

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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

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11 THE TAPED AND TRANSCRIBED MINUTES of the above
12 entitled proceeding BY NANCY STRANG-VANDEBOGART
13 commencing on December 15, 2009 at 9:07 p.m. at the
14 Public Operations Center 347 Old Niskayuna Road,
15 Latham, New York 12110

16

17 BOARD MEMBERS:

18 JEAN DONOVAN, CHAIRPERSON
19 THOMAS NARDACCI
20 CHARLES J. O'ROURKE
21 TIMOTHY LANE
22 PETER STUTO, Jr. Esq., Attorney for the Planning
23 Board

24

25 Also present:

26 Joe LaCivita, Director, Planning and Economic
27 Development

28 Joe Bianchine, ABD engineers

29 Joe Grasso, Clough Harbour and Associates

30 Mike Lyons, Planning and Economic Development

31 Neil Gifford, Albany Pine Bush Commission

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1 CHAIRPERSON DONOVAN: Joe, make sure that
2 this square foot concrete pad - a portion of
3 it is in the conservation overlay. The
4 conservation overlay still contains the
5 percentage of open space that needs to be; is
6 that correct?

7 MR. BIANCHINE: Correct.

8 CHAIRPERSON DONOVAN: I know that one of
9 the things that we had talked about before was
10 the long form statement which says this board
11 is not in the position to adopt SEQRA tonight.
12 We'll eventually have to work with Joe Grasso
13 on that.

14 Go ahead Joe.

15 MR. BIANCHINE: You saw this a couple of
16 weeks ago. The Chairperson mentioned a few
17 things.

18 There have been a number of previous
19 minor site plan approvals. We explained in the
20 narrative to take the project from the
21 beginning - and you can see where it went to
22 until where it is today. The Chairperson
23 mentioned the area is within the conservation
24 overlay district, even though it's still an
25 industrial zone overlay district. We've

1 expanded that narrative. In doing so we
2 extended the narrative on the conservation
3 overlay district and we provided the long
4 environmental assessment form and we've
5 provided in handouts what the site looked
6 liked before and after.

7 CHAIRPERSON DONOVAN: Joe, have you been
8 with this project from the beginning?

9 MR. BIANCHINE: Yes, pretty much.

10 CHAIRPERSON DONOVAN: I have a question.
11 I was with the PDD today looking at all the
12 files related to this project. Something
13 doesn't really sit right with me about the
14 process that's going on here. I was looking at
15 the files and I noticed back when you first
16 got approval to put a manufacturing site in
17 here that it was under the old zoning law,
18 which I believe part of the lot was zoned
19 industrial and part was business E. So you
20 went and you got a variance - a variance was
21 needed or a variance was received to put
22 manufacturing in there; is that correct,
23 Michael?

24 MR. LYONS: Yes.

25 CHAIRPERSON DONOVAN: So a variance was

1 received. During the variance procedure, was
2 it was a Type II SEQRA action or was it an
3 unlisted SEQRA action?

4 Anyway, there was no question by either
5 the Pine Bush Commission or anybody concerned
6 about any environmental aspects of placing a
7 manufacturing project on the site. The site
8 had previously been used as a distributorship
9 for gourmet foods, right?

10 MR. LYONS: Right.

11 CHAIRPERSON DONOVAN: We're going from a
12 drastic change from a distributorship for
13 foods to an industrial use such as
14 manufacturing, yet we've heard nothing from
15 the Pine Bush. I've seen nothing in the file
16 that the Pine Bush had any concerns.

17 MR. LYONS: Jean, I'd like to mention
18 that we don't normally send change in uses to
19 the Pine Bush.

20 For example, with this facility, I
21 believe that the zone line -- does it go down
22 the middle of the building, Joe - the old
23 zoning?

24 MR. BIANCHINE: It went right through
25 here (Indicating).

1 MR. LYONS: Right, it kind of went
2 through the middle of the building. Normally
3 our policy is not then to send every change in
4 tenant or change in use application -

5 CHAIRPERSON DONOVAN: It was on the
6 Planning Board agenda. I mean, I would assume
7 that the Pine Bush would monitor Planning
8 Board agendas, right?

9 MR. LYONS: There were no disturbances
10 proposed.

11 CHAIRPERSON DONOVAN: But the use is what
12 is the key here. You're going from a
13 distributorship to a manufacturing use of
14 Crumb Rubber. I would think that at any time
15 if I were to make an inquiry it would be at
16 that point in the process and not four years
17 down the road when all of the sudden somebody
18 wants to put in a concrete pad to store the
19 materials that is a result of the
20 manufacturing process.

21 This is where I'm having a slight problem
22 here. I would think that if the Town of
23 Colonie was on their toes back then, they
24 would know that there is nothing different in
25 this land now than there was back then. That

1 would be other than the fact that someone had
2 tossed a conservation overlay district over
3 it. I just don't know why that was not in it.
4 I would like a further explanation on that
5 sometime as to how, why, and where these
6 conservation overlay districts were thrown.
7 Some of them are on some people's property.

8 That being said, I just don't understand
9 why all of the sudden this great change is
10 going on with this property. Suddenly the
11 applicant now has to fill out a long form and
12 go through all of these hoops.

13 MR. LYONS: The change is that it went
14 from a change of use in the existing building
15 to another use within the same building. The
16 initial use of that building was to actually
17 do a lot of the storage within the building
18 and then storage of the finished product was
19 going to be done within the existing paved
20 area.

21 CHAIRPERSON DONOVAN: Michael, I have to
22 tell you that I've been around the land use of
23 this town for a long time. Let's not go around
24 in circles, okay? The truth of the matter is
25 that this building went from a distributorship

1 to a manufacturing process. Part of the
2 manufacturing process was taking place
3 outside. That's if I read the records
4 correctly. It was at that point that someone
5 should have said, wow, maybe there is an
6 environmental impact here. But instead it was
7 just put aside.

