

CHILI PLANNING BOARD
October 12, 2010

A meeting of the Chili Planning Board was held on October 12, 2010 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 James Martin.

PRESENT: Karen Cox, David Cross, John Hellaby, Dario Marchioni, John Nowicki, Paul Wanzenried and Chairperson James Martin.

ALSO PRESENT: Brad Grover, Traffic Safety Representative; Robert Hutteman, Town Engineering Representative; Robert Latragna, Architectural Advisory Committee; David Lindsay, Commissioner of Public Works/Superintendent of Highways and Building Department Representative; Keith O'Toole, Assistant Counsel for the Town; Pat Tindale, Conservation Board Representative.

Chairperson James 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.

JOHN HELLABY: Mr. Chairman, I have --

JAMES MARTIN: I have an administrative announcement to make before you -- Applications 4, 5 and 6 on the agenda tonight will not be heard tonight at the request of the applicant. They have been removed to the November meeting.

JOHN HELLABY: Mr. Chairman, before you start, I would just like to see the record state apparently we have some Boy Scouts from the Local Troop --

Troop Number, gentleman?

-- troop 90 in attendance here this evening. And you must be working on a merit badge.

Would you tell which merit badge?

BOY SCOUT: Citizenship and the community.

JOHN HELLABY: Thank you very much.

JAMES MARTIN: Thank you, Mr. Hellaby.

Welcome to the meeting. I hope you find it enjoyable.

PUBLIC HEARINGS:

1. Application of Melissa Pernesky, owner; 95 Sheffer Road, Scottsville, New York, 14546 for special use permit to allow a private animal kennel for four dogs at property located at 95 Sheffer Road in AC zone.

Melissa Pernesky was present to represent the application.

MS. PERNESKY: Hi. I'm Melissa Pernesky, the owner. Did you all receive the map? I had to provide like 15 copies of this.

JAMES MARTIN: Yes. You might want to put that up on the board so the public can see it. Okay. Mrs. Cox is taking care of it.

MS. PERNESKY: I believe you all probably would be aware of, this property lies within the Town limits. I asked Dog Warden to appear tonight -- but apparently she failed to do so -- just to talk about how many other households do have more than the Town limit. I have four German Shepherds and the Town limit is two. I'm simply asking the Town give me a kennel permit just to keep my four dogs.

The property is very secluded. I don't know if you have driven by. I don't have any neighbors down there. I border the Thruway and my dogs are not a nuisance to anybody. I own both sides of the road and I don't even think the neighbors could hear them because the neighbors are so far away, but that's about it, unless anybody has any questions or comments.

JAMES MARTIN: As far as the description of the kennel itself, will this be kind of an outdoor run for the dogs or would they actually be housed in the facility?

MS. PERNESKY: This application is just right now to own the four dogs. I do currently have two dog kennels. They're very large, that are on -- connected to the carriage barn, which would be on this map here (indicating). I don't know if you would want me to point it out, down by the Thruway, the most southern building on the property. They're large kennels, 15 by 15, as well as my property is about 2 or 3 acres. I have invisible fencing, so actually the dogs are doubly confined, or sometimes when I'm home, I let them run within the invisible fencing area, which would be just on one side of the road, which is opposite the house.

JAMES MARTIN: Just for the record, our Zoning Code Section 527C-8, private animal kennels are a specially permitted use provided no structure or area used for such purposes,

including the pens and exercise yard, shall be located within 200 feet of any residential property.

You have already noted in your letter you're going to need a variance from the Zoning Board of Appeals because you're --

MS. PERNESKY: Yes. I will be doing that for the chain-link fence.

JAMES MARTIN: Because that is the 200 feet, but that's on the Thruway side.

MS. PERNESKY: Yes. It is on the Thruway side. I don't know how it falls into the code exactly. There is no residential property bordering any of my property, and I am zoned Agricultural, just so you know.

JAMES MARTIN: Okay. That's all I have got.

PAUL WANZANRIED: You said they were German Shepherds?

MS. PERNESKY: Yes.

PAUL WANZANRIED: You have no intention of breeding them?

MS. PERNESKY: No, absolutely not. My female, she is spade. The two males are spade. The only one that is -- he -- I only have one that is not neutered. I do not intend on breeding any of them, no.

PAUL WANZANRIED: And you said that -- how close would you say your neighbors are?

MS. PERNESKY: Well, they're off this map. They're way up on Morgan Road, which is about a half mile away. That would be my closest neighbors.

PAUL WANZANRIED: Half mile away?

MS. PERNESKY: About half mile away, yeah.

PAUL WANZANRIED: I don't have any further questions.

KAREN COX: I had the same question about the proceeding.

JOHN HELLABY: I guess this question is for Mr. Lindsay. Apparently on the paperwork here it says that -- no permit was ever received for the garage structure, the 24 by 24 structure. Is that an issue -- is that part of that dog kennel structure she is using?

JAMES MARTIN: Did you obtain a building permit when you --

MS. PERNESKY: I did last year.

JAMES MARTIN: You got permission to build a 24 by 24 foot structure on the property, but did you get a building permit to do that?

MS. PERNESKY: I did all that last year. I appeared before the Board and everything and even got my certificate of everything they gave me.

JOHN HELLABY: I guess it could be because the date on the variance was actually 4/2/09 and this is dated as 12/08 that the permit was not on file.

JAMES MARTIN: All right. So you did obtain a building permit?

MS. PERNESKY: Yes, I did.

JAMES MARTIN: Okay.

JOHN HELLABY: Just not noted on here. That is all I got for now.

MS. PERNESKY: By the way, that is not the building they're attached to. Just to answer that question.

JOHN HELLABY: Okay.

JOHN NOWICKI: Electric fences?

MS. PERNESKY: I have invisible fencing.

JOHN NOWICKI: You do?

MS. PERNESKY: Uh-huh.

JOHN NOWICKI: That's my only question.

DAVID CROSS: One quick question. You don't plan to use the kennels for business; it is just for private?

MS. PERNESKY: This is my -- yes. I have had all my dogs for a number years, since birth. I don't take in strays. No business intentions at all.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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: I guess from the standpoint if we move ahead and grant the special use permit, I think I would like to put a time period on this, all right, to be sure that there are no issues that occur down the road in regard to this particular use on your property. So I'm going to propose a two-year period, unless anybody has any other recommendations at this time.

JOHN HELLABY: That's fine. I would like to see that it states just the four dogs that are presently on the property, as well.

JAMES MARTIN: All right. So it will be for two years, and then you would be subject to review. If there are no problems, it could be extended for some indefinite period of time.

MS. PERNESKY: What would the process be for renewal, the same as today?

JAMES MARTIN: Basically, you know, about -- I would say 22 months from now, visit the Building Department and apply for a renewal of your special use permit.

MS. PERNESKY: Will I receive a mailing prior to that to remind me?

JAMES MARTIN: I don't know.

MS. PERNESKY: I don't know. I will forget. Honestly.

JAMES MARTIN: I would note it on your calendar.

MS. PERNESKY: Find a two-year calendar, okay.

JAMES MARTIN: So there are two conditions that I can -- so far, obtaining variance from the Zoning Board of Appeals. Certainly one of those. The 200 foot issue.

The second one is that no more than four dogs will be allowed, okay?

MS. PERNESKY: Okay.

PAUL WANZANRIED: Would it be too restrictive to make it the dogs currently licensed to the property?

JAMES MARTIN: I think it would be. If one of your dogs were unfortunately to pass away and you replaced it -- I guess that would be a little restrictive in my mind. Four is the number.

PAUL WANZANRIED: Okay.

James 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.

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

1. Approved for a period of two years.
 2. Applicant shall obtain all necessary variances from the Zoning Board of Appeals.
 3. Four dogs will be the maximum number of dogs allowed on the property.
2. Application of The Fathers House, owner; 715 Paul Road, Rochester, New York, 14624 for renewal of special use permit to allow a church at property located at 715 Paul Road in R-1-15 zone.

John Caruso and Mike Egan were present to represent the application.

MR. CARUSO: Good evening. Mr. Chairman, Board members, I'm John Caruso with Passero Associates and I'm here on behalf of The Fathers House. Our application tonight is to ask for an extension of a conditional use permit.

In the early spring of this year, I started working with David Lindsay from the Building Department to review what conditions have been left over with The Fathers House, and he -- he showed me a list of 11 items, and I'm happy to say, working with The Fathers House staff over the course of the summer, we have completed 10 out of the 11 items on the conditional use list.

The 11th item was an approval that is needed to -- for the Conservation Board with the landscaping on the property. And basically what we had there is a mix-up between my office and the Town's office and the Conservation Board in which the -- The Fathers House during construction moved some trees over to screen the neighbors from the 16-acre parcel that is open next to PNOD and they built it on the corner -- the Conservation Board had comments that weren't addressed and the plans we got signed were three different drawings, and so we all sort of noticed this and David (Lindsay) asked me one way to really clean this thing up is if we could go to the Conservation Board and get this all squared away.

So we want to ask you to grant us a conditional -- an extension for whatever we can agree to, but here is what we're going to do in that time frame.

We have asked The Fathers House to take the current map and we're going to make an as-built of the current landscaping plan. Then we'll meet with the Conservation Board and see what their comments were and integrate that into the plan. Then we'll go out and build it. Now, we still have some plantings to do at the corner where we were putting up the sign, so we can incorporate this all into one movement, and the -- the funds are in place to do the landscaping at the corner, and they have a contractor signed up.

