

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 *****

MITOLA DENTAL OFFICE

1240 LOUDON ROAD

APPLICATION FOR CONCEPT ACCEPTANCE

5 *****

6 THE STENOGRAPHIC MINUTES of the above entitled
7 matter by NANCY L. STRANG, a Shorthand Reporter,
8 commencing on August 23, 2016 at 7:00 p.m. at The
Public Operations Center, 347 Old Niskayuna Road,
Latham, New York.

9

10 BOARD MEMBERS:
11 PETER STUTO, CHAIRMAN
12 LOU MION
13 SUSAN MILSTEIN
14 CRAIG SHAMLIAN
15 BRIAN AUSTIN

16 ALSO PRESENT:

17

18 Kathleen Marinelli, Esq. Counsel to the Planning Board
19 Joseph LaCivita, Planning and Economic Development
20 Department
21 Michael Tengeler, Planning and Economic Development
22 Department
23 Jack Harding, Boy Scout Troop 78
24 Joseph Grasso, PE, CHA
25 Nick Costa, PE, Advanced Engineering
Paul Orshan
Andrea Orshan
Sudhir Kulkarni, Conservation Advisory Council
Tom Gallagher, Cornell Cooperative Extension
David Orshan
Paula Orshan
Andrea Orshan
William Niles
John Riitano
Paul Remeyer

1 CHAIRMAN STUTO: Welcome everyone to the Town
2 of Colonie Planning Board. We have three items on the
3 agenda and we'll call them forthwith, but I'll turn it
4 over to Joe LaCivita if you have any announcements
5 that you need make, Joe?

6 MR. LACIVITA: Sure. Before we get going, it's
7 always exciting to see the youth of our neighborhood
8 amongst our presence. Tonight we have Jack Harding.
9 He's a Boy Scout with Troop 78. I gave him my card so
10 if he has any questions along the way -

11 CHAIRMAN STUTO: So, does he get a badge for
12 showing up tonight?

13 MR. LACIVITA: He does.

14 It's communication, right?

15 MR. HARDING: Yes.

16 CHAIRMAN STUTO: Welcome.

17 MR. HARDING: Thank you.

18 CHAIRMAN STUTO: Anything else; Comprehensive
19 Plan or any of the other stuff?

20 MR. LACIVITA: We have a Comprehensive Plan
21 meeting tomorrow. Our kick-off was on June 22nd.
22 Tomorrow we are going to actually take our Town
23 Designated Engineer -- our committee has gone through
24 and selected their criteria. They've had their
25 interview, so we are going to kick-off the meeting

1 that way. If you want to get onto our website, you
2 can submit comments to our committee. The TDE of the
3 Comprehensive Plan is going to give us an overview as
4 to how they can walk our committee through the
5 process. It will be probably an hour meeting.
6 Everyone is welcome there.

7 CHAIRMAN STUTO: Can you give us updates on the
8 GEIS and also the Albany Shaker Road Study?

9 MR. LACIVITA: And 6:00 is the meeting time for
10 the Comprehensive Plan.

11 CHAIRMAN STUTO: What room is that in?

12 MR. LACIVITA: Right here.

13 The Albany Shaker Road --- the one that we are
14 doing with the county, we kicked that meeting off two
15 weeks ago. The extension of that is from the Osborne
16 area all the way through. They are looking to
17 increase it out to the nursing home. I believe it's a
18 little too far, but that's what the county is looking
19 at right now. So, that's going out. We'll putting
20 together the draft qualifications to get an
21 engineering firm for that. We're waiting on the
22 county to sign-off on the MOU, the memorandum of
23 understanding, and then it will go back to the Town.

24 Joe Grasso is here tonight. He has been
25 selected by the Town to update the Airport Area GEIS

1 which will also include this traffic study.

2 CHAIRMAN STUTO: Is there anything that you
3 want to say about that, Joe?

4 MR. GRASSO: No. The Airport Area GEIS was
5 done back in 1991. There was one update, I think, in
6 the year 2000. We worked with the Town on its
7 original preparation as we did with all three of the
8 GEIS' in the Town. The first part of that study is to
9 go through the scoping, which is basically answer the
10 question of what things should be looked at when the
11 Town does an update to the GEIS study. So, this is
12 the first phase. This phase is meant to coincide with
13 the Town's updating of the Comprehensive Plan. So,
14 both of those studies will go hand in hand even though
15 they're meant to answer different questions, there are
16 some commonalities between the two studies.

17 CHAIRMAN STUTO: Okay, thank you.

18 I want to mention this to the other Board
19 Member - it occurs to me.

20 After our last Board meeting somebody came up
21 to me because there were a lot of questions from the
22 neighbors and they suggested that we inform the public
23 at appropriate times of all the review that occurs for
24 a site plan before we see it. In other words, the
25 staff review -

1 Joe, what's the name of the committee? Can you
2 describe that process a little bit now? We'll think
3 about repeating that as appropriate for the neighbors
4 and the residents.

5 MR. LACIVITA: Based upon how the Land Use Law
6 was designed and written, when a project comes before
7 the Town it starts off with its very first meeting
8 which is an informal meeting with all of our Town
9 Departments and that's called a Development
10 Coordination Committee meeting, the DCC as it is
11 known. They meet with Town departments. They meet
12 with the Department of Transportation and the Albany
13 County Highway Department.

14 After that meeting, a developer has the ability
15 to be before the Planning Board. No action is ever
16 taken at that meeting. That's called a sketch plan
17 review. Comments are not taken typically from the
18 neighbors because, again, it's to see what the
19 complexities are from the planning process and from
20 the department.

21 CHAIRMAN STUTO: How many departments review
22 it? I know that we see letters from Traffic Safety,
23 Fire Safety, water, sewer -

24 MR. LACIVITA: It starts off with Planning.
25 The Building Department and the Fire Department,

1 Police communications, water, sewer, highway and our
2 stormwater departments along with our attorney's
3 office.

4 CHAIRMAN STUTO: The point is that it's been
5 professionally vetted in a fairly thorough way.

6 MR. LACIVITA: Absolutely.

7 CHAIRMAN STUTO: Before it even comes to the
8 Planning Board.

9 MR. LACIVITA: And the Town Designated
10 Engineer, as well. Again, they look at the
11 complexities. The Department of Transportation will
12 tell them it's on Route 9, 5 or 155 or one of the Town
13 roads that they control. A lot of times projects
14 don't even get to this phase because the developer
15 will find that it's too complex. So, you have the
16 DCC, the Development Coordination Committee meeting at
17 first. Then, you come to sketch plan here, where
18 there is no action taken but at least hear what the
19 Planning Board will be looking for. It goes back to
20 interior design with the engineering firm that they
21 have with the developer and then the first time that
22 it's open to the public, as we will see tonight with
23 Mr. Mitola's dentist office - it's concept acceptance.

24 Concept is granted on a project but yet it
25 still has to go through technical review and that's

1 our final review that we do. Typically, it's about
2 five times in a project because there may be updates
3 required along the way.

4 CHAIRMAN STUTO: Thank you. We may ask you to
5 repeat that at some point, as appropriate, for the
6 residents' education.

