

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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4 P&L STORAGE YARD
80 LOCKROW BOULEVARD
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 November 1, 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 BRIAN AUSTIN
14 TIMOTHY LANE
15 KATHLEEN DALTON
16 SUSAN MILSTEIN

17

18 ALSO PRESENT:

19

20 Kathleen Marinelli, Esq. Counsel to the Planning Board
21 Joseph LaCivita, Planning and Economic Development
22 Department
23 Michael Tengeler, Planning and Economic Development
24 Department
25 Victor Caponera, Esq.
Dominick Arico, Arico Associates
Charles Voss, PE, Barton and Loguidice
Sudir Kulkarni, CAC
Kevin Devlin
Marcia Codling
Peter Liuzzi
Robin Reiley
David Glass
Alison Wacksman
George Acker
Lisa Murnen
Audrey Evans

1 CHAIRMAN STUTO: Welcome to the Town of
2 Colonie Planning Board. We have several items on the
3 agenda that we will get to shortly.

4 Joe, do you have any business matters to
5 discuss before we call up the agenda?

6 MR. LACIVITA: The only thing that the Town
7 wanted to make sure that the residents and the
8 Planning Board knows is that we have a Comprehensive
9 Plan community meeting scheduled that we put into the
10 paper. Unfortunately there was a tape that was wrong.
11 Were going to be reposting. The dates for the
12 community meetings for the Comprehensive Plan update
13 is November 10th. All the meetings are at 6:30 to
14 8:30. That is going to be our Forts Ferry School in
15 the auditorium there. November 29th from 6:30 to 8:30
16 will be at Loudonville Elementary School. The one that
17 they misplaced was the December 1 meeting and that was
18 actually at Shaker Junior High. They said that was the
19 November 29th date. December 7th is going to be at
20 Lisha Kill and the 14th will be at the Crossings. We
21 encourage the residents to attend and listen to what
22 we are doing and so that we can hear your concerns
23 moving forward with the update of our Comprehensive
24 Plan.

25 CHAIRMAN STUTO: So, in other words, they're

1 going out to different neighborhoods in the community.

2 MR. LACIVITA: We're trying to do strategic
3 areas of the Town so we can get community input.
4 Additionally, we are also getting Siena College to do
5 a townwide survey. We will be reaching out to a number
6 of residents based on their analysis of the do it. The
7 Siena Research Institute will be taking that on. I
8 think that's spring of 2017. We are hoping that with
9 these community meetings we can develop a good sense
10 of data and questions for the survey.

11 CHAIRMAN STUTO: In each of these meetings are
12 scheduled 6:30 to 8:30; correct?

13 MR. LACIVITA: Correct. We will be reposting
14 just because of the error that happened when it went
15 into the paper.

16 CHAIRMAN STUTO: And if anybody wants a copy of
17 the schedule, you can give it to them.

18 You have her calendar here for the next year.
19 Do you want to talk about that now, or is that just
20 for consideration?

21 MR. LACIVITA: You normally adopt it. It is the
22 calendar that's ready for 2017. We took into
23 consideration all holidays of the school calendar. We
24 went back to finally getting to per month where
25 someone's we didn't do the holidays. Have the schedule

1 here before you to vote on. Once this is adopted, we
2 can post this on our website as well.

3 CHAIRMAN STUTO: Thank you. I will make just
4 one comment. I have gotten some questions about people
5 not being able to hear. I have sort of taken an
6 informal survey if Paul Rosano can hear back there and
7 people in the back. We would just try to be more in
8 tune to making sure that people speak up. We will grab
9 a mic here and we will try to be cognizant so that
10 people can hear in the back of the room.

11 MR. LACIVITA: If you can't hear the back,
12 please raise your hand.

13 CHAIRMAN STUTO: First item on the agenda is
14 P&L Storage Yard, 80 Lockrow Boulevard, application
15 for concept acceptance, 6.2 acre outdoor contractor
16 storage yard presented by Arico Associates, presented
17 by Victor Caponera.

18 MR. CAPONERA: Actually, I have Mr. Arico here
19 too. I just wanted to reintroduce myself. I have not
20 been here in a few months. My name is Vic Caponera.
21 It's a pleasure to be here again. I represent the
22 owner of the property, Mr. Luizzi who is here tonight.
23 I have Mr. Arico here also who is the engineer was
24 working on this project.

25 In front of us obviously is the site plan. Mr.

1 Arico has been here before for our sketch plan review.
2 Since that time, the TDE, Mr. Voss is to this project.
3 He has issued a report, a letter, back in September.
4 Mr. Arico responded to it today. He has been away. He
5 gets away a lot, unfortunately for us. He is ready to
6 answer any questions the Board might have. Sure you
7 would like to talk, but we are looking for concept
8 tonight on this project.

9 Remember, there are no buildings that are being
10 proposed on this project. It is basically a storage
11 yard. If you look at the project, a substantial amount
12 of that is going to be left green, noting that they
13 are is that 100-foot buffer beyond this creek that
14 runs through the property as well as a substantial
15 50-foot buffer of the other side of the property of
16 Lockrow Boulevard. We have studied this very hard.
17 Mr. Arico has spent a lot of time on it. There's going
18 to be some improvements that will be to the benefit of
19 the Town regarding storm water and sewer that we will
20 get into if we need to. That is essentially where we
21 are. We are looking to answer any questions the Board
22 might have.

23 CHAIRMAN STUTO: Can we have a brief
24 presentation and tell us what has changed since last
25 time we saw you?

1 MR. ARICO: I am Dominick Arico with Arico
2 Associates representing P&L. As Mr. Caponera stated,
3 this is a contractor storage yard. The property is
4 10.25 acres. Of the 10.25 acres, approximately 6 acres
5 will be cleared. That is in this open area that you
6 see here (Indicating). The remaining four acres - you
7 can see this treeline here and over at the backside of
8 the property. On the side of the property is Lia, the
9 car dealership (Indicating). This is Kairnes Street,
10 Interstate Avenue and Railroad Avenue. All the
11 buildings along Karen's and Interstate and Railroad
12 are all industrial type buildings. The property is
13 along Lockrow and the neighborhood behind is mostly
14 single-family residential. There are a couple mixed
15 uses behind there. Primarily, or all single-family
16 residential.

