

CHILI PLANNING BOARD

January 11, 2005

A meeting of the Chili Planning Board was held on January 11, 2005 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Jim Martin.

PRESENT: John Hellaby, Dario Marchioni, Karen Cox, John Nowicki, Ray Bleier, Dennis Schulmerich and Chairperson Jim Martin.

ALSO PRESENT: Keith O'Toole, Assistant Counsel for the Town; Daniel Kress, Director of Planning, Zoning and Development; Larry Nissen, Town Engineer; Fred Trott, Traffic Safety Committee representative; Bill Arnold, Fire Department representative.

Chairperson Jim Martin declared this to be a legally constituted meeting of the Chili Planning Board. He explained the meeting's procedures and introduced the Board and front table. He announced the fire safety exits.

JAMES MARTIN: I would like to read the following statement for the record.

“Public hearings before the Planning Board sometimes become quite acrimonious. Recently there have been insinuations that the Planning Board has been involved in an alleged cover-up of the Union Station tree removal. On behalf of the Board, I take exception to these insinuations. This Board acts with integrity, objectivity and fairness. It is our intention to do due diligence as to what is best for the Town of Chili and to uphold the rights of the applicant, on any matter brought before us. We are not perfect, but who among us is? I can assure you that the actions taken by the Planning Board are done in accordance with the laws of the Town of Chili and the State of New York. This is a new year. It is my hope that as we conduct business in 2005, we can all act with civility and mutual respect for each other. Thank you.

PUBLIC HEARINGS:

1. Application of Barbara Kiser, owner; 212 Sheffer Road, Scottsville, New York 14546 for renewal of cognitional use permit to allow a riding academy and boarding of horses at property located at 212 Sheffer Road in A.C. zone.

Barbara and Jennifer Kiser were present to represent the application.

MS. KISER: Hello. I'm Barbara. This is my daughter Jennifer. We run the farm together. I'm here. You guys got any questions? I have been here before. At least five of you know me. Nothing has changed except for the fact that we have a complete barn full of horses now. We have 17 horses, 8 of which are boarders. Two are winter boarders which means they will go back in the spring to the camp where they belong to. And the rest are our lesson horses.

I do anywhere between 30 and 40 lessons a week.

MS. JENNIFER KISER: Lesson students.

MS. BARBARA KISER: Lesson students.

RAY BLEIER: A question about the parking. It says you have a parking lot. Previous plans show proposed parking lot. How many collars can you actually accommodate in the parking lot?

MS. JENNIFER KISER: Six.

MS. BARBARA KISER: Six easily. We usually have no more than six at any given time. During my lessons there are only two lesson students at a time in lessons, and the boarders usually try not to come during lesson times to ride their horses. They come at other times.

RAY BLEIER: Do you use their driveway? I thought I recalled last time you used your driveway for parking. Is it a double-wide driveway?

MS. BARBARA KISER: No. We don't use the driveway per se. It is a long road from the street back to, and we have areas on the side, grassy areas that people park on. I don't care if they park on the grass.

RAY BLEIER: Except in the winter when you might have a lot of snow.

MS. BARBARA KISER: Yes. But there has not been a need for that in the past five years.

RAY BLEIER: You never had a situation where cars are parking on the street?

MS. BARBARA KISER: No.

MS. JENNIFER KISER: We would not have that. We'll tell them to park somewhere else. We'll make room if needed, but we haven't had that problem.

MS. BARBARA KISER: We have an area where we park our own cars which could also hold another five or six cars, so we -- we can move our cars to the grassy areas. So we can easily accommodate a dozen cars or more just on the roadway kind of areas itself, and then on the grass, we can accommodate a lot more.

RAY BLEIER: I happened to be out to your place. What is the USDI across the road from you there? Is that a governmental --

MS. BARBARA KISER: Yes. They have something way in the back there. They own some part of that land. It is not mine. I don't know.

RAY BLEIER: I was curious what that was.

MS. BARBARA KISER: I would assume if you asked David Ficke (phonetic) he would know.

RAY BLEIER: There is a road cutting back in there.

MS. BARBARA KISER: It goes back to David Ficke's (phonetic) land.

RAY BLEIER: The only other comment I had was, I think your roadway in could be improved a bit there.

MS. BARBARA KISER: We do that every year. We're having a terrific time with the ruts in the driveway. Unless I take the entire driveway out and start over, I don't know what to do. We have put in stones every year.

RAY BLEIER: Do you stone it?

MS. BARBARA KISER: Yes. Driveway stone every year. Every fall and winter, it starts getting ruddy again. We have had very wet weather so it makes it really harder.

JOHN HELLABY: Business has been good?

MS. BARBARA KISER: Knock on wood.

JOHN HELLABY: Out of curiosity, some of the people that board horses there, do they use your riding arena?

MS. BARBARA KISER: Yes.

JOHN HELLABY: Are there instances when they take them off property, where they might

--

MS. BARBARA KISER: Very rarely. We go down the street. We have permission from Mr. Bean at the end of the road to ride on his property up there.

MS. JENNIFER KISER: But we haven't been lately. Mainly we just go down the road and back.

JOHN HELLABY: Down Sheffer?

MS. JENNIFER KISER: Yes.

MS. BARBARA KISER: We have all the acreage in back if they want to go out of the arena. They can ride out back there. There are five or six acres out there unfenced they can hang out and ride in.

JOHN HELLABY: The only other thing I got, and I don't recall, somebody was rehearsing -- band rehearsals or something back there a year or so ago. I don't recall. What was that structure removed now?

MS. JENNIFER KISER: It's gone.

MS. BARBARA KISER: It was just a temporary thing. He wanted to have a party back there, my son-in-law.

JOHN NOWICKI: Curiosity question for you. On the average, how long does a healthy horse live?

MS. JENNIFER KISER: 20 to 30 years.

MS. BARBARA KISER: On average, 20 to 30 years.

MS. JENNIFER KISER: Depending on the breed.

JOHN NOWICKI: Not bad.

Any social programs that -- just kidding.

MS. BARBARA KISER: No rehab programs for the horses.

DENNIS SCHULMERICH: How many people years is that?

MS. JENNIFER KISER: It's three. When their young, it -- it goes faster, not just three, but as they get older, it is about three.

DENNIS SCHULMERICH: So I do have a couple questions. How many horses can you actually accommodate? You have --

MS. BARBARA KISER: 17. That's it. We're full. I will not have any more.

DENNIS SCHULMERICH: The site map, you show proposed riding arena, proposed parking, those are all in place?

MS. BARBARA KISER: Yes. '99, we built those.

DARIO MARCHIONI: I wish you the best and good luck.

MS. BARBARA KISER: Thank you. We hope to be in business for a long time. I want it to be hers when I croak.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: Could the Board please post the diagrams so that the public can see them? Thank you.

JIM MARTIN: Of the riding academy.

MR. RETTIG: As we go along, please, thank you.

JIM MARTIN: It's posted.

MR. RETTIG: Thank you.

JOHN NOWICKI: What was the conditional use for last time?

DARIO MARCHIONI: Five years?

JOHN NOWICKI: You want it five years?

James Martin made a motion to close the public hearing portion of this application, and John Nowicki seconded the motion. The Board unanimously approved the motion.

The Public Hearing portion of this application was closed at this time.

Jim Martin made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and the Board all voted yes on the motion.

DECISION: Unanimously approved by a vote of 7 yes with the following condition:

1. Conditional use permit is renewed for a period of five years.
2. Application of James Valerio, owner; 849 Paul Road, Rochester, New York 14624 for resubdivision approval of 2 lots in the JVJP subdivision at properties located at 1025 & 1027 Chili Ctr. Coldwater Road in R-1-15 zone.

Justin Myers was present to represent the application.

MR. MYERS: Justin Myers with Avery Engineering representing Mr. Valerio.

Basically the only alteration and reason we're here with the resubdivision is the addition of 15 feet on the rear lot of Lot 2 located at 1027 Coldwater Road, and it seems that the only problem that that is creating is a setback problem, less than 15 feet with the existing -- I believe it is a garage behind Lot 2, and with that, we are -- we have received from the owner James Valerio a letter stating that the existing garage in the rear will be either removed, relocated or brought before the Chili Zoning Board of Appeals by July 30th of 2005. And other than that, we also received a fax from the Town today stating that the property is not yet in the drainage district and the applications for the -- for that have been sent to the Town Clerk. And the other comment was the existing building being less than 10 feet from the proposed new lot line, but with this letter, the owner plans on taking care of that by July. Other than that, that is about it.

RAY BLEIER: I'm a little uncomfortable with that variance or -- it is an "or" situation. He will either do one thing or another. I don't know. I -- my preference is it should be something more specific. Either one or the other. I'm not sure -- if it is going to be a variance, he obviously has to go to the Zoning Board for that variance. That is the only concern I have on that. There is no objection to the --

JAMES MARTIN: Is there some significant issue with the shed itself, as far as the physical movement of the shed or removal of the shed, to be taken care of?

MR. MYERS: Not that I'm aware of.

DENNIS SCHULMERICH: Shed or garage?

MR. MYERS: I believe it says "garage" on there. I don't believe there is anyone living there or that -- it has been brought to my attention it is kind of a vacant building, so I'm sure they will be willing to do whatever they need to.

JOHN NOWICKI: I'm sure they will take care of it.

KAREN COX: Can you explain to me why you're adding 15 feet on the back? It is not really clear to me.

MR. MYERS: Before I was told that within the last ten years Coldwater Road -- maybe more than ten years -- was expanded.

KAREN COX: Correct.

MR. MYERS: The owner wanted to have the property be the original size, so based on the expansion, they wanted to add that to the back of the property. Plus -- I don't know if I can leave the podium -- as far as the numbers, your minimum lot sizes, it actually meets them after you add 15 feet to the back.

KAREN COX: I mean, so he is just doing this out of the goodness of his heart? It just is kind of an unusual application to just add 15 feet on. Is there a requirement by the person who bought this house to have the lot go back to its original size?

MR. MYERS: Easter Seals is the company that -- there is going to be a community residence placed there, and I'm under the impression that is why they wanted the 15 feet on the back of it, for his future improvements. That is all I'm aware of.

KAREN COX: I kind of share the -- Ray Bleier's concern, that we -- you know, we really need to say, you know, if we're going to approve this, that he has got to make the zoning problem go away on the Lot 2B, not just give him an open-ended approval.

JOHN NOWICKI: I think you can make his letter, that he has made a commitment to in the letter, as part of the condition, that he -- that his word is at stake here. So the letter is on record, I think we would be protected.

RAY BLEIER: These things get awful hard to police though, to flag it for July 30th and say, all right, what is happening? That is why I like to be specific. I don't like the "or" situation.

DENNIS SCHULMERICH: Is there any reason we couldn't approve it on contingency the zoning variance is granted and then whether Jamie (Valerio) chooses to move the building or not is inconsequential once the variance is granted.

RAY BLEIER: You can do that, but there is a question of filing. If he is going to refile the subdivision map, and -- you know, to leave it up to the air, to the Zoning Board -- if we make it contingent on our finding that he -- I don't know. To me, I think the cleanest way is to just say he has to get the variance. If he takes care of the garage, then he doesn't need the variance.

JOHN HELLABY: Question for you, Keith (O'Toole). Can we legally vote on this knowing we're going to put him in the non-compliance?

KEITH O'TOOLE: Yes.

JOHN HELLABY: As long as it is stipulated that it is corrected like with a variance or something?

KEITH O'TOOLE: Actually, even if it is not stipulated.

JOHN NOWICKI: This property we're adding the 15 feet to is the Easter Seal property? All we're doing is helping them out to get the 15 feet. What happens beyond that property line is for Jamie (Valerio) to deal with. We have a letter on record indicating his intentions. I don't have a problem with that.

JOHN HELLABY: I don't have a problem with that either.