I just don't think we should do it this fall or in the spring, so I would just ask for the time that we want to do that is during the growing season and we'll be through the planning -- or through the Conservation Board's process at that time.

So if we could ask for an extension to September 1, 2011 or anything else you had in mind.

JAMES MARTIN: Is anybody here from The Fathers House?

MR. CARUSO: Mike Egan is here with me.

JAMES MARTIN: Would you please come up to the podium for a second, Mr. Egan?

Before we move further on any extension to the current, you know, special use permit, there has been brought to at least my attention, and I think some of the other Board members, that we still are getting some issues from, I will say, you know, your church, the venue that is there. I believe there are some events where the parking was not contained to the specified parking area. There were cars parked out along the road and one of our previous conditions, that is a no-no. There should be no cars parked along the road at any time for any event that goes on over at your church, okay?

Apparently there's also been some issues around -- I think the volume of some of the entertainment that has been on the property from time to time, and I -- and again, I think it is something that the Church needs to address from a community perspective. Obviously, you

know, you have a very successful congregation at The Fathers House, and hopefully that -- some of these issues will be taken care of, because obviously I think Reverend du Plessis wants to run a very good operation over there as far as the church is concerned.

So I think anything that along that line, which has potential to be, let say, an annoyance to the community -- it may be spectacular to your congregation, but not everybody always enjoys some of the same things that occur. So I guess I am pointing it out at this time, that we would really like you to police the activities that go on over there, particularly the parking. Because we very specifically stated in a previous condition that anything you host over there, the parking should either be within the specified parking area, on your property, or if you can't contain it, then you will have to make arrangements to have off-site parking somewhere and shuttle people to whatever venue you're running. I guess I just wanted to point that out to you at this time.

MR. CARUSO: I think the only event they had, which was the Trick or Treat Halloween event last year, they are not having it this year.

JAMES MARTIN: That's irrelevant in my mind, okay?

MR. CARUSO: Okay.

JAMES MARTIN: The condition was in place. They violated the condition. So I want that to be understood. Okay?

MR. CARUSO: Yes.

JAMES MARTIN: Thank you.

Any concerns about granting an extension to the current special use permit for them to get in compliance with the landscape plan with the Conservation Board?

JOHN HELLABY: Only concern I have, I don't want to sit here a year from tonight hearing the same thing again.

JAMES MARTIN: I understand.

From a planning perspective, I will go to Pat (Tindale). Could most of this be completed in the spring of 2011 --

PAT TINDALE: Definitely.

JAMES MARTIN: 2011.

PAT TINDALE: That is why I was going to question why we're putting it off to the fall?

MR. CARUSO: What was the question?

JAMES MARTIN: Could most of the plantings be completed sometime during the spring of next year as opposed to going all of the way to September 1st? Could June 1st be a legitimate cut-off on any extension? That is my question, I guess.

PAT TINDALE: Very definitely.

JAMES MARTIN: Okay. So Pat (Tindale) says definitely June 1st would work. All right?

MR. CARUSO: June 1st would work with us. I was just --

JOHN NOWICKI: To get the --

MR. CARUSO: We're going to have -- we'll be at the Conservation Board -- we'll submit for the next meeting, and it is probably going to get done in November and December. That is all I was saying. It is -- you can't plant anything until the ground is at 55 degrees and that doesn't happen until about June 1st, so maybe we should say July 1st and that way we won't have any trouble.

JAMES MARTIN: A month either way doesn't make -- is okay with me. Okay. Any questions right now for -- on this application other than the extension period?

JOHN HELLABY: I have one. The parking lot work that you did over there this past summer, I know we had to put some silt fence in and whatnot. It looks like most of the grass is established and whatnot.

MR. CARUSO: That fence needs to come out.

JOHN HELLABY: The silt fence is a ratty mess. I would like to see this gone ASAP.

MR. CARUSO: This gentleman here will be taking care of that for you. He was responsible for a lot of the work that is being done out there, the removal of the PODs in the back, the storage. I got to say he was an intricate part of going through the 10 items out of the 11 that we were able to accomplish, so consider it gone.

JAMES MARTIN: One other question that just popped in my mind. The building, the old church across the road, okay, what are the current plans for that? Maybe Mr. Egan knew at one point in time. I know at one point you were going to put it on the market, but my understanding is now it is still being utilized for church activities.

MR. CARUSO: I can answer that. I spoke with Reverend du Plessis, and -- what they're doing is they're having -- some people from the congregation don't like going to the big church. They still like the small church feeling, and so he does have services over there for a smaller group of people.

JAMES MARTIN: Are they in like live broadcast from the main facility, or are they actual services going on in the building?

MR. CARUSO: I believe both.

JAMES MARTIN: We still have people crossing the road there?

MR. CARUSO: No. No.

MR. EGAN: The worship portion of the service is live, and then we're doing actually the -- a delayed broadcast of an earlier service in the -- Sunday morning at that location. So it's -- the actual message is a -- a recorded message.

JAMES MARTIN: So the people that go to the old facility, there is room for them to park on that side of the road so there is no pedestrian traffic going back and forth across Paul Road; is

that my understanding?

MR. EGAN: That is my understanding, too.

DAVID LINDSAY: We suggest probably a July time frame for them to come back. That gives them plenty of time to get the plantings in, we can do an inspection and if there is anything that needs to be corrected, it gives us another month to make the corrections so we can be all set by the July meeting. That would be our suggestion.

We did receive a number of complaints related to noise. I don't know if Mr. Caruso -- he provided a letter back to the Town today addressing some of those. I don't know if maybe for the Board's benefit you want to expand on that.

MR. CARUSO: Sure. There's nothing to hide. Any event that there was noise, they want to respond to because this is how Pierre (du Plessis) is.

And so Dave (Lindsey) threw a list of items at me in which there was a complaint, and the one was on a Sunday morning, they had the kids come outside and they beat a bucket, and they made noise, and it was in the early morning service, and there was a complaint. So it was brought to their attention. They said, "Well, we'll never do that again."

It was a one-time event. They knew exactly what it was and they made a change to that.

The other noise problem came, they have a -- they have a geese problem, and the geese make a mess on the asphalt, so they have a service come street sweep and clean up the geese mess. The contractor came late in the -- when it was easy for him to get there, and as a result, somebody complained that they heard the machine running all night, which I can imagine it to be true.

So as soon as we heard that, we contacted the vendor and said, "You have to come on Saturday afternoons now," and so now they come and they do it between 4 and 10 p.m. on Saturdays and -- because they have to have it cleaned for the next morning.

And they also have security gates on the property now so people can't drive through or cut the corner. So it's controlled. Because they have to let the person on and off the property with the security gate. The other event was during the summer they have youth events behind the church at night. They come into the Town, they get a fire permit, but they didn't know there was a height restriction to the flame. So they put pallets on there and had a big bonfire and had a blast, but you can't have it more than 3 feet. They didn't know that. So upon hearing that, um, now -- did you know that?

So now they don't have flames above 3 feet.

KAREN COX: I don't have a space to have a giant bonfire like that so I don't worry about it.

MR. CARUSO: Those were the things that we had heard of.

So I'm glad that David (Lindsay) brought it up. David (Lindsay) has been great to work with. He has been very transparent and so have we and it gave us a chance to respond back. We wanted to show in writing and we do have concerns that we are trying to keep track of, that once we saw this list and this year after year coming back, I wanted to get involved. This gentleman has helped me get this list down to one, look at it. We're taking our Conservation -- our -- our landscaping back to the Conservation Board with an as-built condition, and we're really going to look at it all. So July 1st, this thing will be done. That will allow then the conditional use permit to not be under any conditions anymore and they can continue to operate. Then if there is any noise, it is just a Building Department infraction.

JAMES MARTIN: Okay. Thank you, John (Caruso).

Pat (Tindale), I think, you know --

PAT TINDALE: That date I think sounds good. I probably will come around in June to check to make sure it is done.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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: Basically since we're just extending a preexisting special use permit, SEQR was done at that time, so we're not doing SEQR at this point. I guess I heard the request is to give an extension until -- until July 1st, 2011. I would make a motion at this time that we extend the existing special use permit to July 1st, 2011, at which time it would be subject to review by the Planning Board for any further activity or action.

JOHN HELLABY: Second.

DECISION: Unanimously approved, by a vote of 7 yes to extend the time limit on the existing special use permit to July 1, 2011 to allow the applicant to complete all the proposed landscaping work.

3. Application of Jill Wilson, owner; 4283 Buffalo Road, North Chili, New York 14514 for renewal of special use permit to allow a two-family dwelling at property located at 4277 Buffalo Road in R-1-1 5zone.

Dan Schum was present to represent the application.

MR. SCHUM: Good evening, Mr. Chairman, members of the Board, my name is Daniel Schum. I'm an attorney with offices at 43 Nickel Street, Spencerport, New York. I appear here this evening on behalf of Jill Wilson, the applicant. I have attached her consent to my appearance and authorization to act on her behalf.

The Board may or may not remember, Mrs. Wilson suffers from MCS, Multiple Chemical Sensitivity. She couldn't stand in this room with carpet and the paint and the issues that she has, so she has hired me, which is her right to do, of course.

