  
2 that conservation analysis narrative which was  
3 included in those packages.

4 CHAIRPERSON DONOVAN: I think that from a  
5 practical perspective, I looked at the  
6 building and the use was allowed. It was put  
7 in there with an unlisted SEQRA action. All of  
8 the sudden you just want to store the  
9 materials that are coming from the building  
10 and now it goes up to the long form. I just  
11 can't follow the logic in that.

12 Joe Grasso is the TDE in this.

13 MR. GRASSO: Regarding SEQRA, much of the  
14 information that would be asked for on a full  
15 EAF has already been provided by a substantial  
16 part of the application.

17 There are a number of questions on the  
18 full EAF that talk about the use of the site.  
19 The use of the site really is in terms of the  
20 trucks that go there and that's not going to  
21 change.

22 Waste water generation and water  
23 generation - those things are all involved and  
24 they will be the same, so they really don't  
25 apply.

1           The beauty of a full EAF is that it pulls  
2 all the information that is provided as part  
3 of the application and puts them into one  
4 document.

5           When the Planning Board meets and makes  
6 that determination, it's summarized in one  
7 clean document and not strewn throughout their  
8 packets.

9           It's easy to say that all this stuff was  
10 looked into and the answers were provided,  
11 they were verified and then summarized for the  
12 board's consideration.

13           Just to clarify, it is an unlisted action  
14 so the appropriate use of a full EAF is not  
15 required, but it is often recommended.

16           CHAIRPERSON DONOVAN: Don't you think  
17 that it would be beneficial?

18           MR. GRASSO: We do think that it would be  
19 beneficial to basically provide a basic  
20 summary of all the constraints of the site,  
21 and a good description of the use of the site.

22           MS. VAIDA: I have a question. There is a  
23 picture here of the material that comes in  
24 before it's treated. It looks like it's just  
25 dumped on the ground.

1 MR. LACIVITA: It's the chipped form.

2 MR. BIANCHINE: Normally, they don't do  
3 this. They will bring it right into the  
4 building and dump it. Sometimes they get  
5 backed up and they have to dump it out here.  
6 It's really the raw material.

7 MS. VAIDA: So that's the untreated  
8 material just sitting on the ground?

9 MR. BIANCHINE: It's not the ground. It's  
10 paved.

11 MR. LACIVITA: It's paved but it's also  
12 going to be enclosed. That's one of the things  
13 that we talked with the owner of the site  
14 about - was containing that material.

15 MS. VAIDA: We're concerned about the  
16 treated stuff in bags. We should also be  
17 concerned about all this stuff.

18 MR. LACIVITA: But they're building a  
19 building to contain that. It's no longer going  
20 to be outside.

21 CHAIRPERSON DONOVAN: That's a separate  
22 application. It's a minor application?

23 MR. LACIVITA: Yes, it's a minor  
24 application. That's going in a building.

25 One of the things that we've done - and

1           like I said, this process and this investment  
2           that the state has made has already been  
3           vetted time and time again because they are  
4           continually investing in the project.

5                     One of the things that we were doing is  
6           monitoring that contract through the IDA and  
7           through the Empire State Development. We were  
8           making sure that they were completing and  
9           hitting certain milestones. This company has  
10          certain milestones that they have to hit.

11                    One of the things that we were doing  
12          monitoring it is that we noticed some  
13          compromising of the site - some of the fiber  
14          that you see on the ground and that's why we  
15          started talking to the owners to try to  
16          contain that site and try to clean up the  
17          site, making sure that none of that material,  
18          be it the fiber or any of the crumb got into  
19          the stormwater systems. So therefore we went  
20          and talked to them and now you start to see  
21          the addition of the 8200 square feet building  
22          which is going to contain that.

23                    During the course of that review, the  
24          additional pad became a concern too. We had to  
25          bring the site into compliance. That's what

1 we're trying to look at today is that pad  
2 site.

3 Unfortunately, I agree 100% with Jean  
4 here that these guys are now in the  
5 conservation overlay district which brings it  
6 into a whole bunch of different issues now.