7 Anything else before we call the agenda?

8 MR. LACIVITA: Not at this time.

9 CHAIRMAN STUTO: Okay, the first item on the
10 agenda is Mitola Dental Office, 1240 Loudon Road,
11 application for concept acceptance, 4,100 square foot
12 professional office.

13 Do you have an introduction to this one, Joe?

14 MR. LACIVITA: Yes, I know that Nick Costa is
15 here who is the engineer for Mr. Mitola.

16 The project has been before our DCC, as I
17 mentioned, on February of this year and recently with
18 the sketch plan review that was February 23rd of this
19 year. Nick, I know, has heard comments from both of
20 our departments; the Town Designated Engineer and the
21 Planning Board from that process and now we are here
22 for concept acceptance.

23 MR. COSTA: Thanks, Joe.

24 Nick Costa from Advanced Engineering. We have
25 prepared the concept plan that's before the Board

1 tonight. As Joe mentioned, we have been through a
2 couple of integrations already of the Town process.
3 We have been to the DCC and in front of you for sketch
4 plan review and tonight we're here for concept review.

5 The site is located on Loudon Road. It's
6 adjacent to the Orshan Farm, which many people are
7 familiar with that. It's approximately one acre in
8 size. It's exactly one acre in size. It has frontage
9 on Loudon Road and it's rectangular shaped. Dr.
10 Mitola is proposing to develop the existing site into
11 his dental office.

12 Not much has changed from the plan. Some
13 things have changed from the plan that you saw at the
14 sketch plan level because we did receive those DCC
15 comments and TDE comments, so we did make some
16 adjustment to the site plan. Generally, the building
17 and the access to the site is very similar to what was
18 presented in the sketch plan. The building is
19 located, as shown here, on this portion of the site
20 (Indicating). Mainly the reason that it's located
21 here is that DOT has requested that we keep the drive
22 lined up with the existing traffic control signal
23 that's at the intersection of Fonda Road and Loudon
24 Road. This access road is seen as a future access to
25 the Orshan parcel. It could get extended and serve

1 the Orshan Farm.

2 CHAIRMAN STUTO: Are we making provisions for
3 that?

4 MR. COSTA: Yes.

5 CHAIRMAN STUTO: In what form?

6 MR. COSTA: It's been suggested that an
7 easement or deed restriction be placed on this portion
8 of the property so that in the future when the Orshan
9 parcel is developed, it would be accessible by the
10 developer.

11 CHAIRMAN STUTO: It's not going to be a Town
12 designated road at any point?

13 MR. COSTA: I think that eventually if the
14 Orshan parcel is developed with residential homes, it
15 could become a Town road. If it's developed with some
16 other type of residential development, it could be a
17 private road. It will have access to this drive.

18 The other feature of the site is that this is
19 the existing bike path - the Mohawk Hudson River Bike
20 Path that comes out on Schemerhorn Road.

21 It's being developed as it's zoned. It's
22 commercial/office/residential. The size of the
23 building is 4,100 square feet.

24 CHAIRMAN STUTO: Where does the bike path go
25 once it hits Route 9?

1 MR. COSTA: It goes underneath Route 9 and then
2 it continues down to the Mohawk River and then hooks
3 up, I believe, with the bike path along the Hudson
4 River.

5 MR. LACIVITA: And it goes out the Niskayuna
6 way too.

7 MR. COSTA: Yes, this goes up to the Lockes.

8 So, we made as provisions for site to have
9 municipal services. There is an existing four-inch
10 water main that the Town owns that is along Route 9
11 and we are proposing to make a connection to that for
12 having water into the site. The force main that's
13 located along the southerly edge of the bike path --
14 we are proposing to install a grinder pump and make
15 that connection so that it can have sanitary sewer
16 provisions. Then, we also have to make provisions for
17 stormwater management. Right now we are attempting to
18 utilize that area for stormwater management.

19 The other pertinent features of the site - we
20 are providing the parking that is required for the
21 dental office. The parking is out in the front of the
22 building. Although the building will face Route 9, it
23 will have the main entrance to accommodate the patient
24 parking here and then some employee parking and also
25 additional parking for patients will be located on the

1 westerly side of the site.

2 I also have a rendition of the whole building.
3 As you can see, the building has a lot of stone
4 masonry type of finishes. It does have a facade that
5 is toward Route 9 which will also be prominent and
6 make it look like there is an entrance at that
7 location.

8 The site does have about 55% greenspace. So,
9 the building area is less than 10% and the paved area
10 is about 35% to make up the 100% of the site. So, it
11 does meet all the zoning requirements.

12 This site is located in a conservation overlay
13 district. As we receive comments from the TDE, I
14 think that we can accommodate the 40% that was
15 discussed in the comment letter.

16 CHAIRMAN STUTO: And we'll wait to hear from
17 the TDE on that, as well.

18 MR. COSTA: So, if there are any comments,
19 we'll be more than happy to answer them.

20 CHAIRMAN STUTO: I'll just mention to the
21 public that if the public wants to speak on this,
22 please sign in on the sign-in sheet to the left over
23 on the table.

24 I think that we'll hear from our Town
25 Designated Engineer, Joe Grasso, from CHA on this

1 project.

2 MR. GRASSO: Thanks, Pete.

3 We did issue a formal concept review letter and
4 it's in your packet. It's dated August 12, 2016 and
5 I'm actually going to read directly from that letter.
6 This is an exhibit map that I quickly put together to
7 help clarify some of our comment regarding the
8 conservation areas that we recommended. I want to
9 give one to each of the Board members and to Nick.

10 MR. GRASSO: In general, it appears as though
11 the concept materials address many of the comments
12 from the DCC meeting held back in December, but the
13 application does not address the Planning Department's
14 comment made during DCC nor the Planning Board's
15 comment made during the sketch plan review meeting
16 regarding the need for a conservation analysis in
17 accordance with Section 190-30 of the Code. Like Nick
18 had mentioned, this property is within the
19 conservation development overlay district of the Town
20 and the purpose of that is to conserve resources and
21 reduce the amount of development that occurs within
22 that zone in order to protect any resources that may
23 be within a certain project site area. This analysis
24 is important to the project moving forward and is
25 needed to determine a conservation value of any

1 resources that should be protected and how the
2 requirements of the Code are being met.

3 The applicant's DCC response letter states that
4 the conservation analysis was included on the concept
5 plan but the plan only indicated that a minimum of 40%
6 conservation area is required and furthermore that the
7 site doesn't include any state or federal wetlands and
8 a portion of the site is currently used for
9 Agricultural purposes. The conservation analysis is
10 actually meant to address other resources such as open
11 space or recreational resources, any buffer areas, any
12 land exhibiting present or potential or recreational,
13 historic, archeological, ecological, Agricultural
14 water resource, scenic or other natural resource
15 values including adjacent resources as well as the
16 value that they can provide. So, the conservation
17 analysis is typical of a comprehensive thorough
18 analysis that should be provided in order for the
19 Planning Board to make smart decisions regarding any
20 resources that should be protected by a development
21 project.