This is an application to extend a special use permit that was previously granted by this Board. The property is located on the south side of Buffalo Road directly across from the athletic fields at Roberts Wesleyan. To the immediate west of the subject property is Mrs. Wilson's home. She lives there. The subject property was offered for sale initially by the then-owner of the property as a two-family dwelling. It was taxed as a two-family dwelling, but upon investigation by Mrs. Wilson, she found it was not a legal two-family dwelling, so she applied back in -- back in 2008 for a special use permit, which was granted by this Board in December of 2008. The conditions on this permit was that she bring the apartment, part of the two-family dwelling, up to code because it clearly was not up to code.

Some six months later the owner of the property, who was the contract vendor of the property had not done a thing, so Mrs. Wilson came back to this Board and got an extension of that special use permit to allow her to do the work. She closed on the property in the middle of the year of 2008 and finished the work by December of -- which was the condition that this Board imposed. There is that -- in the application package a copy of the Certificate of Occupancy or Certificate of Compliance for the apartment side of the two-family dwelling. I have personally viewed it. It has been brought up to code. I believe there is no code deficiencies. It is a very viable apartment that meets all of the State and local code requirements for occupancy.

Mrs. Wilson has also complied with all of the other conditions imposed by the Board in terms of the property itself, and the application tonight is to ask this Board to grant an extension of the permit previously granted.

Mrs. Wilson has not yet rented out the apartment because by the time she got the Certificate of Occupancy from the Town, it would have been less than a year from then until this December, when her permit expires. She didn't feel it was appropriate to rent to someone for a year and then if this Board were to turn it down for some reason, have to throw the tenant out or do something else.

To the immediate east of the property is vacant land the is zoned for commercial-type use. To the south of the property, it is owned by Roberts Wesleyan. To the west of Mrs. Wilson's home is the -- is the President's home for Roberts Wesleyan. So this -- so this property itself, the two-family dwelling is really sort of an isolated two-family structure on the south side of Buffalo Road. It impacts probably mostly Mrs. Wilson and that is the very reason she bought it. She wanted to be able to control the property that was immediately adjacent to her residence.

It is a very attractive property now. It has been sided, roofed, gone through, gutted. And I would ask the Board to grant an extension of this permit for as long as she owns the property. It is an attractive two-family dwelling and should be used for that purpose. It meets code -- code regulations and compliance. To put a two-year or five-year time limit on it would really serve no useful purpose, I don't believe. If there is code violations that occur, it's no different than any other two-family dwelling in the Town.

Any questions from the Board?

JAMES MARTIN: I don't have any specifically. I will just note for the record that there was a Certificate of Occupancy issued for this particular property to be dated 10/19/2009, essentially meeting all of the code requirements.

There was one issue -- there was an old shed on the back of the property, and I believe based on Mr. Shero's latest observations of the property, it has been removed.

PAUL WANZANRIED: The Certificate of Occupancy was for the first floor apartment only, correct? So is it her intention then to rent the house?

MR. SCHUM: Her intention is to rent the apartment side of the property. She is presently renovating the interior, if you want to call it the main structure or the house itself. And that -- once it is completed, once the renovations are complete and it -- and any inspections and it's in compliance, she would intend to rent that, as well. It is plenty big enough. I mean it's -- the property has off-street parking. I mean there is a driveway, and there's a two-car garage in the back that she has sided and roofed, and -- so there is no issues with respect to -- to impact on adjoining properties. But yes, eventually she would intend to do that. The Certificate of Occupancy is for the apartment side, which was not in compliance with code. Clearly not. Didn't have a firewall. Didn't have separation. Didn't have any of the things that the code requires.

JAMES MARTIN: If I remember correctly, that was the primary issue.

MR. SCHUM: Yes, it was.

JAMES MARTIN: The way it was. The apartment. Okay.

PAUL WANZANRIED: Given she is renovating the main house now, does Mr. Lindsay's department have any authority to run Certificate of Occupancy for rental units?

JAMES MARTIN: Do you know if there is a building permit outstanding on the renovation of the main structure, David (Lindsay)?

DAVID LINDSAY: I don't know off the top of my head if there is, but I can check on

that.

MR. SCHUM: I think what's -- I mean there -- I walked through the property myself. There's no structural walls being moved. Updating the wiring, new flooring, new drywall where necessary, new appliances, new light fixtures. So it is nothing -- I don't want to say nothing more, but it is a substantial improvement to the property, but nothing -- if there is any code -- if there -- electrical wiring and you need an Underwriters inspection, I'm sure my client would comply with that.

DAVID LINDSAY: I don't have a record of them coming into the Building Department seeking a permit for the work they're doing.

JAMES MARTIN: Since we're dealing with a two-family, rental to two separate properties, would the main structure be subject, all right, to inspection upon completion of the renovation work?

DAVID LINDSAY: It would be certain inspections they would have to comply with. Electrical would be one of those, depending on the scope of the work that they're doing.

MR. SCHUM: I think we now know that the two structures are physically separated, firewalls and those kinds of things. But if there are any inspections that need to be done for the interior work done on the main dwelling, I'm sure you can make that as a condition of any --

DAVID LINDSAY: What I would suggest is they come into the Building Department with some detailed plans what they're doing there and --

MR. SCHUM: There is no tab -- I don't know -- I will be glad to work with the Building Department.

JAMES MARTIN: Okay. So basically I will say the applicant is to confer with the Building Department to determine --

MR. SCHUM: What permits, if any --

JAMES MARTIN: What permits and inspections, if any, are necessary.

MR. SCHUM: Absolutely.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

James Martin made a motion to close the Public Hearing portion of this application, and Karen Cox seconded the motion. The Board unanimously approved the motion.

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

James 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.

JAMES MARTIN: Assuming that we get all of the clearances necessary from the Building Department on the main structure of the house, this SPU, once it is granted, would be in effect until the ownership of the property were to transfer.

Keith (O'Toole), any problem with that statement?

KEITH O'TOOLE: I'm sorry?

JAMES MARTIN: If we grant the extension of a special permit use that is in place right now and we condition it that it would remain in effect until transfer of the ownership of the property, is that correct from our standpoint, or should we say it is there and it goes with the property?

KEITH O'TOOLE: I'm not a big fan of tying conditions to who owns the property. Better just to drop the condition.

JAMES MARTIN: All right. So there will be no time limit and not conditioned upon transfer of the property.

James Martin reviewed the proposed conditions with the Board.

MR. SCHUM: Could I ask a question? As to the apartment that has already been reviewed and approved, she could rent that tomorrow?

JAMES MARTIN: Yes. That's done.

MR. SCHUM: Okay. I just wanted to make sure.

JAMES MARTIN: Check with the Building Department first, because I wanted to make sure there is no little catch-22s with the two-family situation, okay?

DAVID LINDSAY: Why don't you just come in tomorrow if you have a second.

MR. SCHUM: Fine. Thank you, Mr. Chairman.

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

1. Applicant to confer with the Building Department to determine what permits and inspections may be necessary for the main structure at the property currently undergoing renovation.
2. There is no time limit placed on this special use permit.

4. Application of Metalico Rochester, Inc. owner; 1515 Scottsville Road, Rochester, New York 14624 for preliminary subdivision approval to combine three lots into one lot to be known as Metalico Rochester Subdivision at property located at 1511, 1515 and 1525 Scottsville Road in GI zone.
5. Application of Metalico Rochester, Inc., owner; 1515 Scottsville, Rochester, New York 14624 for preliminary site plan approval to erect a mechanical metal shredder at property located at 1511, 1515 and 1525 Scottsville Road in GI zone.
6. Application of Metalico Rochester, Inc., owner; 1515 Scottsville Road, Rochester, New York 14624 for special use permit to allow an auto shredder and dismantling at property located at 1511, 1515 and 1525 Scottsville Road in GI zone.

Applications 4, 5 and 6 were tabled at the applicant's request until the 11/9/10 Planning Board meeting.

JOHN HELLABY: Mr. Chairman, I would like to recuse myself from the next two applications due to the amount of business I do with Mr. Bivone's businesses.

JAMES MARTIN: You're recused.

Dario (Marchioni), you're recused also for being an adjacent property owner.

OLD BUSINESS:

1. Application of Lou Bivone, 55 Alliance Drive, Rochester, New York 14623, property owner: Alliance Door and Hardware; for preliminary subdivision approval to combine 3 lots into 1 lot to be known as Bivone Commercial at properties located at 3763 & 3765 Chili Avenue and 2 Willowbend Drive in N.B. & FPO zone.
2. Application of Lou Bivone, 55 Alliance Drive, Rochester, New York 14623, property owner: Alliance Door and Hardware; for preliminary site plan approval to erect a 14,250 sq. ft. retail building/dance studio at property located at 3763 & 3765 Chili Avenue and 2 Willowbend Drive in N.B. & FPO zone.

John Caruso, Jess Sudol and Lou Bivone were present to represent the applications.

JAMES MARTIN: That has been modified. The original application was for 14,000, but it is now down to --

MR. SUDOL: 11,050.

MR. CARUSO: Don't say it. Lou (Bivone) is in the room.

JAMES MARTIN: We're amending the application to now read 11,050 square foot retail building/dance studio at property located at 3763 & 3765 Chili Avenue and 2 Willowbend Drive in N.B. & FPO zone.

MR. CARUSO: Mr. Chairman, I'm John Caruso with Passero Associates, and I'm here tonight on behalf of Mr. Louis Bivone. Lou (Bivone) is with us in the audience along with Jess Sudol from my office.