7 MR. O'ROURKE: What are the actual  
8 dimensions of the building?

9 MR. BIANCHINE: Which building?

10 MR. O'ROURKE: The one that will be  
11 built?

12 MR. BIANCHINE: That's 90 by 85.

13 MR. O'ROURKE: And it will have to be  
14 able to back a dump truck in there. Are they  
15 20 yard or are they full hauls?

16 MR. BIANCHINE: They're full.

17 MR. O'ROURKE: The stuff on the ground is  
18 bigger than the building that you're  
19 proposing.

20 MR. BIANCHINE: But then they'll be  
21 coming into this building, too (Indicating).

22 CHAIRPERSON DONOVAN: So they can back  
23 into that building and dump.

24 MR. LACIVITA: That was almost a staging  
25 area.



1           MR. BIANCHINE: There is a conveyor belt  
2 on the bottom of it so it just rolls it out.

3           MR. NARDACCI: Why is the building not  
4 part of this application? I'm trying to  
5 understand what we're taking action on.

6           MR. LACIVITA: They're giving you an  
7 entire history of what went on through the  
8 course of the site.

9           MR. NARDACCI: There is not a building  
10 built yet.

11           MR. LACIVITA: No, there is not a  
12 building built yet. Back in 2006 or 2007 the  
13 back part of this building was actually an  
14 approved canopy. There was a canopy to  
15 overhang there. What happens is when the fiber  
16 from the tires comes out of these little  
17 shoots here (Indicating), you can see that it  
18 shoots all on the ground, so that canopy that  
19 they got approval from prior didn't make any  
20 sense.

21           Now we're into a closed building - a  
22 building structure. Again, to contain the  
23 building.

24           I know Joe; you had a three dimensional  
25 graphic of it that would show the bay doors

1 and everything else. So what you're seeing on  
2 the ground is going to be contained. That is  
3 separate and distinct of what we're looking at  
4 today.

5 MR. O'ROURKE: See, that's where I'm  
6 going with this. If you look at the history on  
7 this, there was a minor application, minor  
8 application, minor application. Get a business  
9 plan.

10 MR. LACIVITA: Actually they have a  
11 business plan because working with the State  
12 of New York, as I do through the IDA, they  
13 have had several contracts with the State of  
14 New York. They have increased their production  
15 over time.

16 MR. O'ROURKE: That's our tax money.

17 MR. LACIVITA: Let me explain the  
18 business plan. Actually when I was at Empire  
19 State Development, this is what we invested  
20 in. I signed the contract for the State of New  
21 York, for the Town of Colonie. When I was with  
22 the state, I actually looked at this. We  
23 invested in Crumb Rubber before I was even  
24 here at the town. So, I know the history of  
25 why this was developed. I know the history as

1 to why we're trying to bring this site into  
2 compliance. My biggest concern here is the  
3 conversation that I'm hearing is that this is  
4 heading down a path where we don't want it to  
5 go.

6 MR. O'ROURKE: No, we want it done right.

7 MR. NARDACCI: Joe, this is one parcel,  
8 right?

9 MR. LACIVITA: This is one parcel. Just  
10 to get back to the process here: When this  
11 first came to the state and they did it, it  
12 was one manual line, if I'm correct.

13 Am I right, Barry?

14 MR. TAKALLOU: Yes.

15 MR. LACIVITA: The state saw the need for  
16 this and invested in a cryogenic line where  
17 they talked about the freezing of that line.  
18 They now have increased their production much,  
19 much more than they first started. Now the  
20 state has invested in a third line. So, now  
21 they have two cryogenic lines and one manual  
22 line that's in this company. They're putting  
23 out how many hundreds of thousands of pounds  
24 on an annual basis? I think it's 500,000  
25 tires?

1           MR. O'ROURKE: Which is great and that's  
2 what I'm saying.

3           MR. LACIVITA: That's the business plan  
4 that they have provided at the state level for  
5 their investment to move this project forward.  
6 They had that business plan.