8 Now the applicant, the state and other
9 people have invested lots of money in the
10 project. There has been lots of money and
11 time. How many people are employed there?

12 MR. BIANCHINE: Thirty.

13 CHAIRPERSON DONOVAN: And now all of the
14 sudden we're saying maybe there is an
15 environmental impact? Something is not right.

16 But that aside, let's continue.

17 MR. LYONS: I disagree with you.

18 CHAIRPERSON DONOVAN: I know that you do
19 and I disagree with you, so we're even.

20 MR. BIANCHINE: In terms of the minor
21 projects that were approved for CRM, there was
22 a concrete ramp entrance into the building
23 here (Indicating), a truck scale and scale
24 house here, a turnaround here, propane fueling
25 station and diesel fueling station over there,

1 concrete slabs along the back for equipment
2 including dust collectors, hydrogen tanks and
3 additional dust collectors.

4 CHAIRPERSON DONOVAN: All those were done
5 with a short form -

6 MR. BIANCHINE: All those were done with
7 a minor application as well as an 8,400 square
8 foot building addition. It hasn't been built
9 yet but it should be ready shortly to begin
10 construction, as well as a couple of asphalt
11 pads here for storage for tires. Those haven't
12 been built either.

13 In lieu of that, the owner went ahead and
14 started building a concrete pad back here
15 (Indicating). That's the reason that we're
16 here today. That got shut down because he
17 didn't have a permit to do so. But we're here
18 today to talk about the expansion of the
19 concrete pad back in this area here to make it
20 look like that. It goes back here (Indicating)
21 and really this is what we're proposing to
22 build here - a little less than 80,000 square
23 feet of concrete pad. It would be surrounded
24 by a stormwater management facility.

25 The reason that the storage pad stops

1 here is because we have to extend the water
2 line down here (Indicating). Because of fire
3 regulations, we can't go more than 500 feet
4 from that fire hydrant to the back of the
5 storage. That's what's there.

6 Since Crumb Rubber bought this, the site
7 is now in the conservation overlay district.
8 Not all of it; 9.24 acres of that. According
9 to the conservation, you can develop 60% of
10 it. Of that, 40% of it basically has to remain
11 as greenspace. We'll be developing 3.5 acres
12 and leaving 5.7 acres. So, about 1.8 or 1.9
13 acres more than what we need will be left
14 green undeveloped land. I don't see any reason
15 it really can be developed because of fire
16 regulations - 500 feet.

17 In order to develop anything back here,
18 we'd have to run another waterline back here
19 (Indicating). So, really 5.7 acres, for all
20 intents and purposes, is going to remain
21 undeveloped. If the owner comes up with
22 anything that he wants to do with it, he knows
23 that he has to come back here. He's well aware
24 of that now.

25 I think that's where we're at.

1 CHAIRPERSON DONOVAN: Now we understand
2 the different phases that have gone into this
3 project and each phase of course - even the
4 outdoor storage in the back was an unlisted or
5 a Type II action.

6 Joe, I don't mean to digress here but I
7 have a question about the conservation overlay
8 district. Was the landowner informed that this
9 was -

10 MR. BIANCHINE: He was unaware of it. He
11 bought the property before the conservation -

12 CHAIRPERSON DONOVAN: But he was not
13 aware that they were making part of this -

14 MR. BIANCHINE: He was not aware of it.

15 CHAIRPERSON DONOVAN: Do you have any
16 idea why it's labeled a conservation overlay
17 district?

18 MR. BIANCHINE: Only because all this
19 land up through here (Indicating), on the
20 other side of the tracks is the Pine Bush and
21 they're in the Pine Bush study area.

22 CHAIRPERSON DONOVAN: What is the Pine
23 Bush study area?

24 MR. GIFFORD: I'll address that, Madam
25 Chairwoman, when you give me the opportunity

1 to speak.

2 CHAIRPERSON DONOVAN: Are you from the
3 Pine Bush?

4 MR. GIFFORD: Yes.

5 CHAIRPERSON DONOVAN: Joe, do you have
6 anything?

7 MR. GRASSO: Yes, we reviewed the
8 application for the Planning Board so far.
9 This is the first application that we know of
10 that's representing some clearing and grading
11 in a previously undisturbed area. So it is
12 materially different than previous
13 applications that have been brought before us
14 for the town based on our review.

15 Assuming that there hasn't been any
16 impacts to the federal wetlands within the
17 past few years because there has been some
18 additions on the site since 2007 - assuming
19 that work didn't involve any disturbance of
20 any federal wetlands and assuming that the
21 proposed work that's now going to occur
22 doesn't effect any threatened and endangered
23 species or historical or archeologically
24 sensitive, we support the project as proposed
25 and we can support a negative declaration

1 pursuant to SEQRA.

2 We don't have all the answers that we
3 recommend that the Planning Board have in
4 order to declare a neg dec. The last time that
5 we were before the Planning Board for concept
6 approval was November 17th.

7 The applicant provided a resubmission of
8 information. This went to the planning staff
9 on December 4th which included a revised
10 narrative description, conservation analysis,
11 a revised full EAF and some aerial photos of
12 the project site.

13 In response to that information which
14 would be right on December 4th, the planning
15 staff provided recommended changes to the full
16 EAF. CHA also provided additional recommended
17 changes to the full EAF on December 9th. We've
18 been trying to work with the applicant for the
19 past few days to get this ready for a SEQRA
20 determination. We don't feel as though we're
21 there yet.

22 Just to clarify for the Planning Board,
23 one of the things is that the full EAF
24 involves three parts. One is that it's a
25 description of the application. Part one is

1 always prepared by the applicant or the
2 consultant and not by the lead agency. Part
3 two is a description of the impacts prepared
4 by the lead agency. Part three is an
5 evaluation of the impacts and discussion of
6 mitigation measures.