At the last Planning Board meeting we were tabled because we had not had comments received back from the Architectural Review Board. Nonetheless, there was some significant comments that came from the Planning Board members themselves and the side table and as a result, we sat down with Mr. Bivone and we made some significant changes that positively affect the design and those issues associated with the past design for the project.

And so I would like to take you through a five-minute presentation on the changes and how they are reflected in the plan, show that to you here, and then also report back from the Architectural Review Committee meeting that we had Thursday night and the work that we have done with that Committee.

So if I could, I think the biggest change that we wanted to note to the plan is that we reduced the size of the building by almost 25 percent. We eliminated 3,200 square feet on the end of the building, and I will go over here and point. In this area here (indicating).

As a result of minimizing the size of the building, we sort of saw an improvement and a domino effect. That improvement was this: The -- with a smaller building, we required less parking. With less parking, we were able to remove a row of parking that was on the old plan up near the street. If we were able to remove a row of parking and the drive aisle that fed that row of parking with a smaller building, we were able to slide the building closer to the street, because what we were hearing from the Planning Board was that you want us to reduce the size of the building and move it to the street. The problem we had with the bigger building was that this property line on a skew limited on how far we could move the building to the north. So when the building got smaller, we could move it more northerly towards Chili Avenue.

As a result, we were able to meet up with one -- one of the suggestions Mr. Cross made was not have so much encroachment into the front setback, but a small encroachment would be palatable if we could achieve those types of things. Actually almost to the foot, we were 10 feet into the setback of a 75-foot setback. We're into it at 65 feet. Well, we were like almost 40 feet into it before.

What is interesting to note, if this was not a State highway, if it was a Town highway, the

setback would be 60 feet and we would be -- we would not need a variance at all. So the good news is we have been able to reduce the size of the building, benefit from the less parking that is needed. That allowed us to move the building forward. It minimized the variance. We know that will help out at the Zoning Board of Appeals because they're looking for you to minimize and they're looking for -- to make changes to the significance of your variance and I think with this design change we're able to reduce the significance of our variance.

The other thing I would like to point out is that at the last meeting we were talking about land banking the parking, asking for a waiver. We no longer need to ask for a waiver, so that also was eliminated in the design change.

One of the biggest improvements we would like to point out is that the Board asked us to make a gathering area, a place where the community could come to the site and so we had already proposed -- or met, I should say, a condition that the Board asked of a sidewalk across the front of Chili Avenue. We now have pedestrian access into the site and if you notice on the leeward side of the building, where the old square footage used to be, we created a gathering spot, and if you look at the architectural rendering on the second page there, you will see this -- this area here (indicating), and what -- from the side you're looking at a westerly view.

But you will see it is half covered and it's half opened, and it has fit into the architecture of the building with the gabled roof and the brick columns. Moreover, we have a retaining wall there that will match the other retaining wall on site and we have a set of stairs going up to it, and it is going to be a very nice place for people to gather.

If you will recall at the last meeting, some of the Board's concerns were the Town Engineer's comments that had -- were really focused on the back side of the property where we had the storm water management areas.

Well, when we lost a row and aisle of parking and the building got 25 percent smaller here, we were generating less runoff. We were disturbing less also, so as a result of that, the ponds -- the ponds that needed to be this big (indicating) got smaller. In addition to the ponds getting smaller, an area over there where there were some walnut trees and oak trees that were identified from the Conservation Board, we have been able to save.

So again, one of the things I wanted to emphasize is the reduction of this building had this domino effect of improvement to the site.

And most -- one of the most important issues that -- if you remember the gentleman who lived just to the east of us, Mr. Rick Taubold, he spoke at the meeting. Again, I did not plant Rick (Taubold). He spoke very favorably, but this really doesn't impact the -- the designs that we were trying to do with the screening from him because of the angle in which the building moving forward still didn't impact him. We still have the screened fence there to prohibit his view of the site and the parking areas which we were trying to screen.

Then lastly, the Board wanted us to go to the Architectural Review Committee meeting and meet with them. They made ten changes or they asked and suggested ten changes to the building, and those changes were added to this plan here and that is what we're showing you. We did make these changes and sent them back to ARC, and we pretty much agreed and complied with all of the comments that they made.

There were two conditions -- actually like one and a half conditions that we -- they were suggestions that we decided we're not going to go with, and I will show you what they are.

But most importantly, we added some cupolas that will be illuminated. They wanted to see that. There is some soldier courses and keystones added above the window. They asked for the windows to be broken up rather than one big solid pane into quarters or thirds on one of the panes. They did that.

On the back side of the building, they wanted cover -- a cover over the access so we integrated these little side dormers, which if you have the old plan, you will see this is one big wall, but this sort of breaks it up now. That was in response to one of the neighbors who asked for an improvement to the back side of the building.

The other improvement, were having different materials up in the hardware end of the gable, and then we talked about the concrete finish in the patio area, whether it was going to be hardscape or brushed concrete.

The only suggestion that we did not agree to was the mullions on the window. They wanted to have mutton bars inside the windows which are grids planted inside the windows. At first we thought they were a good idea, but then we talked with our client and that would be something that would be more into an office building, not so much a retail building, which you would want to look in through the windows.

So that is why I said sort of 1 1/2. Because if this was the window before, no mullions on it at all, we did agree to put -- add -- break the window up with a one quarter mullion, but our client just doesn't like the flavor of the grids inside the window.

So not a big deal. And the other condition that they asked us to look at was to change the style of the parking lot lighting from the conventional shoebox cutoff fixtures that we're proposing to something very architectural with gooseneck that you might see in some of the villages. At first we thought that that would seem interesting to look into. Um, but when we looked into it, the cost of the individual lights were three times the cost of what we were proposing, and it did not fit into the character of the neighborhood at all. As we went over to this property (indicating) and this property (indicating) and this property (indicating), they all had bronze, brown shoebox cutoff type fixtures.

So we only have two lights in our parking lot. We wanted to get enough throw out of them, and those are more architectural than performance driven, so that was the only other thing

that we just didn't give in on. Okay? So I'm -- I'm -- that is all I have for my presentation. We feel that we have really come a long way.

We would like to ask the Board to grant SEQR approval tonight and waive final for us on the subdivision, granting site plan approval.

Really like to thank Lou (Bivone) for giving us the opportunity to meet these conditions also.

JAMES MARTIN: Okay. I have a copy of the letter that was generated October 11th. You probably haven't seen it yet?

MR. CARUSO: I have seen it.

JAMES MARTIN: Pardon?

MR. CARUSO: The Town Engineer's letter?

JAMES MARTIN: You have seen it. Okay.

I guess there is a few things in here that certainly, you know, moving ahead on this, if we do, would be subject to, you know, Commissioner of Public Works and Town Engineer approval, and there are several items in here which they have total control over as far as, you know, being happy with the plan itself.

MR. CARUSO: Is there anything you would like to discuss or have me --

JAMES MARTIN: I am just glancing down through. I have some checkmarks on some of these. Certainly submitting a new SWPPP based on the redesign of the ponds.

MR. CARUSO: Just so you know, that has already been done. So some of the things, hopefully, are -- are -- are redundant.

JAMES MARTIN: All right. The applicant's engineer submit design calculations for the closed drainage system.

MR. CARUSO: (Indicated non-verbally.)

JAMES MARTIN: Okay. Certainly, you know, we need the agreement with the Town on the maintenance issue.

MR. CARUSO: Yep. Yep.

JAMES MARTIN: Question in here about adequacy of the retaining wall. Would you care to address that?

MR. CARUSO: The retaining wall is a design issue. We can -- we'll have to show them that the retaining wall will stand. It's not a problem.

JAMES MARTIN: Couple of boilerplate things, on letter of credit.

MR. CARUSO: Yep.

JAMES MARTIN: Keep them informed of any correspondence from any of the agencies. Sub surface soils report. Has that been submitted?

MR. CARUSO: Um --

JAMES MARTIN: If prepared, the sub surface soils report should be submitted to the Town.

MR. CARUSO: One has not been prepared yet. We can give them a copy of one when it is.

JAMES MARTIN: Certainly getting New York State DOT permit.

As far as the architecture and the building itself, generally were samples available at the Architectural Advisory Committee meeting of what they're proposing to use on the building, Bob (Latragna)?

ROBERT LATRAGNA: There were samples available.

JAMES MARTIN: And basically we're okay with what they have submitted?

ROBERT LATRAGNA: Samples that they provided were acceptable except where we asked for changes.

JAMES MARTIN: Okay. Again, I think we need to be consistent. What has been submitted needs to get built.

MR. CARUSO: Right.

JAMES MARTIN: Okay. This one, I think, has come from two different sources and also some input from the Public Hearing. This is about the sidewalks, okay, or the pedestrian sidewalk that goes down along the roadway from Chili Avenue to the -- to the two private facilities that are down at the end of Willowbend Drive.

Brad (Grover), I believe Traffic and Safety took a look at this. Do you have a comment on it?

BRAD GROVER: Yes, we did. We came up with a recommendation of having a curbed sidewalk all of the way down from Chili Avenue to the homes in the back.

JAMES MARTIN: I believe that's -- Commissioner of Public Works also feels that that is probably appropriate.

Based on the fact now that we're going to have this gathering area now, John (Caruso), on the side of the building, I think from a pedestrian safety standpoint, it would make sense to now have some delineation, rather than just a cross-hatching on that sidewalk coming down from Chili Avenue.