22 Absent any additional information regarding the
23 appropriateness for conservation development standards
24 to apply, our office is recommending that 40% of the
25 site be restricted from typical lot development

1 activities and that the restricted 40% provide the
2 following conservation benefits. One is provide a
3 buffer between the Town bike path which is obviously
4 an important public recreational resource and also to
5 provide a buffer around the north and west sides of
6 the project site and adjacent to the existing adjacent
7 Agricultural property. This will be a buffer to
8 existing Agricultural uses as well as protect the open
9 scenic views across the site when viewed from the
10 Loudon Road corridor.

11 It's already been discussed during the sketch
12 plan review the need for the reservation of the right
13 of way along the south side of the project site and
14 that's where Nick is describing as the fourth leg to
15 the Fonda Road/Loudon Road intersection and possible
16 future access to the Orshan piece. This right of way
17 could provide access to the currently Agricultural use
18 property to the west and the north, but we believe
19 that this right of way could duly serve as a future
20 access to the Orshan property as well as provide a
21 buffer to the Town's bike path to the south and the
22 proposed development that we are looking at tonight.

23 In order to come up with what we believe is the
24 40% conserved lands, which is required by the Code,
25 our recommendation is that the 40% be comprised of the

1 following portions of the project site. We've
2 identified these on the exhibit that I've handed out,
3 but these have not been currently proposed as part of
4 the project.

5 The first is a 60 foot by 210 foot strip along
6 the south side of the site, which would be about 29%
7 of the project site. That would include that access
8 road which could serve both access to this project
9 site as well as the Orshan property. So, on that
10 exhibit it's the green swatch to the left of the
11 diagram.

12 Secondly, a 159 foot by 18 foot strip along the
13 west side of the project site which would be 7% of the
14 project site and that's along the back of the
15 property.

16 Thirdly, a 10 foot by 196 foot strip along the
17 north side of the project site which would be about 4%
18 of the project site and that's on the left side of the
19 exhibit between the development and an Agricultural
20 area.

21 So, when you add up those three strips you're
22 getting to the 40% area that's talked about in the
23 conservation development overlay district. The 40%
24 conserved lands can either be deed restricted or
25 dedicated in fee. Due to the lack of definitive

1 information on the future right of way needs and the
2 unknown future use of the Orshan property, we
3 recommend that these areas be deed restricted such
4 that they are reserved for future access and provide
5 immediate buffer areas to the proposed development
6 that we are looking tonight.

7 CHAIRMAN STUTO: Could we do a paper street as
8 well? My recollection of a paper street is if the
9 Town ever opts, they can take it over.

10 MR. GRASSO: Yes, and I think that's important.
11 That's something that is a valid point. The Town may
12 want to reserve the right to turn that into a public
13 right of way in the future to serve that adjacent
14 development in the back.

15 If these areas are restricted from development
16 and serve as buffers from the proposed development, we
17 believe that the intent of objectives in Section
18 190-30 of the Code would be met and if this approach
19 is Agreeable to the Planning Board, then no changes to
20 the actual site layout that Nick is presenting tonight
21 would be required.

22 Our next comment in our letter is that it does
23 appear that otherwise the plan is in conformance with
24 the design standards of the office/residential zoning
25 district and based on our first review, no waivers

1 would be required. The project site is located in
2 what we know is an archaeologically sensitive buffer
3 area. So, a determination from New York State Parks
4 and Recreation Department would be required in order
5 to determine whether a cultural resource report or any
6 additional investigation regarding those types of
7 resources are required.

8 Lastly in our letter: The Town Attorney's
9 office classified this as an unlisted action pursuant
10 to SEQRA. A short Environmental Assessment Form has
11 been provide with the application materials. Involved
12 Agencies that we know of right now is going to be the
13 Town of Colonie Planning Board and New York State DOT
14 which is going to be involved with the review and
15 approval of the development of any new access to
16 Loudon Road. We believe that the short EAF adequate
17 describes the environmental setting of the project and
18 based on the apparent limited impacts described, we
19 don't believe at this time that significant
20 environmental impacts are expected but we would
21 recommend that the Planning Board would withhold that
22 determination until we get into the review of the
23 final plans.

24 You have been provided copies of the
25 departmental comments and I'm not going to go through

1 those. There is nothing that we see in those that
2 would change the layout of the project. I do just
3 want to highlight the comments that we have received
4 from the state DOT and that's regarding the access
5 onto Loudon Road. One of their comments said "The
6 proposed access connection as a fourth leg to the
7 existing traffic signal appears feasible at concept,
8 however, formalized access easement should be
9 investigated to provide the transportation safety
10 benefits of the traffic signal to as many parcels of
11 land or future development on the west side of Route
12 9.

13 Further evaluation is needed from the applicant
14 and their engineer to determine the scope of
15 modification required to the existing traffic signal
16 system to accommodate the proposed fourth leg to the
17 intersection.

18 In general, they are supportive of the access
19 arrangement basically being that fourth leg to the
20 intersection which obviously has tremendous capacity
21 for additional traffic and the intent is to reduce the
22 number of curb cuts that signalized intersections
23 along Route 9.

24 I think that the Planning Board already knows,
25 but the access to the Orshan parcel is just currently

1 to the north of the project site. If this fourth leg
2 of the intersection gets developed and it is afforded
3 access to the Orshans -- if that parcel is ever
4 changed and needs to go through a Planning Board
5 review, at that time the Planning Board could look to
6 have that access take advantage of this fourth leg of
7 the intersection and eliminate any other curb cuts
8 that currently exist on Route 9.

9 CHAIRMAN STUTO: On that point, on the north
10 side of this parcel which is part of the Orshan
11 parcel, right?

12 MR. GRASSO: That's correct.

13 CHAIRMAN STUTO: What if they carve that piece
14 off? The point that I'm asking is if they subdivided
15 that and sold it to somebody, there would be no
16 connection to that piece.

17 MR. GRASSO: I think that's something that
18 would obviously come in front of the Planning Board
19 for subdivision planning review and that is something
20 that the Planning Board would want to look at.

21 CHAIRMAN STUTO: But this parcel could say no -
22 the way that you have it laid out now.

23 MR. GRASSO: No. Our recommendation is that
24 there would be a 60-foot wide easement.

25 CHAIRMAN STUTO: On the north side?

1 MR. GRASSO: Not on the north side; only on the
2 south side. You're looking at the parent parcel of
3 Orshans.

4 CHAIRMAN STUTO: I know that it is connected
5 now. It will be connected as proposed.

6 MR. GRASSO: It should be part of that future
7 review. Let's say that they look to try to subdivide
8 another one-acre parcel along the Route 9 frontage -

9 CHAIRMAN STUTO: I don't know if that will come
10 before us or not.

11 MR. GRASSO: No, it will come before you.

12 CHAIRMAN STUTO: There are major subdivisions
13 and minor subdivisions.

14 MR. GRASSO: I think that when the Planning
15 Department looks at it and begins to screen that type
16 of project, if you look at their comments now they are
17 aware of the need for access management and are
18 supportive of this fourth legged intersection. They
19 will bring it to the Board's attention -

20 CHAIRMAN STUTO: So, Orshan would be the one
21 who would have the burden of connecting from the west
22 side.

23 MR. GRASSO: Correct.

24 That was it for our comments.

25 CHAIRMAN STUTO: Okay, we have a number of

1 residents who would like to speak.

