

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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PRECISION INDUSTRIAL MAINTENANCE  
245 MORRIS ROAD  
ALSO KNOWN AS 1093 KINGS ROAD  
APPLICATION FOR CONCEPT ACCEPTANCE

6 \*\*\*\*\*

7 THE STENOGRAPHIC MINUTES of the above entitled  
8 matter by NANCY L. STRANG, a Shorthand Reporter,  
9 commencing on September 13, 2016 at 7:51 p.m. at The  
Public Operations Center, 347 Old Niskayuna Road,  
Latham, New York.

10

11 BOARD MEMBERS:  
12 PETER STUTO, CHAIRMAN  
13 LOU MION  
14 SUSAN MILSTEIN  
15 CRAIG SHAMLIAN  
16 BRIAN AUSTIN  
17 TIMOTHY LANE  
18 KATHLEEN DALTON

16 ALSO PRESENT:

17

18 Kathleen Marinelli, Esq. Counsel to the Planning Board  
19 Joseph LaCivita, Planning and Economic Development  
Department  
20 Michael Tengeler, Planning and Economic Development  
Department  
21 Nick Costa, PE, Advanced Engineering and Surveying  
22 Todd Kilburn, Precision Industrial Maintenance  
23 Charles Voss, PE, Barton and Loguidice  
24 Sandra Mentiplay  
25 Tom Romano

24

25

1                   CHAIRMAN STUTO: The next item on the agenda  
2 is Precision Industrial Maintenance, 245 Morris Road,  
3 also known as 1093 Kings Road, application for concept  
4 acceptance, 20,000 square foot office warehouse.

5                   Joe LaCivita, do you have any preliminary  
6 comments before we start?

7                   MR. LACIVITA: Yes, as Todd and Nick get  
8 prepared to go through their project -- the project  
9 was before us. Again, it's in an industrial zoning  
10 district. April 22, 2015 it was before the DCC. It  
11 was before our Board here on December 15, 2015 for  
12 sketch.

13                   The project has changed a little bit since its  
14 inception and tonight we are again for concept  
15 acceptance to move the project in the next direction.

16                   Nick, I'll hand it over to you.

17                   MR. COSTA: Thanks, Joe.

18                   Good evening. My name is Nick Costa and I'm  
19 with Advanced Engineering and Surveying. We have  
20 prepared the plans that we will be going over tonight  
21 that have been submitted for concept review to the  
22 Board.

23                   As Joe mentioned, this is a parcel that's  
24 located on Morris -- it's .7 acres in size and has  
25 frontage along Kings Road, Morris Road and Curry Road.

1 The existing site - there is a portion of it that has  
2 been utilized in the past for providing different  
3 things. There has been a paintball facility there.

4 The parcel does have some wetlands on it.  
5 Those jurisdictional wetlands exist right along here  
6 and also along here (Indicating). Those have been  
7 delineated and confirmed with the Corp of Engineers.  
8 What we are proposing to do, as Joe mentioned, is to  
9 first of all develop the parcel. Todd Kilburn, the  
10 owner of Precision Environmental, has purchased the  
11 site and he would like to relocate his operations to  
12 this particular location. Todd is here with me  
13 tonight. He is currently on Erie Boulevard in  
14 Schenectady and he would like to relocate to this  
15 site.

16 The site is zoned industrial. It's bordered by  
17 a construction operation here at this facility. There  
18 are vacant lands on the easterly side. On the  
19 southerly side, this large parcel is owned by the  
20 Latham Water District. The fire department just built  
21 their facility at this location. There are vacant  
22 lands here (Indicating) and there is the Pine Bush  
23 Commission lands that are on the north side of the  
24 parcel.

25 This is the proposed development of the site.

1 It would encompass a one-story warehouse with the two  
2 story office building attached to it. We've kept the  
3 parking out in the front and the access drive is  
4 located here (Indicating) and then there is some  
5 maneuvering area at the rear, which would access the  
6 interior of the warehouse.

7 There would be on-site septic. The watermains  
8 are located along Morris Road so we would connect to  
9 the Town watermain for service for the facility.  
10 Stormwater would be accomplished on-site. The site  
11 does have sandy soils. We would remove some of the  
12 pavement that's there and develop an on-site  
13 stormwater system to recharge.

14 The site, again, is 27.44 acres. We are  
15 proposing to subdivide - as a minor subdivision.

16 There are three lots. This would be Lot 1  
17 which would be developed with the operations for the  
18 building for Precision and then there would be another  
19 lot adjacent to this that has frontage on Morris Road  
20 and access to Morris Road and a lot at the corner of  
21 Morris and Curry Road. Those two lots would be up for  
22 sale, once they are subdivided.

23 CHAIRMAN STUTO: What are you proposing to do  
24 with the remainder of the lot that you are developing  
25 - the remainder of it?

1           MR. COSTA: What I have discussed with Todd is  
2           that Todd intends to move his operations here and that  
3           will satisfy him for the next five or ten years.  
4           Eventually, he is going to need some additional space.  
5           He would like to have some area for expansion. This  
6           is located in the conservation overlay district and to  
7           meet the 40% conservation, we've talked about putting  
8           a line here where it would be a restricted  
9           environmental easement or restricted area.