7 Some of the recommendations from CHA and
8 the planning staff were related to how the
9 part one was prepared, which Joe Bianchine
10 prepared. We have a disagreement in terms of
11 how the information should be described in
12 part one. I think that it's confusing because
13 at the last Planning Board meeting, we were
14 trying to interpret what the Planning Board
15 wanted in terms of the full EAF and how they
16 wanted the application described in terms of
17 what the proposed features were, what's
18 already been approved and what's already been
19 done but not yet approved. That's where the
20 confusion was.

21 Joe has tried to interpret what he heard
22 from the Planning Board at the last meeting
23 and tried to prepare the part one, based on
24 that. He's responsible for the part one and I
25 think that as a board we need to accept that

1 as is. As the lead agency, we're allowed to
2 describe the impacts and go into more detail
3 in terms of preparation of part two and part
4 three of the EAF, which we can do. It's going
5 to take some more time. There is also some
6 information that we think is necessary for the
7 board to base their SEQRA determination on.

8 This is really relative to the federal
9 wetlands. They have been delineated just on
10 the project site, but there hasn't been any
11 discussion as to whether or not there was
12 additional wetlands within the area that was
13 previously disturbed over the last few years.

14 We've gotten correspondence from the
15 Albany Pine Bush Commission saying that this
16 is within the Albany Pine Bush study area.
17 It's within the full protection area. There
18 are plenty of studies that say that this
19 project site may contain important habitat for
20 actually threatened or endangered species that
21 are worthy of protection. That's out there.
22 That letter was provided in October and that
23 is in your packet.

24 The applicant has also provided
25 correspondence from AC National Heritage Group

1 which was provided in March of 2009. The
2 information in that report is deemed
3 confidential by DEC and is not to be released
4 to the general public.

5 There are SEQRA guidelines that say that
6 this information can be held and reviewed by
7 the lead agency and not made available to the
8 general public. The reason why is because it
9 contains sensitive information regarding the
10 possible presence of threatened or endangered
11 species and they don't want everybody to go
12 out there and try to eradicate these areas in
13 advance of their project going into
14 environmental review. Based on the information
15 that we've gotten from Dec, we think that
16 there is additional site specific
17 investigations that are warranted regarding
18 the presence or lack thereof of threatened or
19 endangered species. That's going to take some
20 time.

21 Other than those things, we support the
22 concept. We have reviewed the comments from
23 the town. We don't think that there's anything
24 or any recommendations regarding the change in
25 the design and we didn't hear any such

1 comments from the Planning Board regarding the
2 design of the project. We feel that the action
3 can move forward from a concept review
4 standpoint.

5 We would just like the Planning Board to
6 withhold making the SEQRA determination until
7 we can get that additional information.

8 CHAIRPERSON DONOVAN: Joe, I don't know
9 if you were here earlier. That's what we
10 discussed earlier.

11 MR. GRASSO: And that's good. That allows
12 you to grant concept acceptance, if you so
13 chose. But we do recommend withholding the
14 SEQRA determination.

15 CHAIRPERSON DONOVAN: I would assume,
16 Joe, you're working with Joe. Because the
17 board is eventually going to take your
18 recommendation as to what to do with the SEQRA
19 we would like you to continue to work closely
20 with them.

21 MR. GRASSO: The only other thing that I
22 would like to mention is the applicant has
23 requested the ability to temporarily store
24 product on current paved areas of the project
25 site for a defined time limit while they are

1 allowed to go through a full environmental
2 review of the action as before us which is the
3 expansion of the concrete pads.

4 There are permissions in the Town Code
5 that they can do that with a minor site plan
6 application and zoning verification. It does
7 not require Planning Board approval, but we
8 also support, from our review, being allowed
9 to have them have that temporary storage of
10 product out there. I think that it's important
11 that we at least make the Planning Board aware
12 of that because when you're ready to make a
13 final site plan information, I don't want
14 there to be this confusion over - well, they
15 had previous approvals and they did some
16 unauthorized work and now they were allowed to
17 do this which wasn't subject to our review.
18 I'd at least want to throw that out there so
19 that if there are concerns regarding the
20 temporary storage or product on those existing
21 paved areas of that site - it's something that
22 we should discuss now.

23 CHAIRPERSON DONOVAN: Joe, I think that
24 your department will handle that internally as
25 a minor?

1 MR. LACIVITA: Yes.

2 CHAIRPERSON DONOVAN: And we'll deal
3 right now with the concepts in relation to the
4 70,000 square feet. Of course the SEQRA does
5 have to be done.

6 As far as the review of this endangered
7 species, Joe, I don't think the entire board
8 at this time would have to see it. As TDE, I
9 would recommend that you look at it and make
10 your determination.

11 MR. GRASSO: We addressed that and it's
12 also something that we would typically look
13 for additional correspondence from DEC and the
14 Pine Bush Preserve as well.

15 I'm sure that we're going to hear from
16 the Pine Bush Preserve Commission regarding
17 why they feel portions of the project site are
18 sensitive.

19 CHAIRPERSON DONOVAN: That's fine. Thank
20 you, Joe.

21 Does anyone from the board have any
22 questions or comments at this time?

23 MR. NARDACCI: I do, actually, Jean.

24 Before I do, I just want to raise an
25 issue that I discussed with you. I wanted to

1 mention something for the record before I ask
2 some questions. Between our last meeting and
3 now, an issue has come up that I'd like to
4 address publicly, for the record. Because we
5 have an agenda item tonight where we have
6 comments submitted by the Pine Bush
7 Commission, I would like to make a disclosure.

