

1 TOWN OF COLONIE
2 PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
3 =====

4 In the Matter of
5 A Proceeding before the Planning Board
6 - in Relation to -

7 Application of Final Site Plan Approval

8 SPOTTED ZEBRA LEARNING CENTER
9 & BIZZY BEEZ ACTIVITY CENTER

10 -----
11 SIENA COLLEGE CAMPUS WIDE
12 STORM WATER PRESENTATION

13 =====

14 Tuesday, October 30, 2012
15 7:00 p.m.

16 Public Operations Center
17 347 Old Niskayuna Road
18 Latham, New York 12110

19 STENOGRAPHIC RECORD of the above-encaptioned
20 Matter conducted pursuant to notice before
21 BETH S. GOLDMAN, Certified Shorthand Reporter.

22 BOARD MEMBERS:

- 23 PETER STUTO, Chairman
- 24 LOUIS MON
- 25 BRIAN AUSTIN
- TIMOTHY LANE
- MICHAEL SULLIVAN
- ELENA VAIDA, ESQ., Counsel

- JOSEPH LaCIVITA, Director
- CHUCK VOSS, TDE, Barton & Loguidice

26 FOR APPLICANT SPOTTED ZEBRA/BIZZY BEES:
27 SCOTT TOWNSEND
28 SHARON TOWNSEND

1 FOR APPLICANT SIENA COLLEGE:
2 MARK FROST
3 DAN FARNAM

4 PRESENT: WARREN SHAW
5 PAUL STEC
6 JOHN McPHEE
7 PAUL REUSS
8 JOHN DZIAL

9 MAYOR MEG GRENIER

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10 P R O C E E D I N G S

11 CHAIRMAN STUTO: We will start with the  
12 first item on the agenda, Spotted Zebra Learning  
13 Center & Bizzy Beez Activity Center, 11 Kross Keys  
14 Drive, Application for Final Site Plan Approval, a  
15 15,500 square foot daycare, learning center, and  
16 office. And, Joe, would you like to give us an  
17 introduction? I know we have seen this at least a  
18 couple of times with Special Ed and also with the  
19 concept plan.

20 MR. LaCIVITA: That's correct. And,  
21 that's why we should put a couple of important  
22 things into the record.

23 The project has been before us a couple  
24 of times. The application has been before the  
25 Development Coordination Committee on August 7th

1 of 2012 and, shortly thereafter, before this body  
2 for sketch plan review. And, we gave concept  
3 approval for the project on September 11, 2012.

4 We will hear a presentation on behalf of  
5 the Applicant Scott Townsend.

6 CHAIRMAN STUTO: Mr. Townsend, before  
7 you start, we got a letter from our TDE. Did you  
8 ever print that out?

9 MR. LaCIVITA: I thought it was in your  
10 packet.

11 CHAIRMAN STUTO: It was an e-mail?

12 MR. LaCIVITA: Yes. Do you need  
13 something?

14 CHAIRMAN STUTO: I will look on with  
15 Tim.

16 MR. LaCIVITA: Okay, thank you.

17 MR. TOWNSEND: Thank you, Mr. Chairman.  
18 To remind everybody, my name is Scott Townsend. I  
19 am with 3t Architects. We are the architectural  
20 firm that is designing the project. I am also an  
21 owner along with my wife Sherry Townsend for what  
22 we are doing.

23 To give you a very brief summary, the  
24 project is on 11 Kross Keys Drive. It is 10,525  
25 square feet. Of that, we have approximately 60

1 percent of that for the Spotted Zebra Learning  
2 Center. Spotted Zebra Learning Center is an  
3 existing facility that is at 2 Kross Keys right  
4 now, and it has about 4,500 square feet  
5 approximately. Right now, we are looking just  
6 down the road to build a new facility. Then, the  
7 other portion of the building which you can see  
8 here (indicating schematic) is going to be a new  
9 business called the Bizzy Beez Activity Center.  
10 It is basically a therapeutic play space based on  
11 focusing on kids special needs with, obviously,  
12 difficult kids. And, then, there will be the  
13 complementary section.

14           We will also have some after-school  
15 programs and some programs on the weekends versus  
16 Spotted Zebra Learning Center which is basically  
17 based on the school calendar with the exception of  
18 a couple of programs.

19           When we were here last time at the  
20 September 11th meeting and we did get concept  
21 approval, there were a couple of things that were  
22 discussed. We sent a follow-up memo within a week  
23 after that. I just want to bring that to  
24 everyone's attention. One of the things discussed  
25 that night was concern for the children's safety,

1 which we also have. And it had to do with an  
2 outdoor play area. Subsequently -- and I don't  
3 believe anyone has seen this. I'm not sure if it  
4 was in the concept. But this is actually a play  
5 area with a fence that goes all around. We also  
6 placed landscaping along it so that the kids won't  
7 get right up to the fence here. There is a little  
8 barrier. We have proposed discussions of the  
9 gates. We figured the best solution would be --  
10 and we think these were valid concerns, and we  
11 want to make sure it's proper. So, we are going  
12 to put in an audible alarm so that any time the  
13 gates are opened that the audible alarm will  
14 sound. The way we have gone forward in past  
15 approvals, which is from the Office of Children  
16 and Family Services, who oversee what we are  
17 doing. So, it has met all of their regulations.  
18 But we are going to set it up so there is an alarm  
19 line that cannot be operated by the kids. And,  
20 the parents will have to reach over or the  
21 teachers that are out with them. If, for some  
22 reason it does get opened by a child, at that  
23 point there will be an audible alarm. So, there  
24 are two gates. And there is one over here on this  
25 side (Indicating) and one here which we do need

1 for building permits and for egress. So, we did  
2 propose that, and that is in the memo awhile back.

3           The other thing that we are going to do  
4 also is on the front of the building we are going  
5 to put a sign up near the entrance. And, that is  
6 really along here. (Indicating) This is our  
7 entrance to the building. And we are going to  
8 locate a sign over here. And it is going to be  
9 very clear; that all the parents monitor the kids  
10 until they are safely dropped off in the building  
11 and under supervision if somebody comes along.  
12 So, we will be doing that.

13           The other thing that was brought up and  
14 we had not calculated at that time was the snow  
15 storage. We did the calculations, and it was in a  
16 memo that we supplied, I believe, on September  
17 19th. We did calculations and we find that in the  
18 industry, the best way to calculate it is to  
19 figure out the area that you have for paving.  
20 And, if you can set aside at least ten percent,  
21 that would comport with snow storage as long as  
22 you can maneuver around it. We actually sent  
23 along a diagram per that memo which I am sure is  
24 in it is here from back in September. And we  
25 calculated the area to push snow and accumulated

1 snow. That calculations came out to 29.5 percent,  
2 which is almost three times the amount that we  
3 have used and our engineer has used. So, we have  
4 just about three times the amount of snow storage  
5 that we need. I just wanted to point that out. I  
6 know it came up at the last meeting, and I wasn't  
7 here to address that.

8           Subsequently, the other thing is that  
9 when we were here last time, we submitted the  
10 final set of drawings. We had worked with Barton  
11 and Loguidice quite closely; we have been talking  
12 to them, led by Chuck. And, not only did we get  
13 the comments back from that, we addressed all of  
14 the comments and we actually had a physical  
15 meeting on site with them with our engineers, and  
16 we went through everything pretty much line by  
17 line. We have addressed those and we have  
18 submitted those. And, then, the letter that you  
19 are referring to, Mr. Chairman, of October 25th.

20           CHAIRMAN STUTO: Right.

21           MR. TOWNSEND: We received that letter  
22 also. And, if you read through the letter, there  
23 are three comments we need to address. Quite  
24 frankly, we have already done them. There were a  
25 couple of notes that we were asked to take off and

1 there was a comment made about the engineering  
2 report which our engineer has already made  
3 modifications to. So, to the best of our  
4 knowledge, we have accommodated all of the  
5 comments.

6           CHAIRMAN STUTO: Okay, thank you. That  
7 is very thorough and you have been very responsive  
8 to all of our requests so far, as far as I'm  
9 concerned. And that's what our Town designated  
10 engineer has been telling me. In fact, you're  
11 even ahead of the curve on some things, including  
12 the final plans. But there may be some further  
13 comments tonight, and so on.

14           We will now turn it over to our Town  
15 designated engineer, Chuck Voss from Barton and  
16 Loguidice. We may not all have the written ones  
17 because I know you mailed it a day or two ago.  
18 So, we'll listen very closely, and I will look on  
19 with Tim.

20           MR. VOSS: Yes. What the Chairman is  
21 referring to is our letter of October 25th. And,  
22 Mr. Townsend just mentioned, it's a follow-up  
23 letter to our more thorough letter of October 10th  
24 which really detailed about eleven pages of  
25 comments we had. As Scott mentioned in his

1 presentation, they have addressed every comment  
2 verbatim. We had a meeting with them  
3 approximately two weeks ago to go through all of  
4 our comments. It was a very productive meeting.  
5 And they had their engineer on site with us as  
6 well. We went through it line by line, every  
7 comment that we had. They were mostly technical  
8 comments in terms of providing certain details on  
9 storm water management practices and some of the  
10 layout issues and the landscaping issues and some  
11 questions that the Board had. So, as Scott just  
12 mentioned, we really had three final comments  
13 based on their final submission. And we have  
14 addressed all of those comments in our recent  
15 submission. So, at this point we are satisfied  
16 that they have met all of the technical standards  
17 we have asked them to meet. So, we have no  
18 additional comments at this time.

19 CHAIRMAN STUTO: So, let me just, by a  
20 show of hands, is there anybody from the public  
21 that wants to speak on this?

22 Anybody here who is a resident? Are you  
23 a resident, sir, there in the back? Do some of  
24 the residents want to speak on that? I know  
25 Victor, you are one of the commercial neighbors.

1 MR. CAPONERA: Yes.

2 CHAIRMAN STUTO: And, who are you with,  
3 sir?

4 MR. ABELE: Abele Tractor and Equipment.

5 CHAIRMAN STUTO: Okay. Do we want to  
6 hear from the neighbors first? Okay. And, I  
7 don't have my list in front of me. Do you want to  
8 go first?

9 MR. CAPONERA: Sure. Thank you, Mr.  
10 Chairman. I'm Victor Caponera. I represent my  
11 client Abele Tractor and Equipment Company. And,  
12 is there a site plan on here, Scott, that I can  
13 look at? First of all, obviously, I didn't know  
14 anything about what was going on until yesterday  
15 when I got the call from my client, Abele. And I  
16 wanted to just, first of all, tell the board that  
17 we are certainly not opposed to development. We  
18 encourage it. And, we have nothing to say bad  
19 about this. But I just wanted to mention to the  
20 Board that one of the first things I learned in my  
21 second day of law school a few years ago, and when  
22 I went through my first real property class was:  
23 Let the buyer beware. And what that means is that  
24 there is going to be a proposed daycare here with  
25 special needs children. And, I want the Board to

1 understand that this property used to be owned by  
2 my client's family. My client's family, believe  
3 it or not, is the oldest family-run business in  
4 the Town of Colonie. It started in the 1870s, I  
5 believe it started, prior to the town being  
6 incorporated. So, for 138 years the Abele family  
7 have run this operation which is the Abele Tractor  
8 and Equipment Company. And they own all of this  
9 property that included this piece right up to  
10 where my hand is here which is owned by the  
11 Picotte family, which is Wes Bradford, which  
12 everyone knows as Corporate Woods.

13           Abele has been here for 138 years.  
14 Actually, it's in its fifth generation of running  
15 this operation, and it's a legal operation. And  
16 we all understand it's a tractor and equipment  
17 company. And what has happened back here  
18 (indicating) right adjacent to this property,  
19 things, meaning construction equipment is done,  
20 testing of construction equipment is done. And,  
21 we want to make sure that the record is clear that  
22 should this building be built and if it is in  
23 operation as a daycare center with special needs  
24 children, which I am told have sensitivity to  
25 noises, let the buyer beware. In other words, I

1 don't want Scott Townsend or his wife to think  
2 that if this goes in, that somehow they can come  
3 back to the Town and say, well, my client has to  
4 cease his operations or discontinue his operation  
5 or somehow modify what he has done at the facility  
6 for 138 years. And, just for the Board's  
7 edification, as I said, my client owns all of this  
8 property all the way down to where Wes Bradford  
9 is, which is Corporate Woods.

10               Wes Bradford, or Corporate Woods, came  
11 to my client many years ago and said: We want a  
12 recorded right of first refusal to buy all of your  
13 property from here all the way to here. And my  
14 client's father, who is now 94 years old and who  
15 is mentally sharper than I am -- agreed to do  
16 that. And it's on record in the County Clerk's  
17 office. And, I have copies of all of this which I  
18 will submit to your eminent counsel so that she  
19 can concentrate on this.

20               So, they granted this right of first  
21 refusal in 1982. This is long before the  
22 development came in for Norton. Then, in 1988  
23 with the permission of Wes Bradford which is  
24 Corporate Woods, they conveyed this piece to the  
25 Nortons. And I had nothing to do with it. This

1 was done by way of the Wes Bradford Corporation  
2 and the Picotte companies. And I'm sure you will  
3 hear from them. And, there are documents here to  
4 establish what was going on, what the agreements  
5 were. And, there was one agreement that was  
6 written between Norton Home Builders and Wes  
7 Bradford that troubles me because it says: Norton  
8 agrees that Parcel 1 -- if this is Parcel 1  
9 (indicating) -- and I believe it is -- is only  
10 going to be used for draining from its adjoining  
11 properties and that Norton won't construct  
12 buildings on this parcel without the consent of  
13 Wes Bradford. I only found out about this when I  
14 spoke with Nancy Carey Cassidy, who is with the  
15 Picotte company.

16 CHAIRMAN STUTO: Is that a recorded  
17 document?

18 MR. CAPONERA: That, I don't know. I  
19 can't answer that. The deed that conveyed this  
20 two-acre piece from my client to the Norton  
21 Company, Norton Builders, has no restrictions.  
22 It's simply for the two acres.

23 CHAIRMAN STUTO: If it was a recorded  
24 document, any buyer of that would be put on formal  
25 notice; arguably, anyway.

1                   MR. CAPONERA: I would have to say yes.  
2 And, again, I'm sure you will hear from the  
3 gentleman from Picotte who can speak to this. And  
4 maybe it is; who knows? I don't know.

5                   CHAIRMAN STUTO: So far, you are only  
6 speaking of private agreements between private  
7 parties?

8                   MR. CAPONERA: Absolutely. I'm just  
9 familiarizing the Board with my client, how long  
10 my client has been here in this Town. They are  
11 very civic-minded. They do a lot of great things  
12 for the Reserves. And they are going to stay as a  
13 family-owned business for many years to come.

14                   Again, using the three words I said  
15 when I first stood up: Let the buyer beware.  
16 That is more than three words - four words. I  
17 just want to make sure that should the Board  
18 favorably act on this -- and we have no opposition  
19 to it -- that everybody knows going forward that  
20 there are operations here that are right next to  
21 this property that is commercial in nature and  
22 that it's noisy. And, I did hear from another  
23 property owner. Balbonia who might be here  
24 tonight and he might want to speak; that he has a  
25 commercial operation that is in the general

1 vicinity to that, Balbonia Contracting. They have  
2 a construction operation too. So, just so long as  
3 the Board is aware and Mr. Townsend and his wife  
4 are aware. And, that's pretty much it.

5 CHAIRMAN STUTO: Okay, thank you. We do  
6 have a list now. Normally we go down in the order  
7 that people put their names in. Joe Miller? And,  
8 I prefer that you go to the microphone.