17 Again, our proposal is just going to clear do
18 some light grading. The site is fairly flat except for
19 this area and here (Indicating) which is a large area
20 with it Cherry Creek comes through. The Cherry Creek
21 actually used to run through the property right out to
22 the Patroon Creek, but at some point in time it has
23 been enclosed and piped that happens right at this
24 point here (Indicating). We are maintaining a 100
25 foot buffer on each side so basically there will be

1 200 foot buffer.

2 Sanitary sewer runs through the property.
3 There is no water and there is no sanitary connection
4 provided because there is no building.

5 They also are providing the storm water
6 collection area since we are moving a lot of coverage
7 at this point so your runoff rates are increased a
8 little bit, so we are having an infiltration area here
9 (Indicating). Most of the area back there is sand. We
10 have drainage swells that collect so nothing goes in
11 the adjacent properties.

12 Also, there is a 50 foot required buffer from
13 the residential zone to the industrial zone, which we
14 have. There is no clearing or grading done in that
15 area.

16 We are proposing a 10-foot berm around this
17 area. Originally, the Town asked for a fence that we
18 would like to do a berm. We do the same at 49 Railroad
19 Avenue, which Mr. Luizi runs his existing business out
20 of. It's 20 feet wide and 10 feet wide and it will be
21 natural berm. They would be a fence that would run to
22 about this point here (Indicating). Then we are
23 proposing a split rail fence for separation, so
24 nothing can happen on the other side of the fence. It
25 will be signed according to the Town standard to

1 maintain that 50 foot buffer. There's a little bit
2 more at the 50 foot buffer. There may be another 10
3 feet or so with the properties themselves that have a
4 small buffer area, but not much in that area. Then,
5 there will be a 50 foot green area around the entire
6 perimeter of the property. They will be green space
7 and that's where we get 4.25 acres of open green
8 space.

9 Again, there is no utility proposed or building
10 proposed. It is really just a clearing and grading out
11 the top area to get a flat grade and replacing it with
12 the base for structural support trucks and material
13 storage.

14 MR. LACIVITA: Dom, can you go over with one
15 more time as to access to the site once it is done. I
16 know I received a couple of calls about that paper
17 street that is there.

18 MR. ARICO: It is 80 Lockrow Boulevard because
19 this is the frontage for the property. The property
20 has no frontage on Kairnes on Interstate or Railroad
21 Avenue. There's also this paper Street here. It's
22 called Cherry Street. It is partially maintained by
23 these property owners. It does extended to our
24 property about 100 feet. There is no access from here
25 or here being proposed. What we're doing is there is a

1 cross easement agreement across this entire property
2 line 40 Railroad 80 Lockrow that would allow traffic
3 to go back and forth. Even though it is the same
4 owner, it is different corporations that own it. So,
5 they have an inter-corporation agreement in case it
6 gets sold it would be in place.

7 CHAIRMAN STUTO: Are they recording that? How
8 are they memorializing that?

9 MR. CAPONERA: There is a separate deed. There
10 is an LLC when Mr. Luizi bought this property within
11 the last few months. It is owned by an LLC as is 39
12 Railroad Avenue. That is where the access is going to
13 come -

14 CHAIRMAN STUTO: How are they permanently
15 memorialized that access to that other lot?

16 MR. CAPONERA: There would have to be across
17 access easement. The bottom line is that there is
18 going to be no access to Lockrow. There's going to be
19 no access through this paper street. It is all coming
20 from the existing property fronts on Railroad Avenue,
21 which is 49 Railroad Avenue.

22 CHAIRMAN STUTO: There will be a cross
23 easement.

24 MR. CAPONERA: Yes, of course.

25 CHAIRMAN STUTO: We've have is reviewed by our

1 Town Designated Engineer. There may be members of the
2 public want to speak on this as well. First, we will
3 hear from our Town Designated Engineer, Barton and
4 Loguidice, Chuck Voss.

5 Chuck, can you tell us about your review of
6 this project?

7 MR. VOSS: Sure, Peter, thank you. The Board
8 should have in their packets our letter dated
9 September 30th. It was a concept review. Essentially
10 what we had done was after inspection of the site,
11 issued some comments. I would just go through some of
12 those quickly.

13 As Mr. Arico had mentioned, the site is
14 relatively flat. It is semi-wooded the quality of the
15 material out there is certainly the best being kind of
16 an industrial lot. The site is situated within some
17 additional industrial uses. The proposed use appears
18 to be consistent with other uses that we are seeing
19 that general area for the industrial district along
20 Railroad and Kairnes and Interstate. I think it's
21 important to note that the applicants are not
22 constructing any physical structures on the site other
23 than stormwater facilities. There is no paving that is
24 going to occur. It will be some site grading, but as
25 Mr. Arico mentioned, the site is relatively flat right

1 now. So, we anticipate probably minimal grading. More
2 importantly, I think the grading will just be to
3 accommodate the storm water management facility and
4 they are proposed to be up front.

5 There is a significant buffer around the Cherry
6 Creek watercourse. That is certainly mandatory through
7 DEC, so we are pleased to see that.

8 The other issue that we noted was with the
9 access which was discussed adequately. However, there
10 is an easement for both storm water and sanitary sewer
11 that runs through the site from the dump out at the
12 bend of Lockrow. The applicant is proposing to
13 maintain those easements and in addition, create a new
14 easements for some additional storm water.

15 Victor, you can discuss that later if you need
16 to.

17 Within that easement, also, the applicant is
18 proposing to repair and replace significant portion of
19 the sewer line that is going through there as a part
20 of their proposal. This should be a relatively
21 significant improvement on the site.