8 Recently my company, Gramercy
9 Communications interviewed with the Pine Bush
10 Commission in response to an RFP for writing
11 and editing services. My company is a public
12 relations and marketing firm. We have not been
13 retained, but are under consideration.

14 I would like to state for the record that
15 this will have no impact on my decisions on
16 this board. I did think that it was important
17 to discuss this issue publicly because the
18 Pine Bush weighs in on a percentage of
19 projects that come before this board. I look
20 back over the past two years and saw that they
21 have an opinion on about five in 100 projects.

22 I believe strongly in transparency in
23 government and would be happy to discuss this
24 matter as a follow-up with anyone who has a
25 specific question or concern.

1 CHAIRPERSON DONOVAN: Thank you, Tom.

2 MR. NARDACCI: I have looked at this
3 pretty closely over the last few days trying
4 to get a full understanding of Crumb Rubber as
5 a company and how they got to Colonie, what
6 they're doing in Colonie and what they want to
7 continue to do.

8 First and foremost it's a success story.
9 It's a company that was attracted to town.
10 They were looking at other places. They were
11 brought to Colonie with a lot of support from
12 the state, with support from the County and
13 from the IDA. It's too rare that companies
14 that get public support meet and exceed the
15 things that they say that they'll do. So, I
16 think that first and foremost we need to
17 understand that it's a successful company.
18 They are successful employers. I'm impressed
19 with the types of clients that Crumb Rubber
20 has from Siena College to the New England
21 Patriots. You're providing artificial turf
22 fields. It was eye opening to me to really get
23 a sense of what the company is and what the
24 owners have done.

25 That said, I was concerned, initially on

1 how this project came to us. We talked about
2 that at the last meeting. There was work being
3 done that wasn't approved. The owners admitted
4 that it was a mistake and I also had concerns
5 about the process.

6 It's a successful company. I started
7 asking myself, this is a company that's
8 successful and they're doing a major expansion
9 under a series of minor applications. After
10 hearing from Joe LaCivita, that really wasn't
11 the case and this is the nature of the
12 business. That was important to understand how
13 we got to this point.

14 With regards to the project as it stands
15 now, I was very pleased that Joe provided us
16 with an explanation and description of the
17 conservation overlay. I think that was
18 important. I think that part of the original
19 application that came in didn't have that. I
20 think that it strengthens your application so
21 I think that is important.

22 I also believe that a full discussion of
23 SEQRA is very important because of the fact
24 that this is a different project from what
25 initially came in 2006. This came from taking

1 an old warehouse and reusing it to now doing
2 development work on undisturbed areas. So I
3 think that it's important that we do have the
4 SEQRA review.

5 I read through the EAF. I read through
6 the departmental comments and I see that you
7 made a serious effort to incorporate the whole
8 picture and I think that's important. Please
9 continue to work with the TDE in coming up
10 with all the information that they need to
11 give us their opinion on that.

12 One question that I had was: Why outdoor
13 storage? Why build the pad and store the
14 materials outside? Previously all the
15 materials were stored inside. What's the
16 reason for that?

17 MR. BIANCHINE: Basically because they're
18 manufacturing product over the wintertime.
19 They're not shipping much of it out. It
20 doesn't deteriorate in the weather. You don't
21 need to put it in a building. You just need to
22 put it on some solid surface so that you can
23 get to it in the spring. If there's snow on it
24 or anything during the wintertime, it really
25 doesn't matter. It's going to sit there. It

1 doesn't go anywhere. It's all in big heavy
2 plastic bags.

3 MR. NARDACCI: We saw some of the photos
4 of what those look like. My question is: The
5 one eye-opening thing for me was that Crumb
6 Rubber is doing 25 to 30 million pounds of
7 crumb rubber per year. Am I wrong?

8 MR. AKHAVAIN: Forty-five million.

9 MR. NARDACCI: Okay, 45 million pounds.
10 That's good. I think that the initial figure
11 was 25 million and now you're doing 45 million
12 so that shows success.

13 The question becomes: What is this area
14 going to look like at the peak? How much crumb
15 rubber? How many bags? What's that pad going
16 to look like? How far? How tall? How much?

17 MR. BIANCHINE: There is a plan here
18 which shows the stacking of the crumb rubber.

19 As I indicated before, because of the
20 500 foot distance, this is as far as we can
21 go. These will be filled up with bags that are
22 50 foot wide by 200 feet long.

23 MR. NARDACCI: Will they stack bags?

24 MR. BIANCHINE: It will be four feet high
25 and four foot square.

1 MR. NARDACCI: What is that pad going to
2 look like?

3 CHAIRPERSON DONOVAN: So the height is
4 going to be four feet.

5 MR. BIANCHINE: It's basically a little
6 over four feet.

7 MR. LACIVITA: About 68 inches.

8 MR. BIANCHINE: Okay, 68 inches.

9 MR. NARDACCI: So you're storing it
10 outside because why?

11 MR. BIANCHINE: Because you don't need to
12 have it inside. It's going to sit there all
13 winter long.

14 CHAIRPERSON DONOVAN: You freeze it
15 during the process, right?

16 MR. BIANCHINE: Well it's a frozen tire,
17 yes. It's a rubber product. It's not going
18 anywhere.

19 MR. NARDACCI: That's my concern. I
20 certainly brought up issues regarding SEQRA at
21 the last meeting. We have a ways to go on that
22 so I'm not going to labor on that point.

23 CHAIRPERSON DONOVAN: That's a good
24 point, Tom. I'm glad that you brought up the
25 height because I hadn't even thought of that.

1 MR. NARDACCI: Yeah, I just didn't know.
2 Thank you.

3 CHAIRPERSON DONOVAN: Tim?

4 MR. LANE: I don't really have too many
5 questions. I've gone over it and I do have
6 concerns but I'm happy with the fact that we
7 don't have to move forward with SEQRA yet. I
8 wasn't pleased with the way that the process
9 went. This is why we asked for the long form
10 of SEQRA.