9 MR. MILLER: My name is Joel Miller. I  
10 am with Picotte Company and we represent Wes  
11 Bradford. The reason I'm here is that, like Mr.  
12 Caponera, we learned today about this development.  
13 We are in the process of researching the documents  
14 that he referred to, so I don't have them with me.  
15 But once we obtain them, we will certainly share  
16 them. The main concern that we have is the main  
17 effort of that agreement was that that parcel be  
18 kept for storm retention. And it's actually part  
19 of the agreement. And the concern, then, is that  
20 if it is developed as a piece of real estate with  
21 a building on it, that it no longer serves the  
22 purpose of a storm retention pond. And, as such,  
23 any water that would have been retained there will  
24 now enter the properties of Corporate Woods, Wes  
25 Bradford. And, that is our main concern. We

1 certainly don't have a problem with the type of  
2 use. We do have a problem concerning storm water  
3 retention. We want to know how that is going to  
4 be dealt with and research further to bring to the  
5 Board's attention to it.

6                   CHAIRMAN STUTO: Thank you. I  
7 appreciate your time. We have a storm water plan  
8 in front of us. And the applicant, I believe, is  
9 an architect. And I am going to let you address  
10 any of those issues you want to. You don't have  
11 to get into the private agreements that you are  
12 aware of, but at least the storm water might be an  
13 important one, if you are prepared to do that.  
14 And there is a pond right next to the property; is  
15 there not?

16                   MR. STEENBERG: Good evening. My name  
17 is Brett Steenberg. I'm here for the applicant.  
18 Just to put your mind hopefully at ease a little  
19 bit, at least regarding the storm water management  
20 and storm water retention on that parcel, Mr.  
21 Norton created a large base which encroached onto  
22 the parcel that was sold to the applicant. We are  
23 not doing any modifications to that basin. The  
24 basin was sized according to the engineering  
25 reports, was actually sized to incorporate all of

1 the development for Kross Key Drive, including  
2 that parcel. We are actually attenuating all of  
3 the storm water on our site to less than  
4 pre-development grades before discharging it. Not  
5 only are we going to be attenuating it, but also  
6 employing green infrastructure practices, rain  
7 gardens and water retention ponds. And, knowing  
8 Mr. Voss and Mr. Grant -- We have worked with them  
9 very closely in development of the storm water  
10 retention plan to be sure we are meeting all of  
11 the requirements in attenuating all of the storm  
12 water. Not only from when the Kross Keys  
13 development was done to now, the regulations have  
14 changed considerably. And, one of the regulations  
15 that was never really picked up on in the older  
16 regulations was producing volumes of runoff from a  
17 site. And, with the new regulations and the green  
18 infrastructure, that actually went to reduce the  
19 volume of runoff. The one we ignored in exceeding  
20 requirements for runoff production volume.  
21 Additionally -- and I mentioned this. All of the  
22 asphalt on the site will be porous asphalt to  
23 allow for the ex-filtration of all of the storm  
24 water which falls upon the porous asphalt into the  
25 sandy sublayers. We have done permeability tests

1 on the soil. We feel confident that they will be  
2 able to absorb that quantity of runoff as well as  
3 what is going into the water retention.

4 CHAIRMAN STUTO: Thank you.

5 Can I have Rodney and Sharon Abele. Do  
6 you want to speak?

7 MR. ABELE: I am Rod Abele, Abele  
8 Tractor, on Everett Road. I grew up in a house  
9 next to the main business. I have worked there  
10 since the 1950s and started full-time in 1965.  
11 And, despite my age, I'm still working full-time.

12 The subject property in the back it's  
13 main use for the company -- and this has been for  
14 decades -- is used for testing and demonstrating  
15 equipment. It's vacant land. It has had so many  
16 holes dug in it that you couldn't count them. But  
17 we fill them in. And it's important to us that we  
18 can keep using this property as we have for many  
19 decades. We repair equipment there. It's  
20 earth-moving equipment there, heavy equipment. We  
21 bring it to the back, and we have this vacant  
22 land. We dig holes or push dirt, whatever it is,  
23 an excavator and dozer. And, then, some of this  
24 equipment is very loud. Excavators, you have seen  
25 roads where they get broken up. They use

1 hydraulic hammers on the end of an excavator stick  
2 to break these up, and these are extremely loud  
3 machines. I am also in the aggregate business,  
4 screen plants and crushers. Crushers are the  
5 loudest. So, some pretty heavy noises going on  
6 back there.

7                   Now, going back to the 60s, on the other  
8 side of Everett Road where my main offices are,  
9 came the time that 80 Everett Road came up for  
10 sale. My father bid on it, and somebody came  
11 along and outbid him. And, knowing fully who his  
12 neighbor was going to be, moved in there. And for  
13 two years everything seemed fine. Then, there  
14 came a time that these people objected to what  
15 Abele Tractor had been doing for, at that point,  
16 eighty years. So, they objected to it, and  
17 lawyers were involved and it got into the courts.  
18 And, at one time -- this was actually an immigrant  
19 family. And the mother of the person I believe  
20 that bought it, couldn't communicate with her.  
21 And she had her way of communicating with my  
22 people. She poured a hot pan of water over one of  
23 my employees. And this just escalated and went on  
24 for fifteen years. And the judge finally made a  
25 decision. But, in the meanwhile, for a few years

1 my operation along that property line was put on  
2 hold. It didn't seem fair, but that's what  
3 happened. And I'm concerned here that when the  
4 full effect of what I'm doing back there is  
5 realized by some people who have spent a lot of  
6 time planning this -- but I only found out about  
7 it a little while ago. I mean they could have  
8 come to me and said what they had in mind to do.  
9 But I only heard about it a week ago Monday when  
10 they were looking for an easement to run some  
11 utilities in there.

12                   Now, for all of these years, Abele  
13 Tractor has been the doormat for all of the  
14 developers around. I helped out Picotte with the  
15 waterline. No problem. For Norton, I know I  
16 helped him out two or three times were their  
17 variances. In the meanwhile, all of this stuff is  
18 given away for hardly anything. And I am very  
19 concerned about what's going on here. And, as  
20 neighbor to neighbor, if they had come to me early  
21 on before spending money on this plan, I would  
22 have objected to it as I am today. So, it's not  
23 like I'm coming in at the last minute. I would  
24 have been here three or four months ago whenever  
25 this started. But, I gave Victor some information

1 and he didn't -- maybe because of time or  
2 whatever. We have been here 138 years. Again, we  
3 are the oldest business in the Town under  
4 continual operation of the same family. My office  
5 is actually in one of the buildings from the  
6 1870s. And, if we had this meeting back in 1920,  
7 it could very well have been in my building  
8 because upstairs was the courthouse. This is  
9 steeped in history. Do you have that one flyer  
10 there so I can show them? But, it means a lot to  
11 me. It means a lot to my family. The Abeles  
12 start at less than one year old and go up to 94  
13 and a half. And I'm the in-between.

14                   Here is the flyer from the 100th  
15 Centennial in 1995. And, my business was started  
16 there when the Town of Colonie was Watervliet.  
17 The Town didn't come around until 1895. So, on  
18 the back we took a full-page ad showing the  
19 history of the company. This is my grandfather  
20 (indicating flyer photo) and the car he built  
21 right there on that site. And there is the  
22 business the way it looked then.

23                   Inside, they did an article, and the  
24 heading on it is "Historic Treasure." I have got  
25 a couple of copies to pass around.

1                   It's not that I am opposed to what they  
2 are doing. I think it's great what they are  
3 doing, but I think it's the wrong setting because  
4 of what I have been doing there for years. And, I  
5 have asked the question if there were any acoustic  
6 tests done in their engineering for this property  
7 and I have been told there are none. A couple of  
8 years ago, I had some property -- not that  
9 property, but on the other side of Town -- that  
10 was considered for a Fed Ex facility. Those  
11 people spent so much time looking at every aspect  
12 of what they were doing, and there were acoustic  
13 tests done because they were concerned about  
14 moving into a new area that they might be  
15 affecting the neighbors. So, I'm surprised that  
16 with children with learning disabilities and  
17 hearing problems, that acoustic tests were not  
18 done with what I do in the back and, then, there  
19 is a neighbor on the other side who does similar  
20 type operations.

21                   Abele Tractor fully supports a lot of  
22 worthy causes, and one of them that we have  
23 supported every year for fifteen years is the  
24 Wildwood program. And, that involves children and  
25 people with disabilities. So, we fully support

1 it. And I gave Vic a lot of stuff to go over. He  
2 didn't go over it, but I'll skip over it. We have  
3 just been active in the community in helping  
4 people in times of need. Actually, I have got a  
5 short list that my son wrote: Abele supplied  
6 labor and heavy equipment to the Red Cross during  
7 times of need. A year ago -- fourteen months ago  
8 when we had Irene here, we not only gave them  
9 equipment, but we gave them people to load and  
10 unload trucks down there at the Everett Road site.

11           We have supported various youth  
12 organizations: West Albany Little League, North  
13 Colonie Lacrosse, North Colonie Little League. We  
14 actually gave them a tractor for their 2012  
15 season. Colonie Youth Pop Warner. We supported  
16 the West Albany Fire Department. And, I don't  
17 have that with me, but I think my grandfather  
18 actually built a couple of fire apparatus back  
19 when you kind of couldn't buy manufactured items.  
20 That would be back in the 1920s. We supported the  
21 local DARE program and many other nonprofits. I  
22 have traveled the country, and the truth is, I  
23 have probably been in 200-plus equipment  
24 dealerships, and I have never seen a school next  
25 to an equipment place. It just doesn't seem to me

1 that these things mix. I don't think that they  
2 realize the noise that can come out of my place at  
3 times. So, I respectfully ask that they consider  
4 finding another spot. I know they have put a lot  
5 of work into it.

6 CHAIRMAN STUTO: How far is that off  
7 Everett Road where you do the testing?

8 MR. STEINBERG: It's right back on their  
9 property line, so is probably 1,000 feet. But  
10 it's right at the back line.

11 CHAIRMAN STUTO: Okay.

12 MR. ABELE: It would be harder for me to  
13 find 20 industrial acres than for them to find two  
14 suitable acres for what they are doing. And,  
15 actually, what they are buying there basically  
16 needs a lot of work. It's a hole. And for the  
17 two acres they are buying, it is dedicated to a  
18 retention pond. But I first heard about this a  
19 week ago Monday. I'm sorry I'm coming in at the  
20 last hour, because I know they have done a lot of  
21 work. But I just don't think it fits, so I  
22 respectfully ask that you help them find another  
23 site. Thank you.

24 CHAIRMAN STUTO: Thank you.

25 MR. ABELE: One last thing. I know

1 firsthand about hearing problems. And they wrote  
2 me an e-mail last week which I should read to you.

3 CHAIRMAN STUTO: From the applicant?

4 MR. ABELE: Yes. It's from Scott  
5 Townsend. They previously asked me about an  
6 easement, and we met in the back and I told him  
7 that, look, I have got loud equipment running  
8 here. Are you sure you want to be here? And he  
9 said, "Well, I am going to be sending you a  
10 schematic of the easement we are seeking." And,  
11 then, it ends with, "On another note, we will not  
12 object to whatever you may need to do on the back  
13 of your lot in the future, as long as we can  
14 obscure the potential visual impact and,  
15 hopefully, keep the noise to a minimum for the  
16 kids." Well, I fully understand keeping the noise  
17 to a minimum for the kids, because in my immediate  
18 family I have a child with special needs and I  
19 know that loud sounds were a definite hurtful for  
20 this child who is an adult now and has moved on  
21 from that. But I did go to a special school like  
22 theirs, and it was ten miles away from my home,  
23 but I was happy that such school did exist. And I  
24 know that construction equipment can hurt your  
25 hearing because I wear these things now. I wish I

1 did years ago, because I have a hearing deficit.  
2 And, from March 1992, I was in one of the shops  
3 and into my back side, there was a loud bang that  
4 just about knocked me off my feet. Something had  
5 dropped. And I got home that night and it was  
6 dark. And I live in an area that is very quiet.  
7 There is nothing around me. But I was hearing  
8 something and looking around; what is it? What is  
9 it? Well, what it is, I have ringing of the ears  
10 now for the last twenty years. So I know hearing  
11 and construction equipment can work against each  
12 other. So, I don't think this is the right place  
13 for what they are doing. And, certainly, there  
14 has to be a better two acres somewhere in the area  
15 for them. And I talked to them a little bit  
16 earlier. I would be very helpful to them in their  
17 building process, whatever I might do because this  
18 thing has gone along so far. I know that they  
19 have got a lot invested in it, but I could be  
20 quite helpful to them. I don't think that thing  
21 should be there.

22 Thank you again.

23 CHAIRMAN STUTO: Thank you. Mary Lang?

24 (No response)

25 CHAIRMAN STUTO: Steven Balbonia?

1                   MR. BALBONIA: Not only do you have  
2 noise, but you also have vibration when you have  
3 large equipment. And, that vibration does carry a  
4 ways. I am actually on the other side of that  
5 building, and we run a construction company there.  
6 So, we recycle our spoils that we get from the  
7 construction jobs and make topsoil and recycle  
8 concrete and blacktop. And other than that, I  
9 think it's a nice thing they are doing. I would  
10 have to agree with Rod, I don't think it's the  
11 right place. That is what I believe.

12                   Thank you.

13                   CHAIRMAN STUTO: Does anyone else from  
14 the public want to be heard on this application?

15                   (No response from the audience)

16                   CHAIRMAN STUTO: Joe, on the notice,  
17 were the Abeles and Mr. Balbonia, were those  
18 businesses notified prior to concept approval?

19                   MR. LaCIVITA: Yes. We hear this from  
20 time to time, and we usually try to go back and  
21 check the record. And, in fact, I saw the letters  
22 dated August 10th, the affidavits that were signed  
23 by Scott himself. But the August 10th letter,  
24 Bill Picotte was notified at 20 Corporate Woods  
25 Boulevard. And it was followed up with an e-mail

1 to Bill Picotte. On August 10th, the same letter.  
2 Huntington Associates, attention: Mr. Richard  
3 Balsam, 5 Palisades, Room number 310. That was  
4 followed up with an e-mail to that location.  
5 There was a letter sent to the residents, I  
6 believe, and Mr. And Mrs. Rod and Sharon Abele in  
7 East Greenbush. It does talk about 11 Kross Keys.  
8 And there was no follow-up with an e-mail to that  
9 one.

10 CHAIRMAN STUTO: That was August 10,  
11 2012?

12 MR. LaCIVITA: August 10th of 2012.  
13 Again, similarly, there was an August 10th letter  
14 to Jeffrey Abele, a bordering property as well,  
15 identifying 11 Kross Keys and followed up with an  
16 e-mail -- it looks like to Ron and Sharon as well  
17 at a g-mail location. And to Balbonia Brothers at  
18 18 West Albany Drive in Albany. And it was again  
19 followed up with an e-mail. So, those were  
20 attempts to definitely notify the adjoining  
21 property owners of the concept.

22 CHAIRMAN STUTO: The Board, do you want  
23 to ask questions of the applicant here or respond  
24 to what you just hear? Mr. Abele?

25 MR. ABELE: Yes. On that notice, there

1 was nothing on the envelope to indicate what the  
2 matter was inside. I get so much mail; I don't  
3 get to look at it all. And, then, I looked on  
4 your laws of the Town here, and 62-27 says that  
5 mail is supposed to be certified. And this didn't  
6 come certified. So, again, I wish I knew about  
7 this earlier. And if I had thought of them as  
8 being future neighbors, I would have thought to  
9 look at this.