RAY BLEIER: You better put in your findings then exactly what you're doing, not ignoring it. It won't go away.

JAMES MARTIN: I mean it has been recognized and addressed by the owner, and it will -- we'll put it in as a condition of approval and ask Mr. Kress to follow up on it.

JOHN NOWICKI: It's in the minutes.

JAMES MARTIN: I will keep track of it.

Fred Trott arrived to the meeting.

JOHN HELLABY: That 15 foot just coming off the -- the larger lot, the R-2B, correct?

MR. MYERS: Yes.

JOHN HELLABY: These are already presently two separate lots; am I correct?

MR. MYERS: Yes.

DENNIS SCHULMERICH: A question I have, maybe not the only one, is by extending the lot 15 foot, if I look at the dotted line on the diagram, I'm assuming that Lot 1 and Lot 2 were not

even to begin with. That lot line is not straight across. There is a -- a departure from one lot to the other? So now all you're doing is having to zigzag, extend further for Lot 2 -- they weren't straight before.

MR. MYERS: No.

DENNIS SCHULMERICH: Lot 1 abuts with the one behind it, and they're not going to be disrupted with this 15 foot except for the framed building Jamie (Valerio) owns behind it?

MR. MYERS: Yes.

DENNIS SCHULMERICH: I'm fine with it. No other questions.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: Just a question. I see on the layout drawing a framed garage to the west of the properties. Is that the garage that you're referring to for this variance?

MR. MYERS: Yes.

JAMES MARTIN: That was correct. That is the garage that is being referred to for the variance.

MR. RETTIG: Thank you.

And I -- I personally agree with Mr. Bleier and Ms. Cox that I think a condition to define or a letter would be reasonable forthcoming for the Planning Board to file for the record. As you so stated, I believe, Mr. Martin.

JAMES MARTIN: We have that, and we will file that with this application.

MR. RETTIG: Are there any other improvements on the original property, that would be the large lot? The reason why I ask is, because in the records they show an improvement, and that -- I assume that would be the garage that we're talking about on the large lot. Are there any other improvements on that lot?

JAMES MARTIN: R-2B? Is that your question, Mr. Rettig?

MR. RETTIG: The large lot. The 2.2 acres or something around that.

JAMES MARTIN: No, there are no other improvements noted for Lot R-2B.

MR. RETTIG: That framed garage we're talking about would be the only improvements we're referring to at this meeting, and only on that lot.

JAMES MARTIN: That is the only issue we're dealing with on that particular lot.

MR. RETTIG: Are we dealing with any issues of any variances on the garage to the house, as to any need for any variances to the north, or not?

JAMES MARTIN: There has been none noted at this time.

MR. RETTIG: Thank you.

James Martin made a motion to close the public hearing portion of this application, and John Nowicki seconded the motion. The Board unanimously approved the motion.

The Public Hearing portion of this application was closed at this time.

JAMES MARTIN: No SEQR is required.

The Board discussed the proposed conditions.

DANIEL KRESS: I checked the end of last week. We didn't have the application for drainage district. If it has come in, it is a non-issue. If the Board puts it on as a condition and the paperwork has already come in, it is a non-issue.

JAMES MARTIN: We'll put it on anyway. Condition 1, application for entering the property into the drainage district.

The Board further discussed the proposed conditions.

DECISION: Approved by a vote of 6 yes to 1 no (Ray Bleier) with the following conditions:

1. Petition the Town Board, through the Town Clerk's Office to include this resubdivision in the Chili Consolidated Drainage District.
2. Per your letter of intent dated January 11, 2005 (copy enclosed) concerning

the yard shed on Lot R2-B of the J.V.J.P. Subdivision, applicant has until July 30, 2005 to resolved the variance issue created by this resubdivision approval.

3. Application of Mr. & Mrs. James Lepore, owner; 3218 Chili Avenue, Rochester, New York 14624 for preliminary site plan approval to erect a single-family dwelling at property located at 75 Beaver Road in R-1-20, FPO, FW zone.

James Caruso was present to represent the application.

MR. CARUSO: Good evening, Mr. Chairman and Board members. I am John Caruso here on behalf of James Lepore.

Mr. Lepore has purchased a portion of the old Zuber farm on the south side of Beaver Road. It is about a 73-acre piece. He intends to construct his own home there. Mr. Lepore is a resident of Chili currently, and he and his father run the Chili Liquor Store. He wanted to build himself a house near his business.

The reason I believe this parcel of land is in for site plan approval is that the parcel contains flood zone. It is in the overlay district, and as hard as Dan (Kress) and I tried not to have to bring this before the Board for a simple site plan, I guess the flood plain and the overlay did require us to come before the Board.

The parcel has access off of a County road, has potable water. Will have a septic system for the house. It is basically built up on top of the hill and separated in rather large distances from any flood plain or wetlands or anything of that nature. We literally spotted the home on the highest location on the land by design. That's it.

DARIO MARCHIONI: What type of house will he put up there?

MR. CARUSO: Two story single-family home, no in-law apartments that I know of. Just pretty much -- I think he will use a local builder. He has been talking with me about using a local builder, Pride Mark, to build his home.

DARIO MARCHIONI: Will the long driveway be blacktopped or gravel in the beginning?

MR. CARUSO: Knowing Aldo (Lepore), I am sure it will be blacktopped. Aldo (Lepore) really does -- Aldo (Lepore) is his dad. He usually does things right, so -- probably gravel for a while, but I know Aldo (Lepore) will work a deal with somebody to get blacktop for his son.

DARIO MARCHIONI: All this land just for one house?

MR. CARUSO: Yes.

DARIO MARCHIONI: No intention of resubdividing this later on?

MR. CARUSO: There may be. The parcel is big enough it could support other development, but right now, you know, his -- his other daughter has a home, and this is all that I know of.

DENNIS SCHULMERICH: Based on how I interpreted your opening comments, I'm interpreting that all structures and development of the property will be outside the flood plain boundaries?

MR. CARUSO: Yes.

DENNIS SCHULMERICH: That would include the septic system, of course?

MR. CARUSO: Yes.

DENNIS SCHULMERICH: No other questions at this point.

JOHN NOWICKI: John (Caruso), can you state for the record definitely it will be Pride Mark?

MR. CARUSO: No.

JOHN NOWICKI: Can you supply us with evidence of that, who the home builder will be? I would like to see that on record.

MR. CARUSO: Sure.

JOHN NOWICKI: There is a quality factor and design factor that I would like to be comfortable with.

MR. CARUSO: At the time he draws a building permit you would be able to know that. I know he told me that's who he wanted to have build his house. He was looking at floor plans. I asked them to supply me with the building plan that they wanted that I put on the map. But I don't make the decisions for Jim (Lepore). I'm pretty sure he is going to use them.

JOHN NOWICKI: Good. That is all I wanted.

JAMES MARTIN: Do you have a copy of the letter from Larry Nissen?

MR. CARUSO: What is it dated?

JAMES MARTIN: January 5th, 2005.

MR. CARUSO: He did not get --

LARRY NISSEN: It went to Brian (Donald).

JAMES MARTIN: It went to Brian (Donald). I'm sorry. It is the usually -- certainly the SWPPP plan, if you're going to disturb any more than one acre. Erosion sediment requirements. I don't know if you calculated how much will be disturbed with road going all of the way back in there.

MR. CARUSO: We're under an acre. Our design plan shows erosion control. We don't need a full SWPPP, but we'll provide erosion control to the likes of Larry (Nissen).

JAMES MARTIN: As long as you're satisfied with Larry (Nissen).

JOHN HELLABY: The only thing I got, DRC review, there are like 21 comments. Have you gone through them? Bunch of boiler plate.

MR. CARUSO: Must be the flood plain really. But most -- the most appropriate comment. If you will notice, if you dig through in the 20s, comments from Peter Lent from DEC where he comments that the applicant has set the house and the septic system away from any further permits that are required, so I think it was good that Peter (Lent) picked up on that, because that is what we were trying to do.

KAREN COX: Everybody else asked the questions I was going to ask. I don't have anything further.

RAY BLEIER: The only comment I have is it's a long way to have services. Servicing one house.

JAMES MARTIN: Clearly will be restricted from doing any filling, anything in that flood plain, flood way.

MR. CARUSO: Those are so far away from any of his intentions.

JAMES MARTIN: But he owns the property. So that's something we have to be concerned about.

MR. CARUSO: All that is regulated stuff. You just can't do it without ramifications or getting a permit.

KAREN COX: Is he aware of that?

JAMES MARTIN: Hopefully he knows that, that that is a no-no.

MR. CARUSO: Yes.

DARIO MARCHIONI: When we approved the whole Wegmans subdivision, you have to refresh in my mind, but we asked the Zubers to give us a drainage easement in case we ever have to clean that ditch, because there's a ditch going through the property. It seems it is going through this property also, a part of it. Is this lot line right in the middle of that ditch?

MR. CARUSO: I think so.

DARIO MARCHIONI: I was wondering if it is possible to get an easement in case we have to drain it. Because that's a designated swale for drainage. You know in the past it has been important to us, John (Caruso).

MR. CARUSO: I don't think it is a problem giving you an easement here, but can we have it just go to the first corner, because I think that is where -- put an easement, a drainage easement along this 764 feet?

DARIO MARCHIONI: That would help. Then it is going right down the hill, the other one?

MR. CARUSO: Yes.

DARIO MARCHIONI: So --

MR. CARUSO: That is where the water runs. It doesn't run down the other property line. It goes uphill from there. It is a drainage easement. That's no big deal.

DARIO MARCHIONI: Just in case in the future we have -- upstream we have problems with drainage.

MR. CARUSO: I will put -- do you want to split a 30 foot easement -- I will put 15 on our side and 15 for the other side. That's fine.

DANIEL KRESS: Is it fair to say there really isn't any construction or development proposed within the boundaries of the flood plain?

MR. CARUSO: Yes.

DANIEL KRESS: Would it be possible adding a note on the drawing to be clear for future reference that any additional construction or development within that area would require either a permit and/or coming back to the Board?

MR. CARUSO: Yes. I mean the plans don't show any development in the flood plain. We're not proposing any. We're not asking for approval in any. If you want me to add a note that says future development in the flood plain -- sure. That's an easy one to give.

DANIEL KRESS: That would satisfy the federal insurance requirements.

JAMES MARTIN: You want a note on the plan citing any future development of property must be --

MR. CARUSO: Aldo (Lepore) built a tree stand down in the corner. I don't know if he got a permit for it or not.

JAMES MARTIN: Planning Board?

DANIEL KRESS: Permit and/or Planning Board approval I think would be sufficient.

(Laughter.)

MR. ARNOLD: Has the Fire Marshal had a chance to review these prints?

JAMES MARTIN: I don't know the answer to that.

Has the Fire Marshal --

MR. CARUSO: Gone through DRC.

JAMES MARTIN: I'm talking about Town of Chili Fire Marshal.

DANIEL KRESS: Yes, he has.

JAMES MARTIN: The answer is yes.

MR. ARNOLD: Did he have any concerns with fire protection, being it is so far off the road?

DANIEL KRESS: None that were raised in the course of the review.

MR. ARNOLD: Will he install sprinklers in the house?

MR. CARUSO: I don't think so.

MR. ARNOLD: I'm satisfied.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I think it was mentioned, but I missed it. How many acres are in this parcel that they're buying?

MR. CARUSO: About 73 acres.

MS. BORGUS: Is the drawing on the left, that is on the board, the actual outline of the parcel they're buying, the irregular -- the east end?

JAMES MARTIN: John (Caruso), would you go ahead and outline --

MR. CARUSO: I will point it from here. The parcel, as it is drawn, this is the top half of it (indicating), and this is the bottom half of it (indicating). So it is split like this (indicating), sitting on top of each other. They're only developing near the road. The top northern half. So that is why we only showed this area here (indicating).

MS. BORGUS: And the drawing to the side of what I assume is the house, is that the septic system shown?