22 Other than that, there is really no other
23 additional environmental issues that we see proposed
24 with the site. Is relatively straightforward terms of
25 its use which will be for storage, we understand, of

1 materials and a couple vehicles and things like that
2 related to a construction business next door. Really,
3 storm water is probably going to be the primary factor
4 that we will want to look at moving forward.

5 CHAIRMAN STUTO: Okay, any questions before we
6 go to the public?

7 MR. KULKARNI: Mr. Chairman, my name is Sudir
8 Kulkarni and I am from the CAC, Conservation Advisory
9 Council. The CAC knows that what went there is clearing
10 that there is always a significant environmental
11 impact. More specific, what things are being stored?
12 How long is temporary? Leave as much natural screening
13 as possible. Reconsider the DCC report regarding
14 conifers for traditional screening. The trees that are
15 now there will drop their leaves and the conifers will
16 screen positive construction materials.

17 Those are the CAC comments.

18 CHAIRMAN STUTO: Thank you. We will get those
19 addressed.

20 Members of the public?

21 MR. DEVLIN: My name is Kevin Devlin. I live on
22 Lockrow Boulevard. Actually, I will use this chart. I
23 live right about here (Indicating). Luizi Paving
24 right over here (Indicating). He wants to use all
25 this. He's in business and I understand that. You

1 were saying that if you go to Luiz Paving it is flat.
2 It is not flat. He has mounds of gravel, dirt and
3 spoils from old construction. I walk by that a couple
4 times a week even though it doesn't look like it, but
5 I do. It is getting higher and higher. I moved there
6 13 years ago. It is a dead-end street. I have a
7 little kid. It is quiet and in the last couple years
8 all you hear is beepers all summer long, especially in
9 the Sunday when you try to sit outside and relax you
10 hear a bulldozer. Talking about the quality of life -
11 - the noise pollution for one. At quarter after five
12 or five thirty I hear back up beepers. I'm up early,
13 so I hear them. I shouldn't have to listen to back up
14 beepers all day long. I understand that it's a
15 business, but and it ridiculous. You have to close
16 your windows because you just don't want to hear it
17 anymore. We never had this problem before. I
18 understand that he runs a business, but it's also a
19 community. To me, my opinion is that if my house is
20 worth \$500,000.00 this would not even be an issue. I
21 live where I am and it's about a \$150,000.00 house.
22 It is quiet - used to be. We have a little park right
23 there. Why should we have to go to the park and
24 listen to that noise also?

25 This says that the access will be 49 Railroad

1 Avenue. Is says indirectly it will be Lockrow
2 Boulevard.

3 CHAIRMAN STUTO: What document are you
4 referring to that it says that? Is that a narrative
5 that you took off the website?

6 MR. DEVLIN: Yes, it is. Like I was saying, it
7 says indirectly. To me, directly is A to B; and
8 directly is A, B to C. I do not want big trucks going
9 down Lockrow Boulevard. Actually, I don't want the
10 noise anymore.

11 As for trees, there is a lot of wildlife that
12 live there. The noise is ridiculous. I know that there
13 is a noise ordinance. I thought it was at 7:00 in the
14 morning, but here it is 6:00 to 6:00. It has gone way
15 past 6:00 p.m. in the noise is way before 6:00 p.m. if
16 you want, take a drive over there. You will see the
17 piles of dirt. When the leaves fall off the trees,
18 you're going to see these big mounds of dirt.

19 This 50 foot buffer - I measured it out and
20 from the middle of Lockrow Boulevard to my front step
21 is 50 foot. That is not very much.

22 That's what I have to say.

23 CHAIRMAN STUTO: Thank you. I'm going to ask
24 him to address your points. The points they repeat
25 themselves. I'm going to ask them to address what I

1 perceive to be the major points that he had, just so
2 we can get out on the table.

3 How to know what the permitted uses are here
4 exactly.

5 MR. LACIVITA: It is an industrial zone, so it
6 has uses -

7 CHAIRMAN STUTO: It is not just equipment
8 storage. He can stockpile material and so forth?

9 MR. LACIVITA: Correct.

10 CHAIRMAN STUTO: What are his hours of
11 operation?

12 MR. LACIVITA: I think that once we go towards
13 - should the planning Board act on concept and we can
14 enter final, we can make sure that those approval time
15 frames which are 7:00 to 7:00 should be codified on
16 the site plan.

17 CHAIRMAN STUTO: Five days a week?

18 MR. LACIVITA: I would have to look and see.

19 CHAIRMAN STUTO: Do you want to speak to those
20 issues?

21 I don't know if he said secondary access from
22 Lockrow -- what you just said is contrary to what he
23 said.

24 MR. ARICO: It states there is an indirect
25 access to Lockrow. That's how it probably becomes a

1 legal lot because it meets frontage along the
2 right-of-way.

3 MR. CAPONERA: That is the legal address.

4 MR. ARICO: That is in the report as indirect
5 because it is part of -- in order for it to be a legal
6 lot, the Town as to have frontage on the right-of-way
7 and that is the frontage and the legal address.

8 CHAIRMAN STUTO: Can we rephrase that in a
9 different way or make it more clear that you are
10 actually not going to access -

11 MR. ARICO: Here's the thing: that 100 foot
12 offset - the buffer from the creek actually falls
13 right into that area of the property so, we would be
14 able to do that you live by Town standard because we
15 would be crossing into a conservation area.

16 CHAIRMAN STUTO: I would like the record or the
17 plans or something to notate that clearly. You can
18 say that the frontage is on Lockrow. I can see why he
19 said that. It does say indirect access.

20 MR. CAPONERA: That's because that is the legal
21 address. That is your frontage.

22 CHAIRMAN STUTO: I do not know what the phrase
23 indirect access to means, legally.

24 MR. ARICO: We will make some note that no
25 access -

1 MR. LACIVITA: The actual address for 911
2 purposes identified the site as 80 Lockrow. That is
3 why even on the DCC comments we talked that the
4 egress and ingress should only be at 49 and 49A. From
5 an identifier from 911, 80 is the one that they
6 require.