KAREN COX: The entire length down to the Willowbend Drive properties?

JAMES MARTIN: Well, I don't know why not. I guess at this point -- I mean, I will open it up to the Board for comment at this time. I mean it is obviously an issue that --

DAVID CROSS: I think the concern is the separation between the pedestrians and the vehicular traffic, so -- so adjacent, raised sidewalk is probably appropriate. 5 foot wide. ADA accessible.

PAUL WANZANRIED: I agree.

JAMES MARTIN: Karen (Cox)?

KAREN COX: Yeah, I mean -- sorry. I guess given in light of the fact that there is -- looks like there is going to be some type of business where the property owners might be visiting it on a regular basis, um, that would be appropriate.

JOHN NOWICKI: I think in the winter months, as far as plowing goes and the snow -- and snow removal, that that would be a constraint or -- which would be safer? You know, if they just did asphalt all of the way down through and mark it.

PAUL WANZANRIED: He has to raise his plow to put it where he has snow storage marked now because he got a 6-inch curb all of the way around.

MR. CARUSO: The reason I put it where it was was so that it could be maintained by a snowplow. If you raise the curb -- well, there is a raised curb there. But if you put the sidewalk on the other side, now who is going to maintain that? I don't have the answer to that, so I thought the easiest thing to do, especially with -- we're not talking about a high volume. This is an if-come.

And you know, we have discussed in the past that, you know, we're really looking to do this because of our relationship with Dario (Marchioni) and that we wanted to be respectful to his property, and so we widened this pavement out (indicating), and I thought it was an acceptable solution. Maybe not to everybody, but we could do it with pavement and stripe out the area.

I have heard you all say that you want to see it raised. But then I don't know how to answer the question when you ask me is who is going to maintain it, because should -- should Mr. Bivone be responsible for maintaining the segment that goes past here (indicating)? Or if I was to raise it up and put it -- a curbed -- or put a sidewalk in here (indicating), would I not be better moving it over to this side of the road (indicating) and then just putting it in here (indicating) and not doing anything down to here (indicating)?

KEITH O'TOOLE: Inasmuch as we're trying to serve pedestrians in residential subdivisions to the rear of the property, I would think you would leave the sidewalk where it is shown on the property -- or on the plan right now where you have crosshatching. Typically when we run improvements of this sort, we run them to the end of the property line. The same reason we stub out roads to the end of the property line, so they can tie in for future development. We don't know what future development will be back there. Maybe nothing. Maybe something.

JOHN NOWICKI: But you're not saying what kind of material should be used?

KEITH O'TOOLE: I'm not an engineer, John (Nowicki). I'm just an attorney.

JOHN NOWICKI: Is there an easement that comes down through there that everybody shares -- would share in the maintenance of that stuff?

MR. CARUSO: Yes. There is an easement. There is an easement.

JOHN NOWICKI: So in other words, if you put a concrete walk in there, raised with a curb on it, the property owners who are sharing that easement are going to be responsible for the maintenance and upkeep?

MR. CARUSO: You're right. Technically it was one of the engineer's comment that -- who is going to maintain and share in that, but you know, Mr. Bivone is going to have a snowplow come in and clean out that property. And I can't see him stopping at a short segment away, but the -- but the one thing you have is you have a snowplow working in -- and I don't know where do we get someone to come snowplow the sidewalks? I don't have an answer on that. There is no snow blower. There is no shed on the property to keep a snow blower. Although it's easy for me to say, yeah, because I could have drawn it on the other side of that thing -- then how do we maintain it? So am I giving you something that we really can't maintain? I have been very cautious on that.

JAMES MARTIN: Question or clarification, Mr. Marchioni? I will allow it, given it -- there is not a Public Hearing.

DARIO MARCHIONI: We have no problem in cleaning that sidewalk. They don't have to do it. We're more interested in safety than cleaning the sidewalk.

DAVID CROSS: Seems like the arrangement for the -- should be worked out between Mr. Bivone and the two properties and how it is going be worked out.

JAMES MARTIN: Yes. I -- we have a suggestion from Mr. Cross that Mr. Marchioni has indicated they would take responsibility for cleaning the sidewalk. Sounds like we need some sort of an arrangement in writing between Mr. Bivone and the two residents on Willowcreek Bend to determine how that is going to be maintained. I guess based on the info we have got from Traffic and Safety and from some of the comments from the Board, now that we are going to have this gathering place, it just seems like from a pedestrian safety standpoint, John (Caruso), there should be some elevation, some way to really delineate that sidewalk.

So I -- so hopefully we can work that through to a satisfactory answer. Okay?

MR. CARUSO: I'm sure we can. I'm just wondering how much -- how much is it Mr. Bivone's responsibility to have to construct a concrete sidewalk from here to here (indicating)?

I can see him willing to agree to it in this area here (indicating), but when you change the design from what we propose it to this (indicating), this really serves these people here (indicating), and -- and we're improving this whole right-of-way and access for their use, and there is no -- there is no input from them, no sharing of any costs and so if -- so if you really do want it, I'm willing to -- to put the raised sidewalk in, but to serve this project (indicating) and reserve this area out for Mr. Marchioni to build this sidewalk (indicating), if he really wants to have it. He doesn't have to put concrete. He could put asphalt in there and -- and -- right now they have a 12 foot wide stone road, and it's barely stone.

JOHN NOWICKI: Good point.

KAREN COX: Yeah. I mean --

MR. CARUSO: I'm willing to show it on the plans and -- and show limits of work and we can show the design and let these guys work it out.

KAREN COX: I mean, I think that to me that seems like a fair compromise, if you will. Certainly in the area where we're going to be bringing pedestrian traffic from Chili Avenue, let's say, down to the -- the business with the gathering area, I would -- we're bringing people off the property, onto the property, and it's the driveway, then you would want to have a raised sidewalk. But to service the two back lots, um, you know, it's -- it's like putting a sidewalk on a residential driveway. How many people do that?

Maybe the land owners could share in the cost. I don't know if that is even legal, but -- but I don't have an issue with that.

MR. CARUSO: So we could meet the conditions of this Board, recommendations from your sub table, show it on there and show the limit of work, and then if Mr. Marchioni wishes to do it, he could do it over time. But the design intent that you're looking for is on the approved plan.

DAVID CROSS: Again, I think if you go halfway back with the 5 foot raised concrete sidewalk, you might as well go all of the way. Who is responsible for it, I don't think that is our -- our decision. That's between the applicant and the two property owners. We'll let you take care of that.

MR. CARUSO: I'm agreeing with that. We'll show it on the plan, all of the way back, but, you know, we'll be responsible to the first half of it.

JAMES MARTIN: All right.

KEITH O'TOOLE: Truth be told, I think in all fairness, I think Mr. Marchioni has made what could be described as a compromise. He has agreed to accept responsibility. In terms of what the Board has the power to do under the law, you could certainly require this applicant to keep that sidewalk free of snow and ice, if you so desired. So perhaps the compromise, the reasonable compromise would be for the applicant to build the sidewalk all of the way back, and then as Mr. Marchioni has offered, for he and his neighbors to take responsibility for clearing it from snow and ice.

Nothing further.

PAUL WANZANRIED: Does -- well, does the applicant have the liability there?

KEITH O'TOOLE: Then Mr. --

PAUL WANZANRIED: If Mr. Marchioni for some reason that day doesn't shovel it and the general public is walking down that sidewalk to get to whatever shop there is there, and slips and falls, who bears the liability for that?

KEITH O'TOOLE: The same people who have the liability today. There is already an easement back there.

PAUL WANZANRIED: Okay.

JAMES MARTIN: Okay. We -- let me just see how this reads for now and then we'll move on. In order to provide better separation between pedestrians and vehicular traffic, we require that a proposed -- that the proposed striped pedestrian walkway be changed to a 5 foot wide integral concrete curb and sidewalk that is in compliance with all ADA guidelines; and then an agreement between the applicant and adjacent home owners be worked out in regard to this particular matter.

I don't know how else to say that, John (Caruso), I guess, at this point. Okay?

KEITH O'TOOLE: Excuse me. I had a discussion with Mr. Lindsay. Just so we're clear, the idea is that the concrete sidewalk and the curb run to the rear property line at the same time that the building is constructed; is that correct?

JAMES MARTIN: According to this, yes. He is saying it, according to the plan.

KEITH O'TOOLE: Well, the plan doesn't show a sidewalk.

JAMES MARTIN: It shows a striped out area that is being changed to a 5 foot wide sidewalk.

KEITH O'TOOLE: Very well. Just for regulatory purposes, the Town of Chili is not going to get involved in any agreement between developer and neighbor regarding the sidewalk maintenance.

Thank you.

JAMES MARTIN: The landscape certificate of compliance is a new thing that we require certifying that the landscaping has been put in according to the plan.

Number 13, in the response letter from October 4th, 2010, from Passero regarding the -- some of the previous comments from Lu Engineering, there was a statement in here -- I need to find it. It was under Number 6, about the easements on the property. And basically, the last sentence in the paragraph of your answer says for this particular site, the RG&E easement is vague and we'll be reviewing any easement requirement with them. Okay?

Certainly based on your current plan, that 30 foot buffer would be smack dab over the top of the RG&E easement going down the east property line, correct, John (Caruso)?