MR. CARUSO: The house is up in there (indicating) and the septic system is over here (indicating).

MS. BORGUS: That is the other drawing, the septic system?

MR. CARUSO: The second page?

MS. BORGUS: Right here (indicating), what is this?

MR. CARUSO: The house and the septic system. You pointed to the septic system.

MS. BORGUS: This is the house (indicating)?

MR. CARUSO: That was correct.

MS. BORGUS: The only other question I had is -- this maybe is irrelevant to the approval, but I'm concerned about the application. Does this gentleman currently live at the liquor store? Is there a home there?

JAMES MARTIN: I don't know what that has to do with the application.

MS. BORGUS: It doesn't have anything to do with the approval. I'm just curious. I thought that when you came here, you put down a home address if you had one.

MR. CARUSO: The applicant lives in a home in the Town of Chili, and his business is the Chili Liquor. He does not live at Chili Liquor, but he sent his mailing address for any correspondence to him at his office, which is at the liquor store.

GARY JOHNSON, 65 West Forest Drive

MR. JOHNSON: I live at 65 West Forest Drive. Speaking on behalf of my mom. She owns

the property adjacent to the purchased Zuber property. A couple of questions that have come up, and problems that have come up recently, is we're concerned about drainage. I have written a letter to the Planning Board, Zoning Board, Supervisor, and we're experiencing drainage problems from the Vistas, and I'm concerned that any future development, whether it be on Zuber property, you know, with drainage going towards that 100-year flood plain, or even the 94-lot subdivision which I will hold off until we speak later, could create a larger flooding problem than what she is experiencing now. I guess my first question is, is the septic system draining northwesterly. Would that be correct, towards the flood plain?

MR. CARUSO: Yes.

MR. JOHNSON: Currently we are experiencing erosion and potential pollutants coming from the Vistas, diagonally across through the Zuber property on Archer Road, and it ends up coming past the Jehovah Witness church and ends up flooding my mother's farm currently in that flood plain. We have experienced more flooding in the past year and a half since the Vistas have been broken into. That property used to be tiled. Frank Zuber owned it at one time. All of the tiling was torn out when the Vistas started doing their excavation work. They also put a 20-inch tile underneath Archer Road and replaced a 16-inch existing tile because of the capacity issues, and basically, it is full all of the time, up to the top of the tile.

Again, my concern is my mother's farm is getting flooded. The farm has been in the family since 1877. I have been trying to go through the Town Board, Planning Board, Supervisor, even the Town Engineer I have spoken to him on the phone and he has actually walked the property with one of his associates. Again, my concern is, this is a single-lot subdivision, but if they happen to put more houses in that subdivision in the future, it is only going to get more pollutants in maybe one of the very few existing farms in the Town of Chili. Excess drainage water, I have already gone through with Mr. Nissen's associate and shown him ruts in the farm where the water is excessive and I can't get my tractor into a 12-acre area because of the excess water from the Vistas.

So my concern is, first concern, is an excess of water coming potentially through the septic system into the 100-year flood plain.

Second, I have a question. Since this property had not been surveyed for -- I am going to assume the last 80 years since my great grandfather owned the property adjacent to it, were there survey markers put in at the time of the survey? I haven't seen any, and -- any stakes, any corner markers? What did they use to develop these? I have a plat map dated 1902 at home. I am just wondering what was used to develop the markers on this property. At one point in time they talked about corner stones. It is a little outdated. There was a data marker in my mother's farm which was moved, I believe, northwesterly up the street. Those are the two questions I have currently.

JAMES MARTIN: Okay. I guess John (Caruso), do you have any direct answers at this point in time to those two issues?

MR. CARUSO: With respect to runoff from this parcel, it would be rather insignificant. The issue with runoff from the septic system is really like apples and oranges. You don't have runoff from the septic system. If you're talking about the seepage of flow from the sewage to the 100-year flood plain, um, septic systems are supposed to go down, not out and flood plains, everything is in the soup. So I don't quite understand the correlation of that.

As far as the subdivision goes, we did run the boundary on this subdivision. It was done by our office and stamped by a licensed professional surveyor. And we do -- we are intending to stake the property line boundary. I don't know -- were you referring to stakes you had seen or were you wondering if some were going to be placed?

MR. JOHNSON: I was wondering if some were going to be placed and requesting some be placed.

MR. CARUSO: They will be placed.

MR. JOHNSON: It used to be pasture land. Some of the markers and the trees, you know, would potentially show up if you used a metal detector in the trees for barbed wire fence.

MR. CARUSO: Well, I can say that we're going to stake the property line. We intend to do that.

JAMES MARTIN: So if it hasn't, it will be surveyed?

MR. CARUSO: I think the property line has been staked. Mr. Lepore asked us to stake his west line so that he didn't go over it during deer season, to be honest with you.

JAMES MARTIN: Your concern with drainage has been noted. Clearly, I don't think other than a single house there is any intent to put any more houses on that property.

MR. JOHNSON: Such a long driveway, I guess I have a concern it could feed other houses or other driveways in the future, and potentially that is a concern. I'm sure they would have to go

through all of the paperwork.

JAMES MARTIN: It would have to come back for a review. If there were drainage issues, they would be addressed at this time.

JOHN NOWICKI: Gary (Johnson), I think the letter and points are well-taken. It is just observation. All of that area, in that immediate area right there, will obviously come under some pressure for development. As time goes on, it will probably be a good thing the Planning Board recommend that be -- that the area be studied from a drainage standpoint beyond your property. In fact, the whole area. I would say from Chili Center all of the way over, that we start to take a look at those drainage patterns in there, because we don't want to see that get out of control. Because there will be some pressures there.

JAMES MARTIN: That is a good point. We need to take a regional approach. With the Links of Black Creek, the other potential development coming along Archer Road, we do need a regional solution to that.

JOHN NOWICKI: You have the church project that could advance. You will see some activity there. I think your points are well-taken. Now is the time to take a look at this seriously from a regional point of view.

MR. JOHNSON: I have tried to be proactive and write the letters and bring in the background with the problems that occur.

CHARLES RETTIG, 1032 Coldwater Road

MR. RETTIG: Just a question. Is this already, or will it be, or has it applied to a drainage district?

JAMES MARTIN: Application has been made for this property for the drainage district approval.

MR. RETTIG: Another question. Is there any intent for well drillage – well, drilling, water well drilling on the property?

MR. CARUSO: No, sir. We have potable water at the street. We'll be bringing in water service for the house.

James Martin made a motion to close the public hearing portion of this application, and Dennis Schulmerich seconded the motion. The Board unanimously approved the motion.

The Public Hearing portion of this application was closed at this time.

MR. CARUSO: Mr. Martin, if the Board would consider, we're asking for preliminary and final site plan. There is no subdivision to do. It is already one piece of land. So if the Board would consider granting us final, thank you.

Jim Martin made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an unlisted action with no significant environmental impact, and the Board all voted yes on the motion.

The Board discussed the proposed conditions.

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. Pending approval of the Town Engineer.
2. A drainage easement is to be granted to the Town of Chili for maintenance of the drainage swale on the north property line.
3. A note must be added to the plat map citing that any future development of the property must be reviewed by permit or the Planning Board.
4. The applicant is to comply with all comments from the Monroe County Development Review Committee.

Note: Final site plan approval has been waived by the Planning Board.

4. Application of George Eastman House, 900 East Avenue, Rochester, New York 14607 for

renewal of conditional use permit to allow a storage warehouse for motion picture films at property located at 3511 Union Street in G.I. zone.

No one was present to represent the application.

JAMES MARTIN: This is the first call. We'll set that aside. Someone might show up.

That was the last public hearing on the agenda tonight. There are other items on the agenda, informal, and two are for discussion purposes only. The informal application, there will be no public comment on that particular application.

INFORMAL:

1. Application of Niagara Car Wash, c/o David Sadaly, 5 W. 10th Street, Erie, PA 16501 for final site plan approval to erect a 40' x 67' car wash at property located at 3270 Chili Avenue in G.B. zone.

David Sadaly, John Munch and Justin Myers were present to represent the application.

MR. MUNCH: Good evening. My name is John Munch, 5 West 10th Street Erie, Pennsylvania, one of the principals for Niagara Carwash that has been before the Board before. Tonight we're seeking final approval. The most organized way to go through, I guess, is to go through the December 16th letter to us from the Planning Board and address items 1 through 8 in that order.

Petition the Town Board through the Town Clerk's Office to incorporate this parcel in the Chili Consolidated Drainage District. We have put that paperwork together. We are waiting to get overnighted back signatures from the owner, although we have been able to sign everything up to now because we would not close until our approvals are in place. They wanted the signature from the owner. What we're asking for is final approval pending that – getting it approved. We don't have any reason to believe they would not be welcomed into the drainage district so to speak.

JAMES MARTIN: Mr. Kress, it is not on file yet is what he is saying?

DANIEL KRESS: Last I questioned, we did not have an application.

JAMES MARTIN: Okay.

MR. MUNCH: That is all ready to go. Just waiting to get it overnighted back from the current owner. We technically haven't closed, although we have a contract on the property.

JOHN NOWICKI: Legal counsel, Keith O'Toole, do we have a problem with that? They have not closed on the property yet. They're not the owners.

KEITH O'TOOLE: If they provide evidence of authorization, contract vendees, sending a copy of the contract, that is fine.

MR. MUNCH: We can provide a copy that it is under contract.

Pending approval of the Town Engineer.

Final landscaping plan, that has been submitted.

Pending Zoning Board of Appeals approval for variance of signage, size, square footage. You will recall we shrunk our building down after talking to the neighbors to only allow for the types of bays where the doors close during operations.

Well, when -- we didn't anticipate because your particular sign ordinance is based on so many square foot per lineal square foot of the building, even though we have no pylon sign, we do have an application in, and January 25th is the next Zoning Board. That is when we expect to have that cleaned up.

Noise measurements for the mechanical operation for – from the property line, those have been provided.

JOHN NOWICKI: Back up. Give us a review of that. When you say "provided," what did you provide?

JAMES MARTIN: I don't have a copy of that.

KAREN COX: You didn't get one?

JOHN NOWICKI: No, I haven't got a copy of that.

MR. MUNCH: December 22nd.

KAREN COX: It was in a package.

MR. MUNCH: There was a packet provided. I don't know if it was circulated.

KAREN COX: I've got one. It was attached to the --

DENNIS SCHULMERICH: Letter of transmittal.

MR. MUNCH: That is the first page.

KAREN COX: The Planning Board application had a whole bunch of attachments.

JAMES MARTIN: Sorry. We have a copy of it.

MR. MUNCH: I can go through and describe how we took our noise readings just for simplicity sake. You will note that there is a diagram which is page 1 of – the noise notes is readings and page 2 is a diagram. I apologize that these weren't put through in a format where you had a chance to review this. I will explain it. Quick. A, B, C are three locations of readings. A being at the property line. B is one of the residence behind it, and C at another residence, sort of the same thing.

The first -- we give you ambient day and nighttime readings. In other words, these are the readings of ordinary background noise, different times of day and the ranges. Just kind of without the carwash or what is currently existing there. These are pretty typical for the sites except for some rural sites.

Then what we did is took an actual site at the same distances for A, B and C and took readings. For some of the readings, our equipment didn't go down that low. We borrowed some more sophisticated equipment because to get a meter down below 45, it is very difficult to detect on some of this equipment.

I will just run down what these are. There is presoak, wash, foam, wash, wax, rinse and dryer. The presoak is where if you were standing next to it, you won't hear it. It is a very light misting of this stuff that loosens up the dirt.

Wash, that is a higher reading because that is where water is getting splashed on the car.

Foam wax, that would be like a wax kind of dripping down, but it -- nothing you could detect with your ear. But it -- but they still will register a reading because there is ambient noise. Breezes going by, what have you.