10           CHAIRMAN STUTO: That he can't develop.

11           MR. COSTA: Right, that he can't develop;  
12           that's correct -- just as it's discussed in the  
13           conservation overlay district regulations.

14           Again, the area where we are proposing  
15           development is basically in the area that's pretty  
16           much developed already. There will be very little  
17           clearing that we are going to be doing. Maybe there  
18           will be a little bit in this area (Indicating) and  
19           some in the stormwater management area. Those haven't  
20           been designed at this time so depending on what the  
21           soils are like back here, we may not even have to  
22           clear at this end.

23           Again, let me get to the site statistics. This  
24           lot right here would be 15.36 acres. It would be 87%  
25           green; about 10% paved and 3% would be building. To

1           comply with the conservation, we would need about 5.2  
2           acres of reserved lands. I think that this was either  
3           350 or 400 feet that would give us the five acres.

4           CHAIRMAN STUTO: Have you talked to the Pine  
5           Bush at all?

6           MR. COSTA: We haven't. Earlier, we did  
7           receive some comments and we did have some  
8           discussions. Originally, the plan was to develop this  
9           lot (Indicating).

10          CHAIRMAN STUTO: There is a new letter from  
11          them - September 2nd. Do you have that?

12          MR. COSTA: Yes. Todd also commissioned a  
13          study of the entire parcel to evaluate the  
14          environmental sensitivity of the site.

15          CHAIRMAN STUTO: When you say commissioned,  
16          it's ongoing now?

17          MR. COSTA: No. It has been completed. It was  
18          submitted.

19          CHAIRMAN STUTO: Is there any way to summarize  
20          that quickly or not? I think that we're going to have  
21          to get into that at some point.

22          MR. COSTA: We have no problem with that. North  
23          Country Environmental did that study. They didn't  
24          identify anything that is a sensitive area.

25          MR. LACIVITA: But they recognized that the

1 surrounding area has.

2 MR. COSTA: And this area was included in the  
3 Pine Bush study. We're not denying that. That was  
4 one of the reasons why the study was done.

5 Todd, would you like to say a few things about  
6 the operation?

7 MR. KILBURN: I was in last time during the  
8 previous meeting. We don't do any of our work at our  
9 facility. It's just storage. It's for housing for  
10 our people and for the offices and for our equipment.  
11 We just bring the equipment and we do work at other  
12 people's sites. We don't bring any work back to our  
13 facility. It's really storage for our equipment.

14 CHAIRMAN STUTO: Were you proposing to do work  
15 before or talking about it?

16 MR. KILBURN: No, I think that there was a  
17 concern with the Board.

18 MS. DALTON: The concern with the Board was  
19 what they were storing and the possibility that there  
20 were chemicals that were stored on the site that they  
21 were using in their work at other locations. Because  
22 it is such an endangered site and of specific concern,  
23 whether or not the presence of those chemicals would  
24 at all pose an unacceptable risk. Given the risk,  
25 what the mitigating factors would be.

1                   CHAIRMAN STUTO: That's still an open question;  
2 is that right?

3                   MS. DALTON: In my mind, it is.

4                   MR. KILBURN: The chemicals that we use are  
5 green chemicals. Most of the facilities that we work  
6 at require that. If we were to use something that was  
7 a harsh chemical, it would be an issue for our  
8 customers. We do a lot of work for people like  
9 General Electric and Schenectady International. The  
10 products that we use - they make us use  
11 environmentally products.

12                  MS. DALTON: One of the other things that was  
13 brought to my attention after one of your appearances  
14 was that there was a possibility that you were going  
15 to co-locate different businesses. Is that a  
16 possibility on the site?

17                  MR. KILBURN: We have three businesses that  
18 operate together. There are separate names for  
19 marketing purposes. So, there are three names; Martin  
20 Environmental does asbestos; Precision doe  
21 rehabilitation work and Precision Industrial that  
22 industrial cleaning.

23                  MS. DALTON: So in addition to your business,  
24 are you aware of whether the asbestos company and the  
25 other company might have different products that would

1 be more problematic?

2 MR. KILBURN: They don't. I own all three of  
3 the companies. They are owned all by me.

4 MS. DALTON: So, you run it at a management  
5 level that you know exactly what is going on all over.

6 MR. KILBURN: Yes.

7 CHAIRMAN STUTO: Do you want to make more  
8 presentation?

9 MR. COSTA: No.

10 CHAIRMAN STUTO: This has been reviewed by our  
11 Town Designated Engineer, Barton and Loguidice. Chuck  
12 Voss is their representative.

13 Chuck I know that you have a letter in front of  
14 us evaluating this project. I know that there is going  
15 to be more questions as well. Do you want to go  
16 through the major points?

17 MR. VOSS: To touch on a few points, Peter, the  
18 Board has in their packet a letter that we issued  
19 August 11th and it's basically our concept review. I  
20 just wanted to touch on a couple points.

21 Primarily, the first one is the conservation  
22 analysis. I'll just read this quickly.

23 The conservation analysis submitted primarily  
24 addresses constrained versus unconstrained lands and  
25 threatened and endangered species. The conservation

1 analysis is required to describe the importance of the  
2 current and potential conservation value of the land.  
3 The applicant should identify lands as being of  
4 conservation value which are most important to the  
5 preserve. The outcome of the conservation analysis  
6 will form the Planning Board's determination regarding  
7 lands that will be preserved by permanent easement or  
8 other mechanism.