11 Honestly, I like the idea of bringing
12 back industrial jobs and the success of the
13 company that Tom pointed to and bringing in
14 these kinds of jobs. I don't have any
15 questions per se in reference to what we have
16 in front of us. You said that all things are
17 stated as they are.

18 CHAIRPERSON DONOVAN: Thanks Tim.

19 C.J.?

20 MR. O'ROURKE: I don't have specific
21 questions. I do have statements.

22 I do accept the fact that the owner of
23 the property did make a mistake. As I looked
24 into it as well, I have a bigger problem
25 procedurally how SEQRA was handled and

1 certainly how the 2007 Land Use Law was draped
2 in a conservation overlays without
3 notification to people. So, I'm more troubled
4 with some town things than I am with the
5 actual manufacturer of the crumb rubber.

6 I don't have any specific questions other
7 than happy to see that the SEQRA will finally
8 get straightened out.

9 CHAIRPERSON DONOVAN: Sir?

10 MR. GIFFORD: Thank you, Madam
11 Chairwoman, for the opportunity to come before
12 you this evening.

13 Joe, nice to see you again.

14 My name is Neil Gifford. I'm the
15 Conservation Director with the Albany Pine
16 Bush Preserve Commission.

17 I think that given the questions and
18 comments that you all raised, I think that it
19 may be valuable if we can back up a little bit
20 and tell you a little bit about what the
21 commission is and what it isn't and why it is
22 that we comment and what our process is for
23 commenting on development projects within the
24 Albany Pine Bush study area.

25 The Pine Bush Preserve Commission was

1 created by the Legislature in 1888 basically
2 to create and manage a viable preserve as we
3 are home to 40-some rare animals alone. It
4 doesn't count plants. The one that probably
5 everyone knows the most about is the Karner
6 Blue Butterfly, which is federally and state
7 endangered. The two other butterflies that are
8 there - one is state endangered and one is
9 state threatened and all of which feed on the
10 same kind of plant.

11 The commission is a non-regulatory agency
12 housed under DEC. It's chaired by DEC,
13 co-chaired by state parks and then it's
14 Supervisor Mahan, Mayor Jennings, Supervisor
15 Runion from Guilderland, County Executive
16 Mr. Breslin, four private citizens appointed
17 by the Governor and the State Director of the
18 Nature Conservancy. These folks are
19 effectively the board for the commission.

20 As a non-regulatory agency, we do a
21 couple of things. One is we work with willing
22 land owners to buy land that we have
23 identified as being important to creating and
24 managing a healthy Pine Bush.

25 We also manage the land. Part of that in

1 creating the preserve process as a result of
2 our own internal procedures and external law
3 suits. They have helped to force us to create
4 this map which is the vision for the Albany
5 Pine Bush Preserve. It goes north of Central
6 Avenue in the Town of Colonie and the gold
7 line to the south is Western Avenue. You've
8 got the Albany/Schenectady County border here
9 (Indicating) and Fuller Road to the south. I90
10 cuts right through the middle and Route 155
11 cuts right through the middle of it
12 north/south.

13 With the commission members and its
14 technical committee, each commission member
15 appoints someone from their staff to serve on
16 its technical committee. Whenever there is a
17 proposed development or undeveloped land
18 within the Pine Bush study area, the municipal
19 planning departments, be it the city, county,
20 or towns forward those plans to us for review
21 by the staff of the technical committee. Our
22 goal is never to support or oppose a project.
23 It's simply to do much like what you're
24 looking to do tonight, which is always gather
25 all of the relative information so that the

1 lead agency, whomever it may be has the
2 ability to make an informed decision based on
3 all the information that is pertinent.

4 When it came to this project, we had some
5 concerns, again, not supporting or opposing
6 the project, but in that we do not feel that
7 the information that was provided was fully
8 accurate. We try to illuminate and elucidate
9 that in our comment letter. Specifically,
10 there was one thing that was a concern to us
11 right away - and this addresses your question,
12 Madam Chairwoman. It was about the
13 commission's previous interest or lack thereof
14 in this project. Why didn't we comment on this
15 before? There are two photos there.

16 As Mike alluded to, the commission looks
17 at the initial phase of this project and it's
18 a good thing. You have a manufacturer who is
19 recycling tires, a major environmental
20 problem. They're turning those used tires into
21 a useful and renewable resource, which is a
22 good thing. They did it by reusing the
23 existing structure. They did not propose at
24 that point to expand into any undeveloped
25 area.

1 So, when the town forwarded us this
2 project initially, what jumped out to us was
3 that there was significant disturbance in
4 undeveloped areas that the commission had
5 identified through its process as important
6 for creating and managing the viable preserve.

7 CHAIRPERSON DONOVAN: I just have a
8 question. When you go into a manufacturing
9 process obviously so close to your lands when
10 you talk about something like Crumb Rubber,
11 there is obviously - I think as we're finding,
12 these things weren't a concern to you back
13 when this project started.

14 MR. GIFFORD: We never saw any
15 application or proposal when CRM moved into
16 this facility. Again, we don't canvass for all
17 of the development. Within that study area is
18 about 15,000 acres. We simply rely on the
19 municipality commission members and their
20 agencies -

21 CHAIRPERSON DONOVAN: So you were never
22 told by the town.

23 MR. GIFFORD: Right. They will forward an
24 application to us when it's within the study
25 area and simply ask for our assessment. All we

1 try to do is identify what the impacts are and
2 more importantly, if there are potential
3 impacts, how can those be offset or mitigated
4 to the maximum extent possible. Typically what
5 we almost always try to do is work with
6 applicants and the municipalities to develop a
7 balance so that the project can go in and the
8 conservation interests can still be protected.