Rinse, that's a light rinse, water.

Dryer is the loudest thing. The reason the dryer -- if you were inside, it is pretty loud. Because the doors come down, we would minimize that. They're all within your night ambient readings taken after midnight on the site in Chili. So as you can see, because of the measures we have taken and because of the equipment we chose to use, it is not going to be in the range where you will detect anything that is going on. It will be in the same range it is right now.

JOHN HELLABY: If I could interrupt, were these decibel measurements taken at one of your existing carwashes?

MR. MUNCH: The measurements, yes, listed below were taken.

JOHN HELLABY: Did you physically -- you took an ambient reading, but you didn't physically take these in? These were done at another location?

MR. MUNCH: It would be impossible until we build the building, so what we did is we took what readings we could get of this equipment at the same distances in the same locations behind it. We -- Dave and I went and measured it off.

JOHN HELLABY: At an Erie location?

MR. MUNCH: At an Erie location that we could compare. It is lower than your ambient in some cases. That is because it is a little rural and a little quieter than what have you here. That is why -- you can say how can you possibly have a 43 when the ambient is 45? Because your ambient is 2 decibels, which is basically undetectable, higher, at the bottom range kind of thing.

So the conclusion, I guess, is even at the property line, it will not be detectable due to the measures we have taken. Especially when you get down to B and C, you can see it definitely will not be detectable, given the measures we have been taking, given where the homes are.

Let me get back to the first page here. Application to supply technical proof operation must be in the 24-hour-per-day activity. We supplied a couple things to try to satisfy this.

The first one is Carwash Systems -- so you know who this is, Mark Tindale, he is the dealer of this equipment. He owns and runs several of these, and he is like our technical support. Coleman is the manufacturer of most of the equipment, and we asked him could this be adapted less than 24 hours. Already in the past he told us it is kind of a practical impossibility.

We asked him to provide a letter outlining what is the technical reason for that. You will see he has A through G of problems that emerge, and then he talks about in paragraph 2 what has happened where they need to modify the equipment in past and basically because the manufacture never intended it to be less than 24 hours, they kind of end up adding other manufacturer's equipment. The interfaces don't match up well. It voids all of the manufacturer's warranties.

It would -- the gantry has hoses that need to weep on a 24-hour basis. If you shut the equipment off, that is one problem. It can't weep and it ruins the equipment. If you put it on a timer and it shuts down while there is still water in the lines, especially in a climate like this, it would

freeze up and ruin the equipment almost as if you don't have antifreeze in cars. The heating system has to run constantly in the winter. That is because of the sensitivity of the equipment.

There is -- the auto teller was only designed to run 24 hours and at a certain time of night because it is not busy, it shuts down and does tabulations. During the day, it can't do that. If you shut it off, the software wasn't written for that. I'm not an electronic expert and don't pretend to be.

There are also practical reasons. We talked earlier about the fact that we have a few of these sites up and running and we don't have any problems with loitering. We have never had a break-in. You know what I mean? And one of the reasons is, it is lit 24 hours, at least in the bays. It has got 24-hour surveillance. That all goes through the same computer, the same software that runs all of the equipment. We have not done it and I'm not saying there isn't a way to do it. Technologically, there is a way, but our manufacturer never intended it to run that way and we don't -- it is better equipment. It is quiet equipment. It lasts longer.

And also, he does list some of these practical things, but really it's a security problem, because if -- if the lights go off at a certain time and they think there is money in there, and the power is down, you know then the security systems don't work. And right now, like I say we don't have any loitering or people hanging around at any of our sites and that's because they're lit and you can see there are cameras. Nobody wants to be on candid camera.

This conditional use permit is for a two-year period. That is not really for us to address.

The last one is regarding operating hours again.

So I guess what we're seeking is approval, you know, conditioned on engineering approval, I guess, and that our -- that we are approved as part of the drainage district, which we expect to be.

JAMES MARTIN: I have looked at your noise readings, and I agree that your mechanical equipment is probably not a significant issue, as far as a residential aspect of the neighborhood surrounding you, but I still have a concern about people coming in there late at night with radios blasting. I mean I have a very significant concern about hours of operation, and the impact that that is going to have on the residence directly bordering this piece of property.

And I would propose a fairly simple solution that would solve a problem for both of us. That is a sign or two signs somewhere in the queuing line and perhaps in the rear of the building where the entrance to the carwash is, that says you know, "Hours of operation are from 6 a.m. to 11 p.m.; sorry we're closed."

I mean something to that effect, a sign that lights up at that particular time, that tells people you know, and for all intents and purposes, your carwash is not operable and that they drive away. I have to respect the concerns of the people that border that property, and so again, you have kind of proven it is not your mechanical operation that is the concern, but I'm concerned about the people coming in there with these big units and things of that nature which could be very disruptive to the people that are just across the fence on the property.

So I will try that on you and see what kind of reaction I get because I think it is a simple solution that keeps your operation going to solve all your technical issues, but it solves our problem as far as hours of operation and concern for the citizens of Chili.

MR. MUNCH: I respect that. I just would say, you know these are field-tested and we have closer neighbors in our hometown in the back. Believe me, I'm the first, because I don't like the loud radios when they go down the street, but the first thing you do when you close -- if it is a warm summer night, you close your windows up because you're going to go into the carwash.

JAMES MARTIN: That is two or three cars ahead of you in line.

MR. MUNCH: Right. I will go back to my partners. I'm sure we could add signage. The problem is I have to go for the zoning variance because now we're adding signage. You know, they count every little instructional letter. That is where we ran into trouble.

RAY BLEIER: Jim (Martin), I have another possible solution. How about granting this application as presented for conditional for one year, have them come back, and see if there have been any problems. If there haven't been any problems, we could let it fly longer. But at least now, you would have that mechanism that if there are problems noted through the Building Department, you know, then we have very good reason to not have the operation going overnight.

JAMES MARTIN: I will open that up to the Board. There have been a couple suggestions on the table.

DARIO MARCHIONI: How about the wintertime? Middle of the winter they won't have the windows open.

JAMES MARTIN: I'm not worried about the winter. I'm worried about the summer.

KAREN COX: That is a solution that doesn't force the applicant to go right now in front of the Zoning Board. It gives us kind of a benchmark, if you will, you know, to -- when we revisit in a year to see if there are any issues.

JOHN NOWICKI: I won't mind seeing that shorter than that period of time. Go through the summer months. And not go a year because you're talking about going into -- through the next winter.

KAREN COX: Well, a year would bring it back to January.

RAY BLEIER: It is kind of like a full cycle of time.

JOHN NOWICKI: I agree with the Chairman. If you have boom boxes, it will be the summer months.

MR. MUNCH: We would sure appreciate it if you see how it goes because we have not had a problem. We're traffic-driven, so at night there will be very few cars there. With three of these to pull in, the chance of three cars coming late at night, I wish we were that busy. It just doesn't happen for us.

JAMES MARTIN: I can't sit here and say there isn't going to be an issue here around the noise aspect.

A question. If the signs that I have tentatively proposed are not part of their advertising scheme but are a part of the operation, would they also fall under the sign laws as far as the Town of Chili goes?

DANIEL KRESS: I was just looking at signs, language under signs not requiring approvals, and I believe there is some language in there that would include those as signs that would not further complicate a variance application. If they're accompanied by a 500 square foot Niagara Carwash logo, maybe we're in another category. I think something reasonable can be accepted.

KAREN COX: The only concern I have with that is somebody, out of human nature, will say I will go in and see if those signs are true, or a -- or -- wet paint, people touch it. Once it is discovered that the carwash does indeed operate 24 hours, then the purpose of those signs has gone out the window.

JAMES MARTIN: If we follow Ray (Bleier)'s suggestion and give them a period of time and see if there are any complaints, and there are complaints, then we'll have to fix it.

KAREN COX: If you gave -- if you went with the suggestion of revisiting in a year or some period of time, and we found out there were problems, then I would say let's revisit the sign thing and put it up. But, of course, that -- people will --

DENNIS SCHULMERICH: There has to be some teeth behind that signage. If essentially the manufacture is suggesting the inability to shut down or lock down is not there, the mere presence of signage itself won't be sufficient if we have a problem. It seems to me there will have to be some confidence with the business owner and/or the manufacturer that if we require at some point in time there be a shut-down, that they have the capability to do a shut-down, not just signage. I like the idea, but there has to be some teeth behind it to say if you're going to shut down, you better have a way of shutting down by either cutting off the cash box, locking the door, let the system weep, whatever, but there has to be reinforcement you're down, you're down.

MR. MUNCH: The only thing I could think of is if we have to come up with a barrier in front of where you pull in.

DENNIS SCHULMERICH: Or software mod to the cash box such that it won't take the money. Then after that, it doesn't matter. It literally shuts down taking money at 11 p.m. or whatever time we agree to if there is a problem. If your business can indicate you would be willing to pursue an approach like that and we give you a window of -- there would be teeth behind the signage, and yes, there would be modification of the equipment that would still allow you to drain the system and keep the heaters running but not accept money.

MR. MUNCH: That would be our preference because we would frankly rather -- if it is not a problem, which we did not think it will be -- go to the expense of kind of coming up with some type of system with our crews and a barrier to put in the doors so they couldn't pull in and all those manner of things. We would rather not go to that expense unless it does prove to be a problem. We would be open to that. It is not like we'll modify the equipment. We'll have to come up with some type of barrier entry. Maybe bollards with chains we can hook up. You know what I mean? At night? That kind of thing could happen. But what we would prefer if you just let it run, like the ones that have run, and give us a chance to prove that yes, it will run the way every other one is run.

DENNIS SCHULMERICH: I thank you and your organization for going and doing the work if the system could be shut down. I know that was not expected and you came back with the information. Thank you.

DARIO MARCHIONI: If we're worried about the noise, winter months, we could have it 24 hours a day. Windows would be closed. You're worried about freezing. So maybe the shutdown would only be part of the summer, or something.

KAREN COX: Business shut down. Not the equipment shut down.

MR. MUNCH: There is a way -- I mean as I stand here, I am thinking there is a way for us to add bollards and like chains going across so people can't pull in. Then they won't put their money in because they see they can't get in. I'm not saying there is not a question to effect it, but since we haven't had a problem, I would rather not go to the expense and you know -- you know, you're always trying to keep it like the other ones we're putting in other parts of town so people are use to it and it is consistent. We got away with that a little bit here in the design but it will look very nice aesthetically. If we could -- like I said, these have been in the field for well over a couple of years before we ever thought of coming to another Town, and we have neighbors behind us. We have talked to those neighbors and have not had a problem.

DENNIS SCHULMERICH: Do you have other situations where you have a residence as close to the pull-up driveway?

MR. MUNCH: Closer. I mean there is a street -- they're right across the street. And these readings are taken without obviously benefit of the stockade fence we're putting in or any of the trees that are existing in the yards and such.

JOHN NOWICKI: The experience factor on the Planning Board, in our particular Town here we have boom boxes that run up and down that Main Street all year long. Your particular site, you do you have cameras that cover the site from a security standpoint?

MR. MUNCH: Yes.

JOHN NOWICKI: Do they also have the means of recording sound?

MR. MUNCH: No, they don't. They don't record sound. But like the site I'm indicating, for example, because it is in a part of Town where it would be your boom box part of Town, much more than this would be, in our opinion -- this is a very -- every Town has some of those people running with their boom boxes no matter how nice a part of town you're in. I don't know how to say it, but there are a lot more boom boxes -- the neighbors that are closer, that is when we started coming up with ways to dampen the sound from the equipment and close the doors, and so I was talking to those neighbors, obviously, and -- because they could hear the carwashes, et cetera. I said let's try closing the doors. They said it solved the problem. But there hasn't been a problem with people like in line running their radios loud. Because, I mean, even when you're coming up on it, you start closing up for the carwash. You start getting ready for your car to be washed. We have no complaints about that. If there are, I think it is prudent and a good idea to address it after whatever period you think is right.