7 CHAIRMAN STUTO: Chuck, can you make sure that
8 note gets on the plans?

9 MR. VOSS: Yes.

10 MR. ARICO: The other matter of storage - there
11 will be similar materials.

12 MR. CAPONERA: Let me talk to this gentleman's
13 comments. I think this is important.

14 As everyone knows, Lockrow is up here
15 (Indicating). There are ongoing discussions with Mr.
16 Hoffman who is here tonight, also. He owns this
17 property right here (Indicating). There are ongoing
18 discussions right now - so long as we get this through
19 and get approval - to sell a significant part of this
20 parcel to the Hoffmans who would utilize this piece.
21 Therefore, there would be no dirt piles or anything
22 like that whatsoever.

23 CHAIRMAN STUTO: What is Hoffmans use going to
24 be?

25 MR. CAPONERA: There is the possibility that he

1 would use it for maybe another building. It is an
2 industrial zone.

3 CHAIRMAN STUTO: I understand.

4 MR. CAPONERA: Whatever he's going to use it
5 for, it will be in allowable use but I assure you
6 there is going to be no dirt piles.

7 CHAIRMAN STUTO: What businesses Mr. Hoffman
8 in?

9 MR. CAPONERA: Carwash. So, that answers the
10 question in terms of whether or not there will be
11 piles of dirt. There will be no piles of dirt. The
12 idea is to grade this off and level it off more or
13 less. So, that's an answer to the question that was
14 raised.

15 CHAIRMAN STUTO: Well, noise and hours of
16 operation as the other question.

17 MS. DALTON: My question based on what you just
18 said is where he would sell that piece of the parcel
19 we were talking about 6 acres that were going to be
20 cleared. What does that to in terms of - are you
21 selling off all the green space? How much of the
22 remaining parcel would be green space?

23 MR. CAPONERA: You are talking about over here
24 (Indicating)?

25 MS. DALTON: If you sold off the piece of land

1 you were talking about selling, that leaves you with
2 what percentage of green space?

3 MR. CAPONERA: Probably over 50%. You can see,
4 Kathy, this entire area here which is called green.

5 Dom, would you agree that it would be over 50%
6 on the balance?

7 MR. ARICO: What's left over, yes.

8 CHAIRMAN STUTO: Noise and hours of operation?

9 MR. ARICO: There really just trying to clean
10 it up. They already have enough yard space where they
11 are.

12 MR. CAPONERA: My client who owns 49 and 49A
13 already has enough storage. He basically just wants to
14 claim this property up. So, I don't anticipate that
15 he's going to be operating machinery there.

16 CHAIRMAN STUTO: So, our normal notes about
17 restricting hours of operation - there is no objection
18 to that, right?

19 MR. CAPONERA: No.

20 CHAIRMAN STUTO: To know the specifics on that,
21 Joe, and what that would be?

22 MR. LACIVITA: We would have to look that we
23 are not doing anything more than what we would do for
24 other ones in that same area. We will look at that and
25 make sure that we get it from the Town Attorney's

1 office and make sure that note gets put on.

2 MR. CAPONERA: Absolutely.

3 CHAIRMAN STUTO: Okay, we will take more
4 comments from the public.

5 Marcia Codling.

6 MS. CODLING: According to what he just said,
7 Hoffman is right behind me. They are the quietest
8 tenants that I have ever seen. I have only noticed
9 noise in the last two or three years and I measured
10 the noise. It starts at the end of Cherry Street. You
11 can hear it all the way to Elmhurst where Railroad
12 Avenue kind of turns into Maplewood. I have video and
13 I have pictures. It is not nice. I work at home all
14 day. I have to listen to this all day long. I realize
15 that I'm one of few that do work at home. I don't
16 expect special everything, but I do want my trees
17 because that's what blocks the noise. All the trees
18 that are there now do not suffice to block the noise.
19 If you going to clear even more of them - especially
20 if you are selling it, it's not going to help with
21 dirt or noise or anything.

22 CHAIRMAN STUTO: Chuck, do you have any comment
23 on that? Is there a way to beef that up?

24 MR. VOSS: We can certainly look at screening.

25 CHAIRMAN STUTO: We do have industrial against

1 a residential. It is zoned industrial, but you're
2 always going to have that tension.

3 MR. VOSS: Right. You always have that friction
4 between their uses. The industrial by nature is
5 relatively loud and makes noise. You can create some
6 additional buffer and their with some landscaping that
7 will create a visual buffer as well as a sound buffer.
8 The berms -- sometimes people think well, let's create
9 a high with plantings on top of it. Berms are great
10 but you need a massive amount of space to make them
11 burn. You need it high enough to first, attenuate the
12 sound and then, substantiate any plantings on top of
13 it. You can't just create a 4 or 5 foot berm and put
14 evergreens on it and expected to survive. So, you
15 have to look at that kind of carefully but I would
16 certainly ask the applicant if there is a potential
17 option but they would be willing to consider.

18 CHAIRMAN STUTO: Can the applicant comment?

19 She's talking about beefing that up for noise
20 attenuation.

21 MR. ARICO: Right now there is a 50 foot buffer
22 where there is a lot of light scrub and things like
23 that in there.

24 FROM THE FLOOR: Those are 60-foot trees in
25 there. They are not just light scrub.

1 MR. CAPONERA: Those trees would remain. I was
2 physically there three days ago and there are some
3 fairly significant trees. There are some significant
4 trees right along here (Indicating). It is more than
5 just scrub.

6 Mr. Hoffman has indicated that his only use of
7 this property - right now there is no intent other
8 than to clear it off in the areas that we are
9 proposing and likely to put another building there.
10 Obviously, it's not going to create any noise. That
11 would attenuate -

12 MS. DALTON: Why is there a plan to clear that
13 when you will not be using it?

14 MR. CAPONERA: For future use.

15 MS. DALTON: But your future use may or may not
16 have the need to clear that much space?

17 MR. CAPONERA: The future use would be Hoffman
18 companies to use this property probably for another
19 building.

20 FROM THE FLOOR: They are going to. The moral
21 of the story is why are you taking it now?

22 MR. CAPONERA: That is our proposal.

23 FROM THE FLOOR: Answer the question. He isn't
24 answering the question.

25 MR. LACIVITA: Sir, I understand that but let

1 him speak first.