7           MR. O'ROURKE: Maybe that's why our taxes  
8 in the State of New York are out of control.

9           When you go to this site and you look at  
10 the dumpsters spewing the stuff out, it just  
11 looks like it's not managed properly. When you  
12 look at the entirety of the site -- again, I  
13 don't know your business. I don't. But I know  
14 organization and I know when I look at  
15 something that and if it appears to look right  
16 or not look right. When I look at it to say  
17 that the Town of Colonie, the State of New  
18 York, everybody is investing in this -- what  
19 possesses somebody to put an overhead when the  
20 wind it going to blow it?

21           Joe, it's an open field.

22           MR. LACIVITA: That's why their building  
23 this because that wasn't an acceptable  
24 practice.

25           MR. O'ROURKE: What I'm saying is that

1           you've got a pile of stuff on the ground and  
2           Joe, that's bigger than the building right  
3           now. That has to be eight feet tall and that's  
4           bigger than the building that you're  
5           proposing.

6           The date on this is 7/11/08. You're  
7           growing a business, right? You just added a  
8           third lane. This pile is going to get bigger.  
9           You want to make money, right? No? You're  
10          going to slow down production and you're not  
11          going to have piles.

12          MR. TAKALLOU: There is new technology.  
13          All the material is going to be inside of a  
14          compactor. The compactor is going to be 100%  
15          closed.

16          MR. O'ROURKE: Is that the metal, the  
17          steel tube, the steel belts? That was all  
18          hanging out of the dumpsters when I was out  
19          there.

20          MR. TAKALLOU: With the compactor it will  
21          all be contained.

22          MR. BIANCHINE: That will all be  
23          contained in this new addition.

24          MR. O'ROURKE: Okay, so if we were to  
25          move forward with this project and I drive up

1           there, there is not going to be a pile.

2           MR. BIANCHINE: That does happen  
3 occasionally. If all of the sudden a line has  
4 to be shut down or something, you may get a  
5 backup for that temporarily - when a truck  
6 comes in and it has to be unloaded -

7           MR. NARDACCI: Can I have my question  
8 answered that I was asking? Why is there a  
9 building that was planned for construction  
10 that is not part of this application? That's  
11 what I don't understand.

12           We have spent two years talking about  
13 being smart and looking at proposals and  
14 looking at things in totality, right? We're  
15 looking at not just this one parcel but what's  
16 happening around it right? Yet, we're looking  
17 at this today and this is like someone coming  
18 in and saying well, our building got approved  
19 through a minor but we're just going to have  
20 you guys approve the parking lot. That's what  
21 it seems like to me. It just seems like I  
22 don't understand why that building that  
23 they're talking about is not part of this  
24 plan. It's one parcel, correct?

25           MR. LACIVITA: It is one parcel but the

1 building actually measures 8,290 square feet,  
2 which by itself is under the minor  
3 application.

4 MR. NARDACCI: But it's one parcel,  
5 correct? This is another improvement; am I  
6 correct? It's like saying I want to open a  
7 Mobil station up and I'm going to go to the  
8 Planning Board and have you approve the  
9 parking lot, but I'm going to go get a minor  
10 application for the grocery store.

11 MR. O'ROURKE: See what Tom is saying is  
12 legitimate. If just the appearance of seeing  
13 all of these minor applications - and then oh  
14 by the way, we need a runway, right? Well, we  
15 have to come before the Planning Board for a  
16 giant concrete runway but the little buildings  
17 and the scale house and this other building  
18 are all minor. It doesn't make sense. I mean,  
19 it might be totally legitimate and above board  
20 but as you sit here and you look at it you go,  
21 hmm, what else is there?

22 MR. BIANCHINE: I understand what you're  
23 saying and all I can say is that this business  
24 is expanding and they are dealing with things  
25 that they didn't expect to encounter.

1 MR. O'ROURKE: Right, so Mike, can you  
2 answer Tom's question because now I really  
3 want an answer. Why is there a building that's  
4 under a minor application within the town at  
5 the same point that the concrete runway is  
6 before the Planning Board? Why aren't they  
7 together?