MR. CARUSO: Yes. We don't plan to change any of the easements or change any of the ownerships of it or conditions of it. We're not planning on changing anybody's service or interrupting anybody's service back to those homes in the back.

I guess the best thing to say is that we plan to maintain and respect and legally -- legally maintain the access and utility easement that is there in place.

JAMES MARTIN: How does are RG&E feel about putting all those plantings and

everything on top of their easement? Has that been negotiated or discussed with RG&E?

MR. CARUSO: Um, just like Water Authority, sanitary, their easements are there. We're putting roadways on top of theirs.

As long as if they have to go in and work inside the easement, um, they -- they require that you will have to put back any materials in kind. So I don't know how else to say it. It is very commonly done, and we already have that condition existing right next to the RG&E easement with the sanitary sewer that runs through there. It is access and utility easements running through this corridor which we are continuing to maintain.

By the way, our plans do go through their review for services to this building. So they look at all this. So it's not like I'm just making this up.

JAMES MARTIN: Okay. So if for whatever reason they had to come in there and dig all that stuff out, the applicant would then be responsible to replace it and make it look like it did before they dug it out all out?

MR. CARUSO: That's correct.

JAMES MARTIN: So we need Fire Marshal review.

Lighting contours on the proposed buildings, apparently those were not in the plans.

MR. CARUSO: I know it was on past plans and I don't know why it wasn't on a few, but we can add that to the plan. Pretty much that whole list, Jim (Martin) -- we have reviewed the letter and the only thing that we -- we had objected to was the -- the -- the raised sidewalk, but I think we have worked that out here.

JAMES MARTIN: Okay. Those were my primary concerns based on that letter.

PAUL WANZANRIED: What is your enclosure for the dumpsters going to be?

MR. CARUSO: Paul (Bloser), it is on the design plans, on the details, and it's a board-on-board fence, as I recall.

PAUL WANZANRIED: And this was approved by the AAC?

MR. CARUSO: We sent it to them for their review and it was requested by the Planning Board Chair.

JAMES MARTIN: Has that been reviewed, Bob (Latragna)?

ROBERT LATRAGNA: We did receive the plans, but I have not received a response from the other Committee members. It did look to standards, board-on-board. I have a copy here for someone if they would like to see it (indicating).

JAMES MARTIN: Do you want to pursue that, Paul (Bloser), or are you okay with that at this point?

PAUL WANZANRIED: I guess I wanted to see if it was addressed by the Architectural Committee, and what they had stated, or if they had approved what they proposed.

MR. CARUSO: They asked us the question at the meeting, what are we doing for a dumpster enclosure. I told them what I just told you. We didn't have it in the architectural designs because in this Town we do it in the civil plans. And so we said that on Monday, we would follow up.

We took a copy of auto CAD and e-mailed it to them because we were trying to get their answer back for tonight. And so unfortunately, I'm sure the gentleman didn't -- probably didn't have a chance to review it, but it's not any different than what we have gotten approved here in other projects, and it's a board-on-board enclosure behind the building.

PAUL WANZANRIED: Typically, I know that the Architectural Committee likes to have like materials from the building utilized in construction of the dumpster proposal.

MR. CARUSO: If I could just point out, this is our dumpster (indicating). It's in the back of the building, in the most remote spot.

We also added all this landscaping in here to screen these (indicating). If you look over here (indicating), this is the dumpster for Byrne Dairy, right now front in the middle of the project (indicating). So I think this -- what we're proposing is what we have used before, and I think it's adequate.

PAUL WANZANRIED: Okay. Well, I'm not sure.

The lighting in the back of the building is just building-mounted?

MR. CARUSO: Yes.

PAUL WANZANRIED: Wall packs?

MR. CARUSO: Yes.

PAUL WANZANRIED: So there's no lighting for the parking back there other than what is bleeding off the wall packs?

MR. CARUSO: That's correct.

PAUL WANZANRIED: And you will only have two lights, you said, up in the front?

MR. CARUSO: That's correct.

PAUL WANZANRIED: And the rest will be lighted off the building?

JOHN CARUSO: Yes. The building has a soffit, you walk under it, so will be --

PAUL WANZANRIED: Recessed lighting in the soffits?

MR. CARUSO: Right.

PAUL WANZANRIED: Okay, fine. Great.

MR. CARUSO: By design, we're trying not to light up the backyard. We have two residents over there we're respecting and then the two residents, Marchioni and that other resident there, so.

PAUL WANZANRIED: One last question, the fence line you have along the back parking, why wasn't that continued all of the way across?

MR. CARUSO: You mean the guide rail?

PAUL WANZANRIED: Yeah.

MR. CARUSO: Because there is an easement here for the sanitary sewer, and I just don't think we were putting it across the easement.

Jess (Sudol), any other reason?

MR. SUDOL: Also for access to the storm water management area.

MR. CARUSO: I think we can put one more post in here, if you --

PAUL WANZANRIED: Just tighten it up a little bit.

MR. CARUSO: Yes. I think we can tighten it up a little bit.

PAUL WANZANRIED: That would be great.

KAREN COX: Going back to that timber guide rail, it's aesthetic, but what I have noticed is over -- Byrne Dairy has a similar type of system. And that's near the parking area. And that is always -- there is always a piece broken or missing. They fix it, but it takes time and somebody smacks it again. You know, as soon as somebody backs out and hits it, it needs to be repaired.

I was just wondering if there was a more durable material, you know, aside from highway guide rail which is really ugly.

MR. CARUSO: That's the problem. I don't know of any.

JAMES MARTIN: Is the applicant prepared to be fixing that on a regular basis, because you -- you know, it's not near -- there is not parking spaces right on top of it, but people hit it, and it looks terrible.

MR. CARUSO: I notice on -- first of all, I agree with you, because we have the same experience in other designs. But on this project, if you notice, we have got it set off the edge of pavement quite a ways. You might get your tires and grass before you hit that, so hopefully we won't experience -- but -- but, Karen (Cox), I don't have this middle thing that we're all looking for. It's either guide rail, or it's something that -- these 8 by 8 with double-sided 2 by 10, rough-sawn, structural yellow pine.

KAREN COX: Too bad there is not something that's strong but aesthetic.

JAMES MARTIN: Sounds like a business opportunity.

KAREN COX: So the -- along the driveway where the timber guide rail is, is that curbed on that side?

MR. CARUSO: Um, is it curbed?

MR. SUDOL: No. Only the portion by the four parking stalls is curbed.

KAREN COX: So -- okay. In theory, there's an opportunity if it's slippery or -- or, you know, somebody cuts the corner to hit that -- that portion of the fence. I'm just pointing that out. I mean that may be a maintenance headache. I know there is not -- you know, it's a driveway to a residential neighborhood. It's not as if it is a Town road, but there's the potential for that to get hit. And especially --

MR. CARUSO: You're saying right here (indicating)?

KAREN COX: No. Along the back. The driveway leading to the properties.

MR. CARUSO: Here (indicating)?

KAREN COX: Especially now that you have a business there, you may get people who are curious and may drive back there to see what is back there.

MR. CARUSO: Karen (Cox), I'm not following you. You're suggesting we put another piece of rail here (indicating)?

KAREN COX: Well, on my plan, there is rail but that section -- I'm just pointing out that part will probably get hit at some point. Not much you can do at this point but probably ask the applicant to try to keep it in good repair.

JAMES MARTIN: So you will be adding one section of guardrail along that -- I will say the westerly portion where it separates the parking lot from the pond, right?

MR. CARUSO: Uh-huh.

JAMES MARTIN: So one section.

Anything else?

JOHN NOWICKI: Just the -- the storm water management areas, are you looking forward to installing aeration units on those?

MR. CARUSO: We're not proposing that, aeration units. Sometimes they're for aesthetics, but they do make a lot of noise. And it's -- it's pretty close to Mr. Rule's (phonetic) house, and so if -- if you notice that we put a little piece of fence back in there, his property, and we added some trees to try to screen him also from the back of the building.

And he has been very good. He has been at all of the meetings. He was at the ARC meeting, talking to him. Just trying not to introduce any more business back there than we have to.

JOHN NOWICKI: Will you allow annual goose hunting in the back on those ponds?

MR. CARUSO: No.

JOHN NOWICKI: That's all I had.

DAVID CROSS: I just would like to applaud the applicant by reducing the size of the building, because everything -- the whole domino effect is really starting to work. The scale of the building fits the scale of the site.

MR. CARUSO: Thank you.

DAVID CROSS: That's great. I would still like you to explore an option where you move the building up to the 75 foot setback, okay? Consistent more -- again, more consistent with the neighborhood feel. I love the whole outdoor seating area, the gathering area. I think that maybe even that could even go to the front of the building and be in that 75 foot setback reasonably.

I think you could probably get the three rows of parking to the rear of the building still. I

would like to see a bench in the front on that -- on the front sidewalk along Chili Avenue, similar to what we just did with Unity Health and previously Walgreens.

Again, I -- to me, I still think that it's a Neighborhood District, Neighborhood Businesses, not General Business. We need to -- I would like to at least see you explore that option and I haven't seen it on a plan yet.

MR. CARUSO: We have looked at it. Our -- Mr. Bivone is not -- is not interested in having the building sit up on the -- we respect Dave (Cross)'s opinion. Dave (Cross) has had some very good comments in the process. It's just something that our client does not want his building up on the road.

And there are several reasons that he tells me why, but...