2 Are there any comments or questions from the
3 Board at this point?

4 (There was no response.)

5 MR. KULKARNI: Excuse me. My name is Sudhir
6 Kulkarni and I'm from the CAC and we had one comment.

7 CHAIRMAN STUTO: Okay, thank you.

8 MR. KULKARNI: Please include landscaping plan.

9 CHAIRMAN STUTO: And we'll follow up on that
10 when it comes back to the Board.

11 MR. KULKARNI: Thank you.

12 CHAIRMAN STUTO: On the sign-in sheet: Tom
13 Gallagher, Cornell Cooperative Extension.

14 MR. GALLAGHER: As you introduced me, I am with
15 Cornell Cooperative Extension. I've been with
16 Extension for 40 years and I'm also Secretary to the
17 Albany County Agriculture and Farmland Protection
18 Board. I have been on that Board since it was formed
19 by the state back in the early '80s. After having
20 served on that Board all these years, we spend a great
21 deal of time as the Board is named, trying to protect
22 and keep the farms that we got, protect prime soils in
23 the county and in some cases we have to spend a great
24 deal of money to do that. We do what they call
25 purchase of development rights and we get money to buy

1 development rights of the property so that it will
2 stay in Agriculture. We have developed Ag and
3 farmland protection plans. I've been on committees
4 for the Town of Bethlehem, the Town of Knox and the
5 Town of New Scotland to develop a farmland protection
6 plan for those individual towns. We have an Ag and
7 farmland protection plan for the county. It's been
8 around for 10 years and we're now updating that plan
9 because a lot of things have changed in 10 years.

10 What bothers me about what I'm hearing tonight
11 is it's almost like once the Orshan property -- it's
12 like the farm is already gone. We work hard to try to
13 preserve the farm and the farmland and it's almost
14 being ignored. I think that we really need to work
15 hard to keep that farm a farm as long as we can. As
16 far as I know and Dave Orshan is here and can speak
17 about it ---it's been in the family for over 90 years.
18 I think that Dave is the third generation. Every
19 single vegetable that they grow on that farm is sold
20 at their farm stand, which means the majority of what
21 they grow goes to Colonie residents. It's not going
22 to the New York City market, it's not going to the
23 Menand's wholesale market. It's going to the
24 residents who live in Colonie. So, that would be a
25 loss right there for those people who stop at the farm

1 stand to purchase their vegetables.

2 The land is in a state Agricultural district.
3 It's in Ag district #1 in the county, including the
4 party where the dentist's office is going because that
5 used to be part of the farm. So, that particular acre
6 of land is also part of the Ag district and it was
7 originally part of the farm. I've heard people say
8 well, if it's in an Ag district, that farm gets
9 protections from neighbors complaining about certain
10 things. That is true. The Orshans can continue to
11 farm the way that they've always farm whether there is
12 a dentist office there or not. What is going to
13 change is some of the pesticides that they use. They
14 have to be 100 feet from any structure. His best farm
15 field is going to be --- a 10-foot buffer isn't going
16 to do much good on the north side. That's where that
17 good farm field is. That means that he is going to
18 lose 75 feet of just one field of prime farm land
19 because he won't be able to use some of his
20 pesticides. In the vegetable business you're using
21 insecticides and fungicides throughout the year. So,
22 he's going to lose some of his land, or he is only
23 going to be able to grow certain things that don't
24 require any spraying during the crop season.

25 There are going to be noises. He's out there

1 farming. You're out there early in the morning
2 spraying and working with your equipment. You've got
3 the guns, which you could hear tonight when you came
4 in, chasing the birds away. So, there are going to be
5 some noise issues.

6 There is going to be some dust issues. When
7 he's working the land in the spring and if the soil is
8 dry and there are some cars parked in the dentist's
9 office, those cars are going to get dusty.

10 All those issues -- they can't file a nuisance
11 lawsuit. The Ag district law says no. They are
12 following best management practices and there would be
13 no lawsuit but after a while you're kind of tired when
14 people just continue to call DEC and complain because
15 they can smell the pesticides. A lot of these
16 pesticides, 24 hours after it's sprayed, you can still
17 smell it. So, if you have an outside vent that's
18 bringing fresh air in, it's going to bring that odor
19 right into the dentist's office with them. It's just
20 the location of where it is, adjacent right on top of
21 the greenhouses, almost.

22 The location of it -- where it is and being so
23 close to a farm --- I was just looking at some census
24 numbers for farms and believe it or not in 1950
25 Colonie had the most farms of any town in Albany

1 County. Obviously, that has changed a lot since the
2 50's. We had lots of change in the 60's and the 70's
3 and of course Wolf Road and some of those other places
4 came about. Now we're down to a handful of farms in
5 the county and we as a Farmland Protection Board,
6 American Farmland Trust works hard to help preserve
7 farms. Mohawk Hudson Land Conservancy works with us
8 to help us try to preserve farms. We try to do
9 everything that we can to help keep these farms, to
10 keep the land open and keep farming in the county and
11 in various towns.

12 Neighbor relations are a big thing when it
13 comes to agriculture and development. Here is a
14 booklet that Cooperative Extension has developed:
15 Farms, Communities and Collaboration and Cultivating
16 Farm/Neighbor and Community Relations. I probably get
17 involved in at least one or two cases every year
18 between neighbors and farmers. Most of the people
19 that move in as neighbors just don't understand
20 agriculture and it's a matter of explaining of what
21 they are doing. Sometimes it's a little more serious
22 than that. We spend a lot of time trying to work with
23 that and I think that here we are looking at a problem
24 ready to happen by having this office so close.

25 Here are what some of these plans look like

1 (Indicating). This is the Town of Bethlehem. This is
2 the one for Saratoga County (Indicating). Here is
3 one: Guide to Local Planning for Agriculture in New
4 York. A lot of planning takes place around the farms.

5 Again, another thing to keep in mind is that if
6 this property is sold, in the sale agreement it has to
7 state that it's within 500 feet of an Ag district and
8 it has to say that it's subject to noise, dust, dirt,
9 etcetera. It's a little more formal of a write-up
10 that has to go in the contract. They need to be aware
11 that there is going be issues. We need to make sure
12 that happens when this land is sold and the office is
13 built. Certainly, we would do everything that we
14 could to try to make good neighbor relations but the
15 best way to do it is to head off the problem before it
16 starts possibly.

17 I can certain serve as a resource if questions
18 come up. I've been working with the Ag District Law
19 since it started and I'm very familiar with the
20 farmland plans and things like that. If there is any
21 information that you need as far as follow-up, I'd be
22 glad to provide that.

23 I know that I was able to send some stuff to
24 Joe LaCivita and he got a few things in your packet
25 before the meetings. Hopefully some of that was

1 helpful.

2 CHAIRMAN STUTO: What do you think is an
3 appropriate use of this parcel? It's zoned for what
4 is being proposed and there are obviously other uses
5 under the Zoning Code that could be done there. Are
6 you saying that farming is the only --- what else do
7 you think should be done with this parcel? I don't
8 know if we can say no, you can't use your parcel.
9 It's sort of a constitutional issue of taking without
10 compensation.