10 CHAIRMAN STUTO: I'm just trying to get  
11 on the record what we did do. I am not accusing  
12 you of anything, and I appreciate your comments.

13 MR. LaCIVITA: According to the --

14 CHAIRMAN STUTO: The Applicant has the  
15 obligation to send those notices.

16 MR. LaCIVITA: Yes.

17 CHAIRMAN STUTO: I will let the  
18 Applicant respond to everything that's on this.  
19 Would you like to respond?

20 MR. TOWNSEND: I just want to mention a  
21 couple of things in response to our potential  
22 neighbors. And, then, what I am going to do is  
23 regarding the noise, I'm going to let Sherry speak  
24 regarding the kids. She's more appropriate to do  
25 that. These are a couple of technical things Joe

1 just went through how to notify, and we did our  
2 due diligence on that and with the e-mails also.  
3 Also, Beth (last name) the office manager, we were  
4 just confirming all the addresses. So she  
5 actually called all of the various people.

6 CHAIRMAN STUTO: Do you know if she sent  
7 them certified?

8 MR. TOWNSEND: I don't believe so, no.  
9 And I don't know if you're aware of this. As you  
10 may know, we are pretty thorough on their stuff as  
11 best we can be. We didn't see any instructions on  
12 the notifications. We didn't know it was supposed  
13 to be certified. I know the Town has  
14 instructions, but Beth Bavel who is our office  
15 manager, called all of these and confirmed the  
16 addresses to just make sure everyone got them,  
17 which is how we got the e-mail addresses, which is  
18 not a requirement. We just wanted to cross out  
19 T's and dot our I's, shall we say.

20 In early August, Beth did talk to Sharon  
21 Abele. I don't know the content of the  
22 conversation because I wasn't on the phone, but  
23 she talked to Beth about what we were doing.

24 There is just one other thing that I  
25 want to point out. We are aware of what is going

1 to be here. I cannot speak to actually Mr.  
2 Caponera's first comments and the gentleman and  
3 Mr. Miller. I want to clearly say that as the  
4 applicant here, that we are not aware of any  
5 restrictions that Norton has.

6 CHAIRMAN STUTO: Are you purchasing the  
7 property?

8 MR. TOWNSEND: Yes, we are purchasing  
9 the property.

10 CHAIRMAN STUTO: Did you do a title  
11 search?

12 MR. TOWNSEND: Yes, we did.

13 CHAIRMAN STUTO: And, you didn't come up  
14 with anything?

15 MR. TOWNSEND: No. And we are not aware  
16 of any of those things. I'm not a lawyer, so I'm  
17 not going to pretend that I know.

18 MR. LANE: Were you aware of the type of  
19 business Mr. Abele ran and the noise and so on?  
20 That was all something that you were aware of?

21 MR. TOWNSEND: Yes. I will let Sherry,  
22 my wife, address specifically that. The only  
23 thing I want to point out is that this meets all  
24 of the zoning laws and the rights on our property.  
25 Mr. Miller has several other properties that are

1 as of yet undeveloped, but they are all approved.  
2 And I realize there is a sensitivity because of  
3 what happened here. So, with that, I will pass it  
4 over to Sherry.

5                   MRS. TOWNSEND: Good evening. I am  
6 Sherry Townsend, and I'm the operator of the  
7 Spotted Zebra Learning Center. It's an approved  
8 preschool for children that are typical and that  
9 have no disability and for children that have some  
10 disabilities. We are also approved through the  
11 State Education Department to provide special  
12 education services, and we are also an approved  
13 kindergarten.

14                   I want to thank the Abeles for their  
15 concerns. And I don't harbor any reasons --  
16 anything to be upset about. I appreciate the  
17 concerns that they have brought to us about the  
18 noise. We have been at Two Kross Keys Drive for  
19 eight years now. We are located right next door  
20 to literally in the same building and we share a  
21 wall with the AT&T pump station that's in our  
22 building. In fact, they probably rent about  
23 two-thirds of the building. Not something that's  
24 open to the public. They have a lot of machines.  
25 They have a lot of alarms. And they have a lot of

1 generators. In fact, if you came to our building  
2 today, not only would you see a huge generator  
3 next to our building, but they brought in some for  
4 the potential storm last night. So, at any given  
5 moment at any given time during the day, the  
6 generators are going off because it is critical in  
7 order for them to maintain their operations and  
8 for them to receive cell service and telephone  
9 service with AT&T. So, we hear that quite a bit,  
10 quite frequently. We also hear the alarms that go  
11 off within their facility.

12           As a daycare and through the auspices of  
13 Children and Family Services, we are also required  
14 to perform fire alarms every month, which are  
15 typical alarms that you would hear right over here  
16 that are very loud. Our children never have an  
17 issue with it. They are taught to walk out,  
18 maintain calmness. The children with  
19 disabilities, they can have some sensitivities.  
20 They can be light. They can be color. But,  
21 again, we are of the belief that children can  
22 learn and can become used to those types of sounds  
23 because that is in their normal environment when  
24 they are going to go to public school. We want  
25 them to function as typical children. Again,

1 while I appreciate the concern, it's something  
2 that doesn't alarm me. Our kids have taken field  
3 trips to Abele and they have been on the tractors.  
4 They loved it. It is one of their favorite field  
5 trips and they enjoyed it. And I hope to continue  
6 to encourage that relationship when they are  
7 closer. I will also point out, too, that  
8 Executive Woods has a daycare that is very close  
9 by to Abele. We talked about it quite a bit. We  
10 actually talked about ways to collaborate since we  
11 are going to be so close. She has never voiced a  
12 concern about that spot, about the sound. And, to  
13 our knowledge, neither has Rich Paulsen with  
14 Executive Woods located right there. And, in  
15 fact, I visited a couple of those buildings for  
16 personal use, and I have to say that the sound has  
17 never been an issue or a concern. I do want to  
18 reiterate what my husband said, which is  
19 concerning me to hear that all of this concern  
20 about the property itself and some of the  
21 agreements that may be in place that we have no  
22 knowledge of. I am hoping, again, that it all  
23 works out, but this has just come to light. And,  
24 again, having received notification almost two  
25 months ago, I wish that it had come to light a lot

1 sooner. I guess that's all I have to say.

2 Certainly, I appreciate it.

3 MR. TOWNSEND: I just want to add two  
4 things which have to do with the noise, and I want  
5 to reiterate what Sherry said. We appreciate the  
6 concerns. It is unfortunate with the timing. It  
7 certainly was not intended. It didn't need to be  
8 a concern that way on all sides. Having said  
9 that, I know that Sherry operates it today, and  
10 Mr. Abele read something that I wrote, which is  
11 true; I wrote it. Unfortunately, in hindsight,  
12 after talking to Sherry, I believe I was less  
13 aware than she was, obviously. So, I just want to  
14 point that out for the record.

15 The other thing, too, that is important  
16 is when I was talking to Mr. Abele, the one nice  
17 thing about our building is working in a  
18 super-insulated building, we have all of these  
19 different technologies in the walls. I know there  
20 won't be a problem in the building with sound and  
21 acoustics. I'm sure the natural inclination is  
22 when they are outside. The good news is that it  
23 will help everybody. This is going to be the  
24 Abele property. And discussing some of the  
25 equipment, obviously, they have a parking lot here

1 and then the building. So, it is nestled on the  
2 other side of the building. The noise doesn't  
3 travel around it. You will hear it, but it will  
4 be buffered with a decent amount of landscaping  
5 and --

6                   CHAIRMAN STUTO: So, when you are  
7 outdoors in the play area, the building is between  
8 them and the Abele property?

9                   MR. TOWNSEND: That is correct. This is  
10 the Abele property, so there is a parking lot, we  
11 have our building, and they are on the other side.  
12 And this is all woods. This is the private woods  
13 that is the buffer between Corporate Woods and the  
14 property.

15                   MRS. TOWNSEND: I am half wondering if  
16 we're closer to them now than we will be when we  
17 are back there. I can visually see their tractors  
18 where we are right now. It runs by Best and  
19 that's where they have all of their tractors. So,  
20 I'm wondering -- again, I haven't given this any  
21 thought, but I think that we're closer to them now  
22 and my playground is right there with no buffer  
23 and we don't hear it. Again, I appreciate the  
24 concern. I don't harbor any anger. I am more  
25 concerned about the other issue that has come to

1 light.

2 MR. TOWNSEND: I don't know the answer  
3 to your question, but I know we are extremely  
4 close where we are over there.

5 CHAIRMAN STUTO: Chuck, do you have  
6 anything to add from an engineering and planning  
7 perspective other than what has been disclosed and  
8 leaving aside the contractual review; just about  
9 the noise.

10 MR. VOSS: You know, at this point,  
11 certainly the neighbors raised a concern about the  
12 existing condition of the neighborhood. As Scott  
13 mentioned and his wife mentioned, they were aware  
14 of that condition certainly when they came in and  
15 when they proposed the site.

16 CHAIRMAN STUTO: But the parents may not  
17 be and kids may not be.

18 MR. VOSS: Certainly, that could be a  
19 concern. The storm water basin --

20 CHAIRMAN STUTO: No, no. That's not a  
21 concern and it's not our issue. How well  
22 insulated are they from the noise?

23 MR. VOSS: That's something we haven't  
24 seen. That's a building permit issue, a building  
25 code issue that we don't typically look at. What

1 type of buffering materials they used --

2                   MR. TOWNSEND: It's a wood construction  
3 building. And a lot of times when we think about  
4 wood constructed buildings we are looking at the  
5 wood studs with the sheathing on the outside and  
6 fibers. It's fiber cement board that we showed,  
7 which is concrete and cement. It's very dense.  
8 And, a lot of times when people think of the  
9 insulation which is a critical factor inside the  
10 studs, you have usually think of the pink  
11 insulation. We are actually doing the spray kind  
12 which is called closed cell. It's a newer  
13 technology, but it's extremely dense. It's  
14 actually a structural component. So, what ends up  
15 happening is with any engineering, the denser the  
16 material, the better the acoustics are in terms of  
17 shielding it. So, we have the fiber cement on the  
18 outside, the sheathing, and then we have several  
19 inches of the closed cell which is the densest  
20 material you can get. We did it for insulation  
21 purposes, but it has the added value for the  
22 acoustics. And, then, we have the normal  
23 sheetrock.

24                   MR. VOSS: I think the construction  
25 materials are adequate, just like the daycare next

1 to the airport. You know, you buffer it. The  
2 only concern is the fact that maybe when you're  
3 talking about children with special needs, they  
4 might be overly sensitive to loud noises. But  
5 unless they can quantify that and, again, Sherry  
6 mentioned that it's not necessary. There is  
7 apparently a daycare right next door on the other  
8 side of the property line from the Abeles. That  
9 seems to be functioning without incident as far as  
10 we know.

11 CHAIRMAN STUTO: Okay, thank you. Mike,  
12 do you have any comments?

13 MR. SULLIVAN: Legally, how do we  
14 protect the existing businesses from possible  
15 legal action down the road? And I appreciate  
16 their concern, but I want to make sure that, as  
17 Mr. Abele mentioned, he had a problem previously  
18 where a few years down the road it became an  
19 issue. I don't have a problem as long as everyone  
20 is in agreement. But I want to make sure that  
21 legally, it is also understood.

22 CHAIRMAN STUTO: I don't know if Mr.  
23 Lane wants to comment on that or Chuck can  
24 comment.

25 MR. LANE: They're already there and

1 making the applicant aware of the conditions. I  
2 have a little bit of a concern on the safety  
3 issue. The Applicant raised the issue of the  
4 children's sensitivity to noise in a letter that  
5 you sent.

6 MR. TOWNSEND: Yes. I corrected myself  
7 for the record. It should be my wife speaking to  
8 that.

9 MR. LANE: So, are you withdrawing that?

10 MR. TOWNSEND: Yes.

11 MRS. TOWNSEND: I think he was just  
12 responding.

13 CHAIRMAN STUTO: Our Town-designated  
14 engineer was just giving a signal.

15 MR. GRANT: I wanted to talk about the  
16 plans. There is an elevation difference, a slope.  
17 I don't know how many feet; I can't tell from  
18 here. But there is a bit of an elevation  
19 difference at one end of the site on this  
20 projects. The town landfill was not put on the  
21 plans. And the noise could be a factor, and this  
22 is covering everybody.

23 CHAIRMAN STUTO: The school is lower  
24 than Abele?

25 MR. TOWNSEND: Yes, it is. Brad is

1 correct. It's about 12 feet to 15 feet below.

2           CHAIRMAN STUTO: There are two aspects  
3 to this. One is whether the approval is proper in  
4 the sense of this being zoned for what the  
5 application is. And, I think all of our  
6 professionals are advising us that it is zoned  
7 correctly for that. The other is a private action  
8 between two private parties. And some of that is  
9 based, perhaps, on contracts, perhaps recorded  
10 documents, and perhaps some type of claim for the  
11 noise. They are on notice that it is noisy and  
12 they have admitted it, which helps the Abeles on  
13 that side. But, you can certainly never prevent  
14 somebody from bringing a lawsuit. We are not in  
15 court, so we can't say how that would come out.  
16 We don't really know what the facts are in terms  
17 of them having taken testimony, what the uses are  
18 of the properties, and so forth. So, that's a  
19 risk for the applicants and that is a risk out  
20 there even for the Abeles from their perspective.  
21 But with respect to our decision, if we decide to  
22 go forward tonight to vote, I believe it is zoned  
23 correctly for this kind of thing. If we think  
24 there is a further need to mitigate any of the  
25 problems or take a breather -- and, I'm not

1 necessarily advocating that -- we could do that  
2 and we could table this until we have thought  
3 about and to look into further mitigating  
4 measures. That is my perspective on it.

5           MR. LANE: The attorney for the Planning  
6 Board, and I understand those thoughts and  
7 concerns. But it has been raised and Mr. Abele  
8 even spoke about his sensitivity and hearing  
9 problems. I'm just wondering if, you know, in  
10 approving a project like this, the Board has to  
11 consider what's best for the public. And, as you  
12 point out, Peter, it's not just this application  
13 and future children going there and the parents.  
14 We do know that in a sense it's not a special use,  
15 but this is going to be not just a normal school  
16 but there will be children there also who do have  
17 special needs, if that's the right word  
18 description. And, I just feel there is a little  
19 bit more of a duty imposed upon the Board and that  
20 we have been made aware of that, to make sure that  
21 this is the proper location and does not conflict  
22 with the surrounding uses and the uses that are  
23 already there.

24           MRS. TOWNSEND: Respectfully, our  
25 parents voluntarily come there. They chose to

1 come there. They have visited many centers in the  
2 Capital region. We are fortunate to have a number  
3 of centers that provide for children with special  
4 needs as well as normal children. Some like it  
5 because they are not in the rural area. Some like  
6 it because it is right next to a highway and easy  
7 access to work. When they see our site and they  
8 see it now, we have Abele Tractor right there. It  
9 is right within our view. It's up to them whether  
10 they decide that they want their children to go  
11 there. I respectfully request that that be taken  
12 into consideration; that parents with full  
13 knowledge and full disclosure understand the  
14 Spotted Zebra Learning Center and Bizzy Beez and  
15 all that surrounds it and how it may affect their  
16 kids. Again, saying that, and saying to you that  
17 it impacts their kids, I'm not sure it's better  
18 than where we might be located in the future. We  
19 have a waiting list of families. We have 55  
20 children and a waiting list of twenty families.  
21 And we are full until the following September.  
22 So, while again I appreciate the thought, I think  
23 that it is not a relevant issue in this case.