9 So, we're asking the applicant to take a look  
10 at that and just show us on the next submission where  
11 that would be. I was pleased to see Nick describe  
12 potentially some areas toward the rear that they had  
13 maybe intended to preserve. I think that it would be  
14 certainly appropriate to show certainly, Nick, those  
15 areas along Kings Road right out to the frontage in an  
16 L-shape around the site for potential additional  
17 inclusion into that whole potential easement area.

18 MR. COSTA: Like I said, we didn't show  
19 anything because ultimately the Board is going to  
20 determine the shape of it. I know that we have to  
21 show it, but it's the Board decision.

22 What I was saying before is that this is 800  
23 feet. If we come down 350 or 400 feet, that adds up  
24 to the 5.2 acres. If we only do 250 here, we could do  
25 more like an L-shape. I think that we can work that

1 out. That's not a stumbling block.

2 CHAIRMAN STUTO: Okay, let's hear from the  
3 public.

4 Sandra Mentiplay.

5 MS. MENTIPLY: This is our property. This has  
6 been wooded forever. You were addressing perhaps an  
7 L-shape.

8 CHAIRMAN STUTO: We were talking about it.

9 MS. MENTIPLY: That would be, obviously, for  
10 us, perfect. This will have no impact on us right now  
11 because of the distance. The paintball and the  
12 go-carts were a lot noisier. Incidentally, we were  
13 robbed four times when they were both there. I don't  
14 think that is going to be of concern there.

15 I'd appreciate it if you'd build a shed about  
16 this far off the ground where I can move my woodchuck  
17 over there (Indicating).

18 Our concern is obviously the greenspace.

19 CHAIRMAN STUTO: And there is going to be  
20 continued conversation on that.

21 Helen and Tom Romano.

22 MR. ROMANO: Good evening. My name is Tom  
23 Romano and I live on Kings Road, about half a mile  
24 from this proposed project.

25 CHAIRMAN STUTO: Can you show us generally

1 where you live?

2 MR. ROMANO: I live right about here  
3 (Indicating).

4 It's already been mentioned tonight by one  
5 Board Member about being concerned about environmental  
6 aspects of this equipment. It concerns me too because  
7 a lot of the equipment that is going to be stored at  
8 this warehouse probably will have been in an  
9 environment that is hazardous. I am curious as to how  
10 the material or the equipment that's been used in  
11 these other clean up sites - how that gets clean and  
12 how it gets rid of contaminates on it. That's a  
13 concern because these three companies deal with  
14 asbestos, lead removal and other contaminates. So, at  
15 this point, that's a big concern.

16 I'd like to know what sort of maintenance they  
17 would perform. Would it be the normal thing like  
18 tune-ups, breaks and just normal maintenance on their  
19 vehicles. I'd like to know if they'd be cleaning the  
20 vehicles, if there would be contaminates being washed  
21 off and being washed into the environment. So, that's  
22 really my concern.

23 Also shown on the plans at the northwest corner  
24 of the site it says that there is going to be  
25 containers and trailers which will be stored there.

1 I'd like to know what those containers and trailers  
2 would be.

3 Other than that, there is a minor note that  
4 they have on one of their drawings and it said that  
5 the project site would be in the South Colonie School  
6 District and it's actually it's not in South Colonie.  
7 It would be Mohonason. It's minor.

8 CHAIRMAN STUTO: Okay.

9 MR. ROMANO: I think that's about it.

10 CHAIRMAN STUTO: Thank you. We'll ask them to  
11 address those.

12 A lot of those were environmental. The  
13 equipment that you are going to bring back - what will  
14 they have on them?

15 MR. LACIVITA: Nick, can I ask one question  
16 before we do that? I know that Todd had valid points.

17 Todd, if you could answer this in the sense of  
18 how you do a project -- the maintenance in your title  
19 of your company is kind of misguided or misleading to  
20 what this is. There really is no maintenance that we  
21 talked about before on this site, but take us through  
22 what you do at a site, how the materials leave that  
23 site and how your company exits the site as well. I  
24 think that will answer some of Tom's concerns.

25 MR. KILBURN: All the work that we do is

1 on-site. Any material or any waste that we generate  
2 is containerized on-site.

3 MR. COSTA: When he says on-site, it's the job  
4 site.

5 MR. KILBURN: The guys take the trucks and they  
6 take the equipment and they go to a job site. They'll  
7 work there at the job site. Sometimes they'll leave  
8 some of the equipment if it's a multi-day or a longer  
9 project. When they are done, they will clean  
10 everything on-site. We have to. We don't have the  
11 ability to come back and clean everything at the  
12 facility, nor would we want to because we would create  
13 an environmental issue. That's what we are cleaning  
14 up for our customers. Our job is to make sure that  
15 when we're done, it's cleaner. So, we don't bring any  
16 of that stuff back to our facility.