DENNIS SCHULMERICH: So assuming you were to get approval and start to build, when would the carwash be up and running? I'm asking that question to get some sense on a time frame.

MR. MUNCH: That is a good point. It might -- August 1, I'm guessing. If everything goes as planned.

KAREN COX: So a year -- I mean, we really wouldn't have a benchmark for a summer season.

JAMES MARTIN: We would have to say a year from start of operation.

JOHN NOWICKI: Year from C of O.

JAMES MARTIN: If that is the feeling of the Board.

KAREN COX: I like that. It gives us a benchmark and the applicant has indicated they're willing to work with the -- they were willing to work with the situation in Erie. It would also give them some time to start talking about what they could do if they had to do it, or if they had to change things around.

DENNIS SCHULMERICH: One thing we would hope you do -- you know, we have the sensitivity. If you were to go back to your company and do a worse-case scenario assessment and say let's assume we were to have a problem, what would the fall-back position be so the planning -- so in the year down the road we have to start with it, at least you wouldn't be dealing from scratch.

MR. MUNCH: There is a phone number on the building, so if we get it from the neighbors, we'll have --

DENNIS SCHULMERICH: You would probably hear from the neighbors before us.

MR. MUNCH: That is what I mean. It would give us sometime to get it solved. In the past all I can tell you, our past performance we have worked it out for the neighbors pretty quick.

JOHN HELLABY: You didn't by any chance bring a copy of the landscaping plan, did you? The only reason I ask, we don't have the luxury of reviewing what the final approved drawing was. I know there was a lot of concern about the screening along the back.

JAMES MARTIN: We have a note from the Conservation Board that they have approved it and you will have a stamped approved plan.

DENNIS SCHULMERICH: There was a comment from Larry Nissen on the drawing.

JAMES MARTIN: I was going to get to that.

JOHN HELLABY: Arborvitaes every 6 or 10 feet on center in the back. It looks like about 10 or so.

JOHN NOWICKI: The next issue is a letter from our Town Engineer regarding the proposed dry well in the corner of the property, and that will be -- provide sufficient volume, contain additional volume of storm water created by 10-year occurrence in the post development conditions. Has that been addressed?

LARRY NISSEN: I can answer that for you. I received some calculations from their engineer, from Don Avery, and we're going through it now and -- but we're on the right track.

JAMES MARTIN: Okay. So it still has not reached final Town Engineer approval yet?

LARRY NISSEN: No.

DENNIS SCHULMERICH: Is there a condition --

LARRY NISSEN: I would like to ask if final Planning Board approval is given, it be contingent upon Town Engineer approval.

JOHN NOWICKI: There is one area, you had some comments on the architectural treatment of the building. If there is anything else that you could do to make it as residentially looking as possible, I -- either through overhangs, or anything else that you can add to this building. We have some backs of the building in the area that have gone out of the way to accommodate that request. We have a request to see if you could do that.

MR. MUNCH: If I can review what we have done, the size of the building obviously has shrank down quite a bit. The hip roof is the only hip roof on any of our washes. We usually do have the peak you see in the front. We looked at the bank. It is going to be kind of a beige stucco look. I mean I think it is going to be very active. It -- you get to a point where there is only so much you can do.

JOHN NOWICKI: We're trying to get rid of the boxy look.

KAREN COX: The hip roof will go a long way for that.

JOHN NOWICKI: We're just asking for consideration what else you can do to make that more residential looking.

JOHN NOWICKI: The other question I had, too, is it on the drawings that we're going to get dark skylighting?

MR. MUNCH: It should be. Isn't that on there?

MR. SADALY: That was in the -- that was in one of the submittal packages. There is a catalogue sheet.

MR. MUNCH: That is every one from now on because it is just a great idea.

JOHN NOWICKI: Drainage district?

JAMES MARTIN: They have not filed it yet, but they're working on it. I have complete drainage district application as one of the conditions.

The Board discussed the proposed conditions.

JAMES MARTIN: SEQR was done at preliminary so we don't need to do that. Keith (O'Toole), it is late to impose conditions on the conditional use permit that is in front of us at this point. That is my understanding.

DARIO MARCHIONI: We can approve it with conditions.

KEITH O'TOOLE: This is a -- this is I --

JAMES MARTIN: You know what we're trying to do.

KEITH O'TOOLE: This is a condition on the site plan, correct?

JAMES MARTIN: Yes.

KEITH O'TOOLE: Very well. That is fine, yes.

JOHN HELLABY: Before we vote, if I could just interject one more thing. I'm not trying to beat this to death, but in the decision letter of December 16th, '04, item Number 3, I know you read through it, but I don't remember you clearly spelling out in its entirety, the final landscaping plan with maximum buffering to the north must be approved by the Chili Conservation Board and Planning Board. Not having seen this drawing until tonight, is everybody satisfied that that is the maximum buffering to the north of this site, because I know that was a big concern.

JOHN NOWICKI: I think Pat Tindale took a close look at that.

KAREN COX: You have trees in front of a fence. I mean, in the beginning the trees may be smaller than you would like to see them, but they grow faster.

DENNIS SCHULMERICH: I interpreted the plan to show Arborvitae every 6 foot.

JAMES MARTIN: I think it has been thoroughly looked at.

JOHN HELLABY: Just bringing it up.

DECISION: Unanimously approved by a vote of 7 yes with the following conditions:

1. Complete petition to the Town Board to include this parcel in the Chili Consolidated Drainage District. This is done through the Town Clerk's Office.
2. A copy of the purchase contract must be supplied to the Assistant Town Counsel.
3. Your cognitional use permit was approved for a period of two years. At the end of the first year after start-up of operation, a review will be held to determine if any noise complaints have been received concerning the operation of the car wash. If there is a positive finding, the operation of your facility will have to be modified to the Town's satisfaction to address these concerns.
4. Pending final approval of the Town Engineer.

JAMES MARTIN: Second call for George Eastman House conditional use?

There was a recess in the meeting.

JAMES MARTIN: We're moving back to the public hearing portion of our agenda since we have a representative here now for the Application 4, George Eastman House.

Mike Viggiani was present to represent Application 4.

MR. VIGGIANI: Mike Viggiani, George Eastman House.

JAMES MARTIN: Anything to state to the Board at this time?

MR. VIGGIANI: I would like to move it to a five-year conditional instead of a two-year. We're still doing the same thing we're doing. Long-term storage of nitrate. We're keeping in compliance with NFPA-40 and all building codes, but nothing has changed on the facility at all.

JOHN NOWICKI: Everything is the same?

MR. VIGGIANI: The same. Gone With the Wind, The Wizard of Oz.

KAREN COX: Nitrate film is the old movie film.

MR. VIGGIANI: Original Gone With the Wind, the original negative is in the vault. When they see it on TV, they make a copy of our negative and make an acetate and show it on TV.

JAMES MARTIN: Having worked at Kodak I have seen nitrate film go up. What conditions do you have inside to keep it from going up vigorously. What conditions do you have inside the building to prevent a rather bad situation if that were to --

MR. VIGGIANI: Automatic blow-up panels. 3000 square feet with 12 sprinkler heads for every 1,000 square feet. Concrete rebar. The fire would take place. Blow panels opens up. The sprinklers would cool down the walls so the other walls would not catch on fire. Each unit has exposure proof electrical, their own HVAC unit per vault. Everything is individual. I sit on the Board of NFPA-40, so I write a lot of the codes for storing nitrate. So I get a tour for the Fire Department. A couple of the building guys came through.

RAY BLEIER: Excuse me.

MR. VIGGIANI: So we're on a -- we run a high class facility. We really try to maintain it and keep it up to par. I do all of the maintenance on the facility myself. Any of the equipment, I'm the only service guy there.

JAMES MARTIN: The landscaping looks great to me. Condition of the building. Everything is tip-top shape out there. I personally would like to see the conditional use extended.

KAREN COX: Don't have anything.

JOHN NOWICKI: Congratulations on a wonderful job you have done. Few years now you have been there. Thanks for keeping it up.

DENNIS SCHULMERICH: Only question I have is administrative. The letter attached from the Town of Chili in 1998 specified a one-year conditional use. I'm assuming there have been other conditional uses since then or has this been out of date.

DARIO MARCHIONI: They have come before.

MR. VIGGIANI: I have come before. That is why I'm saying it is a two-year period. I would like to move to at least a five-year. We're not going to change use. We might add on to the facility, but it won't be nitrate. It would be acetate.

DENNIS SCHULMERICH: We have a letter dated July 15th, 1998 granted for one year which would have taken us to '99. So what I am asking the side table is, do we have conditional use approvals since 1999.

DANIEL KRESS: Yes, sir. However, that conditional use approval letter when specifying the conditions simply referred to the 1998 letter and I thought it would be more informative to attach that one.

DENNIS SCHULMERICH: We're not out of date?

DANIEL KRESS: No.

DARIO MARCHIONI: Three years we gave extension, if he recalls. But it looks fine.

DENNIS SCHULMERICH: At zoning we have actually looked at some 10-year. In light of the specific application and its intended use, is there any reason why we wouldn't consider extending it beyond ten years?

JOHN NOWICKI: If they change personnel, we could have some trees die or bushes get out of shape.

DENNIS SCHULMERICH: We have given ten years to a beauty salon.

JAMES MARTIN: I would say exterior maintenance of the building, that type of thing, we ought to look at it more frequently than ten years.

KAREN COX: Five years.

JAMES MARTIN: Keith (O'Toole)? No comments.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: They do a beautiful job and it is too bad we don't have more businesses like that operating in Chili.

James Martin made a motion to close the public hearing portion of this application, and John Nowicki seconded the motion. The Board unanimously approved the motion.

The Public Hearing portion of this application was closed at this time.

RAY BLEIER: The drainage district, the box is not checked off.

DANIEL KRESS: I did check on that. The property is in the drainage district.

Jim Martin made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be a Type II action with no significant environmental impact, and the Board all voted yes on the motion.

DECISION: Unanimously approved by a vote of 7 yes with the following condition:

1. Conditional use permit has been renewed for a period of five years.

FOR DISCUSSION:

1. Indus Development - proposed Dunkin Donuts restaurant at 3240 Chili Avenue in G.B. zone.

Peter Romeo was present to represent the application.

MR. ROMEO: Peter Romeo, a registered architect, and I'm here on behalf of Indus Development -- not Industrial Restaurants, but Indus Development -- to review and discuss with you a proposal for a Dunkin' Donuts facility in the Chili Paul Plaza.

Happy New Year. There are two site plans I pinned up. I believe you each have a copy. One is overall site plan that was prepared by FRA. And it shows the existing composition of the plaza. The most readily identifiable landmark that clarifies the proposed location of the Dunkin'

Donuts facility is the existing HSBC Bank fronting on Chili Avenue.

To the right of that drawing, on the smaller sheet, but a larger scale, there is a 20 scale site plan that essentially replicates the footprint that defines it a little better the conditions of the periphery of the Dunkin' Donuts leased area within the plaza. I have with me this evening also Mr. Dan Aken, professional engineer with FRA, who is here on behalf of Chili Paul Associates. Mr. Brad Kusken from that organization was unable to attend tonight because of a family emergency in New Jersey. So hopefully between the two of us chickens, we can answer any questions that you may have.

JAMES MARTIN: That was going to be my first question. Is there anybody here from the plaza owner to represent the plaza? There is nobody here.

MR. ROMEO: There –

MR. AKEN: There is nobody here from the plaza, the ownership itself, but Mr. Kusken did ask that I come and speak to the Board or answer any questions that you might have. I have been here before when we were doing the facade improvements if you will recall, which are currently under way. I think I might be able to help you out with any questions you might have regarding site specific issues. The rest of the questions related to the business I would defer to Mr. Kusken.