11 MR. GALLAGHER: I think that is the problem
12 because it always was part of the farm and so close to
13 the farm. So, putting housing there - a residence
14 might be worse because that way people are in the
15 house and then have issues with the lights are on in
16 the greenhouse at night. So, you have a lot more
17 issues if it's a residence.

18 Now, if we have a dentist's office and a
19 parking lot which is paved and it's not going to be
20 porous --- I'm not sure exactly how the run-off is
21 going to be handled or those kinds of things. It's a
22 tough question because the best thing is to keep it
23 the way that it is. You're right. What can you do?

24 MR. SHAMLIAN: So, it was part of the farm at
25 one point; correct?

1 MR. GALLAGHER: Yes. Dave could answer that.

2 MR. DAVID ORSHAN: Yes.

3 MR. SHAMLIAN: And how long ago was it carved
4 off and sold?

5 MR. DAVID ORSHAN: Probably 1988.

6 MS. PAULA ORSHAN: It was 1988. I'm Paula
7 Orshan. I'm the one who is selling it. It was 1988.
8 My parents gave it to us as a wedding gift.

9 MR. DAVID ORSHAN: And I've been using it since
10 I got married.

11 MR. GALLAGHER: The farm is willing to purchase
12 the property also.

13 MR. ORSHAN: One thing that you touched on and
14 I want to make sure that everybody understands. When
15 some of the conversation is about the potential future
16 development, we're not pushing that. Part of our goal
17 is to make sure that there is a big tract of land
18 there. If we don't at least try to think ahead about
19 at some point whether it's 10 years from now, 20 years
20 from now or 50 years from now --- to account for some
21 way to get to it property and safely --- that's part
22 of our role. We're not trying to push the development
23 of the rest of the farm by any stretch of the
24 imagination. I want to make sure that everyone
25 understands.

1 CHAIRMAN STUTO: Do you have any comment at
2 this point on what we are talking about, Joe?

3 MR. GRASSO: No. I think that they're valid
4 concerns but I think that the Planning Board is
5 putting them in the right context. I agree that the
6 access provision --- it's not just the future years
7 but even if the level of farming evolves such that
8 better access to Loudon Road is prudent, this project
9 does fit into that plan.

10 I think that you have a comment about the
11 100-foot pesticide use from the building. Obviously,
12 this building is 25 or 30 feet in from the property
13 line so there is going to be some impacts of this
14 project on the farming operation. Besides, some of
15 those other less finite impacts that you described
16 like dust and noise and things like that.

17 MS. MILSTEIN: I have a question. The fact
18 that it was farmland first, and then you putting in a
19 structure, does that affect that 100-foot buffer? Do
20 you know what I'm saying? It's a farm first. So, if
21 someone puts a building on there within the 100 feet,
22 that's permitted or it's not permitted even though
23 that you know that it's an adjoining farm.

24 MR. GALLAGHER: That is not dealt with in the
25 Ag district law or anything. The Ag district law

1 doesn't require a buffer if something is built next to
2 a farm field. I guess what I'm saying is that if you
3 want to build a house -- well are restricted and how
4 close they can be to an active farm field but not the
5 actual property line itself.

6 MS. MILSTEIN: So, if you put a building on
7 there where it's proposed then are you doing it at
8 your own risk or is it prohibitable?

9 MR. GALLAGHER: It's not prohibited, so it's at
10 their risk. They're subject to like --- drift of a
11 pesticide is illegal so you're not going to get spray
12 material there but that odor can get into a
13 ventilation system. You can't stop odor from 100 feet
14 depending on the way that the wind blows or whatever.
15 That's why in the buy/sell agreement they actually
16 have that statement about what you're subject to
17 because you are moving next to an agricultural
18 district land.

19 MS. MILSTEIN: So, it would affect the farm.

20 MR. GALLAGHER: It would in that some of the
21 pesticides can't be used within 100 feet. So, he's
22 going to have to stop spraying further down the field,
23 so to speak, or change to a crop that doesn't require
24 a fungicide or insecticide.

25 MS. MILSTEIN: That was my question.

1 MR. GALLAGHER: It would affect what they grow.
2 With no building there now it doesn't affect them, no.
3 Once the building is built, it will.

4 CHAIRMAN STUTO: Craig had one other comment.

5 MR. SHAMLIAN: This is really to Nick. Have you
6 looked at flipping the building and the parking? I'm
7 not sure that gets you 100 feet, but it's got to be
8 close.

9 MR. COSTA: I think that what Tom is saying is
10 that the 100 feet is from the property line.

11 CHAIRMAN STUTO: It's not from the building?

12 MR. COSTA: No, it's not from the building.
13 The building, where it is, is probably the best
14 location.

15 MR. GALLAGHER: Just to clarify, it's 100 feet
16 from the building and not the property line. It says
17 right on a pesticide label.

18 MR. COSTA: The 100 feet from the building, it
19 actually gives -

20 CHAIRMAN STUTO: He's talking about the
21 Northway. It moves the building south.

22 MR. COSTA: This right here is an asphalt road
23 (Indicating). Right here is the house.

24 CHAIRMAN STUTO: There is a strip of farmland
25 between the road and that lot, according to the aerial

1 map.

2 MR. COSTA: You're right. It actually
3 approaches onto this parcel.

4 CHAIRMAN STUTO: I'm fine, but the point that
5 Craig is making is if you move the building south, it
6 would flip flop that parking spot with the building.

7 We normally don't allow people to jump in from
8 the crowd. I'm just letting you know. Make it short
9 and it's got to be right on-point.

10 MS. ANDREA ORSHAN: I'm Andrea Orshan. I just
11 wanted to say that you forgot to mention that we have
12 a fogger and the fogger -

13 CHAIRMAN STUTO: When you get your turn to
14 speak, you can talk about that.

15 So, Craig's suggestion.

16 MR. COSTA: We can look at flipping that. The
17 reason why it was placed here was the 60 foot right of
18 way.

19 MR. SHAMLIAN: When we were just dealing with a
20 normal site plan, it certainly made sense. Now that
21 we have some other issues that have come forward -

22 MR. GRASSO: Can I stay on that for a minute?
23 We're looking at that strip of land there between the
24 property line and the driveway. If you go 100 feet
25 from that, how far into your project site going from

1 north to south.

2 Nick, how far does 100 feet from that, how far
3 from your project site, going north to south from
4 there --- how far does 100 feet take you?

5 MR. GALLAGHER: The prime farmland kind of goes
6 off in this direction, except the field that runs
7 along the side.

8 MR. GRASSO: What I am getting at is that
9 trying to protect the viability to spray on that
10 little wedge of property, if you go 100 feet it will
11 put you so far that you won't be able to have the
12 building and an access road.

13 MR. COSTA: It goes to the back of the parking
14 space now. One hundred feet from the property line
15 here goes to the back of the parking space.

16 MR. GRASSO: What I'm saying is that if you look
17 at where the 60 foot strip that we thought --- it's a
18 balance between those two issues.