24 MR. TOWNSEND: If I may, I want to point  
25 out one thing. Saying there may be a better spot,

1 I just want to make it clear that it is important  
2 for this operation to be within the Town of  
3 Colonie in the North Colonie School District. And  
4 in my business being an architect, I know a lot of  
5 real estate people. We actually solicited six or  
6 eight different people to actually look into ti,  
7 and there is no available property. We have been  
8 looking for property for about a year and a half  
9 now. And this property actually meets all of our  
10 criteria.

11 MR. LANE: Is there anything further you  
12 need to do? Do you need to do any further testing  
13 or hearing/sound testing? You are very  
14 comfortable that no danger is going to be created  
15 for the children by noise?

16 MR. TOWNSEND: The straight-up answer is  
17 no. I don't feel there is any more need. As  
18 Sherry pointed out, we are on Kross Keys already.  
19 It is an established business for seven years, and  
20 we actually have a playground that's -- admittedly  
21 it is across the street, but it's a non-use  
22 street. It is the same neighbors that is being  
23 brought to our attention at this point in this  
24 process. But we have been aware of it for seven  
25 years, as well as all the parents. And, so, we

1 are aware of everything and things we are doing,  
2 we are doing in an actually similar way. I know  
3 it has been brought to our agency and we are aware  
4 of it and cognizant of it. And we are okay with  
5 where it is.

6 MR. TOWNSEND: In my former profession,  
7 I was a comptroller for a company advocating for  
8 people with developmental disabilities. We also  
9 looked into group homes and reintegration and  
10 worked with families to look for services to  
11 provide to their kids that have disabilities.  
12 There is a level -- I may use the wrong acronym or  
13 the wrong words. But there is certain integration  
14 or normalization that the individuals try to  
15 receive for their kids. I know what you are  
16 trying to say. I know you are aware of the  
17 surroundings. My kids, if they are doing their  
18 normal -- as they may be they know the  
19 surrounding. You guy are aware of it. And when I  
20 think when we start to look into what we are  
21 talking about now, I think it's outside the  
22 purview. I think when we look at the zoning and  
23 compliance and view those things, I can certainly  
24 appreciate what Mr. Abele says. But, I think we  
25 have produced a record here to see that Spotted

1 Zebra is fully aware of their surrounding  
2 neighbors and we have to look at it. There are  
3 certain things we have to look at from a legal  
4 perspective, naturally. But it is on record that  
5 we have made that point.

6 CHAIRMAN STUTO: Mr. Abele since, we let  
7 the Applicant speak again, we are going to let you  
8 speak again. And, then, I want to get back to the  
9 order.

10 MR. ABELE: Thank you. How many people  
11 on the Board have been to the property? Three or  
12 four. Where they are operating right now?

13 CHAIRMAN STUTO: The current operation I  
14 haven't seen.

15 MR. ABELE: Yes. The stuff doesn't  
16 bother them; that's true. All it does is move  
17 there, and in the back is where the real noise is.

18 CHAIRMAN STUTO: They said it's next to  
19 Beff's. I know it's not 1,000 feet off the road.

20 MR. ABELE: They are near the back of  
21 Beff's and Beff's parking lot. And, all you will  
22 hear is something coming in slowly and parking.  
23 The loudest thing you hear are the backup horns.  
24 It's just strong enough to hear them park. But in  
25 the back it's going to be within 100 to 200 feet

1 of it. It's going to be where the real noise is.  
2 And, then, the other daycare center they site down  
3 on Everett Road, that's over 1,000, maybe between  
4 1,000 and 2,000 feet. That's on the other side of  
5 the Red Cross building in that vicinity. That's  
6 far. So, they couldn't possibly be complaining of  
7 hearing what I have going on. Now, Sherry cited  
8 what is going on in the building they are in; that  
9 they have all of these noises going on. Is that  
10 why they are moving? I don't know. Now, I'm not  
11 the only noise generator there. The playground  
12 site is on the opposite side of my property;  
13 correct?

14 MR. TOWNSEND: Yes. The way this is  
15 laid out, yes.

16 MR. ABELE: Well, the other person  
17 talking about this is Steve Balbonia. He has an  
18 operation on the other side that is more constant  
19 than mine. Did you ever hear a -- slam on a  
20 dump truck after nine loads? It's pretty loud,  
21 and he has that going on constantly. In fact,  
22 when I'm sitting over at my office in the evening  
23 -- which I have many times -- I hear noises and I  
24 think it's someone over in my yard doing  
25 something. And, come to find out, it's over in

1 the Balbonia lot, and I'm 2,000 foot from his  
2 yard. So, right on both sides of that facility  
3 they want to build. And they have two noise  
4 generators pretty loud. And, what happens in a  
5 year or two or three years when the honeymoon is  
6 over? And I get a call: Can you tone it down a  
7 little? Could you stop it? What do I do then?  
8 Who's the bad guy then?

9                   CHAIRMAN STUTO: Okay. I'm going to  
10 give it back to the Board. You will have another  
11 chance, an opportunity to speak. Do you have more  
12 questions or comments, Mike?

13                   MR. SULLIVAN: No.

14                   CHAIRMAN STUTO: Tim?

15                   MR. LANE: I appreciate your coming  
16 forward, Mr. Abele, and showing your concern. The  
17 Applicant is aware and know that they are just  
18 down the road. And, as you said, let the buyer  
19 beware. But as Joe points out, it's not our  
20 purview to determine the consequences. That is  
21 somebody else. And as Pete mentioned, nothing is  
22 going to stop anybody from filing a paper in  
23 court, you know, regardless of what we do.

24                   CHAIRMAN STUTO: I want to ask a  
25 question. Chuck, if we were going to do a little

1 further due diligence regarding noise in terms of  
2 further testing, what would you recommend? How  
3 expensive and in what direction would that be?

4 MR. VOSS: It's kind of an unknown to me  
5 at this point. We typically ask the Applicants  
6 who are the noise generators to produce. And,  
7 that's where the SEQR law comes in to say, well,  
8 is this project producing a negative impact and  
9 from what standpoint? Well, it's certainly not.  
10 They are not the noise generators. And, what  
11 happens on neighborhood properties, well, this is  
12 really outside the purview of this application and  
13 really has nothing to do with this application.

14 CHAIRMAN STUTO: But if we wanted to,  
15 what you would we do?

16 MR. VOSS: I wouldn't know where to  
17 start with this project because there is no noise  
18 being generated from the site.

19 CHAIRMAN STUTO: If we were going to put  
20 some kind of tester on the subject property, and  
21 say am I hearing noise --

22 MR. VOSS: From offsite? That is not a  
23 part of their application. I don't know. We  
24 would have to look and see. I have never heard of  
25 that being done on an impact issue.

1                   CHAIRMAN STUTO: I am asking an engineer  
2 to check into a technical question.

3                   MR. VOSS: We would have to look and  
4 see. We would have to get monitoring equipment to  
5 check ambient noises. We can certainly do that.  
6 How much of a process it is, I don't know.

7                   CHAIRMAN STUTO: Would the data that you  
8 gatherer be useful in saying what should be done  
9 with the property to mitigate it or whether it's  
10 advisable to even put something like that there?

11                  MR. VOSS: I think it would tell us what  
12 are the conditions on site now and what are  
13 potential spikes in noise that would come from off  
14 site. The only thing that may tell us is what to  
15 do to about the noise, install more landscaping as  
16 a buffer.

17                  CHAIRMAN STUTO: Which are helpful  
18 things to know. Let me ask you a question  
19 regarding what Mr. Abele talked about as far as  
20 notice. Are we trying to find out what is the  
21 noise and what are the ramifications?

22                  CHAIRMAN STUTO: If it triggers children  
23 at the site who may be going into some type of --  
24 I don't want to say seizure or an incident, maybe.  
25 I don't know what we are trying to find out.

1 MRS. TOWNSEND: I don't know either.

2 CHAIRMAN STUTO: That's what I would  
3 like to do, take a breath and ask professionals  
4 about it and sleep on it. We haven't addressed  
5 this yet. I have been working at the airport for  
6 16 - 17 years and very concerned with noise. And  
7 the federal government is as well, and they have  
8 done noise studies of all of the noise generated  
9 at the airport. And they have come up with  
10 diagrams which came up with engineer type averages  
11 because it affects the health of the people around  
12 the airport. And they have encouraged us to buy  
13 the property around the airport. And they have  
14 encouraged us go to the Town of Colonie and ask  
15 them to change their zoning and so on and so  
16 forth. Now, if it's going to endanger the health  
17 of the kids -- It's not as if a couple is building  
18 a house there and they don't know. The applicant  
19 is going in with open eyes. There are parents who  
20 may drive in in the morning and the play area  
21 seems fine to them because they are dealing with  
22 100 other issues. That is what I am concerned  
23 about this issue.

24 MR. VOSS: I think Peter, it's an  
25 objective. I don't know if we can reach out and

1 encourage the Applicant to do a study like that,  
2 to monitor the noise issues. There has been  
3 nothing on the record to establish that noises  
4 triggered a health concern on the site. So, I  
5 guess I am at a loss. I don't see the relevance  
6 personally.

7 MS. VAIDA: Do you have to get a  
8 certificate or a permit from Children and Family  
9 Services.

10 MRS. TOWNSEND: Yes.

11 MS. VAIDA: Did they look at these types  
12 of concerns?

13 MRS. TOWNSEND: Yes. And they looked at  
14 the site and signed off on it. They looked at the  
15 retention pond and signed off on it.

16 MS. VAIDA: So, Children and Family  
17 Services has signed off and has issued a  
18 certificate in the affirmative?

19 MRS. TOWNSEND: Yes.

20 MS. VAIDA: Are they aware of the  
21 surrounding businesses?

22 MRS. TOWNSEND: They are aware of  
23 everything we do. We have monthly visits, and we  
24 have been aware of everything we are doing so that  
25 we don't run into anything on the way.

1                   MS. VAIDA: Is there specific  
2 information as to the decibels being produced by  
3 the surrounding businesses, wouldn't it be sort of  
4 more helpful in making an informed decision as to  
5 whether there would be any detrimental impact to  
6 the children there?

7                   MRS. TOWNSEND: I don't know. Again, I  
8 appreciate the concern, but I guess I'm finding  
9 that I'm taken aback that you are questioning  
10 whether I would let something happen to the kids  
11 going there. I guess I'm a little taken aback.  
12 This has never been done before.

13                   MR. AUSTIN: First, I would like to  
14 commend you as an educator because it's a nice  
15 thing to address. And, as far as the noise levels  
16 go, hearing loss can in -- this was usually  
17 related to proximity and decibels, et cetera, and  
18 sounds carry very quickly. So, I understand Mr.  
19 Abele's concern and the neighbors' concern,  
20 because they work directly with that equipment on  
21 a daily basis. The airport as well reaches a high  
22 level of decibels because a jet airplane engine  
23 raises quite a bit more than an excavator on a  
24 continual basis. So, I'm not really sure -- I  
25 think I understand what the applicants are saying.

1 I don't understand what the true relevance of this  
2 is as far as potential hearing damage to the kids.  
3 They have dotted all their I's and crossed all of  
4 their T's over and over again. So, I can  
5 understand Mr. Abele's concern that there is  
6 someone coming in and Mr. Abele won't be able to  
7 dig back there. I am not sure what the concern  
8 is. But the noise issue, I just don't see the  
9 noise issue. If they are there right now and they  
10 are happy there, or around that area now and they  
11 want to move in the general proximity the same  
12 way. I applaud you for using hearing protection  
13 because it's a great idea.

14 MR. ABELE: It's too late for me.

15 MR. AUSTIN: Well, I understand that.  
16 It's too late for a lot of people. A lot of  
17 people don't get it. Mowing your lawn is just as  
18 dangerous. You should wear hearing protection for  
19 mowing and for using a leaf blower, but we don't  
20 do that either. I don't know what the distance  
21 is; a couple hundred feet from your property line  
22 to the Abele's, or to where they are staging their  
23 equipment?

24 MR. TOWNSEND: No, it's not 1,000 feet.  
25 It's not that close.

1                   MR. AUSTIN: From the end of the parking  
2 lot to where they stage their equipment?

3                   MR. TOWNSEND: To the property line,  
4 it's roughly 100 feet. And, there is a lot of  
5 slope with the parking lot. It's just an educated  
6 guess; and you can just eyeball it and see.

7                   MR. AUSTIN: Is the building insulating  
8 sound as well from the playground? Those are my  
9 comments. I totally agree with you. I appreciate  
10 your wife's concern about alternatives, and that  
11 is not our intent to offend you in any sort of  
12 way. We are just trying to figure out some  
13 questions and trying to figure out what is best  
14 for the kids. And I do understand you have the  
15 kids' best interest at heart. Otherwise, you  
16 wouldn't be doing all of this for them because  
17 this is a quite an expensive process. I'm always  
18 amazed at the depth going into these projects.

19                   MR. MON: I would be echoing everything  
20 that he said. One thing I do want to say is that  
21 I do compliment everybody here; Mr. Abele, and Mr.  
22 Townsend, because you have the children at heart.  
23 I believe you took the measures with insulating  
24 the building, the differences in the heights of  
25 the buildings and the noise level. I think you

1 are aware of the issues. And, it's a good  
2 program, a great program. And I agree, again,  
3 with Brian Austin.

4 CHAIRMAN STUTO: Okay, back to the  
5 public. Ma'am?

6 A VOICE: We started a family. We lived  
7 on this side there and we were within the South  
8 Colonie School District. We live in the South  
9 Colonie School District right on the line.

10 (Unintelligible)

11 CHAIRMAN STUTO: Anybody else from the  
12 public?

13 MR. ABELE: Just like you say, my mother  
14 was a teacher, so I have a lot of teachers in my  
15 family and my wife's family. My wife's maiden  
16 name is Cord. But let's not -- I think it's a lot  
17 of hope on the Townsends' part about the noise.  
18 And listening to the Board talk here, I guess we  
19 really don't know, do we. I mentioned Fed Ex was  
20 looking at a property on the other side of town.  
21 They sent in an acoustic consultant and engineers.  
22 And I will give you their card. And I think  
23 things should be checked. I don't think it's all  
24 that expensive to have it done. I can just start  
25 up my equipment that's in question when the

1 testing is going on. But then, again, Balbonia is  
2 on the other side where kids will be out a lot on  
3 the playground, he is making more noise than I do.

4 MR. MON: How often are the children  
5 out?

6 MRS. TOWNSEND: Typically, they go out  
7 when it's good weather, when it's over thirty  
8 degrees, in the morning for 45 minutes. And,  
9 sometimes not the afternoon; it depends. They get  
10 picked up anywhere between 1:30 and 4:30. When  
11 it's inclement weather, we don't go out. We use  
12 indoor facilities. Sometimes they go out in the  
13 afternoon.

14 MR. MON: So, we are talking about maybe  
15 an hour, an hour and a half at the most during any  
16 one given day that they would be actually outside  
17 in the open without a lot of protection?

18 MR. TOWNSEND: If I may --

19 CHAIRMAN STUTO: Sure.

20 MR. TOWNSEND: I know there has been a  
21 lot of discussion about testing. The one thing we  
22 have been talking a good deal about -- and I  
23 appreciate it being brought to our attention for  
24 all of the right reasons. If we were to do  
25 testing and monitoring on site, I just want to

1 point out that it's not actually going to be  
2 accurate because are we are doing some grading.  
3 There's going to be a building there. And, so,  
4 all of those things would be graded. So, anything  
5 we get from an open air model is not going to  
6 technically reflect the actual condition of the  
7 site.