DAVID CROSS: And I'm not -- again, just to clarify, I'm not asking for the building to go up to the road. It would still be consistent with the 75 foot setback that is required.

JAMES MARTIN: Kind of locked into this plan?

MR. CARUSO: Yes. I think we have whittled it down to what he is willing to build here.

PAUL WANZANRIED: John (Caruso), what is the purpose of the 6 foot high, white vinyl fence in -- up in the front? Is that to shield Mr. Taubold's view?

MR. CARUSO: Yes, it is.

PAUL WANZANRIED: Is there any way we could do that with plantings as opposed to that white vinyl section? How many feet you got there?

MR. CARUSO: To be honest, I don't think so. That is why we proposed it to him. We tried -- we tried not to go cheap with Mr. Taubold. We really wanted to spend the money, a nice fence. I asked him to go pick it out because I know that would solid screen him from the parking lot that we're about to build next to his house.

Then we offered -- and actually -- I actually thought it was a better design. We went right to the nines with it to put the fence in the middle and then we could plant on both sides. That would give Mr. Bivone's side an aesthetic, you know, with the fence in the background and the same effect from his side.

There are some other things that are going on with the construction of, um, the screening and that berm, and that is, it's very -- it's rather steep right at his property line and he likes to mow the lawn. So when we build this thing, we're going to be able to take a one-on-two slope and make it one-on-three when we build this.

So I -- I -- this is what I promised the gentleman. We sat in his backyard. We looked at lines of sight. We spent over an hour together and it was like the third time we had looked at it from our office for him. So in two modifications we quickly got to a screen design that he was satisfied with.

And I had to be very cautious and respect that when we moved the building forward, that we were going to change this guy's perspective of what he was seeing from his backyard, and we slid the fence and we were able to keep that.

KAREN COX: Would he be open to a different color other than white?

MR. CARUSO: I think we selected -- we changed it to beige. It's the same one -- the similar to the siding and Walgreens.

KAREN COX: Okay.

PAUL WANZANRIED: Good.

MR. CARUSO: His wife picked that out, by the way.

KAREN COX: The cream color or the white?

MR. CARUSO: Listen, we got right down to it.

JAMES MARTIN: Beige, I think, is more pleasing.

MR. BIVONE: Can I speak?

JAMES MARTIN: Mr. Bivone has requested to speak. Certainly you can speak.

MR. BIVONE: I haven't said a word since the building of the project. The reason I started to build the project, my daughter owns a dance studio. I chopped the building by 25 percent. The revenue I lost, I had to increase -- put the roofs over the building. I have had to add a lot. I'm not going to add a sidewalk that is worth more than the house that is -- where it LEED to. I'm not going to do it. I'm not going to move it to the road. So -- so I'm here to say this is what it is going to be. If not, we can just pull it. I'm done. I think I have been very fair with the Board.

The revenue I'm going to get from my daughter is nothing, so I need to make it up in the tenant spaces, but I have given back 25 percent already. And I have added -- or you guys have made me add this thousands of dollars for roofs and sidewalks and I'm not going to do it. I'm all done. I really am. I don't think it's fair. I -- I have bent over backwards and -- and I need a 317 foot sidewalk to go back to a cottage that is worth -- I don't want to insult Mr. Marchioni, but I'm not going to do it. So we can withdraw.

MR. CARUSO: Well, we have an agreement in place that we're going to show what is recommended to be put on the plans, and that -- we're going to build a fair portion of ours, and work with him to build the balance to serve his property.

MR. BIVONE: Okay.

MR. CARUSO: We'll take the sidewalk from where it is in an area where it's questionable on whether it is pedestrian safe or not, and we'll move it up on top. So it will be in the same location, and --

MR. BIVONE: I'm just making it clear, I'm not moving the building. Okay. If that is the requirement, then we scrap it.

MR. CARUSO: Okay. We're not moving the building.

MR. BIVONE: By reducing 3200 feet, my engineering fees have not been reduced. I wish

they were. Okay, but unfortunately, they're not.

MR. CARUSO: We're not prorating those, no.

MR. BIVONE: But my cost now is way over what I anticipated. And I -- I just -- I don't think that is right.

MR. CARUSO: Okay.

JAMES MARTIN: I hope you understand, though, the Town has an obligation, all right, to the community to make these things work right, and that's what we're trying to do. It's not personal. We're just trying to --

MR. BIVONE: Mr. Chairman, I haven't seen the plaza that I'm trying to build any place. They're asking for gooseneck lighting. I mean it just -- am I the guinea pig? Should I start it? Should I be the one that says, "Well, you moved it to the road. Now everybody else follows?"

Let somebody else start it. I think I -- I have done everything that you guys have asked for except that, and I'm not going to do it, and I'm not going to pay for a sidewalk to the back. Okay? Not going to do it.

MR. CARUSO: We'll work that out.

MR. BIVONE: That's fine.

MR. CARUSO: Okay.

JAMES MARTIN: Thank you for your comments.

ROBERT HUTTEMAN: The issues in our letter can definitely be worked out between the Town and the applicant.

PAT TINDALE: I got some questions. The east side of this parcel, there is some large, large trees as you come in, and there is no indication on my print of those coming down or remaining. So I was curious what is happening with those.

MR. CARUSO: On the east side?

PAT TINDALE: Yeah. According -- you know, right next to the neighbor's house right there between the driveway and the neighbor's house.

MR. CARUSO: Those are the willow trees. They're coming down.

PAT TINDALE: They're not willow. They're something different. Are they staying?

MR. CARUSO: No. They're coming down.

PAT TINDALE: They are coming down. That was one of my questions. I couldn't figure out how you would work around that one.

Has your landscaping architect been made aware of the black walnut trees in the back, particularly the southwest corner?

MR. CARUSO: That is the area that we are -- I think we're preserving those trees.

PAT TINDALE: I know. I'm wondering if you should be. I'm thinking. There are not many things that grow under black walnut, very few. You might want to impress on this landscape architect just what is there. Because you don't want to put something in and just lose it within the year.

MR. CARUSO: Be careful, Pat (Tindale). Lou (Bivone) will be over there with his chain saw tomorrow fixing that problem.

MR. BIVONE: Might be tonight, John (Caruso). (Laughter.)

PAT TINDALE: We need a print, too, because things have all changed since anything we have had, and we didn't get anything on the SWPPP pond, so when we meet with you, maybe we could have a double meeting between The Fathers House and this. I need a -- licensed landscape sealed prints, and I need to see the plantings. And I need the distance measurements between. Like the trees that are shown -- we can't tell the close proximity of the evergreens and things --

MR. CARUSO: Pat (Tindale), when you guys meet, what happens to your comments? Do they go to Kathy (Reed)?

PAT TINDALE: Uh-huh.

MR. CARUSO: Because I guess -- I would like to see those, because we want to be able to address them with you, and -- and I guess I will call -- I will call Kathy (Reed)'s office and see how we can get them.

PAT TINDALE: I can send them. I can e-mail them to you.

JOHN CARUSO: I want to try to find a way to get ARC comments and find that common person to get those from.

JAMES MARTIN: That would be Kathy (Reed).

MR. CARUSO: Okay.

JAMES MARTIN: Everything gets funneled through her.

PAT TINDALE: The problem with me, we meet usually just about a week before the Planning Board, so I mean as soon as I can get the Planning Board, to the secretary, I can send them to you.

MR. CARUSO: Very good.

PAT TINDALE: I'm not done yet.

Also, upon completion we need that landscape certificate of compliance.

One other thing, very minor. Because I think the plans have changed again here. Must be we had islands -- landscape islands before, but I think there is just a peninsula there now. We have suggested pavers because of plowing.

MR. CARUSO: You mean at the main entrance?

PAT TINDALE: Yes. That is the only place left now. I think you did have islands before.

MR. CARUSO: I think we still have an island, don't we?

JAMES MARTIN: One peninsula.

MR. CARUSO: Just pavers there?

PAT TINDALE: Might be better because of the plow situation.

MR. CARUSO: I don't think I ever heard anybody tell me to remove a landscape --

PAT TINDALE: And why don't you take down the black walnut while we're at it.

(Laughter.)

MR. CARUSO: That's fine.

ROBERT LATRAGNA: Provided they're willing to allow us an opportunity to review the changes that they have made with the rest of the Architectural Advisory Committee, we have no further questions.

MR. CARUSO: I think you will be pleased -- I thought we had a good meeting, and I think you will be pleased, if you look at this drawing, it's large scale, it looks fantastic. I think this building will look great. I think honestly the comments that came out of ARC were very good. Our architect who has designed thousands of -- hundreds of thousands of commercial square feet made these revisions to the building with that intention. And I know Lou (Bivone) was a little bit upset that some of it costs money, but I think he will be real happy when it's built.

And so I think we had a very productive ARC meeting and the things that we couldn't live with are sort of simple compared to the things that they were asking for.

JAMES MARTIN: I know the plan, previous plan, there was no defined occupant for that easterly portion of the building. That is now definitively a coffee shop that is going to be going in there?

MR. BIVONE: No.

JAMES MARTIN: Why does it show coffee shop on the plan?

MR. BIVONE: I'm not sure why they -- the engineers put this on. We show a dance studio and a gym. We're not sure what --

JAMES MARTIN: So you really don't have an occupant for that yet?

MR. BIVONE: I have an occupant for it. And I'm not at liberty to disclose them today. I have many occupants.

JAMES MARTIN: Would that impact the outside seating area as the plan currently shows?