17 MR. LACIVITA: When Adirondack Steel company  
18 was going through that small half-acre clean-up site,  
19 there was actually an area where trucks drove through,  
20 they were rinsed down and that was all a container.  
21 That water was then contained and -

22 MR. KILBURN: We don't get into that. It's  
23 more our guys are working with hand tools and  
24 equipment when we are talking about hazardous waste.  
25 Most of the trucks are used for cleaning sewers. It's

1 the same equipment that the Town has, stores and uses.

2 MS. DALTON: The containers that you're going  
3 to store on-site; what will be in those? If there are  
4 empty containers that you'll bring out -

5 MR. KILBURN: They'll be mixed. Some will be  
6 empty and some will come back, but they are not opened  
7 and they are not used at our facility.

8 CHAIRMAN STUTO: Is there a redundant  
9 containment?

10 MR. KILBURN: Yes.

11 CHAIRMAN STUTO: Can you describe that? In  
12 other words, there is another containment system in  
13 case, God forbid, there was an accident.

14 MR. KILBURN: Yes. We are required by DEC to  
15 have that.

16 CHAIRMAN STUTO: Can you describe what that  
17 looks like or how it works?

18 MR. KILBURN: It will look like a concrete  
19 berm, probably coated with some material made with  
20 epoxy or paid and it would have berms around it to  
21 collect anything that would happen to spill.  
22 Thankfully, that hasn't happened to us.

23 CHAIRMAN STUTO: So, it's a concrete platform  
24 with curbing around it; am I correct?

25 MR. KILBURN: Like a small pool with small

1 walls but with a larger footprint. You would have a  
2 bigger floor area but smaller walls.

3 CHAIRMAN STUTO: And that's where the  
4 containers go?

5 MR. KILBURN: Yes.

6 MR. VOSS: Tom, aren't you heavily regulated by  
7 DEC and DOT for those types of storage?

8 MR. KILBURN: DOT and the transportation which  
9 wouldn't apply to the site of our facility, but the  
10 DEC does.

11 MR. VOSS: For temporarily holding -

12 MR. KILBURN: Regular inspections; yes.

13 MR. VOSS: Do you have a permit for that?

14 MR. KILBURN: Yes.

15 CHAIRMAN STUTO: For now, thank you.

16 Neil Gifford.

17 MR. GIFFORD: Good evening, Mr. Chairman and  
18 Members of the Board.

19 For the record, my name is Neil Gifford. I'm  
20 the Conservation Director with the Albany Pine Bush  
21 Preserve Commission. Thank you and I'm glad to hear  
22 that you have a copy of our September letter and I  
23 won't go through that in detail, but if you have  
24 questions about it, I'd certainly be happy to  
25 entertain questions that you may have but I did want

1 to try to summarize a couple of main points. One in  
2 particular is simply context.

3 The map that you see here represents the map  
4 that is in the 2010 management plan and Final  
5 Environmental Impact Statement for the Albany Pine  
6 Bush Preserve. For orientation the Commission study  
7 area boundary is Central Avenue or Route 5 on the  
8 north, Western Avenue or Route 20 on the south, Fuller  
9 Road to the southeast and more or less the  
10 Albany/Schenectady county line. It is approximately  
11 13,000 acres. Within that, there are about 3,200 plus  
12 or minus acres protected in the preserve. It is a  
13 national natural landmark New York State bird  
14 conservation area and Autobahn important bird area.  
15 The reason that I wanted to bring the map back tonight  
16 because I know that many of you have seen it many  
17 times, is specifically for this project because  
18 preserve continuity and is paramount to the Commission  
19 and the goals of the Commission consistent with  
20 Environmental Conservation Law Article 46 and the  
21 management plan.

22 The darkest green areas on the map illustrate  
23 protected lands. It includes these green and white  
24 stripe lands here and the project site is this project  
25 here (Indicating). As you can see it's immediately

1           between two protected parcels and there are other  
2           protected parcels in the immediate vicinity.

3                       The other shading that you see out here - that  
4           kind of lime green color, for a lack of a better  
5           descriptor, are lands that in our management plan and  
6           in our FEIS are recommended for full protection. That  
7           means that we would like to see them protected in  
8           their entirety to the greatest extent possible because  
9           they ranked pretty highly in four criteria. This site  
10          in particular has been a priority for the Commission  
11          for a long time. We have actually been in the process  
12          of working on an option for the property when it  
13          transferred to a new owner. Those four criteria are  
14          existing and restorable pitch pine scrub oak barrens,  
15          linkage value - linking the preserve together to build  
16          that contiguous preserve; buffer and not only  
17          buffering preserve lands from adjacent property owners  
18          but also and equally important is buffing adjacent  
19          property owners from the preserve and in particular  
20          from the management that the preserve does. As you all  
21          know, pitch pine scrub oak barrens -- this represents  
22          the best remaining worldwide example of that plant  
23          community that supports 69 rare wildlife species of  
24          greatest conservation need; one of which is federally  
25          endangered and a couple of others are state endangered

1 or threatened.

2 My point there is that we managed the preserve  
3 using principally prescribed fire, but also other  
4 tools like silva culture and mowing and things. So,  
5 ensuring that there is adequate buffer between  
6 important preserve lands and adjacent properties is  
7 also important to ensure that we can continue to do  
8 the management that is envisioned in ECL Article 46  
9 and in the management plan. Everything in the law is  
10 really about restoring the fire regime to the lands  
11 that are managed as part of the preserve.