19 CHAIRMAN STUTO: Any other comments or
20 questions from the Board?

21 (There was no response.)

22 Okay, thank you.

23 Dave and Andrea Orshan.

24 MS. ANDREA ORSHAN: I just wanted to add to
25 that. What I wanted to say is that we have a fogger

1 that sprays a mist and that mist is 500 feet and we
2 have to be 500 feet from a dwelling. We would lose
3 more than that.

4 CHAIRMAN STUTO: Does that mean the machine has
5 to be 500 feet or the edge of the spray?

6 MR. DAVID ORSHAN: There are different sprays
7 for different situations.

8 MS. ANDREA ORSHAN: We were of concern because
9 some of the chemicals that we use have a very rotten
10 egg smell because they are a deterrent to bugs. When
11 you have an air conditioner on and it draws it in and
12 it goes around and around, we're afraid people might
13 get a headache and it would be a liability for us.
14 That's one of our concerns. We want to be good
15 neighbors but we are afraid because we do have
16 problems with the bike trail and the people coming on
17 and being in our ponds and taking things. We're
18 afraid that with this business that we'll lose so much
19 property now that it wouldn't be sensible to be in
20 farming. We utilize every square inch, plus we rent
21 another 36 acres. So, if you take that away then
22 we'll have to resign the farm and we don't want to do
23 that. We want to grow old with the farm. That's in
24 our blood. I'm a fourth generation farmer and that's
25 what I know. It's not something that you can really

1 give up. It's not like you can just change careers.
2 It's just part of who I am. That's one of the major
3 concerns.

4 Then we have a scare gun. If we have crows or
5 blackbirds are crackling, we have to use that and it
6 could be within that space. We're afraid if he does
7 any kind of root canals or anything like that and you
8 have this big boom and it comes unexpectedly, I feel
9 sorry for the patient. That's our concern. We are a
10 dying breed and I feel back because we are the life of
11 America. We're the bread basket. We feed the
12 community. We take pride in what we grow and we want
13 to be able to continue to do that and not be forced
14 out and we feel like we're being forced out and not
15 being heard. That's how we feel. Thank you.

16 MR. LACIVITA: Peter, can I ask one question of
17 Tom?

18 CHAIRMAN STUTO: Sure.

19 MR. LACIVITA: Tom, you mentioned during your
20 presentation about abutting neighbors and a potential
21 for no nuisance or some type of no lawsuit against the
22 farmer, due to that. Is that something that you
23 talked about? I know that Ms. Orshan mentioned that
24 she's afraid of being sued. I thought that you
25 mentioned something about the farmer being protected

1 under that law.

2 MR. GALLAGHER: Yes. Under the Ag district
3 law, they are protected from nuisance lawsuits as long
4 as they are using best management practices on their
5 farm. If they do something that's illegal or
6 something like the spray drift went in the windows of
7 the building or something, that's obviously not in
8 their control. Nuisance lawsuit get thrown out. The
9 Commissioner of Ag and Markets makes a ruling and
10 suggests a nuisance lawsuit and it doesn't go any
11 further. So, they do have some protection from those
12 kinds of suits. The problem is that if something
13 happens like they said a different kind of sprayer --
14 like with that fogger obviously -- when they spray
15 fruit trees, you've seen the kinds of sprayers that
16 they use there. It's got to be even further away. We
17 run into the different situations with the different
18 equipment.

19 The Ag district law does give quite a few
20 protections to commercial farms.

21 MR. LACIVITA: Thank you.

22 CHAIRMAN STUTO: Paul and Patricia Orshan.

23 MS. PATRICIA ORSHAN: I'm the one who is
24 selling the land to the Mitolas. My parents gave this
25 to us as a wedding gift. We have been paying taxes on

1 it for 30 years. I wasn't going to sell the land
2 until something happened to my dad and my dad passed
3 away last year.

4 It was zoned different things throughout the
5 years. First, when my parents gave it to us, we
6 thought that we'd build a house on it. Of course, the
7 rules changed. Then, it was B3. Then it was
8 apartment buildings that we could put on it.

9 I said that I wasn't going to sell it until my
10 dad passed away and the real estate gentleman said
11 that a nice dental office is what would be proposed
12 and if my father was still alive, I'm sure that he
13 probably would approve of a nice quiet little office
14 in a quiet little neighborhood.

15 The strip of land that they are talking about
16 is probably not as wide as this room toward their
17 house. The back part might be twice as much as this.

18 As far as the smell and chemicals, I lived in
19 that house until I was 33 years old. The only smell I
20 ever smelled was on my father's clothes when we did
21 the laundry.

22 There is a family issue going on. My brother
23 hasn't spoken to me in 20 years. You people are in
24 the middle of this.

25 I feel bad for Dr. Mitola. He has put money

1 into all of this. If we don't sell it, that's fine.

2 My brother mentioned or I heard through the
3 grapevine that he wanted to buy it. He hasn't spoken
4 to me in 20 years so how do I know that he wanted to
5 buy the land?

6 This gentleman has already put a lot of money
7 into it and I thought that it would be a perfect fit
8 for my brother's neighborhood - a quiet little dental
9 office. That's the way that I feel. It's not like
10 it's a 7-11 that is going to be in there all night
11 long or a Stewarts or a strip joint or whatever. I
12 just figured it would be a nice fit. They are only
13 going to be there - one or two cars maybe coming in
14 and out of the parking lot. It's not going to be near
15 his driveway. I figured that it would be a nice fit
16 and I thought that I've had other offers through the
17 years which I turned down because I didn't think --
18 although my brother doesn't speak to me, I thought it
19 would be a nice fit for his neighborhood. That's what
20 I have to say.

21 The strip of land around -- it's not a big
22 parcel. He's mentioning that she's got a big fog
23 machine. It's not like he's going to be putting 10
24 acres of land there. There is only room for about
25 four or five rows of beans. In the back he had

1 something else.

2 I just figured that it was a nice fit for the
3 neighborhood. What else can I sell the property for?
4 I'm paying taxes of \$1,500.00 or \$1,600.00 a year on
5 something that I don't use. I thought that it was nice
6 that this gentleman offered to buy it.

7 Does anybody have any questions of me?

8 CHAIRMAN STUTO: I think that we get your
9 point, but I don't have any questions.

10 MS. PATRICIA ORSHAN: Like I said, you're mixed
11 into a family thing.

12 CHAIRMAN STUTO: Thank you.

13 William Niles.

14 MR. NILES: Hello, I'm William Niles and I live
15 kitty corner across the street. To be honest with you
16 until tonight, I didn't hear anything about this.
17 Being a neighbor across the street with a road going
18 in, I think that we're going to be concerned with all
19 the headlights coming into our property. That was one
20 of the major concerns as a neighbor, that we had.

21 The residence that just went in down the road -
22 those people across the street - it's got to be
23 driving them nuts with the headlights going into their
24 house there. That's all I got.

25 CHAIRMAN STUTO: You're next to the bike path

1 on the south side?