8                   MR. STEENBERG: In hearing Sherry speak  
9 about the frequency in which children are  
10 outdoors, again, that would have to coincide with  
11 when Mr. Abele and with Balbonia are doing their  
12 operations. I don't think it's a full-time  
13 operation. We are not adjacent to a construction  
14 site which is operating every minute of every day  
15 when they are back there doing that. And, given  
16 that -- and I don't speak for Mr. Townsend -- but  
17 I'm sure their schedules are somewhat flexible and  
18 if it is noisy outside and they do perceive that  
19 as a problem, the kids can come inside and use the  
20 activity rooms inside. I had seen studies done  
21 for approvals like that. And it's, again, an  
22 average of the amount of time that the noise is  
23 being generated. And, given the amount of time  
24 that the children would be outside, I personally  
25 don't feel that this is going to be an issue.

1                   MR. CAPONERA: A real simple solution.  
2 A good comment was made about forty minutes ago.  
3 I know where the Board is going with this, and I  
4 can understand that you have studied this hard.  
5 You have taken a lot of time and you have really  
6 listened to everyone. Why not just have a  
7 condition on your approval that there be something  
8 put on the site plan that articulates that the  
9 property is being developed as a daycare center,  
10 and that the adjacent properties, including Abele  
11 and Balbonia, are noise generators as they are in  
12 a construction operation which could create  
13 noises. And, that way, it's there. It's not only  
14 on the record record, but it's also on the site  
15 plan that you approve. So, then, there can be no  
16 question when, Mr. Chairman, or some of the older  
17 members are not around. So, it's there. And when  
18 the Townsends get really successful and they want  
19 to sell it to Mr. Sullivan and he wants to buy it,  
20 that he's buying it knowing that it's on the site  
21 plan. It's just a suggestion.

22                   CHAIRMAN STUTO: Thank you. I'm not  
23 particularly in favor of that because we have no  
24 engineering study to say they are noise  
25 generators. We have people giving lay opinions

1 about what the level of noise is. So, I'm totally  
2 uncomfortable with that without having a  
3 professional who has done some kind of study who  
4 is going to put their license on the line. So, I  
5 wouldn't be in favor of that. It might protect  
6 the Abeles, but I'm not sure it would protect the  
7 Balbonias. I'm not sure who else it protects.

8 MR. CAPONERA: Okay. So, you don't want  
9 to use the word "noise." Certainly, you can use  
10 what is actually happening on the properties,  
11 which is a construction operation. That doesn't  
12 need any studies.

13 CHAIRMAN STUTO: The only thing I know  
14 is how the property is zoned. The only thing I  
15 know is what we have on the record. What is  
16 actually happening on that property, I don't.  
17 Everybody knows what's going on on the property,  
18 and that could change, too. So, I'm not sure what  
19 purpose that serves.

20 MR. AUSTIN: The purpose is to protect  
21 the Abeles and Balbonias. And I think it would  
22 protect the Townsends who are getting approval and  
23 buying this property.

24 CHAIRMAN STUTO: We have had  
25 subdivisions that we have looked at that are near

1 pollution sites, but those have been documented by  
2 EEC by engineers. We ask for that to be on deeds  
3 and site plans. I'm not sure the record is solid  
4 on this one. I'm not sure how the activities of  
5 the surrounding properties, how they are any  
6 different from anywhere in the Town.

7 MR. CAPONERA: Does the fact that Mr.  
8 Abele is deaf have any play in that?

9 CHAIRMAN STUTO: A lot. That's -- okay.  
10 Does anybody else on the Board want to talk about  
11 this? I personally would like to take a breather  
12 and think about the engineering part of the noise.  
13 I think that's the safest thing to do to protect  
14 the kids.

15 MR. LANE: You have done your own  
16 studies regarding the airport, but you sound like  
17 you are going to require the Applicant who is not  
18 the noise producer to do the studies. As it was  
19 pointed out to you, that doesn't make sense.

20 CHAIRMAN STUTO: Okay. If you are going  
21 to let dollars stand in the way of the safety of  
22 the kids --

23 MR. AUSTIN: The airport is a different  
24 scenario than this.

25 CHAIRMAN STUTO: I'm not saying this is

1 the airport. And, I'm not going to force my  
2 opinion on everybody. That is my opinion.

3 MR. SULLIVAN: Maybe there could be an  
4 open air test.

5 CHAIRMAN STUTO: I believe an engineer  
6 could say what types of things would mitigate  
7 against that. For example, if you have a building  
8 here, this would be a mitigating factor. I'm not  
9 an expert in noise either.

10 MS. VAIDA: I think you have to consider  
11 that noise is a contaminant and actually something  
12 that you need to consider when you do a SEQOR  
13 review. We also have to consider --

14 MR. VOSS: Virtually anywhere in this  
15 Town you are going to get noise from the roads,  
16 the airport, from the pumping areas, from the  
17 railroad, from all of those things. It's part of  
18 life here.

19 CHAIRMAN STUTO: We can disagree.

20 MR. SULLIVAN: I have worked in  
21 construction in summers and I drove dump truck. I  
22 know it's very loud, so I believe it's a valid  
23 concern. I just want to be sure everybody is  
24 protected as best we can moving forward. When the  
25 crushing plant or excavator, the backup alarms on

1 the bulldozer -- So, it's part of his business and  
2 he chose to do it there because that is where he  
3 had basically a big sandbox, if you will. So,  
4 it's a valid concern and again, buyer beware, yes.  
5 But, legally, how can we state that?

6 MR. AUSTIN: How can we impose it on the  
7 buyer?

8 MR. SULLIVAN: Yes. How can we make a  
9 record of that so everyone is aware of it?

10 MS. VAIDA: If the property is to be  
11 used as a school for children without considering  
12 the impact of the surroundings, if there is an  
13 unusually dangerous level of sound --

14 MR. AUSTIN: Then, my question would be  
15 how did they get approval when first opening?

16 MS. VAIDA: It's in a different  
17 location.

18 MR. AUSTIN: It's relatively close to  
19 the planned location. Their existing location is  
20 relatively close to the planned location.

21 MS. VAIDA: I think we were saying, I  
22 think, that it's different; that the loud noise is  
23 not generated there.

24 MR. AUSTIN: Right, but it's in the back  
25 of the property.

1                   MS. VAIDA: The other issue that was  
2 raised that we didn't talk about was looking into  
3 whether or not there are any restrictions on the  
4 property that we have missed.

5                   CHAIRMAN STUTO: It's none of our  
6 business in the sense of whether there is a  
7 contractual thing between --

8                   MR. LANE: Whether there are recorded  
9 restrictions.

10                  CHAIRMAN STUTO: I would say that it's  
11 contractual, too. And it's up to the private  
12 owners to enforce that; it's not up to the Town  
13 unless we are party to these documents which I  
14 don't think we are.

15                  MR. MON: The other thing that was  
16 brought up was the vibrations it causes. And we  
17 have heard this in previous cases about  
18 construction equipment coming in and causing  
19 vibration and, thus causing problems with --  
20 That's the other issue.

21                  CHAIRMAN STUTO: What does the Board  
22 want to do? Does the Board want to take this to a  
23 vote? We have to go over SEQR as well. We will  
24 take it to a vote. Yes, Mr. Abele?

25                  MR. ABELE: Okay. As far as this study

1 goes, maybe bring the three parties involved here  
2 instead of going into this thing blind with the  
3 noise, and I don't know how much a study costs.  
4 The card I gave you wasn't someone I hired. It  
5 was someone from Federal Express that hired them  
6 to do these studies.

7                   CHAIRMAN STUTO: Thank you. Do you want  
8 to go over the SEQR charter?

9                   MR. VOSS: Rebekah Kennedy from the Town  
10 Attorney's Office prepared the following SEQR  
11 recommendations. And, I will just read it to the  
12 Board. This is to the Planning Board from the  
13 Town Attorney's Office. The project is Spotted  
14 Zebra and Bizzy Beez, located at 11 Kross Keys  
15 Drive. "It is recommended that the Planning Board  
16 make the following determination regarding the  
17 above referenced application. The requested  
18 approval is an unlisted SEQR action. We  
19 recommend, based on the attached EAF, that the  
20 Board determine that the action will not have a  
21 significant effect on the environment." That was  
22 submitted by Town Attorney Rebekah Kennedy. Does  
23 the Board have a copy of this?

24                   (Affirmative response)

25                   MR. VOSS: Part II of the Environmental

1 Assessment Form basically reads as follows:

2 "Does the action exceed any Type 1  
3 threshold listed in 6NYCRR Part 617.4? No.

4 "Will the action receive coordinated  
5 review as provided for unlisted actions in 6NYCRR  
6 Part 617.6? No.

7 "C. Could action result in any adverse  
8 effect associated with the following:

9 C1. Existing air quality, surface or  
10 groundwater quality or quantity, noise levels,  
11 existing traffic patterns, solid waste production  
12 or disposal, potential for erosion, drainage, or  
13 flooding problems? Explain briefly. Answer: No.

14 "Action involves construction of a  
15 10,500 square foot building for use as a preschool  
16 and special education activities center on an  
17 existing vacant lot, unimproved lot with  
18 associated 31-space parking lot and a playground.

19 "C2: Aesthetic, agricultural,  
20 archeological, historic, or other natural or  
21 cultural resources or community or neighborhood  
22 character?" The answer is "No."

23 "Proposed use is compatible with  
24 existing adjacent commercial uses.

25 C3: Vegetation or fauna, fish,

1 shellfish or wildlife species, significant  
2 habitats or threatened or endangered species? No.  
3 No significant flora or fauna exist on the site.

4 "C4: A community's existing plans or  
5 goals as officially adopted or a change in the use  
6 or intensity of use of land or other natural  
7 resources? No. The Action is consistent with  
8 adjacent uses:

9 "C5: Growth, subsequent development or  
10 related activities likely to be induced by the  
11 proposed action? No. No such impacts will occur.

12 "C6: Long-term, short-term, cumulative  
13 or other effects not identified in C1 through C5?  
14 No. No such impacts will occur.

15 "C7: Other impacts (including changes  
16 in use of either quantity or type of energy? No.  
17 No such impacts will occur.

18 "Section D: Will the project have an  
19 impact on the environmental characteristics that  
20 caused the establishment of a CEA? The answer is  
21 no.

22 "E: Is there, or is there likely to be,  
23 a direct controversy related to potential adverse  
24 environmental impacts? The answer is no.

25 "Part III: Determination of

1 significance." I will just read the instructions  
2 quickly for the Board.

3                 "For each adverse effect identified  
4 previously, determine whether it is substantial,  
5 large, important or otherwise significant. Each  
6 affect should be assessed in connection with its:  
7 A) Setting (i.e. urban or rural) B) probability of  
8 occurring; C) duration; D) irreversibility; E)  
9 geographic scope, and F) magnitude. If necessary,  
10 add attachments or reference supporting materials.  
11 Down below, Ensure that explanations contain  
12 sufficient detail to show that all relevant  
13 adverse impacts have been identified and  
14 adequately addressed. If question D of Part II  
15 was checked yes, the determination of significance  
16 must evaluate the potential impact of the proposed  
17 action on the environmental characteristics of the  
18 CEA."

19                 Reading down below the box that is  
20 checked: "Check this box if you have determined,  
21 based on the information and analysis above and  
22 any supporting documentation, that the proposed  
23 action WILL NOT result in any significant adverse  
24 environmental impacts and provide on attachments  
25 as necessary the reasons supporting this

1 determination."

2 CHAIRMAN STUTO: Can we have a motion?

3 (Motion proposed by Mr. Mon and seconded  
4 by Mr. Austin)

5 CHAIRMAN STUTO: All in favor?

6 (Vote taken)

7 CHAIRMAN STUTO: Opposed, say nay.

8 (Vote taken)

9 CHAIRMAN STUTO: The ayes have it.

10 We have an application for final site  
11 plan approval before us.

12 MR. AUSTIN: I would like to make the  
13 motion to accept the site plan.

14 MS. VAIDA: When this issue came up  
15 about the storm water, it appears as though the  
16 basin encroaches on the lot that it's built on.

17 CHAIRMAN STUTO: Right. The applicant  
18 has said that. It is takes up a big chunk of the  
19 lot.

20 MS. VAIDA: The line is maintained by  
21 the Town. So, to make sure the Town has the right  
22 to go on to that parcel --

23 CHAIRMAN STUTO: Is that marked on the  
24 plans, Chuck?

25 MR. VOSS: I don't believe it is.

1                   MRS. TOWNSEND: I believe it is a  
2 condition, and that prior to the CO being issued,  
3 a maintenance agreement was entered into by both  
4 parties.

5                   MR. TOWNSEND: There is an existing  
6 easement. The basin is private and --

7                   CHAIRMAN STUTO: Okay. Does your motion  
8 include all of the conditions of the Town  
9 Designated Engineers in the Town departments?

10                  MR. AUSTIN: I will say that it does  
11 include that.

12                  (Motion proposed by MR. Mon and seconded  
13 by Mr. Austin)

14                  CHAIRMAN STUTO: We have an amended  
15 motion. What you are basically saying is that the  
16 adjacent property owners -- this is my argument  
17 against it. Anybody who buys a property has an  
18 obligation or should, at least, if they are smart,  
19 look around and see what's around them. And, in  
20 the case of dirt, pollution, it could be a foul  
21 field which we have seen before. But, we were put  
22 on notice as a planning board that these  
23 conditions did exist adjacent. It is the property  
24 on Spring Street that I'm thinking of  
25 specifically. And we said it had to be put on the

1 deed regarding the developments adjacent to it.  
2 That's a different story in my opinion, because  
3 it's hidden. Now, Balbonia can sell an office and  
4 it can be an office in ten years. I don't see why  
5 this is so spectacularly different from most  
6 normal purchases. That's just my opinion. But,  
7 if you want that noted on there --

8 MS. VAIDA: Do you know if a hold  
9 harmless agreement with the Town would be  
10 appropriate?

11 CHAIRMAN STUTO: Hold harmless by whom?

12 MS. VAIDA: It probably would not be the  
13 Applicant. I don't know.

14 CHAIRMAN STUTO: Who are you trying to  
15 notify, the subsequent purchasers or the students?

16 MR. SULLIVAN: Mainly, the Applicant.

17 CHAIRMAN STUTO: We are on the record  
18 here in this transcript, and this is part of it.  
19 And this is just my opinion. I don't want to set  
20 a precedent.

21 MR. VOSS: I think with what we are  
22 trying to reach for is that this may be a deed  
23 restriction. If you notify adjacent property  
24 owners or even someone in the subdivision  
25 regarding a condition on the site. You can ask

1 the Applicants for a deed restriction on all  
2 subsequent deeds for each parcel and notify those  
3 potential landowners of this issue. But I don't  
4 think there is a way to notify the students, the  
5 parents or legally if there is a mechanism to do  
6 that.

7 MS. VAIDA: We don't have anything  
8 established.

9 CHAIRMAN STUTO: The Applicant is on  
10 file. This record is part of the public record  
11 forever, so the applicant is on notice.

12 MR. SULLIVAN: If the properties were  
13 sold to another educator, how would that be  
14 handled?

15 CHAIRMAN STUTO: It would be up to them  
16 how much due diligence they wanted to do. Most  
17 people look around and see what's around them when  
18 they buy a property. I don't know if they will  
19 pull out the site plan. It's existing building or  
20 the existing use.

21 MR. LaCIVITA: In the future, say that  
22 is a commercial office now, so maybe potentially  
23 -- I'm a longstanding family business, but right  
24 now they are not informing them because that's  
25 something that the Town arrived at.