12 Linkage, buffer and then important  
13 environmental resources - that's the fourth category  
14 and it's an umbrella for endangered species, wetlands,  
15 aquatic resources, etcetera. This site in particular  
16 is important because of where it sits. It's  
17 immediately adjacent to occupied and endangered  
18 species habitat that we know. The Commission has  
19 worked tirelessly since 1991 to try to recover the  
20 Karner Blue Butterfly and get it off the endangered  
21 species list. It's the whole point of the ESA. We  
22 don't want species listed as endangered. We've had  
23 great success.

24 Mr. Hershberg can attest to it as well, even  
25 from former four-acre paved parking lot now supports

1 Karner habitat. We've bumped the number of animals  
2 from a few hundred when I started here full-time in 96  
3 to last year -- it was pushing 20,000 in the preserve.

4 Ultimately for the Karner and all this other  
5 wildlife, effective management is critical and in  
6 particular as the Chairman alluded to, the continuity  
7 and ensuring that plants and animals can move around  
8 in this landscape and function as naturally as  
9 possible. This is something that we're striving for.  
10 So, context here matters. We certainly look forward  
11 to working through the environmental review process as  
12 it unfolds to more fully evaluate potentially  
13 significant adverse environmental impacts and then  
14 think about strategies for mitigating some of those  
15 impacts.

16 The only other point that I wanted to reiterate  
17 tonight and I detailed it in the letter is that given  
18 the information that we were provided in the  
19 conservation analysis it is pretty difficult to assess  
20 what the potential level of impact is really going to  
21 be. In particular, the consultants went out at a time  
22 of year identifying plants and animals when the  
23 endangered species are dormant for the year and when  
24 the plants that those endangered species depend on are  
25 dormant for the year. So, while they provided a

1 species list which indicates that the site contains  
2 pitch pine scrub oak barrens, we really don't know the  
3 extent that it may or may not support endangered  
4 species until someone goes out there at the  
5 appropriate time of year and evaluates what is  
6 actually there.

7 CHAIRMAN STUTO: Are you saying that you have a  
8 copy of the report that we have?

9 MR. GIFFORD: We were provided with a packet --  
10 a copy of the conservation analysis and the report was  
11 dated July and it includes a letter from their  
12 consultants -

13 CHAIRMAN STUTO: Dated November of last year.

14 MR. GIFFORD: Right. Then, when you look at  
15 the date on the species list that they provided, it is  
16 dated in September. What immediately jumped out to me  
17 was nothing that I would typically see and have seen  
18 on the adjoining property was seen on this site during  
19 an appropriate time of year; even common birds that  
20 you would see in the summer, we are missing. As I dug  
21 through that list, it's pretty obvious that they  
22 didn't go out at a time of year that would actually  
23 help us understand what the potential impacts are  
24 going to be or could be.

25 MS. MILSTEIN: What is the appropriate time of

1 the year?

2 MR. GIFFORD: Really in the summer; June, July  
3 and August. In August, it's beginning to get late.  
4 Lupines are the first things to come up in the spring.  
5 The rare butterflies are around - both species.  
6 Lupine dies back in mid-July and the butterfly's life  
7 cycle also ends in July. So, they're out there but  
8 their eggs are the size of a pin. I've yet, in 20  
9 years, been able to find a Karner Blue Butterfly egg.  
10 I can find the adults and they are flying around  
11 pretty well.

12 Again, I think that you've all raised some  
13 really good points and things. The Commission doesn't  
14 take a confrontational approach. We don't support or  
15 oppose projects. We're trying to help applicants and  
16 municipalities to strike a balance that is going to  
17 help us achieve our conservation mission while at the  
18 same time, allowing folks to develop and utilize their  
19 properties to the maximum extent that they can.

20 CHAIRMAN STUTO: What is your feeling about  
21 being with the representative of the applicant to  
22 discuss these -

23 MR. GIFFORD: We'd be happy to. We met with  
24 him initially at the very early stages when it was a  
25 very preliminary concept.

1           MR. COSTA: It was located in a different  
2 location. It was upon this part of the site  
3 (Indicating).

4           MR. GIFFORD: Right. The lay-out has changed a  
5 little bit.

6           MR. COSTA: We now are located where the site  
7 has quite a bit of impact already and it's been  
8 cleared. She had described that it's been used for  
9 paintball and it's been used for a go-kart racetrack.  
10 So, I think that this use will be a lot more  
11 friendlier than the previous use.

12          CHAIRMAN STUTO: Right, but you're subdividing  
13 it too. You're also leaving that site open for  
14 further development and the other two potential  
15 parcels. So, it makes sense now to talk about it.

16          MR. GIFFORD: Absolutely, and the Commission  
17 understands that this is still early in the process.

18          CHAIRMAN STUTO: Does it make sense to talk  
19 about what will be intended to be three parcels?

20          MR. GIFFORD: If that's the application; yes.

21          CHAIRMAN STUTO: I think that the subdivision  
22 is part of this application.

23          MR. LACIVITA: It's a part of it, Peter. It's  
24 taking lands off -- we're really only talking about  
25 the site -

1                   CHAIRMAN STUTO: But if we are going to really  
2 evaluate this thing critically on an environmental  
3 basis, should we look at the whole thing?