2 MR. NILES: Yes.

3 CHAIRMAN STUTO: I'm looking at the map here.

4 I can almost respond to part of that, but maybe
5 I should leave it to the professional engineers. They
6 deliberately lined it up with Fonda Road. We've seen
7 it in other developments where your concern has come
8 up and that's why they line the streets up where they
9 do. Plus, this is primarily a daytime business. That
10 would be what I would say. I don't know if the
11 applicant or our Town Designated Engineer wants to say
12 anything else.

13 MR. GRASSO: I have nothing more to add. That
14 is a concern that we always take into consideration,
15 so we appreciate the comment.

16 CHAIRMAN STUTO: John Riitano.

17 MR. RIITANO: I live pretty much right here
18 (Indicating).

19 CHAIRMAN STUTO: You're next door neighbors.

20 MR. RIITANO: Correct; I'm at 1231. The
21 traffic on Route 9 right now is -- I've lived there
22 for 35 years and it's just totally crazy.

23 CHAIRMAN STUTO: In the morning and at night,
24 especially, right?

25 MR. RIITANO: Morning, noon and night. That's

1 the truth.

2 Where that four different corners is going to
3 be here, where the light is -- there has been
4 accidents there without the light, with the light and
5 I don't know about these people -- it's a daytime
6 thing. Still, there are going to be people trying to
7 go north and south. We just had the other development
8 down the street that's just opened up and there has
9 been some times there that you wonder if people are
10 going to get out safely because there is no light
11 there at all. There are lights shining towards my
12 house and they look like strobe lights. The lights
13 are not the big deal.

14 I understand that a farm is 10 times better
15 than a dentist office. I've lived in Colonie my whole
16 life. There is a lot of empty buildings that could be
17 used.

18 I know that you're the owner and that you've
19 put so much money into this but I just think that we
20 should have been considered too. I didn't know about
21 this meeting. The last time that I was in this
22 building is when they had the development down the
23 road from us and we weren't informed at all. We just
24 found out about it today. So, we'd like to be
25 informed a little bit more.

1 We have the cement factory behind our house
2 that's grown immensely. We didn't know about that
3 either. Thank you.

4 CHAIRMAN STUTO: Thank you for your comments.

5 Just so you know, there is a requirement that
6 the landowners within 200 feet of the project have to
7 be delivered notice, plus the property gets posted.
8 We have the list here.

9 FROM THE FLOOR: Excuse me, but it's 500 feet.

10 MR. LACIVITA: The notice provisions that we
11 have is 200 feet, when it's zoned applicable. It's
12 500 feet when there is a zoning change. That's what
13 the law is and I'll have to look at that to confirm
14 that for sure, but that is the way that the law has
15 been changed. This was due to the Eammons property.

16 CHAIRMAN STUTO: Anybody else from the public
17 looking to speak on this project?

18 MR. REMEYER: My name is Paul Remeyer and I
19 don't live anywhere near this. Dave does rent 30
20 acres off of me to farm. I don't know if the Board is
21 aware or not, but the Town of Colonie and the Waste
22 Management company that runs the landfill is presently
23 seeking an extension on the landfill operation. In
24 their plan they want the entrance to the landfill to
25 go down Fonda Road, across Green Mountain Drive and

1 MR. GRASSO: So, tonight the application is a
2 determination of the concept plan if the Board is in
3 favor of the layout as proposed and doesn't feel like
4 there is substantial changes to be made. The Board
5 has the ability to grant concept acceptance. That's a
6 non-binding decision by the Planning Board. The
7 applicant has the opportunity to proceed with the plan
8 after receiving concept acceptance. Even if the Board
9 chooses not to grant concept acceptance, the applicant
10 still has the ability to proceed with the plan.
11 Obviously, they would have a much tougher road ahead
12 in getting final site plans approvable to the Planning
13 Board without concept acceptance. It's important that
14 the Board make a decision tonight whether or not
15 changes are required, based on the plan. Our comments
16 have proposed deed restricting about 40% of the
17 project site from this development proposal.
18 Obviously, part of that 40% would be reserved for a
19 common driveway to serve this property as well as
20 future developments so it may not be the typical
21 conserved lands that we are used to seeing. That was
22 our suggestion absent of a detailed conservation
23 analysis. If the Board feels uncomfortable with that
24 or needs more time to review that, obviously tonight
25 is the first time you're considering that. We could

1 withhold making a decision on concept and put it back
2 on the hands of the applicant to revise the plan based
3 on any comments. I think that there has been some
4 good comments received from the public and neighbors
5 today. It's up to the Planning Board if you want to
6 see any changes to the plan in response to those.

7 Before the Planning Board makes a deliberation
8 though, I would like to hear from Nick representing
9 the applicant regarding our letter and specific
10 recommendations about the 40% lands to see obviously
11 if it's not something that the applicant would be
12 willing to do - then it's something that the Planning
13 Board needs to know before you dwell on that issue.

14 CHAIRMAN STUTO: Do you hear what Joe is
15 asking?

16 MR. COSTA: I did. Thanks, Joe.

17 The applicant doesn't have any problems
18 adhering to the recommendations that CHA has composed.
19 We understand the 40% conservation analysis. That
20 does have to be determined by the Board, by the way.

21 Joe, am I correct in that?

22 MR. GRASSO: Yes.

23 MR. COSTA: It's not something that we took
24 upon ourselves to try to come up with. We were hoping
25 that the Board would have some input and obviously Joe

1 went the extra mile by designing an alternative for
2 the 40%. We don't have a problem with that.

3 MR. GRASSO: So, just in terms of that 40%
4 lands and what it does provide as it relates to the
5 agricultural property. It provides about 15 feet on
6 the north side and about 20 feet along the back of the
7 property. It would be nice if the property was bigger
8 and we could look at that 100 foot buffer, but I think
9 that by trying to apply that type of setback, you're
10 basically making his property unusable based on any
11 reasonable development of the project site. I'm not
12 saying whether or not it's appropriate to apply that
13 buffer but that's something that the Planning Board
14 should consider.

15 CHAIRMAN STUTO: I'll make my comments. I
16 appreciate the comments on the farming and from the
17 Cornel Cooperative Extension but we ask the question
18 what would be an appropriate use. It's a little bit
19 of an unsolvable riddle and a difficult one. I think
20 that residential would probably be not as desirable as
21 an office like this. I don't think that we can say
22 that nothing can go there. I don't think that's part
23 of our providence and I don't think that we can
24 legally do that. I would lean in favor of this type
25 of development. That's just me speaking.

1 In terms of improving -- I think that the 40%
2 proposal that you set forth is a good one. That's my
3 opinion.

4 In terms of improving this, I think that the
5 landscaping comment made by the CAC is well taken and
6 I'd like to talk about that a little bit and what
7 other types of screening and landscaping we could put
8 in. I don't know if there is any kind of buffer that
9 could go in between the property or the development.
10 I know that it's a little tight there.

11 I'll just layout my comments and you can
12 address them.

13 The geometry of the driveway coming out to the
14 light - I don't know if that's three lanes or two
15 lanes or how that's going to be. If you can talk
16 about that a little bit. That's all I have.