JAMES MARTIN: Clearly a lot of the issues are not with this particular applicant. A lot of the issues are with the owners of the plaza. And there are just numerous things on that plaza that are a concern to the Planning Board. It is probably going to be very -- it will be problematical moving ahead with any type of activity in the plaza. There -- apparently there are problems with the sanitary and storm sewer situation over there. So we need to know if there is sufficient capacity for any out parcel activity on the plaza site. There are numerous issues related to other existing buildings on the plaza site. Enclosure of rooftop mechanical units. Dumpsters that need to be enclosed, that hasn't been completed yet. There is certainly need for some repair and configuration of the parking areas, including provisions for landscaped islands. A lot of the lights in the parking lot don't work.

KAREN COX: All of them.

DENNIS SCHULMERICH: All of them.

JAMES MARTIN: All of them are out?

DENNIS SCHULMERICH: They're all out.

JOHN HELLABY: It is dark.

JAMES MARTIN: Work was undertaken on a change of use that never got a complete set of construction drawings. And went on illegally without a permit. The Fire Marshal has advised us there are numerous sprinkler violations in the plaza buildings due to an inspection in October that remain uncorrected. So you know, obviously, the current owners have done a magnificent job beautifying the plaza. No problem. It has been significantly improved over what it looked like, but there is a big "but." There are a lot of things that need to be done yet -- as far as that particular plaza goes. Clearly we don't intend to inconvenience applicants that are interested in out parcel uses of the plaza, but I don't think we're going far until some of those issues are -- a lot of the issues are resolved on the part of the current owner. I will turn it over to the rest of the Board, but that is my particular feeling on that.

MR. AKEN: I'll address some of those issues. Certainly, some of the things such as the sprinkler violations –

JOHN NOWICKI: Before you start, could I ask you a question? What is your title again and who do you work for?

MR. AKEN: Dan Aken. Senior Planner with FRA Engineering representing Kravetz Realty.

DENNIS SCHULMERICH: You are legally -- you are representing the owner of the plaza?

MR. AKEN: That is correct.

DENNIS SCHULMERICH: You're here as their representative?

MR. AKEN: I am here as their representative, correct.

JOHN NOWICKI: I'm not comfortable with that, but go ahead.

JAMES MARTIN: I would really like to have somebody from Kravetz Realty.

MR. AKEN: It was Brad's intention to be present this evening. If he was not taken away out of town for emergency purposes, he would have been here this evening. The intent was for both of us to come here, for me to address the technical issues and for him to address the business issues and some of these other matters. He was not able to make it. And he extends his apologies for not being able to be here.

JOHN NOWICKI: Action will speak a lot better than words.

MR. AKEN: I believe he is aware of that. He has started to make the improvements. He

started with the facade improvements. He has a plan in place to address the dumpster issues. We had, in fact, submitted a drawing to Mr. Kress outlining where we had taken a site visit, and noticed dumpster enclosures that were in disrepair and which ones needed to be fixed. We had submitted that to your office, I think it was in July -- June or July of this past year. The lighting, Mr. Kusken is aware is not working. That is in the process of being addressed right now. The issues with the parking lot itself, we were waiting for this application to find out how the circulation internally to the parking lot was going to be configured so that many of the items that you have addressed with the disrepair of the parking lot itself, the traffic flow, many of those items would all be addressed at the same time. I cannot speak to, as I mentioned, the building code violations or the sprinkler violation, but I will bring that back to Mr. Kusken's attention, and obviously it will be addressed if we're going to go too much further.

KAREN COX: I don't know about the other members of the Board, but I get an earful. I visit several businesses in that plaza, and you might take this back to Mr. Kravetz. Every time I go into one those businesses, I get an earful from the owners, and this is what they are telling the owners, too. This will be done, that will be done. This will be done. I go in three months later. Nothing has been done. No offense to the applicant, but I'm not interested right now in looking at anything. We're going to get ourselves into another situation where we -- or we could get ourselves into other situation like North Chili. Promises were made a lot of times on that issue, and where are we?

DENNIS SCHULMERICH: I would question whether it wouldn't be prudent for the Board not to hear this tonight until we have one of the owners present so we can have the right discussion with them.

KAREN COX: I am not interested in looking at anything until we get assurance that -- like John says, actions speak louder than words. It makes no sense to go ahead and look at something when there are so many outstanding problems with the plaza now.

MR. AKEN: It would be helpful for us to be able to at least sort of address some of the traffic circulation issues and the parking lot lighting locations and things along those lines if we could have some of your feedback regarding whether this is even a viable use of this space so we know how to plan in the future and we can begin addressing all of these issues at once. I'm not here to make promises for Mr. Kusken. I am just simply here to rely information back and forth, but we are here this evening. And I think it would be a tremendous waste of our time, and perhaps, yours, if we could not, at least get some feedback on general location, layout, things along those lines such that we could address all of those issues at once.

DENNIS SCHULMERICH: The second you start having that dialogue, you're a little bit pregnant. The second you start having that dialogue, there is an implied interaction with the Board that suggests that our concerns haven't been heard.

MR. AKEN: We're here for discussion purposes only, sir. I don't think there is anyone here on our side that acknowledged that this is anything more than a discussion, and that is what we're trying to have, is a discussion on what the issues might be. I think the location of the out parcel site and the -- I mean, that is our only intention.

JAMES MARTIN: Well, I -- one thing I would like to add to the list of the other things I read, um, I think there is a significant safety concern right now in that there is -- they use that plaza as a cut-off between Paul Road and Chili Avenue, and there is a -- you know, down -- you know --

MR. AKEN: Down past the Auto Parts and Subway sandwich shop people are 45, 50 miles an hour. Somebody will get killed. They will come out of one of the stores and not be looking and somebody will get nailed. That is something that has to be addressed almost immediately.

MR. AKEN: That is the first time that is being brought to my attention certainly.

JAMES MARTIN: Well, if he could go over there once in a while, he might even see something like that.

KAREN COX: The traffic pattern as it is now even without a building, in the out parcel is --

DENNIS SCHULMERICH: Dangerous.

KAREN COX: -- horrible.

DENNIS SCHULMERICH: HSBC entrance, horrible.

JAMES MARTIN: Where you have that proposed to be located now, you're putting an intersection in there that will be totally unmanageable. It will have a six or seven corner intersection there. I just don't -- I don't like the location of the building.

KAREN COX: You may have one of those entrances -- the easternmost one be somehow dedicated to only the bank, and the -- you know, the out parcel. In reality when the State came through, years ago, when they did the Chili Avenue improvements, they only should have had one

commercial entrance. For whatever reason, that did not happen. Now you guys are stuck with that legacy, and making it work from a safety standpoint, and it is not working now.

MR. AKEN: Right. The intent of locating -- we did look at a handful of locations for that building, taking into consideration the traffic, patterns, plus visibility of the businesses, along where Bill Gray's and Blockbuster and that is located. The intent of locating that building there was to hopefully provide some clearer definition as to -- right now there are a lot of vehicles, from when I have been out there -- there are a lot of people cutting across this way (indicating), because there aren't any obstacles or anything in the way here.

KAREN COX: Can't see where the double yellow is.

MR. AKEN: There is a small landscape strip here (indicating). The intent was to make this a little more rigid and provide some clear north/south, east/west delineations within the site, providing that separation. So that was really the intent of that location, was to hopefully provide a little bit more rigidity to the patterns.

JAMES MARTIN: I think another aspect is at previous sessions with Kravetz, they have indicated their intent is for other out parcel activity in this plaza. And I don't know how we can sit here and review this -- this discussion in isolation with what the overall future plan for the plaza is. It is difficult for us to ascertain whether or not -- putting another building, perhaps where you have this sited, assuming we can do something about traffic management and the safety at this point, whether that is the right thing to do or it will mess something up for the future considerations. In trying to do this in isolation, we can't have a viable discussion, to be perfectly honest, without an overall plan for the plaza.

MR. AKEN: The plan that is before you is an overall plan. I have had conversations with Mr. Kusken as recently as this afternoon. He has indicated that there are no other out parcel buildings.

JAMES MARTIN: At this time.

MR. AKEN: He -- that is all I can tell you, is what he is telling me. And the -- the intent is that there would be no other out parcel.

JAMES MARTIN: Obviously, he has a credibility problem with the Planning Board.

MR. AKEN: I will clarify that.

JAMES MARTIN: Anything else anybody wants to say?

JOHN NOWICKI: I want to make a couple comments. I will be honest with you right up front. The placement of Dunkin' Donuts next to this bank, if I was the bank, I would be furious. I just cannot see how a traffic flow pattern that I'm looking at will be good for this bank. It is not even good for Dunkin' Donuts. The second thing I want to tell you about, it is a free country, but these are like -- these donut shops are like Pizza Huts. I can't believe somebody is wanting a Dunkin' Donuts in this plaza. The second thing, right up front, if this Dunkin' Donuts came in there with an architectural treatment like the one on Scottsville Road, no vote. I want a building coming in there, if it even gets that far, that has architectural treatment like the bank, like something we never seen. I don't want to see a box on this damn thing. I did make myself clear? Thank you.

MR. ROMEO: Mr. Nowicki, we have gone that far if you're interested.

JOHN NOWICKI: I will leave it up to the Chairman.

JAMES MARTIN: Until we see an overall plan from the plaza that we can believe, which I have not seen yet, I'm just not in favor of going any further with this.

DENNIS SCHULMERICH: I would like to be a little more specific about that, as well. I believe the traffic flow issue in that plaza is out and out dangerous if not deadly. I understand the comment about the overall plan and all of the issues. I will tell you what. I don't want to talk about any more businesses in that plaza until I have an overall diagram that tells me how they're going to put barriers, how they will put curbs and control traffic flow so we don't have people getting killed in that plaza. I agree completely with the statement people are going 45, 50 miles an hour. There is nothing for traffic. Above and beyond that over the last four weeks total pitch black. People are going to get killed. I don't even want to talk about this.

JOHN NOWICKI: You can see where we're upset.

MR. AKEN: Please don't kill the messenger. I will relay the message. I understand your frustration.

JAMES MARTIN: These are not the applicant's problems.

MR. AKEN: I have been here before. I understand that. It is unfortunate that they're being dragged through this, but I will get all of this information and then come back to Mr. Kusken.

JOHN NOWICKI: We like you guys, but --

MR. AKEN: Glad to hear that. I do not have any ownership stake in the plaza.

DENNIS SCHULMERICH: Let's not waste your time and our time any more unless the owner of the plaza can take the time to show up here. Irrespective of their reasons.

MR. AKEN: While we're here, are there other issues other than that have been mentioned that he can address at this time?

JAMES MARTIN: I don't think we will go any further until we can have a some of these issues taken care of.

2. Archer Development Corp. - proposed 94-lot subdivision at a portion of 177 Archer Road in R-1-15 zone.

John Caruso was present to represent the application.

JAMES MARTIN: I know there was a member of the audience who wanted to make comments. We will not hear any public comments. This is for discussion purposes only. It is not up for any approval at this time.

MR. CARUSO: Now that you're all charged up, we wanted to -- we wanted to meet with the Board tonight to discuss a proposed development we call Archer Meadows. We're changing it from Archer Heights to Archer Meadows, sponsored by Pearl Development, which is Ermando Capuano and Rich Coia with me here tonight. This is the southern half of the Zuber farm. The northern half is a portion that we presented to the Board last month for The Father's House master plan community.