4                   MR. GIFFORD: You wouldn't want to run the risk  
5 of segmentation.

6                   MR. LACIVITA: There wouldn't be segmentation,  
7 but I think that what we would do is pull off the  
8 site, look at it from where Todd is going to provide  
9 that continuity between an easement or whatever that  
10 may be and maybe we look to carry that and potentially  
11 identify it. We don't know the use on that property.  
12 So, it's hard to encumber the site if we don't know  
13 what the development will be -

14                   CHAIRMAN STUTO: This is a critical area and I  
15 think that we need to look at it.

16                   MR. LACIVITA: I so agree. Animals go where  
17 animals go, too, but if you can provide that future  
18 area of maybe conservation -- Todd has already agreed  
19 that there maybe that -

20                   MR. GIFFORD: For what he called Parcel 1.  
21 Because the application that we saw was a combination  
22 of a subdivision and a site plan for Parcel 1.

23                   CHAIRMAN STUTO: Now, do you have money to buy  
24 parcels.

25                   MR. GIFFORD: We do. The difficulty for the

1 Commission, being that we are publicly funded, is that  
2 we're only capable of paying fair market value as its  
3 appraised. It's a constant battle for the Commission  
4 in building the preserve that we work with willing  
5 sellers and when it works out; great. When it doesn't  
6 work out, we try to come up with solutions -

7 CHAIRMAN STUTO: Has that conversation been had  
8 between you and the applicant?

9 MR. GIFFORD: Now with this applicant; with the  
10 previous owner, it has. We would certainly look  
11 forward to moving forward with those conversations.

12 CHAIRMAN STUTO: Have you appraised the  
13 property before?

14 MR. GIFFORD: The whole thing was appraised by  
15 DEC, previously.

16 CHAIRMAN STUTO: And you can update that in  
17 some fashion.

18 MR. GIFFORD: Yes.

19 Any other questions regarding the Commission  
20 letter?

21 (There was no response.)

22 I do appreciate the fact that you open the  
23 meeting and allow me to come here and speak on behalf  
24 of the Commission and take up your time. Thank you.

25 CHAIRMAN STUTO: Chuck, can you put this in

1 perspective - from an environmental perspective, in  
2 terms of the SEQOR process, particularly.

3 MR. COSTA: I just want to make one  
4 clarification. The subdivision is what is labeled as  
5 a minor subdivision.

6 CHAIRMAN STUTO: Understood.

7 MR. COSTA: And it's exempt from a conservation  
8 overlay district. That's right in Article 7, Section  
9 190-30 which is the conservation development overlay  
10 district -

11 CHAIRMAN STUTO: Is exempt from what?

12 MR. COSTA: The applicability. It doesn't  
13 apply to a minor subdivision.

14 CHAIRMAN STUTO: A conservation analysis  
15 doesn't apply? I'm not sure what you're saying  
16 doesn't apply.

17 MR. COSTA: The conservation overlay district.

18 CHAIRMAN STUTO: With that said, we'll have to  
19 sift through that a little bit.

20 Chuck, do you have any way to tie this all  
21 together - the environmental part and what our options  
22 are?

23 MR. VOSS: I think that certainly on the  
24 question of the entire parcel versus this site  
25 development on proposed Lot 3, it's my understanding

1           that the application before you is strictly for the  
2           development for proposed Lot 3. It's not to say that  
3           the other parcels aren't part of a bigger site  
4           development plan but looking at the EAF that was  
5           submitted in the application, clearly this is focused  
6           on Parcel 3. My understanding is that as you look at  
7           the larger site, you will have certainly bits at the  
8           apple when Lots 1 and 2 come online. I would say that  
9           predominately you want to focus on this site and this  
10          development plan that is before you now.

11                 As the other two sites come up for development,  
12          we're going to be looking for continuity questions  
13          again. We're going to be looking for site development  
14          patterns again. We'll be looking for impacts again.  
15          Although it's not inappropriate for the Board to look  
16          at this entire project site, from a developmental  
17          standpoint. The applicant obviously doesn't know how  
18          they are going to develop the other two parcels. They  
19          haven't come forward with any plans.

20                 CHAIRMAN STUTO: To address that point, I think  
21          the developer should start thinking about which  
22          portions of the other site he'd like to develop. We  
23          should be thinking about which portions of the whole  
24          picture that we want to conserve or preserve.

25                 MR. VOSS: I think that in looking at how you

1 propose this site, if the Board ultimately says that  
2 it's of our concern to preserve the northern part of  
3 this site which is Lot 3, you may then want to carry  
4 that concept through as Lots 2 and 1 develop further  
5 to the west and continue that theme through that  
6 provides maximum conservation for those additional  
7 sites. It's hard to say how you are going to encumber  
8 those other sites with conservation easements, but you  
9 don't know what is going to happen out there. I would  
10 say that you really can't at this point. You can  
11 certainly assess -

12 CHAIRMAN STUTO: Any engineer can tell you  
13 where the best place to develop is. That discussion  
14 could be had now.

15 MR. VOSS: You could certainly ask that  
16 applicant to provide that type of analysis as part of  
17 this. They are really focused on Lot 3.