2 MS. DALTON: It does beg the question. Unless a
3 component of the sale deal is that you're supposed to
4 clearcut that -

5 MR. CAPONERA: That is a component of the
6 contract that we are negotiating with Mr. Hoffman's
7 attorney.

8 MS. DALTON: So, this is more than just a
9 maybe.

10 MR. CAPONERA: No. There is a contract that I
11 am negotiating with Mr. Hoffman's attorney. Part of
12 the contract is clear this area and to put rubble down
13 in order to allow future use of the property.

14 MR. LACIVITA: Victor, if that's the case where
15 we are going further toward a contract here and you
16 understand that there is going to be a clearing - when
17 this comes back can we see it with 35% green just on
18 the site that we think is now going to be subdivided?
19 Right now, I don't think that would suffice for 35%
20 just with the 50 foot buffer. We look to see what
21 additional clearing we need to keep 35%.

22 MR. CAPONERA: Do you understand the question.

23 MR. ARICO: Of what is going to be left over?

24 MR. CAPONERA: No. In other words, if we split
25 this and we enter into the contract they want to see

1 the future - showing 35%.

2 Sure, we can do that.

3 CHAIRMAN STUTO: Okay, we'll keep going.

4 Harry Knopper.

5 MR. KNOPPER: I guess this want to reinforce
6 what was already said that Mr. Devlin.

7 I am a former resident of Lockrow Boulevard,
8 41. I recently moved out of their in February this
9 year. I now live on Elmhurst which is about five
10 streets away. The noise can still be heard in my new
11 neighborhood which I put up with for many years while
12 I was on Lockrow Boulevard. I also made a complaint
13 at one point in time over the noise issue at 49
14 Railroad Avenue because it was 5:00 or 5:30 in the
15 morning. It didn't matter what day of the week it was;
16 Saturday, Sunday, Monday - they were dump trucks
17 dumping loads and as a backup and go forward, the
18 tailgate slams startles you with your sleeping - that
19 we should write up. This is a common practice. I have
20 reported it to Colonie police. They went there one
21 time and they assured me that it wouldn't happen
22 again. It continues to go on. This is an ongoing
23 thing. Can we expect more of the same? With the
24 proposed project goes into effect - not to mention the
25 environmental impact.

1 A friend of mine lives on Cherry Street. He had
2 his wife are birdwatchers. Since 49 Railroad Avenue
3 came into being, the birdwatching has ceased because a
4 lot of the habitat has been destroyed where these
5 birds will live. Is the same thing going to happen
6 behind Lockrow Boulevard? That's another issue.

7 I think that is pretty much what I have to say
8 about it.

9 CHAIRMAN STUTO: Okay, thank you.

10 The new issue brought up his bird habitat. Can
11 the applicant address that?

12 MR. ARICO: I didn't hear the actual question
13 about it.

14 CHAIRMAN STUTO: Will there be a reduction in
15 birds?

16 MR. ARICO: In our opinion, no. Most of the
17 activity - wildlife activities are really in this area
18 down here where the water is (Indicating). This is a
19 very open barren area appear, if you look at the
20 aerials. It's a little bit dense back in this area
21 here (Indicating). This is mostly - even when you
22 look at the resource map which DEC puts out, the line
23 actually only comes to about here. It's varied, but it
24 is all industrial area. Then again, it says
25 endangered species should be considered in that area.

1 From on we have seen, we have seen no significant
2 wildlife, birds or squirrels or things like that.
3 There is nothing endangered or significant.

4 MR. LANE: Can you also address statement about
5 the early morning hours and the trucks?

6 MR. ARICO: As far as the time that they are
7 operating?

8 MR. LANE: 5:30 a.m.

9 MR. LUIZZI: It's pretty much as they said, all
10 hours. I'm not going to dispute it. We are. There is
11 no disputing it.

12 CHAIRMAN STUTO: Did the stenographer get that?

13 THE STENOGRAPHER: I did.

14 MR. LUIZZI: I'll answer that we will agree
15 that the times that were mentioned - we are operating
16 on the property.

17 CHAIRMAN STUTO: Let's keep going. We are not
18 disregarding, but we want to get everything on the
19 record. We want to get all the concerns out so that we
20 can get a full picture because there are a number of
21 people would still like to speak.

22 Robin Riley.

23 MR. REILEY: My name is Rob. I live on 35
24 Lockrow. Basically, I have the same complaints that
25 everybody else has. This is kind of opened by eyes up

1 to a couple of new things. This is going to be
2 storage. I have a huge concern of dust kicking up. I
3 have a pool back there. I enjoy my family coming over.
4 I don't want to have to have lots of dust piles and
5 stuff like that going on.

6 On top of that, there is the proposed plan to
7 clear out the area for temporary/permanent whatever
8 they feel like doing once it's open and I have it. Not
9 to mention that we are going to be selling to other
10 people. It just seems like it's a gateway to do
11 basically whatever they want. It is a nice
12 neighborhood. I see a lot of people that I live with
13 on the street. They are all friendly. We do want to
14 see it happen. We don't want to see more noise than
15 their ideas.

16 CHAIRMAN STUTO: How would you feel about a
17 building there?

18 MR. REILEY: I would honestly prefer to have it
19 all green. I don't know that that would ever happen.

20 CHAIRMAN STUTO: Realistically, if you had a
21 piece of property that you pay taxes on somebody told
22 you that you couldn't build on it - you are legally
23 entitled to build on it.

24 MR. REILEY: Understood.

25 CHAIRMAN STUTO: How would you feel about the

1 building there, as opposed to the stockpiling?