1                   CHAIRMAN STUTO: Well, we have a motion  
2 and a second with the conditions as stated.

3                   MR. AUSTIN: With the preconditions as  
4 stated by the Town Attorney.

5                   CHAIRMAN STUTO: All those in favor say  
6 aye.

7                   (Vote taken)

8                   CHAIRMAN STUTO: All those opposed?  
9 Who's going to say no?

10                  MR. SULLIVAN: I'm going to say no.

11                  CHAIRMAN STUTO: On the main motion?

12                  (Inaudible discussion)

13                  CHAIRMAN STUTO: There are four yes and  
14 one no on the motion. Okay. The final site plan  
15 is approved.

16                  MR. TOWNSEND: Thank you.

17                  CHAIRMAN STUTO: The Siena College  
18 Campus-wide Storm Water Presentation, we will  
19 allow the engineer to get set up.

20                  I'm just going to give a brief  
21 instruction regarding Siena and their consultants.  
22 At the same time as we are looking at a couple of  
23 projects at Siena, including the loop road, the  
24 most recent one, Siena was very responsive to our  
25 request to do a storm water study basically

1 examining current conditions to my way of looking  
2 at it. And it looks, going forward, what happens  
3 with storm water to mitigate and ameliorate the  
4 impact on the people "downstream" from Siena. And  
5 I know, being a resident of Menands, I know there  
6 were concerns down in Menands where there has been  
7 flooding. I know the Albany Rural Cemetery had  
8 concerns because of the water courses going  
9 through that, and the businesses on Broadway  
10 adjacent to that, including Albany Steel is one  
11 that comes to mind. And I know that the golf  
12 course, Schuyler Meadows had concerns with one or  
13 two of the projects that Siena was doing. So, I  
14 believe we have extended and spoken to  
15 representatives from the golf course, the  
16 cemetery, and I know the Village, the Mayor is  
17 here -- is she still here? Yes. And Paul Reuss,  
18 Executive Assistant to the Mayor. I'm not sure if  
19 anyone is here from the golf course or the  
20 cemetery. You have met with the golf course; is  
21 that right? Okay, good. We want to be sure all  
22 the neighbors of Siena and all people that are  
23 impacted by the decisions made by the Planning  
24 Board and by the Town and have a seat at the table  
25 for this type of thing.

1                   Having said that, Joe, can you give a  
2 brief introduction and we will turn it over to  
3 Siena College.

4                   MR. LaCIVITA: Yes. This is really more  
5 of an informational presentation tonight for the  
6 Board. There is no action being taken on it. The  
7 report that we have on file will probably be used  
8 for future projects. And Brad is involved with  
9 the loop road and any future project will go --  
10 will be referred back on further issues.

11                  CHAIRMAN STUTO: Okay, you raised a  
12 couple of issues. Brad Grant is sitting in front  
13 of us. He's with our TDE Barton Loguidice. He is  
14 a resource for you in the Village in particular.  
15 He did a comprehensive storm water study for  
16 Frasier at that time, Frasier & Associates. Paul,  
17 I don't know if you remember that or have talked  
18 to him?

19                  MR. REUSS: Yes.

20                  CHAIRMAN STUTO: And he's very familiar  
21 with the situation in that whole area. So, he is  
22 definitely a resource.

23                  MR. FROST: Thank you. I am Mark Frost,  
24 and I'm the Facilities Director at Siena College.  
25 With me this evening is Paul Stec, our Vice

1 President for Finance and Administration; John  
2 McPhee, our college architect; Dan Farnam with  
3 Foit Albert who is really the gentleman who did  
4 most of the work on the storm water plan, and  
5 Warren Shaw, the Foit Albert manager here in the  
6 Albany area.

7           I just want to make a few quick comments  
8 so that Dan can get started. This storm water  
9 plan is a comprehensive plan and it does  
10 incorporate all of the property that Siena owns,  
11 including the old Troop G Barracks across Route 9.

12           As Dan will indicate, there are some  
13 contributing areas around Siena College that Siena  
14 does not own that also come through our property.

15           I want to emphasize that this is a team  
16 effort. We have received a lot of assistance from  
17 the Town of Colonie; specifically John Dzial, the  
18 storm water -- the person here from the Town of  
19 Colonie. He has been to a number of our meetings  
20 and has been very helpful throughout the entire  
21 process. I want to be sure we get that on the  
22 record. Dan will be doing a power point  
23 presentation which will demonstrate how  
24 comprehensive and what an excellent plan we have  
25 put together. I will very quickly just go through

1 the process. Very quickly, Foit Albert did a  
2 very, very thorough survey of Siena's  
3 infrastructure. They have also put that  
4 infrastructure in the JS database and that  
5 database has been shared -- will be shared with  
6 Siena College and will form the basis for us  
7 generating and developing a full JS system  
8 database for all our utility systems on campus.  
9 So that's a very big help for us.

10           They established a baseline working in  
11 the Town for 2003. That is when storm water  
12 regulations came into effect. And, they did  
13 extensive soil topography research of the campus  
14 and had some pretty good information coming from  
15 other sources. But, we did some additional  
16 research to determine what the soil conditions are  
17 on our campus, which Dan will go into more detail  
18 on.

19           We also did a wetlands delineation  
20 identified what the wetlands are around our  
21 campus. We have a fair number of wetlands that go  
22 around a good part of our campus, particularly  
23 around our athletic fields.

24           They went into the modeling and took  
25 that information and doing the calculations on

1 what the runoff is, where the runoff is going, and  
2 how much runoff we have. We utilized several  
3 different models to do that. After that, of  
4 course, we identified the corrective measures.  
5 And, Dan will spend a little bit of time talking  
6 about the corrective measures that we are  
7 considering as we go forward.

8           As was mentioned, this plan does give us  
9 a real nice tool for developing into the future  
10 and helped us to learn a little bit more about our  
11 campus and how we do contribute to the Kromakill  
12 watershed. And, Dan will go into that as we go  
13 forward.

14           We certainly are going to be open to any  
15 questions that may be on the part of our  
16 neighbors. We appreciate the opportunity to  
17 present the plan and will be answering questions  
18 as they come up this evening. And, that's about  
19 it. I do want to mention very quickly before Dan  
20 gets started, when we mention wetlands, the Corps  
21 of Engineers, we have already engaged the Corps of  
22 Engineers in our storm water plan. And we do  
23 believe that as we go forward and do some of our  
24 corrective measures that Dan is going to be  
25 talking about, that we are going to have to have

1 the Corps of Engineers fairly involved in that  
2 process. So, that's about it. And, Dan, I will  
3 let you take it away.

4 MR. FARNAM: Thank you. Actually, to  
5 get started, I do have one last submission here  
6 for the Board. There are a couple of figures  
7 which were added to this presentation which were  
8 not in the original submittal. It might make it  
9 easier for everybody to see exactly what is going  
10 on. I also have copies for everybody here for you  
11 and for the public.

12 (Distribution of packets)

13 MR. FARNAM: Okay. So, to get started,  
14 this is a little bit of a lengthy agenda. So, in  
15 the interest of time I will try to go quickly. I  
16 realize we are already at 9:00 here, but all of  
17 this information is definitely vital for all the  
18 different questions that have been asked about the  
19 community. I think it is important to touch on  
20 all of these things briefly. We will go over the  
21 scope and goals set forth with the drain study on  
22 Siena's campus. We will take a very brief look at  
23 the infrastructure survey that Mark mentioned, the  
24 survey we produced for Siena College with regards  
25 to the storm water infrastructure. We will look

1 at the existing soil conditions on campus, the  
2 drainage areas, or watersheds that are on campus  
3 and, also, we will look at the comparisons between  
4 2003 conditions and existing 2012 conditions.  
5 And, just to add to what Mark said, John Dzial,  
6 the Town storm water officer, picked 2003 to  
7 coincide with page 2 of the New York State DEC  
8 regulations for the storm water bank as a basis  
9 point for our comparisons. We will take a look at  
10 the results of our analysis, adjusted corrective  
11 measures, and then touch a little bit on future  
12 development and so forth on campus that we are  
13 looking at.

14           Just a little bit of terminology with  
15 maps, in case I quote any of these things, so that  
16 everybody here can understand what I'm saying.  
17 Our watersheds that we have delineated on campus,  
18 we are denoting them just for identifying them, as  
19 Drainage Areas, Drainage Areas, 1, 2, 3, 4 and so  
20 forth. We have our design points or drainage  
21 points, DP 1 through 7. These are the points  
22 where water concentrates on campus, and we will  
23 have seven of those points throughout our entire  
24 study area.

25           So, to get started with our scope and

1 our goals, what we are looking at was a comparison  
2 between 2003 and 2012. We are looking to identify  
3 any increases or decreases in the storm water  
4 runoff leaving the college. We want to provide  
5 Siena with any suggested corrective measures to  
6 handle any increases that are noted. And those  
7 corrective methods will, number one, reduce the  
8 water back to the 2003 levels. And, then,  
9 globally for the entire campus, we have set a goal  
10 reducing runoff to at least ten percent less than  
11 what was leaving the campus in 2003.

12           So, the first part of the survey on the  
13 inventory of our drainage -- this is just a quick  
14 screen shot of the GIS survey that was done. It's  
15 a little hard to see, but I will run up the next  
16 picture. We have a very detailed survey of all of  
17 the storm water pipes, drainage systems, manhole  
18 structures having to do with storm water that has  
19 been located on site and has been catalogued. And  
20 Siena has this information to go forward and  
21 maintain or just have access to the data which,  
22 prior to having this survey, it may have been a  
23 guessing game as to which pipe was going where,  
24 what the size and condition is. And this is going  
25 to be able to launch into a system of maintaining

1 the infrastructure in the future.

2           The second part of the scope is the soil  
3 investigations. And this figure is a little hard  
4 to see on the screen, but we have the campus  
5 located here on Route 9, Spring Street. And the  
6 brown lines shown are all of the different soil  
7 groups that we have throughout the study area.  
8 And on campus property there are fourteen  
9 different types of soils.

10           In regards to storm water, what we look  
11 for as engineers is how well these soils function  
12 for either reducing runoff or generating runoff.  
13 We categorize them, simply giving them either A or  
14 D, A being the best and D being the worst. And,  
15 generally speaking, sand and gravel when it rains,  
16 those soils accept a lot of water and generate  
17 very little runoff from the site, whereas the  
18 clays and heavy silts cannot accept a lot of water  
19 after a rain. So, a lot of runoff is created and  
20 sent downstream.

21           Also on campus we found few of the  
22 hybrid soil groups. And the way that these soil  
23 groups work is when there is a dry condition, take  
24 for example the A/D soil, you can go out to these  
25 soils and dump a bucket of water and it's going to

1 soak it up like a sponge. But after about an hour  
2 of water from a rainstorm, the soil will no longer  
3 accept the water and it actually acts as if it  
4 were clay. So, everything is runoff. And, we  
5 found all three of the hybrid soil groups on  
6 Siena's campus. And, in our analysis we have  
7 conservatively grouped them as if they were clays  
8 and take no credit whatsoever for any water that  
9 might get into the ground during that first part  
10 of a rainstorm. So, throughout the entire study  
11 area, we have both extremes. We have the best  
12 soils, the A class making up about 45 percent of  
13 the study area we looked at. And, then, we have  
14 the D soils making up 55 percent of the study  
15 area. And naturally, because we have so many D  
16 soils, the property produces a lot of runoff and  
17 we think the property as headwaters of the campus.  
18 So, naturally, without anything that Siena might  
19 do there, that effort ponds water and concentrates  
20 it into a water body.

21                   The drainage areas and our design  
22 points, this is an aerial image of the Town of  
23 Colonie with Siena outlined here in yellow. We  
24 have two watersheds in the Town of Colonie that  
25 Siena College is in. The first one is the blue

1 area roughly is the watershed in the Kromakill.

2 And Brad has put together watershed.

3           The second watershed is the Cemetery  
4 Creek, or Cemetery Brook watershed which is just a  
5 very small part of the campus to the south is  
6 within that watershed. If I take away the aerial  
7 image and just look here, the dark colors on this  
8 figure represent the high elevations down to the  
9 green colors and the Hudson. So, we can see that  
10 the water flow is all from west to east. And,  
11 really Siena sits right on the ridge line between  
12 these two watersheds. And, the entire property is  
13 about five to seven percent of this area, this  
14 water shed. (Indicating) The watershed is about  
15 4,200 acres. Our study area is 213 acres.

16           CHAIRMAN STUTO: That's just the one  
17 watershed, the Kromakill?

18           MR. FARNAM: These are both of them  
19 combined. The Cemetery is this large area here  
20 and down to the bottom is the Kromakill. Again, I  
21 knew this figure would be a little hard to see on  
22 the screen, but these are drainage areas we have  
23 on campus. The areas that come up here in green,  
24 these are four of the design points, drainage  
25 points where the water concentrates and leaves

1 campus. These four areas, when we compared our  
2 2003 to 2012 conditions, we didn't see an  
3 appreciable amount of change over those nine  
4 years. However, three of them on the east side  
5 there of DP1, DP2, and DP3, all head in the  
6 direction of the golf course, the Schuyler Meadows  
7 golf course. This is where we saw differences  
8 between the two comparison years, 2003 and 2012.

9           So, to look at where each one of these  
10 drainage points is, this is Schuyler Meadows Club  
11 Road. And down to the south, which would be off  
12 the stream, which is where Spring Street is, these  
13 are our athletic fields, part of Siena's campus.  
14 And located here is a culvert going underneath  
15 Schuyler Meadows Road, which is a 30-inch concrete  
16 culvert which has been there for awhile. We can  
17 see the remains of the concrete headwall, which is  
18 kind of damaged on the Siena side. That is the  
19 first design point of interest.

20           The second one is farther south on  
21 Schuyler Meadows Road, Spring Street being right  
22 here. The second point is a culvert crossing the  
23 road. And that culvert is very hard to find in  
24 the field, but it's a twelve-inch culvert, large  
25 overgrowth on the Siena side. This is the second

1 point of interest.

2           The third point of interest, this is  
3 farther up Schuyler Meadows Road, which is right  
4 here. (Indicating) And the property line for  
5 Siena follows roughly through the woods like this.  
6 (Indicating) And the red arrow where DP3 is  
7 actually located.

8           The picture I am about to show you is  
9 located at this yellow arrow, which is the last  
10 piece of Siena-owned infrastructure going into the  
11 Kromakill. In fact, this is considered the  
12 beginning of the Kromakill. And to give you an  
13 idea of what we are talking about, this pipe is  
14 42-inch pipe, and this is after your everyday  
15 rainstorm. So, half an inch of rain will generate  
16 this amount of water leaving the campus out that  
17 forty-two inch culvert.

18           Just to give you an idea of the amount  
19 that is generated. This is less than a regular  
20 storm, so for the design storms we look at, this  
21 is less than that, 2.5.

22           So, campus expansion and drainage areas,  
23 the 2003 versus 2012 conditions, first, to start  
24 with the expansion between that nine-year period,  
25 the main projects that we have, we have the new

1 residence hall, which was 2008-2009. Recently we  
2 have the DSS building which is under construction  
3 now.

4 MR. AUSTIN: That's Rosetti Hall.

5 MR. FARNAM: Yes. Excuse me. The other  
6 larger project was the synthetics turf field  
7 between 2005-2007 design process. And we have  
8 various expansions and other impervious areas  
9 added between that nine-year period. All in all,  
10 it amounts to one and a half percent of the study  
11 area or about three acres of site development.