18 MS. DALTON: In your analysis, the first  
19 sentence is the lot proposed to be subdivided -- so at  
20 the current time, it's not subdivided; is that  
21 accurate?

22 MR. VOSS: I don't believe that the subdivision  
23 has gone through yet.

24 MR. LACIVITA: It's in the process of going  
25 through.

1 MS. DALTON: Who is it that approves or  
2 disapproves subdivided property? What is the basis  
3 for that?

4 MR. LACIVITA: The Land Use Law. The Land Use  
5 Law provides anything one to four lots that are  
6 created -- that it's done administratively.

7 MS. DALTON: So, essentially, you and the staff  
8 get to determine based on whatever considerations and  
9 discretion that lies within the Town whether or not it  
10 will be divided.

11 MR. LACIVITA: If the applicant comes forward  
12 with a plan for one, two and three lots; yes.

13 CHAIRMAN STUTO: But you still have to adhere  
14 to SEQR during that process.

15 MR. LACIVITA: But on the same side, if  
16 anything comes forward in a vacant building -- any new  
17 building that comes before this Board -- you're going  
18 to see it again.

19 MS. DALTON: Right, I understand that, but I  
20 want to go back to the point that this land has not  
21 yet been subdivided.

22 MR. LACIVITA: Correct.

23 MS. DALTON: And whether or not they are  
24 ultimately committed to be subdivided will be  
25 determined by the Town and determined by your

1 department.

2 MR. LACIVITA: Right. Typically, there would  
3 be no reason why we would deny this.

4 MS. DALTON: Except that it is in this  
5 extremely sensitive area and that's been pointed out  
6 to us a number of times and I think that what Peter  
7 might be suggesting -- I don't want to speak for him,  
8 but what I'm hearing is that he's not entirely  
9 comfortable going forward with three different lots  
10 until he knows what discretion that we have to make  
11 sure that those lots are developed in conjunction with  
12 each other and that they are protected. Unless I'm  
13 misunderstanding something, we don't have to approve  
14 subdividing it. Not we, but as a Town we can say I'm  
15 sorry no, it's so sensitive that we want to leave it  
16 as one lot and we want to talk to you about how to  
17 develop it.

18 MR. LACIVITA: All of those conversations would  
19 be had and I think that the history of how we do our  
20 development processes show that what you're talking  
21 about -- we don't look at it as what is going to  
22 happen here if we provide for - be it connectivity or  
23 whatever it may be. If we are starting to see that  
24 Mr. Kilburn is deciding that he's going to put an  
25 access easement there where there is a conservation

1 easement, then of course you would carry that forward  
2 from lot to lot to lot to have that continuity that  
3 Neil is talking about. I don't think that we can just  
4 leave that off the table.

5 CHAIRMAN STUTO: I'm just saying that it makes  
6 sense that the environmental assessment should be  
7 looked at in total.

8 MS. DALTON: Especially since it's not divided  
9 yet.

10 MR. LACIVITA: But by the time that it comes to  
11 you, you're going to have a subdivision already done.

12 MR. VOSS: Don't forget that one of our  
13 recommendations was to ask for an enhanced  
14 environmental assessment. That includes the entire  
15 parcel, as it is now.

16 CHAIRMAN STUTO: Why don't we get specific  
17 about what we are going to look for in that?

18 MR. VOSS: I would say that based on that  
19 comment that Nick and I raised earlier in our comment  
20 letter, include the entire parcel and not just  
21 proposed Lot 3 for your enhanced environmental  
22 assessment.

23 Did your environmental analysis include the  
24 entire parcel or just Lot 3?

25 MR. COSTA: No, I believe that it was the

1 entire site.

2 CHAIRMAN STUTO: Chuck, can you address this -  
3 because it's in the Pine Bush letter that they are  
4 suggesting that an Environmental Impact Statement be  
5 an appropriate tool for evaluating this.

6 MR. VOSS: At this point I don't see this  
7 rising to the level of needing a full Environmental  
8 Impact Statement. That's why we asked for an expanded  
9 Environmental Assessment Form.

10 CHAIRMAN STUTO: Basically, we'll cross that  
11 bridge after we get that Environmental Assessment  
12 Form?

13 MR. VOSS: Yes, the expanded Environmental  
14 Assessment Form will give you one step more in terms  
15 of detail on the potential impacts. Then, if the  
16 Board sees that and they feel that still there are  
17 potential issues that are significant, you could  
18 certainly take that next step.

19 CHAIRMAN STUTO: I'll conclude my feeling at  
20 this time, in fairness to the applicant. We've seen  
21 the Pine Bush come in on different projects and their  
22 opinion is usually appropriate to what the application  
23 is. This is one of the times that they have been a  
24 little more emphatic or extreme in what they suggested  
25 that we do with our analysis. In other words, it

1           seems to me that he is emphasizing that it's a more  
2           important piece than what some of the other ones may  
3           have been. I would like to have a full analysis. I  
4           don't want to spend money where we don't have to spend  
5           money, but let's address it and talk to them. I give  
6           them a lot of credit and a lot of weight to their  
7           opinion as to what a possible solution would be. They  
8           are the experts in that area.

9           MR. COSTA: We are not disputing that.

10          CHAIRMAN STUTO: If you all come to an  
11          agreement, it's going to carry a lot of weight with  
12          this Board. That would be my prediction.