9 MR. O'ROURKE: And the former Supervisor
10 was part of that board that you spoke about?

11 MR. GIFFORD: Correct and now Supervisor
12 Mahan sits on that board.

13 CHAIRPERSON DONOVAN: I was concerned
14 about the process that was going on in there
15 in 2006 and that it would have been something
16 that I thought would have been more concern to
17 you than -- I know that they're clearing
18 space -

19 MR. GIFFORD: Right, and maybe if we were
20 forwarded a proposal, maybe we would have
21 commented.

22 CHAIRPERSON DONOVAN: But you hadn't
23 been. I guess I didn't understand why you
24 hadn't commented.

25 MR. GIFFORD: As you can see with those

1 photos, when there is a physical disturbance
2 to the land -- the undeveloped land that the
3 commission is interested in -

4 MR. O'ROURKE: These photos are at
5 different times of the year.

6 MR. GIFFORD: They're both more or less
7 leaf off.

8 CHAIRPERSON DONOVAN: You have to be
9 concerned about some uses that are going on
10 around the properties around you, too. I mean
11 going from a distributorship to a
12 manufacturing -

13 MR. O'ROURKE: There was that change in
14 the truck depot.

15 MR. LACIVITA: The sale of the property
16 actually came November 1, 2006. I wonder what
17 road changes or anything else came between
18 2004 and 2007.

19 MR. GIFFORD: The commission is not a
20 general environmental organization. We are
21 specifically geared toward creating and
22 managing a viable preserve. So there are
23 probably lots of potential uses of properties
24 within the study area that may have
25 environmental impacts, but they aren't

1 necessarily going to have a direct impact on
2 the commission's ability to create and manage
3 the preserve, so therefore we wouldn't provide
4 comment on this.

5 CHAIRPERSON DONOVAN: This seems to be
6 some type of pen over here (Indicating).

7 MR. GIFFORD: Yes, but you can see the
8 clearing for example.

9 MR. LYONS: What you're referring to on
10 the other side of the cul-de-sac -

11 MR. GIFFORD: For a lack of a better
12 analogy the commission takes a blind eye of
13 justice - that's probably not fully
14 appropriate. However when we evaluated and
15 created this map, which is a complete public
16 process and a SEQRA process for creating our
17 management plan and putting this map together,
18 we simply evaluate undeveloped lands based on
19 a set of criteria. They are weighted, they are
20 scored and that score then helps determine
21 whether or not the property is recommended for
22 full protection, and that we'd like to buy it
23 if we're able to and add it to the preserve.
24 Partial protection, which assumes 50% of an
25 area would be protected or open space or with

1 no protection recommendation whatsoever. So
2 for example, the dark green area on this map
3 (Indicating) is existing preserve. This bright
4 green (Indicating) represents areas that we'd
5 like to add to the preserve. This bluish green
6 up there (Indicating) represents partial
7 protection areas or areas where we'd like to
8 see at least 50% of the property is protected,
9 if we're able to do so. We evaluate all of
10 that open space irrelevant of parcel
11 boundaries, property ownership, use, if it's
12 open space or undeveloped. It went through the
13 filter. The filter is for buffer value to
14 buffer preserved lands. Because we use
15 prescribed fires, having a buffer for smoke
16 management in particular is important. The
17 area is important for linking protected
18 parcels. It's also important if it has
19 significant archeological or environmental
20 resources like Karner Blue Butterflies or
21 important wetlands for archeological
22 resources. That's how that map is developed.
23 That went through in 1993, 1996 and 2002. That
24 was a public process through the SEQRA
25 process, plenty of public hearings as well as

1 presentations to our board, that you're
2 familiar with, through the SEQRA process to
3 develop that map.

4 When a proposal is developed, we can say
5 what's in these areas or not, what the
6 potential impacts might be and try and help
7 the applicant and the lead agency identify
8 ways to offset impacts, if that's possible.
9 We're not regulatory and we don't support or
10 opposed development projects, per se.

11 CHAIRPERSON DONOVAN: As this project
12 goes along, you will continue to be involved.

13 MR. GIFFORD: Yes, so I'm glad to hear
14 that this evening as that's all we wanted was
15 a full accounting of potential impacts. We
16 didn't feel that the initial short form fully
17 would accomplish that.

18 CHAIRPERSON DONOVAN: Joe Grasso is our
19 TDE and has formulated that recommendation to
20 us.

21 MR. GIFFORD: I believe that you all have
22 a copy. We've corresponded twice during this
23 project. Once was directly with the applicant
24 who came to see the commission at the request
25 of the town. That was in March of 2009.

1 In October of 2009 we commented on the
2 application itself - directly to the town. I
3 won't read that letter. It's kind of lengthy
4 but one of the things that we were clear about
5 was the clearing and the potential further
6 impacts and we proposed some potential
7 remedies to deal with some of those impacts.

8 CHAIRPERSON DONOVAN: Yes, we got that
9 letter.

10 MR. GRASSO: Would you mind showing where
11 the project site is on that map and is there
12 any kind of designation and if so, why?

13 MR. GIFFORD: Again, because we are
14 looking at undeveloped lands, this property on
15 Cavanaugh Drive is here. It comes down right
16 through here (Indicating) and if you look at
17 the map that I gave you on that satellite
18 image or on the applicant's maps, you'll see
19 where the old railroad cuts in and basically
20 it's the edge of what was developed. So that's
21 how that line was drawn all of the undeveloped
22 lands through there.

23 Basically on those four criteria - that
24 ended up being ranked high enough to warrant a
25 recommendation of full protection. Again,

1 that's only a recommendation. We are not a
2 regulatory agency and it's simply a tool to be
3 able to utilize by lead agencies like yourself
4 in these kinds of situations.