12 So, to look at our conditions in 2003,  
13 to start we looked at DP1 which goes along right  
14 here, the 30-inch culvert. And this blue area  
15 represent all of the area. It's 18 acres of land  
16 which will concentrate and drain off the site at  
17 DP1. DP2, the drainage area here is also just  
18 about eighteen inches in width which will generate  
19 runoff to DP2. Both of these are underneath  
20 culverts that are underneath the Schuyler Meadows  
21 Drive. And then the much larger drainage areas,  
22 almost the entire campus will eventually make its  
23 way down to the Kromakill, that large 42-inch  
24 culvert that I showed you.

25 Again, we are just concentrating on the

1 drainage areas where we saw differences between  
2 2003 and 2012.

3           In 2012, the biggest change that  
4 happened was the drainage area to DP1 which  
5 doubled in size. And reason for this was not due  
6 to campus development, new buildings or anything  
7 like that. There was an infrastructure change  
8 that was located just north of the synthetic turf  
9 field. We have the map, the yard is this large  
10 building here. And we have a rerouted pipe that  
11 originally had water going to the north. And, now  
12 it routes the water to the east. So, we took this  
13 very highly developed area of Siena's campus, 60  
14 percent of that area is hard surfaces, impervious  
15 and it generates a lot of runoff. And we sent  
16 that down to the east to DP1.

17           The drainage area for DP2 stayed roughly  
18 the same. When the synthetic turf field was put  
19 in place, it actually took all of that drainage  
20 that was just this small part and sent it to the  
21 north. But, all in all, it stayed just about the  
22 same, no real development made there. And,  
23 obviously, the larger area was reduced in size by  
24 taking this 18 acres of highly developed area and  
25 sending it to the east of DP1.

1                   So, the result of the analysis very  
2 quickly for the benefit of the public that are  
3 here, when we as engineers look at the different  
4 rainstorms and how to generate the quantity of  
5 water that is leaving the site, we typically look  
6 at these categories of storms. These are the one  
7 year through the 100-year storms. And those are  
8 storms that would generate anything between a 2.5  
9 inch rainstorm within a 24-hour period all the way  
10 up to 6.3 inches of rain for this particular study  
11 in a 24-hour period for a 100-year storm. To give  
12 everybody an idea of what that means, last year  
13 for Hurricane Irene, the area roughly received 4.8  
14 inches of rain in a 24-hour period. That places  
15 it in between the ten-year storm and 25-year  
16 storm.

17                   So, we will put all of that, the design  
18 storms into our model. And what we found, again,  
19 is no appreciable differences in these four design  
20 points. However, we have increases and decreases  
21 here. And, surprisingly, the only increase to  
22 runoff leaving the campus was at DP1. We had a  
23 decrease at DP3 because we had cut off a large  
24 portion of the drainage area that was highly  
25 developed and we had sent it to DP1. And, here at

1 DP2 we had a decrease partly because of some of  
2 the area that was cut off and, also, because  
3 during a very large storm we cut had the path for  
4 floodwaters which would go toward DP2. It would  
5 now go into the synthetic turf field, go right  
6 down into the synthetics field into the other  
7 drains and then head to the north. So, during the  
8 very large storms we also cut off active  
9 floodwaters.

10           When we presented that data to Siena, it  
11 didn't quite jive with what Siena had been hearing  
12 from our neighbors and some of the other  
13 complaints. And we had only one increase, but two  
14 decreases which didn't follow the different points  
15 that had been brought up made sense. So, we took  
16 a step back and looked at the everyday storms,  
17 storms that engineers don't typically look at,  
18 something that is less than 2.5 inches. And, what  
19 we found was across the board were the smaller  
20 sized storms, we have increases at all three  
21 points. And, the reason for this is, especially  
22 at DP2 where these culverts are, has to do with  
23 the amount of water passing through these  
24 culverts, and how fast that capacity could be  
25 compromised.

1                   To kind of illustrate that, at DP2 what  
2 we have during 2003 low conditions, a half inch of  
3 rain or something of that nature, we would have  
4 Siena property here. This is the section at  
5 Schuyler Meadows Road, and we have private  
6 property on this side. And we have a little bit  
7 of water to this side of the culvert that makes  
8 its way through, and a little bit of flow on the  
9 end side of the culvert. During our design storms  
10 the culvert is not large enough to handle the  
11 amount of water that's going to it. So, that  
12 water actually builds up the side of the  
13 embankment of the road. And you can only get so  
14 much water through the 12-inch culvert. It's like  
15 trying to drain a swimming pool with a half-inch  
16 garden hose. You are only going to get so much  
17 flow through it and that's it. So, we didn't see  
18 the changes in large storms, mainly due to this.  
19 But when looking at the small storms in 2012, we  
20 see that there is a little bit land increase. But  
21 because the capacity of that pipe has not been  
22 reached yet, you can see the increase on the  
23 downstream side. So compare it to between 2003  
24 and 2012, and you can see an increase on the low  
25 flow conditions before that pipe has met its

1 maximum capacity. And, again, that's how we  
2 generate these increases in these small storms of  
3 31 percent, 67 percent and 20 percent.

4           So, to the corrective measures. How are  
5 we going to fix these increases? The concepts for  
6 fixes are essentially that we have to have more  
7 storage on Siena property. There is just not  
8 enough area to store the water being generated  
9 from the storms. And, to do so, what we are  
10 looking at is increasing the sizes of the existing  
11 ponds and wetlands that we have. And what that  
12 means, we are building new ponds when necessary.  
13 And that would require approvals through the Army  
14 Corps of Engineers because we would be affecting  
15 some of the wetlands.

16           The second thing that we would be  
17 looking at is redirecting storm water to its  
18 original path. I will illustrate that here in a  
19 second with another slide. But, to do so is going  
20 to require Siena to get approvals from the Army  
21 Corps of Engineers.

22           Another thing we are going to be doing  
23 is installing staged storage, putting control  
24 structures throughout points on campus, so the  
25 water when reaching the controlled structure slows

1 down and dissipates slowly out from the controlled  
2 structure. And, finally, for future development  
3 we will look at ways of reducing runoff, getting  
4 rid of the impervious areas and introducing more  
5 open space, more pervious areas.

6           The limitations, as mark mentioned we  
7 have a lot of wetlands on site. We have large  
8 federal wetlands, which are the headwaters of the  
9 Kromakill which heads in this direction across the  
10 golf course. And we have these wetlands which are  
11 located as part of the loop road improvements  
12 project.

13           To give you guys a sense of bearing  
14 here, the loop road would come right around the  
15 tennis court around the math building. And these  
16 were made jurisdictional by the Army Corps.  
17 during the course of that project. We also have  
18 wetlands surrounding athletic fields which were  
19 not taken jurisdiction by the Army Corps as of  
20 now. There is a potential that they could, should  
21 the Army Corps find them to be hydraulic. All of  
22 these are limitations for any kind of development  
23 that might go on here, including some of the fixes  
24 that we might have to suggest, because if the Army  
25 Corps won't allow us to build these ponds in or

1 near one of the wetlands, we will have to look for  
2 alternative solutions. But after the initial  
3 meeting we get the sense that the Army Corps would  
4 be accepting of the corrective measures that we  
5 put forth for this. So, the suggested corrective  
6 measures -- I apologize; this graphic is a little  
7 hard to see. But we have quite a few things that  
8 we have suggested for Siena to look at throughout  
9 the campus.

10           Looking at them a little bit closer,  
11 some of the first corrective measures we are  
12 talking about, Phase I would be retrofitting the  
13 existing ponds and making them larger so that they  
14 can handle more storm water coming through them  
15 and, also, possibly building a new pond to handle  
16 the overflow during a flood.

17           We are also looking at redirecting some  
18 of the storm water to flow north. To illustrate  
19 that, we have this one drainage area that would be  
20 added to DP1. And this is the way everything  
21 flows now. Just to give you an idea, a raindrop  
22 that drops the farthest extent of the watershed  
23 only takes about half an hour to traverse the  
24 distance of 2,000 feet. Most of it is through  
25 storm water and structure pipes and drains. If we

1 can rejoin that area to the red area on the  
2 original slide I have shown and send that water  
3 back the way that it was flowing in 2003 and  
4 prior, we will lengthen that time. We are going  
5 to be able to take water out of the drainage  
6 system and put it into a natural channel and  
7 connect the wetlands up here (indicating) which  
8 will increase the time that it travels to two-plus  
9 hours. That is going to reduce the flow that  
10 leaves campus. And it's also going to reduce in  
11 this area (indicating) because we have cut that  
12 area. So, in order to do that, we are going to  
13 have to work with the Army Corps to basically  
14 remove some of the sediment that has built up over  
15 the years in this channel so that the water can  
16 hydraulically flow to the north. Right now, it's  
17 in a condition where it can't.

18                   Another Phase I suggestion, this is our  
19 large federal wetland, the waters of the  
20 Kromakill, we would be looking at increasing the  
21 storage within that wetland. And, this is a  
22 picture of the intersection of these two roads  
23 (indicating) Brantis Drive and Brayers Drive. And  
24 the two options we presented are to, number one,  
25 build a berm, an embankment on the side of the

1 road increasing this elevation allowing more water  
2 during the flood conditions within the wetlands.  
3 The second alternative is to actually raise the  
4 road itself so the road acts as that berm to  
5 accomplish the same thing. Obviously, there is a  
6 difference in cost between raising the road versus  
7 just building an embankment. But we presented  
8 both options for Siena's consideration.

9 On DP2, we saw the increases in the small storms,  
10 a small control structure that would slow the  
11 water down or limit the amount that leaves. We  
12 could do that either with the typical control  
13 structures that you see around town, or install a  
14 facility, or possible look at a weir system built  
15 in the wooded area off the side of Schuyler  
16 Meadows Drive. I would like to point out that the  
17 property line for Siena does not extend to  
18 Schuyler Meadows Drive so that we are looking at a  
19 weir on their property.

20                   Phase 2 are basically the future ideas  
21 to best reduce the amount of runoff that is  
22 created on campus. And we have suggested some  
23 areas depending on the soil that are underneath  
24 these parking lots where course pavement would be  
25 a good choice to utilize to reduce the amount of

1 runoff because all of that water generated from a  
2 rainstorm would just go right down through the  
3 pavement versus running off and going downstream.

4               We looked at a couple of areas here  
5 where pavement or other infiltrative practices  
6 might be able to be used all throughout the north  
7 part of the campus where they have the correct  
8 soil conditions for infiltration of porous  
9 pavement. Detention right here to the north of  
10 the baseball field, and then for the Troop G  
11 barracks which is called Siena West.

12              In the future should any changes happen  
13 to the parking areas or the asphalt pavements  
14 there, the soil conditions are not the best for  
15 porous pavement but there are definitely  
16 opportunities for storm water detention there. We  
17 could look at infiltrative practices, but it would  
18 require a little more research of the soil  
19 underneath.

20              The last part of this presentation,  
21 future development and the green infrastructure,  
22 for the benefit of our public and anyone who needs  
23 to read that, the green infrastructure we are  
24 talking about are simply engineered methods to  
25 take storm water generated from all of our hard

1 surfaces like pavements and rooftops and get that  
2 water into a system which will clean it and then  
3 return it into the ground so that it will reduce  
4 the amount of water that is leaving the site.  
5 We're just trying to get that water back down into  
6 the ground if we can. These are two typical  
7 methods that I have just chosen to indicate. The  
8 rain gardens, where we would have the buildings  
9 right here. We have the downspout, the water from  
10 the roof would be able to go into the rain garden  
11 and the vegetation would use some of the nutrients  
12 in the water and allows the water to go to the  
13 ground. And, hopefully, and small stones, and  
14 none of that water is leaving the site. And  
15 porous pavement which is utilized quite often in  
16 the Town of Colonie. Again, that is pavement that  
17 allows the water to go right through it into the  
18 stones and then eventually into the ground and  
19 dissipate, so that you have very little water  
20 going off that parking lot or whatever roadway  
21 that might be using the porous pavement.

22                   So, for future development, our Volume 2  
23 -- the report is split into two volumes. And in  
24 the second volume is the planning report for  
25 Siena. We provided Siena with guidance for using

1 green infrastructure for all of their future  
2 projects. Detailed maintenance procedures for all  
3 of the different types of structures that might be  
4 use, and cost data for what a project would cost  
5 to incorporate rain gardens.

6           We have also included excerpts from the  
7 New York State DEC Storm Water Management Design  
8 Manual and the intro book, the erosion and  
9 Sediment Control, so any projects they have in the  
10 future, they have these details to help control  
11 erosion and sediment.

12           Finally, for future expansion, we looked  
13 at possibilities where the campus might head over  
14 the next five to ten years. We are really looking  
15 at -- and these are estimates -- about the same  
16 amount of expansion that we have had in the past  
17 nine or ten years. And, of that, that is about  
18 1.7 percent or about three acres again. About  
19 0.85 percent of the development would be areas of  
20 taking existing pavement, remove it, and possibly  
21 put porous pavement down, and have that pervious  
22 development and 0.85 amount of non-pervious which  
23 might be rooftops or sidewalks that would go along  
24 the New Your State DOT corridor where DOT doesn't  
25 currently have it. You would most likely have to

1 use a standard concrete and increase the amount of  
2 impervious. So, those are what we looked at. But  
3 going forward, the goal was always going to be to  
4 use as much runoff as we can in all of the future  
5 projects that Siena may have in the next five to  
6 ten years.

7 I would be happy to answer any questions  
8 in more detail that anybody may have or review any  
9 of the slides. Does anybody have any questions?

10 CHAIRMAN STUTO: Thank you. I will open  
11 it to the public, the village officials and the  
12 Board. There are few enough people, so we can  
13 have an informal discussion.

14 MS. GRENIER: Meg Grenier, Mayor of the  
15 Village of Menands. You have been commissioned to  
16 review the site. When does it look like Phase I  
17 will be implemented? And if it is implemented  
18 what is the plan?

19 MR. FROST: We have a process of  
20 recurring needs. About half of those is the  
21 emergent needs. And this is one that has a hard  
22 time. It has gotten a lot of attention from the  
23 Planning Board and the Board of Trustees as well.  
24 We are looking at some significant time. We are  
25 thinking of over a period of years, maybe over the

1 next two to five years moving through Phase I and  
2 into Phase II. The one thing that Dan didn't  
3 mentioned, or I missed it, we have, I think, the  
4 most recent big project that we completed outside  
5 of the one underway right now is the dormitory.  
6 And you approved that in 2010.

7 I know Mark has seen it, and we see it  
8 as being replicated throughout our campus. So,  
9 that is relative to that we could do. But, we  
10 have pavement that has to be repaired or replaced  
11 on a recurring basis. So, rather than waiting --  
12 I wish I could say the pavement is fine, but it's  
13 not. The first thing we are going to look at has  
14 to do with rerouting, as indicated.

15 MAYOR GRENIER: I didn't know what this  
16 meeting was going to be about, but I have a  
17 picture from last year. The water comes out of  
18 the cemetery on Cemetery Avenue and flows down.  
19 And, there's a house on the corner that literally  
20 becomes an island. The whole property is under  
21 totally involved in water. And, then it floods  
22 down Broadway. And, by rerouting the flow north,  
23 I think -- I'm not an engineer, but it seems to  
24 make sense to me that you would use that water --  
25 and it means putting up guards and sandbags along

1 the fence line. It is significant, and I would be  
2 happy to show you videos. It's like incredible,  
3 what we are looking at. Even that alone, I think  
4 would very much warrant mitigation. But knowing  
5 that you are going to reroute it --

6           CHAIRMAN STUTO: Thank you. That's a  
7 very good point. If you don't mind, Brad Grant  
8 has studied the whole water flow in this area for  
9 Frasier and the Town. And you know exactly what  
10 the Mayor of Menands is talking about. What are  
11 some of the causes from offsite that causes some  
12 of that flooding? Brad, could I ask your  
13 indulgence to give me your opinion of what's going  
14 on down there through the Cemetery?