8 MR. LYONS: They were not submitted at  
9 the same time. The building of 8,400 square  
10 feet was previously submitted.

11 MR. O'ROURKE: When was that submitted,  
12 do you know?

13 MR. LYONS: I don't know.

14 MR. O'ROURKE: One year ago? Two years  
15 ago?

16 MR. LYONS: Earlier this year.

17 MR. O'ROURKE: This application was only  
18 because they got caught because they did it  
19 illegally and our state tax money went into  
20 it.

21 CHAIRPERSON DONOVAN: And it was  
22 purposely divided into two to make one a minor  
23 and to make one a major.

24 MR. NARDACCI: I'm trying to get that  
25 answer. How is that legitimate? How is that



1 correct and right to do?

2 MR. LACIVITA: I think that was a  
3 decision when Barry, Joe, Mike and I were all  
4 discussing the project. We knew that there was  
5 this prior canopy that was approved. We knew  
6 that canopy wasn't built yet. That dates back  
7 to 2006 or late 2007. We knew that the site  
8 was being compromised because there were  
9 stormwater concerns.

10 Stormwater was out at the site a number  
11 of times and they were on Barry and Al's  
12 checklist. Every week they were going out  
13 there monitoring the site. We knew that there  
14 had to be some type of an answer as to how it  
15 had to be contained. So then they looked at it  
16 and this building design became one of them,  
17 but we also knew that we had this storage  
18 concern.

19 MR. NARDACCI: Joe, were you included in  
20 any of this?

21 MR. LACIVITA: This was prior to the  
22 TDEs.

23 MR. O'ROURKE: Are you included in this  
24 now?

25 MR. GRASSO: I am.

1 MR. O'ROURKE: Thank God.

2 MR. GRASSO: I'll go on the record  
3 tonight as saying that SEQRA tries to address  
4 segmentation. Obviously Joe has tried to show  
5 those previously improvements. If he puts  
6 together a full environmental assessment form  
7 that addresses the impacts of all the  
8 improvements, whether or not they were already  
9 approved or not, at least then we have all the  
10 information available. It's the same  
11 application. It's just more comprehensive. It  
12 will avoid the question of segmentation  
13 because on face value, I would agree that it  
14 appears that there has been segmentation and  
15 that the application has been broken up. So, I  
16 think that when you get all of the  
17 information, I think it's the same information  
18 that you have before you tonight. Like I said,  
19 it's how it's all packaged.

20 MR. NARDACCI: It was clear earlier. I'd  
21 like to see a comprehensive package. I'd like  
22 to see it all packaged together. This is one  
23 parcel. How do we make sure that in the future  
24 that -- I do not agree that plans should be  
25 segmented. I understand that businesses

1 change. Look, I'm a small business owner. My  
2 business changes. I understand that. You grow  
3 and you slow down. I get that. I understand  
4 that. I understand that you have new needs but  
5 when you're coming in saying that well, we  
6 knew that there was a building and then we  
7 knew that there was something coming down the  
8 road, it just seems like a film flam. I'm not  
9 saying that it is. It just seems that way. I  
10 don't think that it's the right way to do  
11 things. I think that what we need to do is  
12 let's single this out, sorry, and let's stop  
13 it now so that we don't have this six months  
14 from now where we have it on another project.

15 MR. GRASSO: Just know that when you talk  
16 about the future, SEQRA doesn't force an owner  
17 to -

18 MR. NARDACCI: I'm not talking about this  
19 parcel. I'm talking about another parcel.  
20 Another business owner comes in and they want  
21 to piecemeal their -- I don't understand.

22 MR. LACIVITA: To your point, Tom, if you  
23 look at east of the building -- is that where  
24 you go into the conservation overlay?

25 MR. BIANCHINE: It would be west.

1           MR. LACIVITA: West, I'm sorry. One of  
2           the minor applications that came before, which  
3           is actually just to this side of the building  
4           was a concrete pad of I think about 1,890  
5           square feet. That was to contain the nitrogen  
6           tanks in order to put in the cryogenic line.  
7           That was the need at that point in time. That  
8           was a minor application that was before us. It  
9           was an administrative action and we were going  
10          to handle it in-house. We didn't realize later  
11          on that the guy was going to be going into a  
12          third line.