2 MR. REILEY: A building there - depending.
3 There could be a building there one day. I don't know.
4 As of right now, they want to do all of this. I don't
5 know what is going to be there. They are saying that
6 there will be a building there. There could be storage
7 there forever. There could be God knows what. The
8 trucks could even be closer to the backs of our
9 houses.

10 We have a sweet little line over here
11 (Indicating) where the wildlife stops. The wildlife -
12 they're like, we don't go past there to wear all this
13 other green stuff is that goes off through here. It's
14 all one big thing. It's kind of ridiculous to say the
15 DEC says there is a line right here and that's it.

16 CHAIRMAN STUTO: Well, they can't remove gravel
17 past that line. That is the current line that you see
18 there. That's the main we are referring to. Then,
19 there is a 50 foot buffer.

20 MR. REILEY: I live there and I have a good lay
21 of the land. It's right behind my sense. That's all
22 I've got.

23 CHAIRMAN STUTO: Okay. Where we are taking it
24 all in. Thank you.

25 David Glass.

1 MR. GLASS: I live at 45 Lockrow Boulevard. My
2 concerns are pretty much the same as my neighbors. I
3 do have a couple of other questions.

4 In clearing the lot back there and the storage
5 of material, is there going to be any type of lighting
6 back there that is going to light up our neighborhood?

7 Any of the material that is going to be stored
8 on the property - is there going to be any hazardous
9 material?

10 Again, I want to know if it is going to be a
11 seven day a week operation. How are we going to
12 enforce the hours of the new company's operation?

13 Behind my house there is a drainage ditch.

14 CHAIRMAN STUTO: Can you point to where that
15 is?

16 MR. GLASS: I am right here (Indicating). from
17 my property line back to that drainage ditch - I have
18 never measured it out. I don't want trespass on the
19 property. It is about 80 feet from my property line.

20 CHAIRMAN STUTO: Where does it carry the water
21 to? Where does it look like it runs?

22 MR. GLASS: It looks like and runs toward
23 Central Avenue.

24 CHAIRMAN STUTO: It runs along the back of the
25 property.

1 MR. GLASS: Yes, along the back of the
2 property.

3 CHAIRMAN STUTO: Can you clarify that for us?

4 MR. ARICO: Yes, I am aware of how the
5 drainage patterns work. If you look at the drawing,
6 there is actually a swale that runs along the edge of
7 that 50 foot buffer area. This water does shoot down
8 to here (Indicating). It comes down to about the
9 center of the site and drains into this ravine. So,
10 what I have done to maintain the drainage patterns and
11 to maintain feeding this Creek is to divert the swell
12 to the upper area here (Indicating). So, any water
13 coming off the property will continue and there will
14 be a new constructed swale to carry it to the ravine.

15 MR. GLASS: So, that would not be considered a
16 drainage ditch then.

17 CHAIRMAN STUTO: A swale is a drainage ditch.

18 MR. GLASS: In the proposal it said that you
19 would be keeping hundred feet away from it.

20 MR. ARICO: That's this drainage area here
21 (Indicating). That is a restricted watercourse by the
22 Town of Colonie standards.

23 MR. GLASS: What kind of equipment will be
24 hauling the material in on the property?

25 CHAIRMAN STUTO: You have to ask us.

1 MR. GLASS: What type of material will be
2 hailed in? What type of equipment will be used?

3 MS. DALTON: You are concerned about hazardous
4 materials; correct?

5 MR. GLASS: Yes, or any type of materials. How
6 will they be hailed in? As mentioned earlier, the
7 dump trucks backing up with the back up alarms - the
8 noise - I can already hear the noise at my house even
9 with the windows closed during the day. Dump trucks in
10 my backyard with dirt piles like that - there is no
11 quality of life there. I think that the Town planning
12 Board needs to consider the residents' feelings in the
13 quality of life here.

14 CHAIRMAN STUTO: Thank you. We will get your
15 questions answered.

16 Lighting, hazardous materials, hours of
17 operation and equipment that will be used?

18 MR. LUIZZI: There is no lighting being
19 proposed. We don't store hazardous materials. We do
20 not deal with that. There will be no storage of
21 materials being proposed here anyway. It is mostly
22 for vehicle parking and overflow, in that respect.

23 CHAIRMAN STUTO: Hours of operation and what
24 type of equipment is going to be going back there?

25 MR. LUIZZI: Whatever the Town standards are

1 going to be for operation is what we would be using.

2 CHAIRMAN STUTO: What do you think, Joe?

3 MR. LACIVITA: Peter, I know some of the
4 restrictions that we put on deliverables and even
5 refuse is 7:00 to 7:00. I'm looking at the Town Code
6 now and I don't see specific hours of operation
7 codified here. We need to talk to the Town Attorney.

8 CHAIRMAN STUTO: We, as a Planning Board, put
9 some hours of operation there.

10 Let's keep going so we can get all the issues
11 out.

12 What equipment goes back there and what do you
13 expect to go back there?

14 MR. LUIZZI: Probably like low boys, dump
15 trucks.

16 MR. GLASS: There will be excavators and other
17 heavy equipment back there?

18 MR. LUIZZI: Well, they will be loaded on and
19 off the low boys. Whatever trucks might not be used
20 for that day might be stored there. The other yard
21 will remain open so that the trucks can come in and
22 out.

23 CHAIRMAN STUTO: Alison Wacksman?

24 MS. WACKSMAN: Hi. I live at 46 Cherry Street.

25 MS. DALTON: Can you show us about where that

1 is on that map?

2 CHAIRMAN STUTO: It runs perpendicular to
3 Lockrow; correct?

4 MS. WACKSMAN: Yes. It is the paper street. I
5 live on the corner of Cherry and Martin. I am a block
6 away. When my windows are closed, I can hear that
7 crap. I can't reinforce enough a much the noise is a
8 problem. It is loud and it is at all hours. Even if
9 you put our restrictions on it, how are you going to
10 enforce it? No good neighbor takes out there lawnmower
11 before it 5:00 in the morning. Why is it that they can
12 do this at 7 AM, 6 AM, 5 AM? Is it really going to be
13 restricted to Monday through Friday? We hear it all
14 weekend long. I feel like I need to reinforce that
15 because it cannot be said enough. It's not okay. The
16 pounding and the banging from the trucks as they back
17 up and whatever it is that slams down - you hear it
18 all day long, regardless of the hours.