15           MR. GRANT: Well the Cemetery Brook,  
16 what the Mayor was talking about is the Cemetery  
17 Brook watershed. As far as Siena is concerned,  
18 that is the old Troop G, Siena West, I guess it's  
19 called. That has the most impact on Cemetery Road  
20 and. And, some of the other slides, the Kromakill  
21 has fixed virtually the old campus, Schuyler  
22 Meadows golf course directly, the design point is  
23 the crossing on Schuyler Meadows Road, and also  
24 through the irrigation on the golf course. But  
25 what you are referring to is the Cemetery Brook,

1 and there are significant issues down there on  
2 Cemetery Drive. I have done quite a bit of field  
3 investigation study on a previous job that I had  
4 with Frasier & Associates, and there is a  
5 significantly clogged culvert on Cemetery Drive.  
6 It's not a quick fix at all. It's not just a  
7 culvert. It's both downstream and upstream of the  
8 old wetlands filled in with sediments, leaves,  
9 debris, various things, some from landslides  
10 within the cemetery property and some just natural  
11 sedimentation accumulating over the years. That  
12 is in all likelihood -- I don't know for sure, but  
13 it's in the wetland down there. So, what nature  
14 had provided for before it was developed was  
15 expansive wetlands in that area to, basically,  
16 pick up some of that storm water. But the culvert  
17 that crosses underneath Cemetery Avenue, I can't  
18 even tell its size. I think it's a large  
19 concrete culvert. You can only see the top  
20 crescent of it, and the rest is all sediment.  
21 What happens is that the water gets there and is  
22 ejected and comes down Cemetery Drive gangbusters.  
23 And in some of the businesses that are there --  
24 Albany Steel -- is in awful condition and needs to  
25 be cleaned out. And it is unfortunately the Army

1 Corps wetlands and requires berming and cleaning  
2 output downstream on Cemetery Avenue. That  
3 channel that takes that drainage is quite clogged  
4 for quite a ways, and you can go into Albany Mac -  
5 and come back where it turns. It's not so bad  
6 down there, but at least several hundred feet  
7 downstream of Cemetery Avenue -- it's not just  
8 cleaning up the culverts. There is sediment on  
9 both sides.

10                   MAYOR GRENIER: And, along the Kromakill  
11 along side of the Masonry, that is running into  
12 Broadway on the other side of the parking lot --

13                   MR. GRANT: On the other side of Albany  
14 Steel --

15                   MAYOR GRENIER: Right. You're getting  
16 hit down by two different avenues.

17                   MR. GRANT: When the Town studied this  
18 back in 2003, we identified mostly on the  
19 Kromakill, talking about downtown next to Village  
20 Lawn downstream of Menands and Broadway, the creek  
21 was full of sediment. The State DOT probably five  
22 or six year ago when they baled out a lot of  
23 sediment going down toward the Hudson, they  
24 reached what they felt was the end of their  
25 purview and then stopped. And it improved things,

1 but they almost needed to go down to the Hudson,  
2 quite honestly. There are years of accumulations  
3 and a lot of maintenance that needs to be done.  
4 The State was able to improve just some of that  
5 situation. There were a number of drainage  
6 problems identified in the Kromakill on Lincoln  
7 Avenue and upstream. And we explored some  
8 opportunities to improve the situation at the  
9 Schuyler Meadows golf course. And that would be  
10 -- club membership, the concept was to have a  
11 three-acre pond, lake -- even irrigation water.  
12 Some of these storms, you get the rainfall that is  
13 predictable. And what we wanted to do is put in  
14 radio-controlled valves into their pond where you  
15 could drain it out. When Irene or Sandy is on the  
16 way you can evacuate some of the pond again. The  
17 dam would make sure for some -- before you spill  
18 over, you can take a lot of the issue of the storm  
19 downstream. Understandably, the golf course is  
20 sensitive to that. The golf course is very  
21 important to them, and there is concern to them,  
22 but it never really got off the ground.

23                   There are a number of other issues  
24 identified and not recorded that were corrected.  
25 Watervliet was even into the Kromakill. The issue

1 back then wasn't really mitigated in their  
2 watershed. But the water flowed up north because  
3 of the pond. So, some of the improvement have  
4 been made but there are issues now in the  
5 department. And there needs to be some cleaning  
6 out of the pond they have right next to Spring  
7 Street across the street from -- and the channel  
8 that goes along Lincoln Avenue. So, it's a  
9 watershed that has seen its share of problems and  
10 demands being down, particularly on Cemetery  
11 Drive, the Cemetery Brook watershed. Cleaning up  
12 the capacity that used to be there would help deal  
13 with the situation.

14 MR. AUSTIN: Brad, hearing about  
15 removing the sediment and cleaning it out, it  
16 sounds like it's a no-brainer. But who owns the  
17 culvert? Whose responsibility is it to clean it  
18 out? Can the Town go in and clean it out?

19 MR. LANE: No.

20 MR. AUSTIN: I mean if it is affecting  
21 that many people downstream, down the hill in  
22 Menands, the houses form an island when it rains.  
23 I would think that something could be done  
24 somewhere. I'm fairly naive in this whole  
25 scenario.

1                   MR. GRANT: We went down years ago and  
2 cleaned it --

3                   MR. AUSTIN: If you are seeing a culvert  
4 that you can't see --

5                   MR. GRANT: It's not a little project.  
6 It's a big -- it's significant. It's not just the  
7 culvert, but you would have to go through a  
8 regular flurry and clean it without -- it's never  
9 going to be restored back to the way it was 100  
10 years ago. But something could be done. When  
11 that kind of storm happens and it has no place to  
12 go, it's going to go down both sides and form  
13 channels, and it is significant.

14                   MR. AUSTIN: And is the cemetery  
15 responsible?

16                   MR. GRANT: I would say there are  
17 multiple owners and there are regulatory channels  
18 you have to go through, and even some talk that  
19 there may be some not-so-clean dirt down there  
20 coming from the steel plant. I'm not even sure if  
21 I have the right location. So, you have to get  
22 the parties together. And, there is the expense  
23 of doing it. It would take a lot of focused  
24 effort.

25                   MAYOR GRENIER: I went to Cemetery

1 Avenue today, and I was amazed at how clean the  
2 water was. The combination of the water behind  
3 the houses, and they are getting it twofold. They  
4 are surrounded by -- on Lewis Avenue on the west  
5 side, and then it also comes down on the north  
6 side. So, the homeowners at one end are getting  
7 it in the backyards on one day. And it's just a  
8 rainstorm; there wasn't any flooding. And they  
9 had water up to their knees in the backyard  
10 because of the water coming down in that area.  
11 But that part of it is clean water?

12                   CHAIRMAN STUTO: I am saying  
13 contaminated soils, the soils from the steel mill.

14                   MAYOR GRENIER: But if they remove that  
15 water and slow it down and send it north again,  
16 wouldn't that help us down in Menands?

17                   MR. GRANT: That is going to, because  
18 the difference being even the parts of the campus  
19 that crosses Schuyler Meadows Road, the golf  
20 course is still getting to the Kromakill. If you  
21 send it north, you get a chance to send it  
22 farther, through several thousand feet of stream  
23 it kind of spreads out some of the runoff  
24 particularly sends it through, even without the  
25 radio valves and all, it sends it. And, there is

1 is a controlled structure along the irrigation,  
2 and there is attenuation and storage for  
3 additional storm water run-off there.

4 CHAIRMAN STUTO: It will slow it down.

5 MR. GRANT: So, sending it north is  
6 good.

7 MR. FARNAM: Just to add, the scope and  
8 magnitude, just so we are square on that, we are  
9 talking about two drainage areas that equate to  
10 about 4,200 acres of land. And the land we are  
11 rerouting in one direction is only 18 acres.  
12 Every little bit helps. I think Siena now  
13 understands it and everyone here understands it,  
14 the magnitude of how much that helps. Every  
15 little bit helps. I don't think Siena or anybody  
16 here would be able to guarantee that that is the  
17 fix, the silver bullet that is going to fix it.

18 MAYOR GRENIER: I was down there on  
19 Saturday and I was outside talking to the  
20 neighbors. And they are so fearful of what's  
21 going to happen to their houses if the storm  
22 actually came through. And, rightfully so. I  
23 mean it's unbelievable. I am so grateful to be  
24 sitting here listening to two thinking men and  
25 that there's a chance that they can do something

1 that may help us to start responses to some of  
2 these problems.

3 MR. FROST: As Dan pointed out, the  
4 campus is about five, maybe seven percent to where  
5 the neighbors' property that flows through us of  
6 the entire watershed. So, the measures we are  
7 going to take will certainly reduce the storm  
8 water coming off our campus. But the cumulative  
9 effect as you work your way down the Kromakill to  
10 the Hudson is going to be a very small percentage.

11 MR. FARNAM: I would say every little  
12 bit, of course, helps. But the rerouting of that  
13 18 acres is not the magic bullet that will solve  
14 all the Kromakill's issues, all of Cemetery  
15 Brook's issues. I think there are other  
16 contributing factors throughout that entire  
17 watershed that are contributing to some of the  
18 issues we have. And what we are going, what we  
19 are contracting to do is to look at the waters  
20 leaving Siena and try best to bring that back to  
21 make it a little bit better condition for  
22 downstream.

23 MAYOR GRENIER: For private property,  
24 there is nothing to do. But part of it can be  
25 done with Siena's efforts. There are significant

1 studies done by you which I was never made aware  
2 of. And you have done a great study. So, my goal  
3 is to get the players together at a table to see  
4 what exactly is to be done. And I may be calling  
5 you because I really want to get people together  
6 to better understanding the situation and see the  
7 possibilities, because if we lived it and my  
8 mother lived it and I was constantly told that  
9 there is nothing that can be done about it, that's  
10 a public official who's not making an effort. I  
11 want to try and help these people if we can by  
12 getting together and putting our head together  
13 seeing what the issues are. I had no idea that  
14 you had done this kind of study. And maybe I  
15 should have known that, but all I have been  
16 hearing is that there's nothing we can do.

17 MR. GRANT: Dan put it in a good  
18 context, and we really have to both Siena and Dan.  
19 That was a great report and presentation and quite  
20 thorough. But it is part of a large puzzle. One  
21 of the things I am talking about, the possibility  
22 of being able to squeeze out a little more  
23 protection for the people behind the town mall in  
24 the recreational landscaping pond back there. And  
25 that is on the list to be checked for the overflow

1 conditions. I have a log of places I had to go  
2 yesterday. But, thankfully, I didn't have to go.  
3 When I do come, we have a -- we might able to turn  
4 a valve down that would be the Cemetery Brook  
5 watershed that is even upstream of the Siena --  
6 and there could be improvements realized on our  
7 property, if we are able to.

8                   So, I really want to commend the great  
9 effort that you have done as well. And I  
10 appreciate it.

11                   CHAIRMAN STUTO: Your report is  
12 unbelievably thorough with respect to current  
13 conditions and past actions and what the remedial  
14 actions will be. And I think Siena has been a  
15 fantastic neighbor to us, really. It's above and  
16 beyond. And I appreciate it, as the Board does.

17                   MR. GRANT: We have met with Dan and  
18 Foit Albert before, and John Dzial was there,  
19 talking about those crazy storms that we have had.

20                   In addition, the soils on that site that  
21 are amenable to some agreement, obviously, and the  
22 wetland is kind of an indication that there some  
23 areas that you just can't --

24                   MAYOR GRENIER: It all starts with one  
25 piece, and this is what we are looking at.

1                   CHAIRMAN STUTO: Does anybody from the  
2 Board have any questions or anyone from the  
3 public? Any final comments?

4                   MR. FROST: I want to mention real quick  
5 a couple of projects that are underway that you  
6 have already seen and approved. Rosetti Hall,  
7 which had other names previously. It's a new  
8 academic building that we are building, and it  
9 does have a rain garden as part of the project.  
10 And I think Dan mentioned the loop road project.  
11 A major portion of that does have porous pavement.  
12 And, we are trying to implement green  
13 infrastructures going forward on this project.  
14 And, as Dan said, going forward we will be looking  
15 into that even more.

16                  CHAIRMAN STUTO: As I said, I would just  
17 like to get one of the engineers to help me out  
18 with this. But every subdivision or site plan  
19 that we approve, my understanding is that there  
20 are strict regulations. We will not increase the  
21 downflow. Can you tell me about that, Dan? The  
22 condition gets better, not worse, right, after one  
23 of our developments?

24                  MR. FARNAM: Correct, insofar as the  
25 peak runoff. Essentially from 2003 to 2010, that

1 was essentially the main beginning, the smaller  
2 storms. Try to get some of the larger storms, the  
3 ten-year and 100-year do not increase the runoff  
4 particularly in the design watershed. There were  
5 about seven of them in this particular facility.  
6 And, now, we are looking at the volume of them and  
7 structure. We are trying to mimic what nature  
8 did. And that is, to infiltrate the runoff back  
9 into the -- as much as we can, and to identify the  
10 type of soils, the impervious pavement, and find  
11 out what we can from as many opportunities. It's  
12 a daunting task. He I am impressed by the effort.

13               That is in our report of Town Codes for  
14 exactly what is supposed to come off the site.  
15 But after improvements take place, I know they  
16 definitely exist and I'm sure John Dzial somewhere  
17 has all of those codes.

18               CHAIRMAN STUTO: Thank you. I just  
19 wanted to be clear.

20               MR. GRANT: One of the things we talked  
21 about is in 2003, the comprehensive report was to  
22 identify critical watersheds in those areas where  
23 we want to reduce the peak rates of runoff. As a  
24 goal, we talked about campus-wide ten percent.  
25 That's a grand slam. That is an honorable goal,

1 and I think you put it right. There were drainage  
2 issues all around, particularly downstream.

3 CHAIRMAN STUTO: Okay. Thank you again,  
4 Siena, for coming. And thank you everyone else  
5 from the public. Do we have a motion to adjourn?

6 (A motion to adjourn was made and  
7 seconded)

8 (The proceeding before the Planning  
9 Board was adjourned at approximately  
10 9:55 p.m.)

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1 STATE OF NEW YORK )  
SS:  
2 COUNTY OF ALBANY )

3

4 I, BETH S. GOLDMAN, Certified  
5 Shorthand Reporter, Registered Professional  
6 Reporter and Notary Public in and for the  
7 County of Albany and the State of New York,  
8 hereby certify that the proceedings recorded  
9 hereinabove were recorded stenographically  
10 by me and reduced to computer-generated  
11 transcription.

12 I FURTHER CERTIFY that the foregoing  
13 transcript of said proceedings is a true and  
14 correct transcript stenographically recorded  
15 at the time and place specified hereinbefore.

16 I FURTHER CERTIFY that I am not a  
17 relative or employee, attorney or counsel  
18 of any of the parties, nor a relative or  
19 employee of such attorney or counsel, or  
20 financially interested either directly or  
21 indirectly in this action.

22 IN WITNESS WHEREOF, I have  
23 hereunto set my hand.

24

25

26

27 BETH S. GOLDMAN  
28 Certified Shorthand Reporter  
29 Registered Professional Reporter  
30 Notary Public

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