13          MR. O'ROURKE: But that's reasonable,  
14          Joe. That minor application is reasonable. The  
15          scale house -- you know what the product is.  
16          You know how you're selling it. You put the  
17          scale house out there like that with the scale  
18          and you can't tell me that's not a major  
19          application.

20          MR. LACIVITA: The scale house didn't  
21          even amount to a major application.

22          CHAIRPERSON DONOVAN: I think it's based  
23          on the square feet.

24          MR. O'ROURKE: Right, its 10,000 square  
25          feet but those concrete pads around that -

1           MR. LYONS: They were all existing. They  
2 were all existing when the building was built.

3           MR. O'ROURKE: All those pads? All the  
4 way back there?

5           MR. LYONS: C.J., the only thing that was  
6 constructed with our approval was what you  
7 refer to as that one way strip that goes out  
8 into the middle. All the concrete on the south  
9 side of the building was constructed with this  
10 building which was constructed prior to SEQRA  
11 to begin with and prior to the New York State  
12 Legislature adopting the Pine Bush area.

13           MR. BIANCHINE: All that through here  
14 already existed.

15           MR. O'ROURKE: But it's not all old.

16           MR. LYONS: Where the tanks are on the  
17 backside of the building -

18           MR. O'ROURKE: Right.

19           MR. LYONS: That was where the railroad  
20 siding used to come in. It wasn't made of  
21 untouched land or anything like that. That  
22 land had ties, it had tracks and everything.  
23 Where the scale house went and where the  
24 proposed 8,800 square foot building is  
25 proposed is all on existing concrete. There is

1 no increase in stormwater run-off. You're  
2 going from a hard concrete surface to a hard  
3 surface with roof - whether it be shingles or  
4 I don't know what they are proposing. That's  
5 why those were considered minor.

6 CHAIRPERSON DONOVAN: They still have to  
7 get building permits, right?

8 MR. LYONS: Oh, absolutely. They receive  
9 building permits, the receive site plan  
10 review, they have received a review of the  
11 departments. There was nothing that was  
12 overlooked in this process.

13 With regards to the 8,400 square foot  
14 building, that's the applicant responding to  
15 our request to help clean up the site when the  
16 wind blows and the nylon, as it's coming off  
17 the chute was getting caught. It was not  
18 always going into a contained refuse area.

19 MR. O'ROURKE: I hear what you're saying.  
20 They went and got building permits for all  
21 that. Somebody explain to me that they built  
22 that big pad -- if they knew that these minor  
23 ones -- oh, we have to go and get a building  
24 permit but that big major run way, we're just  
25 going to pour it. Can somebody explain that to

1 me? I'm a reasonable guy but if you're going  
2 and saying well, we need to put a scale in and  
3 we better run down and get a building permit,  
4 hey, we're going to pull out these railroad  
5 ties. We better go get a permit. Then to put  
6 that huge thing down there with drywells. What  
7 made you think, sir, that you didn't have to  
8 get any permit? Mike just admitted that there  
9 are six or eight minor applications that all  
10 went through scrutiny, scrutiny, scrutiny and  
11 then you put a big pad in with drywells.

12 MR. LACIVITA: Those are above the  
13 ground.

14 Barry, I'm sorry. I don't want to speak  
15 for you.

16 MR. TAKALLOU: First of all, you're  
17 right. I made a mistake and I want to  
18 apologize to the board. However, it was not  
19 purposefully that we went against the rules  
20 and then just put it in.

21 One of those minor permits we used for  
22 the big tanks above the ground. Then you have  
23 20 feet above the ground and you have to have  
24 a permit. We have been in Arizona and  
25 California and we have never needed a permit

1           for something that was flat. I know that for a  
2           structure you need a permit. That's the  
3           difference. It's like a driveway. If your  
4           driveway is gravel, you don't need it. This  
5           was my land and I thought I was doing the  
6           right thing until someone pointed it out to me  
7           that no, you're not doing the right thing.