19 The dust is a concern. If you clear the trees
20 that are already supposed to be buffering that - how
21 is it that just because they are clearing that area
22 and saying they are going to sell it -- that is
23 somehow supposed to use our minds that may be a
24 building is going to go there? What is this building
25 going to be? How tall is a going to be? What is it

1 going to look like? What is it going to house? They
2 can say that, but if you approve the plan it says that
3 can be used to dump their materials there and bang
4 there trucks all day long.

5 So, you have this plan first in there is no
6 other proposal in front of it.

7 CHAIRMAN STUTO: I agree with that aspect of
8 what you are saying.

9 MS. WACKSMAN: That's the problem. That is the
10 first thing that needs to be addressed. If the land is
11 cleared - if they don't need to use it, why the heck
12 did they buy it? It should be left alone.

13 CHAIRMAN STUTO: Thank you.

14 George Acker.

15 MR. ACKER: I am George Acker. I own two
16 houses. I own a house on Van Buren Avenue and Cherry
17 and I own a house at 19 Lockrow Boulevard.

18 I believe the progress has to continue and go
19 on. We had a squared area of our neighborhood from
20 Lockrow to Washington. I live on a 50 x 80 lot on
21 Van Buren Avenue. I have skunks and woodchucks
22 living in my yard because we are pushing them all
23 out. I am not the tree hugger, but let's leave some
24 land here. There is plenty of space on Railroad
25 Avenue - the old Paulson Lumbar building. We are

1 being surrounded by industry and it is not fair. I
2 call us the south side slums over here in the back
3 where we are at. It's just not fair that all of
4 this building is going on all around us - this
5 construction -- a place like Pete's belongs outside
6 the county, like Callanan industries and everything
7 else. I understand that he has a business. It
8 doesn't belong in our area. It's too small of an
9 area that we live in. Thank God that Mr. Palma left
10 a park for us.

11 Like you said, the birdwatcher - that man goes
12 down there every day and walks those woods looking
13 for birds. It makes him happy. That's all we have
14 is that little plot of land. All you want to do is
15 build, build, build and chase everything away and
16 take all the greenery away. That's my gripe about
17 this whole thing right now. You going to build a big
18 wall around us to keep the noise away like they do
19 on the roads? It's just not fair to all these
20 people, especially the people from 40 on down. I
21 happen to be fortunate enough - I am up to 19. I
22 don't want that stuff going on in my backyard. Yes,
23 I hear it. I hear it all day long; bang, boom, bang.
24 You kind of get used to it. When you try to put
25 another one on top of it, it gets frustrating. It's

1 a concern that the Town should look into and stop
2 all this growth that they are doing and leave some
3 green space in this Town. That's what I'm asking
4 for. That's all I have to say.

5 CHAIRMAN STUTO: Thank you.

6 Murnen, 11 Lockrow.

7 MS. MURNEN: I am a residents of Lockrow
8 Boulevard and I'm the parents of two young children,
9 ages three and six. We are fairly new to the
10 neighborhood. We moved in almost 2 years ago. We are
11 directly affected by the Lia dealership and like the
12 other people that are saying who are in the 40s and
13 beyond, we do with noise. We are dealing with the
14 dealership there Monday through Friday and Saturday
15 and Sunday because they are they are fixing their
16 cars. Car alarms go off on a daily basis. We had a
17 problem during the summer when we heard it on a Sunday
18 and talked to the police. There was nothing they
19 could do about it. I don't want my fellow neighbors
20 have to deal with the noise that we deal with and by
21 10 because of the property that is wanting to be
22 developed. We don't have much property because of the
23 buffer with the Lia dealership, so we utilize Palma
24 Park on nearly a daily basis. Especially during the
25 summer time our kids are riding their bikes down

1 there. We constantly have to stand in the middle of
2 the road so traffic is not flying through the
3 neighborhood and hitting the kids. When we are walking
4 down to the park, we don't want to hear and see the
5 green space being taken over by industry. It is not
6 fair to our kids. It is not fair to us. It's not fair
7 to the neighborhood. We want to keep what because a
8 lot has already been taken away from everybody. Thank
9 you.

10 CHAIRMAN STUTO: Thank you.

11 Audrey Evans.

12 MS. EVANS: I am Audrey Evans. I live at 47
13 Lockrow Boulevard. Have on that property for 28 years.
14 It is a great neighborhood.

15 I have all the same concerns that all my
16 neighbors have. These concerns are real. My sister
17 who lives in Wynantskill is living next door to the
18 same type of business and faces these issues every
19 day. She expressed her sympathies to me and my
20 community. She says, you don't know what you're
21 getting in for. These are real issues. The noises
22 problem. Right now, we hear it from Railroad Avenue.
23 Our community is now going to be surrounded. The whole
24 community is going to be surrounded. It's not just
25 Railroad Avenue anymore. That is the whole community.

1 The problem. We want to just be able to enjoy our
2 yards and our lives like everybody does. Want to be
3 able to come home from work and be able to sit down
4 and relax for a little bit.

5 They addressed in their proposal off-peak
6 hours and transportation and all that kind of stuff,
7 off-peak hour kinds of things will not affect the
8 transportation in the area - it won't affect traffic.
9 Well, what does off-peak hours mean? Right now, it
10 could mean anything.

11 I really think there needs to be limits put on
12 as to when they should be able to operate. They say
13 6:00 to 6:00. It is not 6:00 to 6:00, as you can hear
14 my neighbors attest to. Once they get in, they are in.
15 Again, one of my neighbors asked how do we hold them
16 accountable once they are in? The proposal is what we
17 want to do now. Once they get in, we don't know what's
18 going to happen in the future. A big trash dump, who
19 knows? Maybe there would be buildings or mulch piles.
20 We don't know. They are not saying.