This portion of the parcel is zoned R-1-15, and we expect it will generate about a 90-lot subdivision out of it. I thought I would come in and describe to you some of the things that we took into account in having to put this plan together because there are some physical features that are in place that we have to sort of align to. Obviously, we have the railroad track across -- on Archer Road this is the railroad track here (indicating). We have Clay Hill Subdivision on the other side, and then we have -- this (indicating) is the piece that is -- was proposed by Fallone, the PNOD. This (indicating) was The Father's House parcel. On Archer Road -- there is a high point on Archer Road right around here (indicating). Some of the things we were doing with the design of the project is align obviously our driveways with Clay Hill. We do not have the opportunity to bring another road out, so we wanted a loop internally to the project so we could have pedestrian walking, sidewalk on maybe one side of the road and have internal pedestrian walkway. We would have streetlights probably with this project. The other thing we have done, the parcel is almost wide enough to put another street in, but we would only be able to load it with homes on one side. And because a design like that looks terrible, we decided that we would put the deeper lots along the railroad track side so that there would be a place to create a buffer between the railroad tracks and the homes. Then the R-1-15 standard lot sizes are the lots that you see in and around it. So these lots here that I'm pointing to (indicating) are all deeper and -- than these other three rows of lots. The other things that we will be doing with the subdivision is providing utility alternatives to service some of the other articles where we could loop a water main through or possibly share sanitary or even drainage facilities. I know that was brought up earlier, and the Planning Board knows from talking with me about The Father's House parcel that this area does need to have overall master planning done to it. And we have even shown on our project that we have intent to meet storm water regulations, but it doesn't mean that it couldn't be done with other ventures in the area.

What I did this week is I contacted Bob Fallone's engineers to see what were they doing with that project. Unfortunately, I have not been following that project and its interrelations with the Planning Board, so I don't know where they stood or where the majority of their issues were with the Planning Board other than what I read in the paper. But I do know that sometimes when there is a project such as ours, next door, it opens up another avenue of alternatives that they might be able to benefit from to help solve some of their problems such as sewer access or drainage or -- I don't know how many of those things were issues with you, but you know, we might be a part of a solution together with having these two projects adjacent to each other.

I guess finally the only other thing I wanted to mention is, we -- we took and turned this little strip of road here (indicating) and put a little cul-de-sac here (indicating). The reason we did that, we did that in lieu of having lots come off of Archer Road. You know, along Archer Road, there are all these homes over here (indicating). And if -- you know, if you drive down Archer Road and live in the community like I do, you know that this hill is here (indicating), and I just didn't think it was a good design to put some lots in along Archer Road here. So the thing that we're sort of doing now in subdivision design is having all of the lots internal to an internal roadway, rather

than creating four more curb cuts out onto Archer Road. That was our thinking on that. So with that, I will open it up to any questions you might have.

JAMES MARTIN: I will open it up to the Board for any issues that they have got.

DARIO MARCHIONI: John (Caruso), who are the Principal owners of this and who is going to develop this property? Who is building the homes? What type of homes? The price range? When will this project be commenced? When will it potentially be finished? We have some projects approved, especially the duplexes, and I don't see anything going on. We have all these projects, one after the other, but they're just laying on the shelf. I was wondering if you could give us some input on that.

MR. CARUSO: Principal owners are here tonight. I introduced them earlier. They do plan to develop the property. I don't know at this time if -- do --

MR. COIA: Richard Coia, 1411 Chili Avenue.

MR. CAPUANO: Ermando Capuano, 2024 West Henrietta Road.

MR. COIA: We do plan to develop the land to see it to its completion so that we'll be in control of making sure that the development goes in. The home construction, I don't think there has been a decision on yet. Price range. 160 and up.

MR. CAPUANO: 160, 175 and up. We felt that because of the new golf course going across the street, and the fact that you have 200 townhouses, I believe, and condos or patio homes, there weren't any single-family homes in that whole project, and this would compliment that whole area very well. I'm sure that there are a lot of families that would love to live across the street from the golf course. From what I seen with that project, it looks like that project will be a nice project, and I'm sure that -- we felt at least there would be a lot of activity there.

DENNIS SCHULMERICH: The builder, is one selected yet?

MR. CAPUANO: We have not quite made any decision 1,000 yet. We do have several options.

DENNIS SCHULMERICH: Who is on your list today?

MR. CAPUANO: Ourselves. My father has been in construction for 30 years. His father has been in construction. Rich (Coia) has built several homes over the years. I have been involved in many projects.

DENNIS SCHULMERICH: Anything of this scope?

MR. CAPUANO: Not quite of this scope, but I have developed land before.

DARIO MARCHIONI: Can you give us an idea where?

MR. CAPUANO: I did Parma Town Line Road, Hamlin Center Road. I have done some commercial projects at 2024 West Henrietta Road which is office condos. I had a building on Long Pond Road that I completely developed. I mean I have had extensive experience, and Rich (Coia) has actually had more experience than myself.

JAMES MARTIN: I think our concern, just to reinforce what Mr. Marchioni has said, we have had several projects come before the Planning Board that are approved without a definitive builder associated with the project, and you know, to be perfectly frank, several of these projects have barely gotten off the ground or what as been done to date is way behind schedule, so our experience is, you know, we have these projects that for whatever reason, you know, inexperienced developer, somebody who is just getting his feet wet in the business is faltering quite badly. And I just don't want to get started down another road with a project, you know, of this magnitude where we end up with pipe laying on top of the ground because they didn't have a construction foreman that could do the right thing. These are issues that the Planning Board needs to take into account because the last thing we need is another started project in Chili that is not going to get finished for another 40 years.

MR. COIA: Well, it is somewhat market-driven. There are a few subdivisions now, but we see as those fill up, we'll be coming on line, and as Ermando (Capuano) said with the golf course, there will be a good market for it. You can't guarantee anything 100 percent. Our model is, it would come -- the timing and the location would be good. And, you know, we have the ability to do it.

MR. CAPUANO: I mean the financial ability between us, there is no -- we wouldn't be involved in it if we didn't have the financial capability of doing the project and, you know -- I don't even know if we'll get financing for it. The financial stability is there. The project won't go bad. We'll make sure that it will work.

JOHN NOWICKI: I will be very honest with you guys. The one thing I want to say up front is when I look at this area, and I look at what is across the street, the Vistas and the church property that was just in before us and I see Bob Fallone, Jr. before us, and I look at this, I'm saying you know what folks, we better seriously think of a moratorium here on this whole damn

area until we get our act together on what we're going to do with this property, drainage wise, traffic wise, everything else wise, period.

Secondly, this design is something I haven't seen since the Second World War. That is all I'm going to say on that. As far as the reputation of these people, I don't know them from a bag of beans until I see – I won't touch this with a 10 foot pole. I want a moratorium in this Town now, that is how I feel. Period.

JOHN HELLABY: I don't know how to follow up that. Pretty much got it all in a nutshell. I would hope that there would be a little bit more creativity on the layout. It is just not quite there. Again, credentials and things like that. The overall picture, my biggest concern, I will agree with Fallone's operation and everything over there, are the long-term drainage issues. I guess I'm not sure how the Planning Board addresses the situation, whether you know it is through Lu Engineering, but I agree, overall view of that whole area should be thought over, looked at and maybe figure out the drainage from the Vistas, how does that play into this? It will keep expanding down there. There is a five-acre parcel on the corner there that is for sale and I'm sure somebody is going to scoop that up and put two or three homes in there.

JOHN NOWICKI: Where is that?

JOHN HELLABY: Right on the corner.

JOHN NOWICKI: Already sold.

JOHN HELLABY: I saw the sign there. The balance of all that other stuff that is under water now most of the year anyhow.

JOHN NOWICKI: That is what I am saying. You have to slow this down.

KAREN COX: The piecemeal stuff doesn't seem to be working well down here.

JOHN NOWICKI: Too much at stake here.

KAREN COX: I share John (Nowicki)'s concerns, maybe not with as much flare as he does, but maybe in a kinder, gentler fashion, but I understand why the developer feels that that area would be interesting to homeowners. It is a nice location, the railroad notwithstanding, and I think that the -- even if the zoning -- or should I say even though the zoning allows lots of that size, this reminds me too much of where I grew up in the Town of Greece where every house and every lot looked the same when they were built in World War II. So I think -- a new plan needs to be thought of with larger lots than the minimum, and maybe the builder will not get as much return. Maybe he will because he could put up houses that cost a little more.

MR. CAPUANO: Why do you have a minimum if you don't adhere to it? Why is there a minimum if you don't adhere to it?

KEITH O'TOOLE: We're not here to debate.

JAMES MARTIN: We're trying to give you some ideas.

MR. CAPUANO: I understand, but we did put some lots in that were bigger than the minimum and I'm just trying to understand you know, what the rules are and what we have to do to make it feasible, and then we have to decide if it is feasible or not. We tried to go by the rules and now we come to the Board and we are being told those really aren't the rules.

JAMES MARTIN: I don't think we said they aren't the rules.

MR. COIA: What I would like to add is the lots along the railroad are 200 feet deep. I don't think there are dimensions on the concept plan. Those are substantially larger.

JAMES MARTIN: I couldn't ascertain what they were.

John (Caruso) is well aware of this. Residents that live in Clay Hill complain loudly that is a whistled crossing on Archer Road. So it is an issue that you need to think about. Nothing we can do about it. Obviously the rules are for the CSX Railroad they have to blow their whistle there. But they're going to get a lot of noise in those houses that are along the tracks. No question about it. Something to think about from a marketing perspective. Anyways, we're not telling you we're changing the rules. The rules are the rules.

KAREN COX: I didn't put my concerns across the right way, I guess. I just wish there was more attractive layout perhaps.

MR. CARUSO: Took note of that. I did.

RAY BLEIER: The three top issues were going to be traffic, the drainage and this layout here, which I know there are restrictions what you can do on this parcel, because it is long and narrow. It is tough.

MR. CARUSO: We did wrestle with three different layouts. This was one of the -- this one had some better attributes as far as the circle. I mean, I have to be honest with you, there isn't much you can do. I talked a little bit about that extra road in there. Every builder would like to see it, but it looks ugly. I look over at Bright Oaks. Bright Oaks is this turned north to south. It is something similar that we have in our community. So it is not to say that we couldn't

do some things to it, and I don't want to belabor the layout. Here is what I would like to offer. I did not get a chance to review this with the Town's DRC. And I know the Town's DRC is relatively new, maybe a couple years now, 18 months we have been meeting? And I would like to be able to attend maybe this month's DRC with this plan and maybe come back with an aerial photo that goes from the Wegmans side to Archer Road and look at maybe some of these drainage opportunities that we might be able to do some regional things. But I would like to take that and bring it back through DRC and have them look at it and then move forward. To try to address some of the things that you're raising with me tonight. You know, John, I know you would like to say let's just hold here right now, but if we did that, there is no coalition of land owners are going to do development and get together and try to figure out the best way to do that. It is sort of by the way our marketing process is, each developer comes in and brings his best plan forward. With your comments, we try to make them better. What I am saying is in order to look at this regionally, the way I would like to start doing it, is maybe attend DRC this month with this plan and try to answer some of these drainage issues.

JAMES MARTIN: You're engineering two of the parcels now, Our Father's House and this. Larry (Nissen) I will ask you, the approach to try and do something from a regional standpoint from a Town Engineer perspective, it makes a lot of sense to me. I'm assuming that your involvement would be critical in this particular issue. Do you have any comments at this particular time?

LARRY NISSEN: Well, at this point, I guess at this level of presentation that we're seeing here tonight it is difficult to get a feel for what is possible. Other than getting all affected parties together, there may be some mutual benefits. That may be an incentive to get all of the parties together. And because really we need to take a regional look. I don't know that any single applicant wants to take on the responsibility of doing that. So unless the Town does that, we could get these folks together to see what we come up with.

DARIO MARCHIONI: In the past, when I was Chairman of the Drainage Committee, we asked Joe Lu to come up with a water shed study, especially when we knew in the future there would be vehicles in the areas. So Joe Lu would come up with a drainage report on the whole area so we could work towards that for any future development within that sector. So that was initiated with the Drainage Committee and went to the Town Board for funds, and then Joe Lu took the actions, and then we had a document in hand we could go by.

LARRY NISSEN: We have done that in a couple problem areas.