8           I just want to remind the board that when  
9           we came here in 2006 - when I came to the  
10          town, at the time it was just Albany Street.  
11          We were the size of Goodyear. We were the  
12          first industrial company in Albany Street area  
13          near Cavanaugh.

14          We spent over 50 truck loads of illegal  
15          dumps of that area to clear it out. It was an  
16          illegal dump there. You can see the pictures  
17          of it before and where we have been. Please  
18          remember that we did clear that area and it  
19          was an illegal dumping site of the town and  
20          not only was it an illegal dumping spot but  
21          there were illegal activities going on there.  
22          There was improvement there. It's always good  
23          to see the good and the bad. It's not fair to  
24          only see the bad. Look at what was there  
25          before. We cleaned up the town's illegal



1 dumping site.

2 We have now complied with all of the  
3 requirements of the town. When Joe came to us  
4 and said no, the shed it not good, we did  
5 something else.

6 It just looks like overall that you don't  
7 want my business. That's the feedback that I'm  
8 getting from this board. If that's the case,  
9 then that's what it is.

10 I would appreciate your consideration of  
11 this application.

12 MR. NARDACCI: I don't think that what  
13 you're hearing from us is that we don't want  
14 your business. I think that what you're  
15 hearing at least from me is that we have been  
16 very pro business. We have worked with a lot  
17 of businesses over the last couple of years  
18 and we have in a lot of ways made it easier to  
19 do this as a town. We have leveled the playing  
20 field in this town on this Planning Board. Ten  
21 years ago, it wasn't so equal. I think of that  
22 as us being very pro business.

23 In this instance, it's a plan that's  
24 coming forth and I personally have never seen  
25 anything like this since I've been here in a

1 little over two years.

2 The discussion that we're having is that  
3 we're trying to understand if we're looking at  
4 this comprehensively. It doesn't seem as  
5 though it was comprehensive because of all of  
6 the minor, minor, minor and oh, now we have to  
7 do a major. It's in a conservation overlay but  
8 we didn't like that so we didn't want to think  
9 about that. For me, I'm just struggling with  
10 that. Clearly this isn't a pristine parcel by  
11 any means but we have to be realistic but also  
12 follow the same course that everyone else has  
13 to follow. That's what I'm trying to say. I  
14 think that there are things that we can do to  
15 understand the parcel comprehensively.

16 One of the things that I would like to  
17 see is the long form. I think that's the first  
18 thing that's presented in a comprehensive  
19 fashion with this parcel. Whether we have all  
20 of that information with all the paperwork  
21 that we get, I'm sure that every single answer  
22 is in there. What I don't have is something  
23 that summarizes it all and I think that would  
24 do it.

25 I also think that would send the message

1           that we understand that this is an area of  
2           town that is under a conservation overlay  
3           district for a reason. While it's not directly  
4           in the Pine Bush, it's in accordance by the  
5           Pine Bush. I think that's important for us to  
6           take into consideration. I'm not comfortable  
7           voting on this tonight. I'm not saying that  
8           I'm opposed to the project. I will support the  
9           project once we have gone through that process  
10          and had all the information presented  
11          comprehensively.

12                    Our TDE agrees. Our TDE has said the same  
13                    thing. The Pine Bush has said the same thing  
14                    with the letter that they have provided to us  
15                    that they would like to see more attention  
16                    paid to the overall environmental issue. It  
17                    shouldn't take forever to do this.

18                    CHAIRPERSON DONOVAN: I just want to  
19                    remain focused on the fact that the use is  
20                    permitted and the storage is permitted.

21                    Your stormwater plan that you were  
22                    presenting there is done as a result of our  
23                    Stormwater Department requesting it, is that  
24                    correct?

25                    MR. BIANCHINE: Yes, we went out there

1 and dug several test pits and then we met with  
2 the Stormwater Department to determine how to  
3 work this stormwater system that will meet the  
4 state's regulations and the town's  
5 requirements.