21 I am in favor of growth. I wish them success in
22 their business. They have to be neighbors. We are
23 their neighbors. They have to be respectful neighbors
24 and that's what you want in your neighborhood. That's
25 really all I have to say. I hope you consider what we

1 are asking of you. It is nothing more than what you
2 would want in your own neighborhood. Thank you.

3 CHAIRMAN STUTO: Okay, Board Members - who
4 wants to go?

5 MR. LANE: I am interested in what types of
6 materials - construction debris or construction
7 materials for building or any kind of hazardous waste.
8 I think there was a question about that.

9 MR. CAPONERA: I think that I can sum
10 everything up quickly and maybe have a resolution for
11 everybody.

12 What have heard from the neighbors - other than
13 the CAC, there have been nine neighbors that have
14 spoke. Have heard mounds of dirt, mulch piles, noise
15 from construction equipment, trucks, dust, hours of
16 operation. I have heard questions from the audience
17 and some questions from the Board about what why are
18 you doing what you are doing now. I touched upon the
19 negotiations that I'm paying with Mr. Hoffman's
20 attorney for this area (Indicating).

21 Let me talk clearly about a couple of things.
22 Unfortunately neither this Board nor the neighbors can
23 do anything about what the zoning is. We all know what
24 the zoning is. The zoning my client bought is in an
25 industrial zone. We know that. We also know that the

1 area of Lockrow is in the single-family residential
2 zone. That's what the law is. That's what it is
3 zoned. We know that in an industrial zone we can do
4 things that industry does we also know that we
5 obviously have to be neighbors to the folks that
6 unfortunately abut in a residential zone. It is what
7 it is. To say that my client has no business operating
8 his business in this area on Railroad Avenue is
9 ludicrous. It is an industrial zone.

10 After listening to this - I have talked to my
11 client. He believes that it would probably be in his
12 best interest to come back with a plan to put
13 buildings on this property. Therefore, there is no
14 dirt pile concerns. There is no truck storage
15 concerns. There are no concerns of operation of
16 equipment at all hours of the day, as I hear, or any
17 of the other concerns.

18 So, with that in mind - Mr. Chairman you had
19 mentioned it to some person who was talking about it -
20 how would you feel about buildings on their -- if what
21 I am hearing from the neighbors is the true concern,
22 probably the best answer is to put buildings up that
23 we can do in an industrial zone which are clearly
24 allowed in an industrial zone. It is allowed in much
25 less intense zones and we will move in that direction.

1 Unless I hear something that is completely opposite to
2 what I have been hearing in the last hour -

3 CHAIRMAN STUTO: I don't live there, so I don't
4 know how the neighbors feel. My perspective is that if
5 you have some type of contract with Hoffman, maybe we
6 can put the neighbors questions and fears that these -
7 at least they would know with certainty what is coming
8 if you propose the subdivision and whatever site plan
9 the Hoffman's have in mind. You're going to operate
10 from a business perspective. It sounds like you have
11 a contract.

12 MR. LUIZZI: No, there is not a contract. There
13 are negotiations. We have not signed anything yet.

14 Of course, my comment Mr. Hoffman's attorney
15 who I spoke with less than four hours ago was - we
16 have a meeting. I have familiar with the neighbors on
17 Lockrow Boulevard. I said, we need to go to this
18 meeting first and have a discussion.

19 CHAIRMAN STUTO: I don't know how the neighbors
20 feel about a building.

21 MS. DALTON: As I listened to the neighbors, my
22 heart goes out to you. You all are standing here
23 saying that it's a real. It is real noise and we
24 should pay attention to it. There is real wildlife and
25 there are concerns about the quality of life in the

1 neighborhood and quality of life in the Town of
2 Colonie. So, I want to be really clear and say that we
3 absolutely here you and be absolutely share the desire
4 to protect the quality of life in the Town of Colonie.
5 That includes noise ordinances and tree saving the
6 wildlife. Yes, Victor is absolutely right. This is an
7 industrial zoned area. What the options are for how we
8 can protect you and protect what you are concerned
9 about are fairly limited because the people that own
10 the property have the right to develop it. They
11 couldn't put houses right here even if they wanted to.
12 If they wanted to give you nice neighbors with green
13 lawns, they cannot. Just hoping that you are
14 sensitive to the fact that even where you live and
15 what the zoning is, there are limited options.

16 Speaking to that, I think it would be very
17 helpful that the next time that you come here to do
18 part of what Peter has suggested and then also part of
19 what we talked about now which is showing us the
20 difference. First of all, what it would look like if
21 you actually two separate parcels so that we can get a
22 sense of what that would be like. Also, various uses
23 that are options currently from a business
24 perspective; what would it look like this way versus
25 what it would look like that way. I know that you

1 know keeping in mind as much of that green space that
2 gives you a buffer - especially my concern is also
3 around that swale - giving a little more green space
4 around that swale so that the wildlife travel that
5 area would be able to do so. I think that's the best
6 that we can do to see what our options are assumed
7 that the most considerate development could be.

8 MR. CAPONERA: Exactly. That is why I suggested
9 what I did after listening to the neighbors.

10 CHAIRMAN STUTO: It sounds like the developers
11 proposing to hold off tonight and perhaps come back
12 with a proposal for buildings.

13 Do any of the neighbors want to be heard at
14 this juncture? We can do it in an orderly fashion.

15 (There was no response.)

16 Okay, I do not see any hands.

17 So, we will table this.

18 MR. CAPONERA: Absolutely. We will come back
19 with buildings. We are happy to table this tonight
20 and come back before the Board. Thank you, very much.

21 CHAIRMAN STUTO: Thank you.

22 MS. MILSTEIN: When I would like to do in the
23 meantime is get more information about the noise
24 ordinance.

25 (Whereas the above entitled proceeding was

1 concluded at 7:45 p.m.)

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CERTIFICATION

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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 _____