5 MR. GRASSO: Can you go into detail?

6 MR. GIFFORD: There are numbers
7 associated with each of these blocks of
8 undeveloped land. So this one is in 35G and
9 there is a table on the management plan that
10 shows the scoring for all those criteria so
11 you can determine exactly what it is about
12 that area and why it received a recommendation
13 of full protection or not.

14 CHAIRPERSON DONOVAN: I'd like to see
15 that, Joe.

16 MR. GRASSO: Yes, that would be helpful.

17 MR. GIFFORD: The Planning Department has
18 several copies of that. It's in the town
19 library and if any of you want copies of that,
20 we'll be glad to send them to you.

21 I think that it's because of all of that
22 and the commission's involvement throughout
23 the whole public planning process of the
24 Comprehensive Plan why a conservation overlay
25 district was considered by the town at that

1 time.

2 CHAIRPERSON DONOVAN: My only comment and
3 then we'll proceed here is that there may be
4 land back there, but this is a parcel that was
5 zoned industrial and is used for an industrial
6 use. It got a variance. So industrial use was
7 given to this property. It was allowed on this
8 property and I understand what you're saying,
9 but to say that it was undeveloped
10 land - maybe there are portions of it that
11 were underdeveloped, but a use has already
12 taken place on the property.

13 MR. GIFFORD: Much like there is a
14 boundary for the conservation overlay
15 district, as an example, there is a value
16 associated with that and it was undeveloped.
17 It did not include the building of the
18 pavement, for example, on this particular
19 piece.

20 MR. O'ROURKE: Let me ask you something,
21 Neil. Do all the people that own these parcels
22 know what they're in a conservation area?

23 MR. GIFFORD: That's a really good
24 question. We go above and beyond SEQRA as far
25 as public hearings and public meetings and

1 press releases and whatnot when our plan went
2 through the process. But as you eluded to
3 earlier, properties change hands. Whether or
4 not a specific landowner knows that or not, I
5 don't know. That's exactly why the Planning
6 Department has copies of it and now the
7 library has copies of it. We have copies
8 available on-line in PDF and we fully believe
9 that we should make all the information
10 public.

11 We're talking about three municipalities
12 plus the county across 13,000 acres. That
13 would be a tall order to keep track of every
14 time a property changes hands.

15 CHAIRPERSON DONOVAN: And as you said,
16 you make recommendations in your advisory to
17 the board. We certainly will take your opinion
18 into consideration and work with you.

19 MR. GIFFORD: You're certainly not
20 obligated to do what we ask you to do.

21 CHAIRPERSON DONOVAN: I know, but we will
22 continue to work with you. We have to
23 understand that we have people that own
24 property that is zoned a particular way and
25 they have rights to use that property.

1 MR. GIFFORD: And the commission fully
2 appreciates that this board is looking at a
3 whole host of issues with every particular
4 project that comes through here. Personally, I
5 sit on a Planning Board at home and I
6 empathize exactly what you're considering. I
7 appreciate that comment.

8 CHAIRPERSON DONOVAN: I appreciate you
9 taking the time to show us this, too. Thank
10 you very much.

11 MR. GIFFORD: My pleasure.

12 CHAIRPERSON DONOVAN: We will get copies
13 of this.

14 MS. PERRY-POTTS: Can I ask a question?

15 CHAIRPERSON DONOVAN: Sure.

16 MS. PERRY-POTTS: What are those little
17 white indentations along the street of that
18 one property?

19 MR. GIFFORD: Anything that is not
20 colored green is basically developed land.
21 That would be houses and people's yards. This
22 map is a guide. It's not exact. You can see
23 some gaps here and that has to do with the
24 level of the computer mapping that we had
25 available in 2002.

1 MS. PERRY-POTTS: You did this in 1993
2 and then 1996 and then in 2002?

3 MR. GIFFORD: This started from a lawsuit
4 from Save the Pine Bush. They sued us over a
5 1993 plan. So we did this and created a 1996
6 with the guidelines and project review process
7 and that was all encapsulated in 2002 when we
8 updated the 1993 plan.

9 MS. PERRY-POTTS: So you've updated that
10 three times yet my property -

11 MR. GIFFORD: We've updated it twice.

12 MS. PERRY-POTTS: Okay, twice you updated
13 it and my property at 1050 Kings Road and
14 170 Cordell Road - there is nothing in there
15 for development and I've had a house and a
16 commercial garage for 25 years on it and on
17 the building behind me for over 35
18 years -- you have a little indentation for
19 that. You think that's all open space?

20 MR. GIFFORD: Again, the map is a
21 guideline. When we go to specific proposals we
22 look at - this is just guidance. It's not
23 written in stone and if there is developed
24 land that is partially in one of our
25 protection areas, it could be a function of

1 the mapping system that we had at the time or
2 an oversight, but we try to be as accurate and
3 transparent as we can be. We'll continue to do
4 so.

5 CHAIRPERSON DONOVAN: Thank you.

6 Do you have another question?

7 MS. PERRY-POTTS: I'm not really too
8 happy about this whole thing here.

9 My name is Suzanne Perry Potts and my
10 husband and I own a construction and trucking
11 business in the Pine Bush area on Kings Road
12 and we also live there.

13 I think that the Crumb Rubber
14 Manufacturing business is terrific. They're
15 breaking down the cycle of tires into small
16 crumb like pieces to be sold and used for
17 artificial turf and other projects. I think
18 that the bank that was here earlier said that
19 they were using it in the walls. It can be
20 costly for businesses to dispose of tires. If
21 there are businesses out there that can
22 recycle old tires and market for the recycled
23 rubber product, it could cut down on the cost
24 of tire disposal. Mosa, which is a transfer
25 station in Amsterdam charges \$138 a ton for

1 bulk tires. The tire recycling operation over
2 in Rotterdam charges \$50 a ton. That's
3 one-third of the cost. This is a good thing. I
4 like this business. I was a little
5 disappointed that they weren't going to take
6 tires but at least Rotterdam does now and has
7 for a few years.