6 CHAIRPERSON DONOVAN: So the use is  
7 permitted. You do not exceed the amount of  
8 pavement in a conservation overlay district.  
9 You're all set with that, correct?

10 MR. BIANCHINE: Right.

11 CHAIRPERSON DONOVAN: So once we get the  
12 long form done, would you say two weeks?

13 MR. LYONS: Actually Jean, we had  
14 suggested that based on the comments from the  
15 Albany Pine Bush Commission that the New York  
16 State Department of Environmental Conservation  
17 Endangered Species Unit and or the U.S. Fish  
18 and Wildlife Service would review the site to  
19 verify that -

20 CHAIRPERSON DONOVAN: Why didn't they do  
21 this four years ago when this was coming in?  
22 You let the use come in and now you want to  
23 examine the site for wildlife. Let's be a  
24 little fair.

25 I don't have a problem with the long form

1           EAF. The man is operating a business in a  
2           business area and we have the state investing  
3           money and we have 25 people employed there. I  
4           don't know how many are town residents, but  
5           all the sudden we're going to look for fish  
6           and wildlife?

7           MR. NARDACCI: Jean, is there anyone here  
8           from the Pine Bush here tonight? Is there a  
9           Pine Bush representative here?

10                           *(There was no response.)*

11           MR. O'ROURKE: Well, if they didn't think  
12           that it was that important, I'm not feeling  
13           too good about the butterfly.

14           CHAIRPERSON DONOVAN: The whole idea of  
15           the conservation overlay - it's there so we'll  
16           deal with it and we'll work within the town,  
17           but we have to be a little fair to the  
18           applicant.

19           I do have a problem with the cut up with  
20           the minor and then the major. If we could get  
21           the EAF done, how long do you think that it  
22           will take you Joe?

23           MR. GRASSO: A few days.

24           CHAIRPERSON DONOVAN: When do we meet  
25           next?

1 MR. LACIVITA: December 1<sup>st</sup> and at this  
2 point in time.

3 CHAIRPERSON DONOVAN: It still appears to  
4 be fine with the SEQRA action. I can't imagine  
5 that anything with the long form would change  
6 the previously adopted SEQRA for the site.

7 MR. LACIVITA: That could be on the  
8 December 1<sup>st</sup> agenda, if you wanted.

9 CHAIRPERSON DONOVAN: We'll put them  
10 first on the agenda then that night.

11 MR. GRASSO: Are there any other comments  
12 related to the site plan that they should  
13 consider?

14 MR. NARDACCI: Joe, I would really like  
15 you to -- you know I know that you've dealt  
16 with this overlay district before. Explain to  
17 us what's happening here and how it fits into  
18 that overlay or how it doesn't. Or if there is  
19 a recommendation to this board or to the town  
20 that certain changes need to be made.

21 MR. BIANCHINE: I understand what you're  
22 saying. What I'm trying to point out here that  
23 this is in the overlay district, but to me  
24 there isn't anything really sensitive here.

25 Where the dump and the railroad tracks

1           were - this is all land that has been used  
2           before. It's not virgin land. I'll go through  
3           and do an analysis on this and write it up.

4           MR. LANE: I think that this is really  
5           the best way to go because I think that covers  
6           everything and protects everybody, we try to  
7           treat everyone the same and everybody fairly.

8           MS. VAIDA: I have a question. It may be  
9           more procedurally. Once it was discovered that  
10          an application needed to be made for the  
11          pavement, a major site plan approval process,  
12          then the minor one that is already  
13          pending - why wouldn't that have been combined  
14          so that we had the whole package in front of  
15          us?

16          MR. BIANCHINE: Timing really because  
17          this building here even though it was minor  
18          and it was initially approved back in 2006 and  
19          it was a shed, now it's expanded to an 8,400  
20          square feet. In the past year they needed more  
21          room. Really this was advanced ahead. Joe  
22          pointed out that we're trying to address a  
23          problem here by enclosing equipment that's  
24          there, so we would prevent them from blowing  
25          around the site. It's kind of why it was

1 advanced as it was to get it under  
2 construction and get it going.