DARIO MARCHIONI: That was one of the solutions.

KAREN COX: Did it help?

DARIO MARCHIONI: Yes. Absolutely. Because it gave us a perspective of the whole water shed.

JOHN NOWICKI: That is on the drainage side, though. Think about what you're looking at. You have to look at the whole concept. We have asked in the master plan, comprehensive plan for a study of this area for years. The pressure that we're getting in this area now with all of these developments brings it right up to the top of the table. Look it, folks, stop, do the study of this whole area, not only the drainage, but your zoning concepts, traffic. You have other projects that are going to impact this area down on Paul Road. You better start to think about these things before we get ourselves in a real mess here. We have projects that -- all over that area that are going to impact us and we're going to get caught. I don't want to see that happen. I want a study of the whole area regionally so we know what we're doing when we sit here and make decisions.

KAREN COX: There is going to be a traffic study planned now, or a corridor study planned for Archer Road, all of the way up to Chili Avenue, that --

JOHN NOWICKI: It has been killed.

DARIO MARCHIONI: Who is Paul Road, the Town or County?

KAREN COX: County.

JAMES MARTIN: That is that part of the corridor study from 490 to Ballantyne bridge?

KAREN COX: Yes.

JAMES MARTIN: I don't remember Archer Road being in that, but maybe it is.

KAREN COX: As part of that, they would be looking at traffic. I will follow through that thought as a possible tool. It doesn't answer the local issue, but --

JOHN NOWICKI: I would just like to see the Chairman of this Board, if the Board concurred, get a letter off to the Town Board expressing the feeling of this whole problem we have here and have them work with us and get this thing resolved.

JAMES MARTIN: Dan (Kress), suggesting only, could you have a conversation with Joe Carr based on what you're hearing here tonight and the two you recommend a path forward how

we might be in a best position to take a regional look at this and who would need to be involved?

DANIEL KRESS: Sure.

JAMES MARTIN: I am happy to write a letter, but if you could talk to Joe Carr and say the Planning Board has serious concerns about all of the things that are happening here and in the future before we go much further, what should our approach be and feed that back, and you know, if we need to get together with the Town Board or have a workshop or whatever it is to map that out, I think that would be at least the first step forward in this process.

DANIEL KRESS: I will do that.

JAMES MARTIN: That is that reasonable?

JOHN NOWICKI: That would make sense. Absolutely.

MR. CARUSO: I think we would like to be part of that.

JAMES MARTIN: Eventually, yes. I would like Dan (Kress) and Joe (Carr) to get together and say we need to get three parties involved. We have a fourth party across the way over here. There are lots of issues here. Come back with a recommendation on who should be involved, and what the process should be in order to effect, I think, a good comprehensive look at this whole situation here. That is what I would like to see happening.

MR. CARUSO: I follow you. I called up Bob Fallone knowing that we had these two things going together and I called him to see what their intentions were with moving forward so they could be integrated into this plan.

JAMES MARTIN: I think my personal feeling, it there would be more leverage if the Town were to say, looks, we're going to take a comprehensive look at this whole situation, with the Town Engineer, as lead engineer on this process. Passero would be involved. Whoever is involved in these various parcels would be involved in this particular process. Then you could come back and say, okay, we have all agreed to a comprehensive plan. We have now got this major regional holding, retention pond, whatever it is, so everybody can share it. Whatever happens. I will let the engineers work that out. I'm not a --

JOHN NOWICKI: Or planners.

JAMES MARTIN: That way, we can sit here with a lot more comfort when something comes before us, saying okay, this makes sense now. Right now, I don't know if this really makes sense or not. To be perfectly honest with you. Is that fair?

DANIEL KRESS: I will have that conversation with Joe Carr this week.

LARRY NISSEN: One other suggestion. In the Town Code Section 96-23, there is a section that addresses sketch plan, and it delineates the requirements for sketch plan review, which is prior to preliminary. Obviously, these gentlemen are serious about their intent to develop this property, and it seems that it would be worth our while to follow the sketch plan requirements. There are some provisions there for a -- at least conceptual look at drainage and utility supplies and things of that nature. I think particularly a development this size deserves that level of analysis. I would suggest that we -- I know this just came in for discussion tonight, but there is really --

JOHN NOWICKI: What you're saying is you're not in favor of a regional concept here.

LARRY NISSEN: No. Just adding something. I'm just adding. I -- I think that it would be better if this came in under sketch plan with some more additional information.

JOHN NOWICKI: The problem with that is you're starting them down the path of approval and I did not think we're at that point because we have a lot of homework before we start any path down to approval. I don't want to see that happening at all for this site or that whole area until we find out what we're doing here.

KEITH O'TOOLE: I think what you're really suggesting is that we may have to do a little SEQR work here before we get into the project.

JOHN NOWICKI: Do something.

KEITH O'TOOLE: I think to the extent that you expect the developer to do anything, you owe it to them to be quite specific and narrow the focus what you're looking for.

JOHN NOWICKI: That is the Town's job.

LARRY NISSEN: Defined in the code. First step is sketch plan review.

JOHN NOWICKI: I disagree 100 percent. That is the first step down the approval. That is wrong. Absolutely not.

JAMES MARTIN: Could we defer on this until Dan and Joe Carr have a conversation, until we have a process in place, if it requires a sketch plan.

MR. CARUSO: I follow John (Nowicki), between what you're saying and what Larry (Nissen) is saying, is that we get together, which is what I was thinking, to attend DRC, talk about some of these regional concepts and then once we have these regional concepts all agreed on, then

we could then put together a sketch plan which shows how our little area fits into the master area.

JOHN NOWICKI: We have to pull the Town Board into this one because this area is too big. We can't afford a mistake here. This is the problem. We have too many projects in this area impacting us.

MR. CARUSO: But John (Nowicki), I don't know legally, if in the middle of an applicant's process you can stop and throw moratorium on them.

JOHN NOWICKI: Why not? We have a serious problem.

MR. CARUSO: You have not given us an opportunity to try to do what we're doing here, to hear your concerns and do something about it. Rather than just throw a moratorium --

JOHN NOWICKI: We'll do something about it. This Planning Board should be saying we want the Town Board to take action to get a regional plan. Whether it is our Town Engineer with a planner or somebody, Dan Kress goes out and hires somebody, let's get a central plan here so we don't get in trouble guys. We have projects that will impact this area big time. We better be ready for them.

JAMES MARTIN: There will be more pressure. We know that. There is a lot of empty land still.

MR. CAPUANO: I would just like to say something. You know, we're here to try and make the Town of Chili a better place hopefully. The Town approved the Wegmans right behind this. You approved the golf course with the 200 homes. Certainly it is an up-and-coming area. Otherwise you wouldn't have approved the Wegmans and the golf course. And we're just trying to enhance that. I mean, we understand that there are issues and we're willing to work with you to do whatever we can.

JOHN NOWICKI: Just be patient.

MR. CAPUANO: As long as the project still becomes feasible for us to. Don't misunderstand us. We want to work with you, not against you to try to make the project work.

MR. COIA: Part of the problem, along that thinking you, you have The Father's House and they're working in one direction. You have the Fallone piece. When we retained John (Caruso) here, the first thing we said to him -- based upon his recommendations as well, contact these people. But all you can really do is contact them. And we have done that already. And we're -- is why John is suggesting what he is. We're more than willing to sit down. I think it makes not only good planning sense but probably economic sense.

MR. CAPUANO: For us, as well.

JAMES MARTIN: I think that is fine. Trying to work, you know, your process is an approach but if you have the leverage of the Town that is saying, you know, you have to work together -- this whole area has to got to be looked at as a consolidated piece, even though you're doing your thing and you're doing your thing over here, it has to got to make sense to the Town plan overall perspective. The last thing we want to do is flood somebody out over there or create havoc because you have a road closed with water running over Beaver Road. So don't misunderstand us. Please don't. Certainly, we're not here to thwart people as far as their plans and ideas and what they would like to do, but I totally agree with -- I think the feeling of the Board is, you know, the pressure on this area is enormous and is going to get worse. Archer Road has already got a lot of traffic on it. There are lots of things here that we need to understand in total because it is just all going to impact and mesh together and we could have chaos. That is my concern.

DENNIS SCHULMERICH: There is another perspective from my point of view, too. That is inclusive of everything that has been said here around the regional concerns -- I'm on board with that. There is also a -- did I mention the soundness and the business viability of the applicant. If we have an established developer/builder in front of us that we had positive experiences with -- I would have one level of comfort. We have several projects in the Town right now that are quite frankly a travesty, and you mentioned at least one of the names here tonight. From my point of view, I don't know you guys. Are you doing anything of this scope to date? I can't go to a subdivision and look at the quality of your building, the degree to which you're able to represent the character of your subdivision and represent the people buying the property that will be Chili residents. Not to be argumentative, but you're not in this to make Chili a better place. You're in this for economic viability.

MR. CAPUANO: That is true, but I said I hope to make Chili a better place.

DENNIS SCHULMERICH: I appreciate that. So from my point of view, there is this element of maturity of that region of Chili and the mess that we're creating over there if we don't start looking at the regional. The Town Board has an ownership ship of that. Whether they want to accept it or not, but they have ownership to make things happen. We have responsibility to make

sure we have credible projects in. I'm not -- this looks like an Army barracks diagram to me. Maybe what has been suggested from the side in terms of more clarity to the site plan would help but you have to admit, from above it doesn't look very different from one lot to the other.

MR. COIA: I would invite anyone to see 10 Cherry Blossom, Town of Chili. Just built that. We have a good relationship with the Building Department. We do quality work. No complaints from the owner of the property. 621 and 631 Gilmore Road, two houses under construction now. Very nice homes. We don't get call-backs. If we do, they're taken care of. Perhaps you could talk about us to your Building Department. It is a limited experience, but there is one there. That was only one I have done in Chili. But I have built elsewhere. I have mentioned two going up now, very nice homes.

DENNIS SCHULMERICH: A list of those, we could drive around.

JOHN NOWICKI: When you get to that point where you might come back for an another informal discussion or sketch plan, a list of anything that you gentleman have done to establish your track records because I have to agree totally with what Dennis (Schulmerich) has said. We cannot afford any more in this Town to have people not qualified to put up decent projects. We have to know what you have done, where you have been, who you built for, what towns you have worked with.

MR. CAPUANO: Let me ask you this: Obviously, we wouldn't be standing here if we weren't comfortable with the size of the project and our ability to be able to handle it. What would make you feel comfortable as far as our ability to be able to pull the project off? I mean, is it a financial statement? I'm not --

MR. CARUSO: He just said it. He said just -- he just said he wants a resume.

JOHN NOWICKI: Who owns all this stuff? Who is doing the work? Who is designing these houses? Where are the building designs coming from? Who have been your architects in the past? Who are you using now? All that should be coming out.

MR. CAPUANO: I understand. But you have to understand as well until we have some type of plan to present to a builder, we won't know who the builder actually will be. If it is not themselves. I mean, I have spoken to a couple people.

JOHN NOWICKI: You see our point.

MR. COIA: From my standpoint, I will put something together for you.

MR. CARUSO: Let's leave it at that.

DENNIS SCHULMERICH: You said what do we want to see? We would probably want to see the very same thing that anyone backing you would want to see in terms of a credible business case, a credible financial plan, market study, saturation analysis, traffic flow. Does it fit? A lot is called out in the code book but basically the soundness of the plan and you need to sell us that you're credible on being able to deliver the goods and not end up with bull-dozed property that sits there for 20 years trying to be filled in, ultimately resulting in bankruptcy with the Town of Chili sitting with an undeveloped piece of property.

That is basically the message. Convince us you're worth any of our backing.

MR. CAPUANO: Not a problem.

DENNIS SCHULMERICH: Obviously Chili has some work to do, too.

MR. COIA: Thank you.

JAMES MARTIN: Thank you.

The meeting ended at 9:45 p.m.