13          MR. COSTA: And that is one of the reasons why  
14          this site was moved. We are making some impacts to a  
15          location that is already impacted.

16          CHAIRMAN STUTO: Right.

17          MR. COSTA: We're trying to stay very close to  
18          the existing disturbed area.

19          CHAIRMAN STUTO: I'm not opposed to this  
20          development and what you are trying to do. I want to  
21          make sure that the conservation areas are correct for  
22          the future. I'm not opposed to the development at  
23          all. Maybe they want to buy the piece and maybe they  
24          don't. Maybe they're not going to come up with the  
25          right price; I don't know. I would like to identify

1           which portions of the other two parcels will probably  
2           be developed so that maybe we can define which areas  
3           are going to be conserved in the long run. Does that  
4           make sense to everyone?

5           MR. SHAMLIAN: I agree with Pete. I'm in favor  
6           of the project currently. There are still some  
7           questions - significant questions, but there is  
8           nothing right now that leads me to say that I don't  
9           like the project.

10          CHAIRMAN STUTO: Basically, it's what is going  
11          to be developed and what is not going to be developed  
12          and does that protect the corridors as best we can for  
13          the Pine Bush?

14          MR. COSTA: I think that with the other two  
15          lots, as long as there is sufficient space left for  
16          development, I don't disagree with that. I'll have to  
17          discuss that with Todd, obviously.

18          CHAIRMAN STUTO: I would suggest that we  
19          postpone the concept -- even though we don't have to  
20          vote on the environmental today, get the further  
21          Environmental Assessment form that chuck has suggested  
22          and if you could get together with the Pine Bush and  
23          maybe you could bring some definition to it that makes  
24          you happy.

25          MR. LACIVITA: Peter, can I ask a question? I

1 think that Todd is under a constraint of actually  
2 being moved out of Schenectady and we're hearing that  
3 the project is liked but it needs more information. I  
4 think that there has to be an assurance for the  
5 applicant here who is willing to provide connectivity  
6 to move forward with it -- I think that the way that  
7 our application process is going now, I'm already  
8 moving out to November to try to keep this process  
9 moving for the gentleman to get his company up and  
10 running. That seems to be a bigger hurdle.

11 CHAIRMAN STUTO: So, you're suggesting vote on  
12 concept with all the conditions; is that what you're  
13 saying?

14 MR. LACIVITA: Again, at least to give him some  
15 type of an assurance that this is moving in the right  
16 direction as we're hearing. Yet, there still has to  
17 be those final decisions being made down the road on  
18 certain things.

19 CHAIRMAN STUTO: I'm not opposed to that.

20 MS. MILSTEIN: I'm concerned how we are going  
21 to deal with the issue of the June or July and getting  
22 the full impact.

23 MR. GIFFORD: That's the biggest unknown to the  
24 Commission now.

25 CHAIRMAN STUTO: But you know what's all around

1 it; don't you?

2 MR. GIFFORD: Correct.

3 CHAIRMAN STUTO: Could you hypothesize from  
4 what's around it?

5 MR. GIFFORD: It would shock me to not find  
6 Karner Blue Butterflies on that site in July.

7 CHAIRMAN STUTO: Well, why don't you all go  
8 back and talk about that and maybe you could bring  
9 your environmental guy.

10 Concept is concept acceptance. It's not an  
11 approval. It's not an action under SEQR. It's not  
12 binding but to give a good sense of good faith and  
13 good progress.

14 MR. SHAMLIAN: Normally, when we give concept,  
15 the project is almost certainly going to get a final  
16 approval. There may be a lot of tweaks along the way.  
17 I'm not sure, at least myself -- today I would be in  
18 favor of voting for concept, but it's a weaker concept  
19 vote than typical.

20 MR. LACIVITA: To your point, it gives me time  
21 to bring the project to the Board and say, here's an  
22 update to say how we are answering these things to  
23 move it forward.

24 CHAIRMAN STUTO: Okay, you can bring it back  
25 for one of those updates, if you want, before final.

1           MR. COSTA: I think that's how we would  
2           prioritize it. We would prioritize it to get the  
3           environmental items worked out and then move into the  
4           preliminary final.

5           CHAIRMAN STUTO: Okay. With all that said on  
6           the record -- I think that we tried to be clear about  
7           what we liked in terms of the environmental review as  
8           the next step, do we have a motion for concept  
9           acceptance?

10          MR. MION: I'll make that motion.

11          MR. AUSTIN: I'll second it.

12          CHAIRMAN STUTO: Any comments before we vote?

13          (There was no response.)

14          All those in favor say aye.

15          MR. MION: Aye.

16          MS. MILSTEIN: Aye.

17          MR. SHAMLIAN: Aye.

18          MR. AUSTIN: Aye.

19          MR. LANE: Aye.

20          CHAIRMAN STUTO: Aye.

21          All those opposed say nay.

22          MS. DALTON: Nay.

23          CHAIRMAN STUTO: Okay, we have one nay on the  
24          record.

25          The ayes have it.

1 Thank you.

2

3 (Whereas the above entitled proceeding was  
4 concluded at 8:32 p.m.)

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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 \_\_\_\_\_