3 MS. VAIDA: How far along is it?

4 MR. BIANCHINE: The contract has been  
5 awarded. Hopefully we'll be starting  
6 construction here in a month or so.

7 MR. LYONS: Elena, I think if this had  
8 been on a nonconcrete surface -- for example  
9 if this had been on a non developed surface,  
10 it would have been included as part of a major  
11 application, absolutely.

12 MR. NARDACCI: What is the threshold?

13 MR. LYONS: A minor application is less  
14 than 10,000 square feet.

15 MR. NARDACCI: Based on what you just  
16 said, if it wasn't on concrete?

17 MR. LYONS: If it wasn't on concrete and  
18 you had this 8,400 square foot building as  
19 well as all the new pavement areas, it would  
20 have all been consolidated into one  
21 application which would have been a major  
22 application before the board.

23 MR. NARDACCI: What mechanism exists to  
24 prevent developers from slow rolling the town;  
25 coming in and submitting a minor, submitting a



1 minor, submitting a minor?

2 MR. LYONS: There is nothing in the Land  
3 Use Laws that says you can't submit a minor in  
4 January and then go to your next maybe in  
5 September of that year if your business grows.  
6 There is nothing that says that you can only  
7 submit one application per year or one  
8 application every two years.

9 Perhaps the question to the applicant is:  
10 What is your master plan? That same question  
11 was asked of Siena College. What is the master  
12 plan? What is your future growth plan? That  
13 may be presented with the SEQRA long form.

14 MR. NARDACCI: The Village of  
15 Loudon -- that's a separate tax parcel. That  
16 kind of answered itself. They kind of broke it  
17 off in a separate parcel in a massive  
18 development. I'm just curious and it's not  
19 about this, but it's about other things.

20 MR. LACIVITA: Tom, I honestly see that  
21 as a double edged sword, to be quite honest  
22 with you.

23 If you talk to developers and you ask  
24 those questions when you meet with them all of  
25 the time as to what their potential growth may

1 be -- say for example, he's coming in with a  
2 small minor application for that concrete, but  
3 we knew that down the road he's going to be  
4 planning for future expansion, the way that  
5 our processes are and things like that, if we  
6 automatically said, well, let's look at the  
7 bigger picture right now, that may not have  
8 ever come. It might not ever have happened. We  
9 would have stymied growth in his company.  
10 That's the double edged sword that I'm  
11 thinking of.

12 MR. NARDACCI: When it comes to  
13 manufacturing, it's a different type of  
14 business. The business there grows  
15 differently. On typical projects that we see  
16 here that are retail or of that nature, there  
17 must be a threshold or some sort of measure.

18 CHAIRPERSON DONOVAN: A PDD has that  
19 potential.

20 MR. LYONS: A PDD is a little bit  
21 different in as that is a site specific zoning  
22 and what this board recommends and what the  
23 Town Board approves is the limit of what the  
24 development can be. Although that can be  
25 phased, there is a limit set on that site. So,

1 it's a little bit different.

2 CHAIRPERSON DONOVAN: We don't want to  
3 keep you any longer. We'll do that and come  
4 back on December 1<sup>st</sup> and we'll put them first  
5 on the agenda, Joe, and we'll get it done  
6 quickly.

7 MR. GRASSO: We had issued a comment  
8 letter and if the board doesn't have any  
9 questions on it, we'll just work with Joe on  
10 getting it revised and resubmitting it.

11 CHAIRPERSON DONOVAN: Gloria, did you  
12 want to say something?

13 MS. KNORR: I wanted to know of the 25  
14 employees that are full-time and do they  
15 receive full-time medical benefits?

16 MR. TAKALLOU: The fulltime employees do  
17 get benefits.

18 CHAIRPERSON DONOVAN: Okay, thank you  
19 very much.

20

21 ***(Whereas the proceeding concerning the***

22 ***above entitled matter was adjourned at***

23 ***8:55 p.m.)***

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**CERTIFICATION**

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

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**NANCY STRANG-VANDEBOGART**

*Dated December 28, 2009*