8 At the previous meeting you discussed
9 outdoor storage and I was trying to think of
10 businesses that were industrial that had
11 outdoor storage. The highway commercial office
12 residential zoning allows outdoor storage of
13 heavy equipment sales.

14 I looked up a couple of businesses that I
15 buy equipment from and when I looked them up
16 on a zoning map, they're nonconforming now,
17 too. They were two years ago but now they're
18 also in a nonconforming zone also.

19 This new zoning is discouraging
20 successful businesses to leave Colonie. It is
21 alienating businesses. Retailers have outside
22 storage of sale items all year long; lawn
23 mowers, grills, shed, plants, top soil, mulch,
24 snow blowers and propane. These retailers are
25 located in the commercial office residential

1 zone, which doesn't even allow outside
2 storage.

3 I didn't mind spending \$60,000 to add my
4 commercial garage when I knew that I was going
5 to get rent every month, but to add on to my
6 own garage to cover my equipment and see
7 nothing - all I get back is 2.5% depreciation
8 on the cost on my taxes. That doesn't even
9 cover the additional property and school taxes
10 that I have to pay. It's not economically
11 feasible to put a roof over all these
12 industrial business products.

13 Mr. Nardacci, you brought this up at the
14 other meeting so I have to comment about the
15 conservation development overlay.

16 The zoning is supposed to be based on our
17 Comprehensive Plan. With the conservation
18 overlay, it is not mentioned in the
19 Comprehensive Plan. It mentions voluntary
20 methods involving willing land owners to
21 acquire open space and eventually the use of
22 consummation subdivision design. That is for
23 residential parcels. It does not reduce the
24 number of homes on a parcel. It just pushes
25 them into a smaller portion to leave a section

1 of open space. But the CDO does reduce the
2 number of homes on a parcel. It is not the
3 same.

4 This conservation overlay has been shoved
5 down our throats by the Albany Pine Bush
6 Preserve Commission and the Pine Bush
7 Committee. That committee was supposedly set
8 up by the Town Board regarding the Pine Bush
9 area and the Comp Plan. It consists of four
10 residential people residing in residential
11 areas surrounding the old industrial zoning
12 over by Kings Road and Cordell and Curry. It
13 consisted of them, Neil Gifford, Lynn Jackson
14 and John Wolcott from Save the Pine Bush.
15 Brizzell invited Save the Pine Bush. I, who
16 owns property in this industrial area and I
17 live there, didn't get an invitation on this
18 committee. No one in the business community
19 was invited. You tell me how that's fair and
20 not biased?

21 Helen Romano who lives up the road on
22 Kings Road was on that committee. She said
23 that if you don't live in the town, even if
24 you own land, you don't get any say in it.

25 Save the Pine Bush wants zero

1 development. They only want residential.

2 Furthermore, the Albany Pine Bush
3 Preserve Commission was notified about the
4 Comp Plan every step of the way - about the
5 zoning - every step of the way because once
6 they had a technical committee meeting, a
7 member from the town was over there and they
8 tell them everything that's going
9 on -- everything that's before the Town Board.
10 They were notified. They knew that this was
11 happening. What did they do? They contacted
12 the Pine Bush Committee and let them know,
13 too.

14 This is not right. It's like the town
15 saying that we are siding with the Pine Bush
16 Commission and we don't care about anybody
17 else that lives in the Pine Bush. If you want
18 to fax them over a letter every month to tell
19 them what the board is entertaining, that's
20 fine, but I have to pay taxes for a member to
21 go over there for two or three hours for a
22 meeting? That just isn't right. They don't do
23 this for me and I pay taxes. I'm looking into
24 this type of committee. I think that it's not
25 legal. It's just not right. It's not ethical

1 or moral for the town. It's not just against
2 the businesses but it's against the
3 residential property owners, too.

4 The environmental law states that the
5 preserve commission is not suppose to control
6 neighboring properties. I don't think that the
7 CPAC committee that did this - they weren't
8 aware of the law concerning the Pine Bush
9 Preserve. The people of the Pine Bush Preserve
10 Commission, specifically Chris Hawver, was
11 well aware of it. He knew what he was doing.

12 I'm outraged. My property taxes are being
13 used to notify this non taxpaying organization
14 that so negatively effects the property owners
15 in the Pine Bush area. It's like I'm paying
16 somebody to fight me. Its plain un-American.

17 Thank you.

18 CHAIRPERSON DONOVAN: Thank you, Suzanne.
19 Does anybody else have any comments?

20 ***(There was no response.)***

21 CHAIRPERSON DONOVAN: What I would like
22 to do this evening, if anybody wants to make a
23 motion on the concept acceptance of this
24 project and then we'll deal with SEQRA later
25 on down the road?

1 MR. O'ROURKE: I'll make that appropriate
2 motion.

3 CHAIRPERSON DONOVAN: Do I have a second?

4 MR. NARDACCI: I'll second it, Jean.

5 CHAIRPERSON DONOVAN: All those in favor?

6 ***(Ayes were recited.)***

7 CHAIRPERSON DONOVAN: Opposed?

8 ***(There were none opposed.)***

9 CHAIRPERSON DONOVAN: Okay, you will
10 continue to work with Joe?

11 MR. BIANCHINE: Thank you, very much.

12 CHAIRPERSON DONOVAN: Suzanne, I want to
13 thank you for your comments. I have questions
14 about the conservation overlay, too. I don't
15 understand it and I can't find much on it.

16

17 ***(Whereas the proceeding concerning the***
18 ***above entitled matter was adjourned at***

19 ***10:04 p.m.)***

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