17 MR. COSTA: Sure. We can certainly take a look
18 at adding some landscaping to that site.

19 CHAIRMAN STUTO: I don't know what they are
20 suggesting; maybe all the way around or in the front.

21 MR. COSTA: The only thing is that this isn't a
22 final landscaping plan. In this next submission we'll
23 have a final landscaping plan. Right now we're just
24 representing some trees and some bushes and shrubs on
25 the developed side. Obviously, we'll have a more

1 detailed landscaping plan as it progresses.

2 The same thing with the intersection. The
3 intersection, as you might have seen with DOT comments
4 -- we're going to have to do some more detail analysis
5 of that intersection with CHA's assistance to have two
6 lanes or if there is going to have to be a turn lane
7 at that location. I don't think that the traffic that
8 we generate will warrant a turn lane, but obviously in
9 the future there may be -

10 CHAIRMAN STUTO: Well, you're going to set
11 aside 60 feet.

12 MR. COSTA: That's correct.

13 CHAIRMAN STUTO: That was actually my other
14 comment. If legal and Joe can look at which is the
15 best way to preserve the right back there - whether a
16 paper street is a consideration or whether the deed or
17 the easements are better. I'm not sure. I kind of
18 think that a paper street could fit in there
19 somewhere.

20 MR. SHAMLIAN: I'm not inclined to vote in
21 favor of the project tonight. I would like to see a
22 map that shows dimensions out into the Orshan
23 property. Every property owner has the right to sell
24 their property and under the law to develop their
25 property. I think that this is a very unique

1 situation in that allowing the property owner their
2 rights deprives the adjacent property owner of their
3 rights. I need to understand that a little bit
4 better. I need to understand exactly what they are
5 being deprived of. I agree that on the northern side
6 of the property it is a small sliver of land. I need
7 to understand exactly what they are being deprived of,
8 also what it relates to in the back and ideally when I
9 see that, I'd love to have the gentleman from
10 Cooperative Extension back to explain in very precise
11 detail exactly what farming would be restricted by
12 that. Again, that's just my opinion.

13 MS. MILSTEIN: I agree. This was farming land
14 first. What you're essentially doing, as far as I'm
15 concerned, is depriving the farm of their business and
16 the right to use their property. It may be that this
17 is not appropriate to -- maybe it needs a rezoning.
18 It's unfortunate but I think that the farm was there
19 first and that should have the priority. You're
20 essentially denying them their right to use their
21 farm.

22 MR. COSTA: I also want to just remind you that
23 the farm is zoned single family residential. That's
24 what your Land Use Law specifies.

25 MR. SHAMLIAN: I'm not saying that I'm going to

1 vote one way or the other. I'm not prepared to vote
2 in favor of it tonight.

3 MR. COSTA: Understood.

4 MS. MILSTEIN: Mr. Gallagher, you've been
5 extremely helpful with the information that you have
6 provided. Maybe there is some way of accommodating
7 both of you but right now, tonight, I don't see it.

8 MR. COSTA: The other thing that I want to
9 point out is that this is 89 feet from the back of the
10 building right here to the property line (Indicating).
11 That's 88.8 feet.

12 MS. MILSTEIN: And that's fine. The other
13 problem is the north. You need the 100 feet from that
14 as well, correct?

15 MR. COSTA: Yes.

16 MS. MILSTEIN: And you don't have that.

17 MR. COSTA: The 100 feet would go out into the
18 asphalt driveway. This is an asphalt driveway
19 (Indicating).

20 MR. SHAMLIAN: But there is farmland in between
21 them; right?

22 MR. COSTA: Yes.

23 MS. MILSTEIN: It would have to be 100 feet
24 from the farmland, south, correct?

25 MR. COSTA: Actually from the building to the

1 farmland.

2 MR. MION: I agree with you, Craig. I'd like
3 to see it graphically myself. I'm more inclined
4 tonight to just table it. That's not saying that I
5 would vote against it.

6 CHAIRMAN STUTO: You don't have four positive
7 votes. If the applicant has no objection, we'll
8 probably table it.

9 MR. COSTA: So that I understand it precisely,
10 you want to see some dimensions to these areas and if
11 there are going to be losses to farming areas.

12 CHAIRMAN STUTO: I don't think that anybody
13 said that they're lost. There are certain
14 applications -

15 MR. COSTA: Restrictions. There are areas that
16 are restrictive.

17 MR. LACIVITA: I think that if you take the
18 aerial and just draw line -

19 CHAIRMAN STUTO: I'm not sure if Craig was
20 asking if you move the building over -

21 MR. SHAMLIAN: It certainly might help. You
22 still need to keep the buffer or the 60 foot on the
23 south side, but moving the building may help.

24 MR. GRASSO: How about if do this, just to try
25 to clarify the exhibits that would be most useful for

1 the Planning Board. One would be taking this plan and
2 applying a 100-foot buffer around that building and
3 show on an aerial so that you could clearly see the
4 impacts on the agricultural lands. Conversely, take
5 the existing agricultural lands and put a 100-foot
6 buffer from that and see where that building would
7 need to go and leave everything else where it is. You
8 could see if there is a compromise or if it's all or
9 nothing which is what it may come down to. I think
10 that's what you want to see is that the decision is a
11 yes or no, or is there a common ground.

12 MR. COSTA: Just one clarification. The
13 cultivated fields -

14 MR. GRASSO: The project site is owned by
15 somebody else under contract to this applicant from
16 the property line to where the field goes up to it.

17 MR. MION: Is that 100 foot from all herbicides
18 or just certain ones.

19 MR. GALLAGHER: It depends on the herbicide
20 that's used. It's probably for only four of the
21 fungicides out of seven. Depending on what type of
22 sprayer you're using, that expands and is converted.
23 If you use the five sprayer where you need to get
24 complete coverage, then you have a buffer of 500 feet.
25 So, like I said, you'd have to adjust crops and plant

1 in a certain area and use a certain sprayer closer to
2 wherever this building will be located.

3 MR. MION: There is a possibility that you
4 could plant something different and still apply
5 herbicide and still be alright.

6 MR. GALLAGHER: That would depend on what they
7 are actually growing. The crops are listed on the
8 labels and they give all the different distances and I
9 think that I went through 27 different labels of
10 insecticide and fungicide and herbicides and they are
11 all different. I summarized that, actually, so maybe
12 that would be helpful to you too to see what all those
13 distances are.

14 MR. SHAMLIAN: How does all of this relate, if
15 it does, to the apartment building that is to the
16 north of Orshan's farm. Does the farm extend behind
17 the apartments?

18 MR. LACIVITA: You're talking Shelter Cove.

19 MR. SHAMLIAN: No. There are like six
20 apartments near Eddy's Aquarium. Does the farm extend
21 beyond that? You must be within 500 feet of those.
22 What's not clear here is where Orshan's farm is.

23 MR. COSTA: We can show that. It will just be
24 a tax map but we can show that.

25 CHAIRMAN STUTO: Anything else?

1 (There was no response.)

2 Any other questions?

3 (There was no response.)

4 Thank you.

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7 (Whereas the above entitled proceeding was

8 concluded at 7:55 p.m.)

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CERTIFICATION

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

NANCY L. STRANG

Dated _____