MR. BIVONE: Now that we have done this, I have many more occupants that would love to have that area.

MR. CARUSO: No, it won't.

JAMES MARTIN: Okay. That is the answer I was looking for. All right. This, as it is designed, stays in place. Okay?

MR. CARUSO: Yes. We're not going to change the outside seating area. It is part of the building and the structure. It will serve whatever tenant it is. And I think what Lou (Bivone) is saying, because of the change, he has more opportunities.

JAMES MARTIN: Understood.

At this point, what I would like to do is to go ahead and look at the preliminary subdivision, and then we're going to have a host of conditions on the site plan. Essentially probably will apply to both, but generally we'll do subdivision first.

MR. CARUSO: Did you do SEQR?

JAMES MARTIN: I'm going to.

MR. CARUSO: Okay.

JAMES MARTIN: Don't get ahead of me.

MR. CARUSO: All righty.

KAREN COX: Clock is ticking.

James 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. There is a request to waive final on the subdivision. The Board indicated they would waive final on the subdivision.

JAMES MARTIN: Since the conditions of approval are -- they go back and forth, what I will do now is try to go through what I have picked up here as conditions, John (Caruso), and you will get the letter as you -- from me. I will not read all of these verbatim. A lot of these are out of the Lu Engineering letter.

James Martin reviewed the proposed conditions with the Board.

KEITH O'TOOLE: Mr. Chairman, just to clarify, who's building it (referring to the sidewalk)?

JAMES MARTIN: Is that to be worked out between the two property owners? Mr. Bivone is building it -- has agreed to build it.

KAREN COX: To the building.

JAMES MARTIN: The plan will show the striped -- he is building it to his building.

KEITH O'TOOLE: So are we talking about in the same location as where the stripes are presently to the crosswalk, from the -- from the public highway?

JAMES MARTIN: Yes. That is the location we were discussing.

KEITH O'TOOLE: And from the crosswalk back to the rear of the property line, presumably then the neighbors to the rear would pick up the cost of that and have some sort of easement if they were so inclined.

JAMES MARTIN: That is to be worked out between the property owners. That's correct.

KEITH O'TOOLE: No, no, no.

JAMES MARTIN: Wait a minute. I'm sorry.

KEITH O'TOOLE: To say it is to be worked out between the property owners is unfortunately too vague. If you want them to give an easement to the property owners to the rear, that's fine. If there is an expectation beyond that, in terms of liability issues and such, we don't want to get involved in that, but we can certainly require that an easement be provided, a sidewalk easement. They can certainly impose that. It doesn't cost them anything of any significance.

MR. CARUSO: Mr. Chairman, Keith (O'Toole), I don't know if they need to provide a sidewalk easement.

KEITH O'TOOLE: Neither do I. I'm not going to render any opinion on whatever easement is already in place. It is sufficient that they provide it. Personally, I will tell you from practical experience, I think it's highly unlikely that any extension of concrete is going to be made beyond the front of the building. But if you want to provide for the possibility, then we need to make sure that there is an easement in place, and certainly, um, while we're not going to sign off on that easement, we can certainly make sure it's there and make it recorded by liber and page and put the deed on the mylar. Perhaps Mr. Marchioni's attorney can advise us as to its acceptability, at least to him.

MR. CARUSO: We already have an access easement in place. I don't know what -- what -- you would be giving an access easement inside an access easement.

JOHN NOWICKI: Yes. It wouldn't make sense.

KAREN COX: Except it would be for sidewalk purposes only? Is that the -- is that the way the easement that you just talked about, Keith (O'Toole), would be worded?

KEITH O'TOOLE: I would think so. And -- again, I don't want to get involved in what the other easements are. I don't think Mr. Caruso, who is a professional engineer, should be standing here giving us a legal opinion as to adequacy of whatever easement in place. I think it is sufficient that Mr. Marchioni's attorney could advise us they're satisfied. If they're not satisfied, a very simple sidewalk easement can be imposed. It costs \$50 to record an easement at the County Clerk's Office. It's not that big a deal.

JAMES MARTIN: Okay. So applicant's attorney to confer with adjacent -- listen to what I am saying and correct me if I am wrong -- adjacent property owner attorney to determine if current easements are adequate to allow sidewalk construction.

Anything in addition that I should add, or is that essentially what you're asking that the two attorneys determine, that the current easements are adequate to allow the sidewalk construction to occur?

KEITH O'TOOLE: And to provide a necessary sidewalk and curb easement, if necessary. Thank you, Mr. Chairman.

JAMES MARTIN: Okay.

James Martin further reviewed the proposed conditions of approval with the Board.

JAMES MARTIN: The sidewalk coming down the easterly portion, you -- that is going to be built?

MR. CARUSO: Yes.

KAREN COX: Dave (Cross) is talking about a bench.

JAMES MARTIN: Oh, bench, I'm sorry.

DAVID CROSS: Midway along the frontage, if that is acceptable.

JAMES MARTIN: We have asked other applicants to do that. We asked Target to do it. We have asked Walgreens to do it.

MR. CARUSO: I'm trying to think how we could keep it there before it winds up in someone else's yard. Yes. It's a \$100 bench. We can provide one.

JAMES MARTIN: Provide pedestrian bench along Chili Avenue.

KAREN COX: Not a real high crime area out there. I hope.

JAMES MARTIN: You can look and see what Walgreens did.

MR. CARUSO: We have designed them on the PNOD project. We had some benches in there. I will have to look to see how we secured them.

James 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.

JAMES MARTIN: They have paid fee for final. What is the feeling of the Board?

JOHN NOWICKI: Waive final.

JAMES MARTIN: I have one for waiving final.

The Board all agreed to waive final except for Dave Cross.

JAMES MARTIN: We have four, I guess, in favor of waiving final.

DECISION ON THE SITE PLAN PORTION OF THE APPLICATION: 4 yes to 1 no (David Cross) with 2 abstentions (Dario Marchioni and John Hellaby) with the following conditions:

1. A Stormwater Pollution and Prevention Plan (SWPPP) was submitted with the original design. However, recent design changes resulted in the modification of the proposed storm water management feature. We request that the applicants engineer submit a revised SWPPP so that it can be reviewed by the Town Engineer and Department of Public Works for adequacy and compliance with the new York State Storm Water Design Manual.
2. The Planning Board requests the applicants engineer submit design calculations of the closed drainage system to the Town Engineer and the Department of Public Works for review.
3. The applicant is proposing the installation of a storm water management pond to address the Phase II requirements. Although these will be privately owned and maintained, the Town will require that the property owner enter into a Storm Water Control Facility Maintenance Agreement (SWCFMA) with the Town and that proper access easements are provided around each storm water management feature. The access easement(s) and the SWCFMA will need to be reviewed and approved of by the Department of Public Works and the Planning Board attorney and then filed with the County Clerk's Office prior to the signing of the mylars.
4. The Planning Board requests that the applicant's engineer submit their design calculations to the Town Engineer and the Department of Public Works for review. We request that the applicant's engineer submit cross sections of the proposed retaining wall that illustrate how the wall can be built without encroaching upon the neighboring property to the
5. A Letter of Credit (LOC) will be required for the Phase II elements of this project. The LOC will need to be reviewed by the Town Engineer and the Department of Public Works and approved of by the Town Board prior to commencement of the project.
6. The Department of Public Works and the Town Engineer should be copied in on any correspondence with any other approving agencies.
7. If prepared, the subsurface/soils report should be submitted to the Town and Town Engineer for review.
8. Samples of all exterior building materials to be utilized within the project (I.E. siding, shingles, paint colors, etc) be submitted for review by the Architectural Advisory Committee. Submitted material should include the actual manufacturer's information for each material and that same information should be added to the Architectural plans that will be submitted for approval.
9. So as to provide for pedestrian safety to the residential subdivision to the south, applicant shall install, at the applicant's expense, a 5 foot wide raised integral concrete curb and sidewalk along the eastern edge of the access drive as per Exhibit A. Said sidewalk and curb shall commence at Chili Avenue and continue south until it reaches the southern edge of the pedestrian crosswalk. From this end point and continuing south along the eastern edge of the access drive, the site plan shall depict the design and location for continuing the sidewalk and curb to the southern boundary of the parcel (the "southern extension"). The applicant shall grant a perpetual sidewalk easement for the benefit of the owners of the lots in the residential subdivision to the south (the "southern lot owners"). Said easement shall permit the southern lot owners to enter upon the easement are at any time to construct the southern extension at their expense.
10. Upon completion of the project, the applicant shall submit a "Landscape Certificate of Compliance" to the Building Department from the Landscape Architect certifying that all approved plantings have been furnished and installed in substantial conformance with the approved landscaping plan.
11. The applicant is proposing the installation of a landscaped buffer along the eastern property line. These plantings and the proposed fence appear to be located within a permanent easement for ingress and egress for Willowbend Drive as well as a utility easement to Rochester Gas and Electric for poles, wires and a gas line that service the properties on this

road. There also appears to be a potable water service line for this property. We suggest that the applicant provide written documentation to the Town prior to the signing of the mylars indicating that the easement holders will allow the construction and maintenance of the proposed features.

12. The Fire Marshall for the Town shall review the adequacy of the proposed 10 foot wide access for emergency vehicles to access the properties on Willowbend Drive.
13. The landscape and lighting plan does not include the lighting contours for the proposed building mounted exterior lights. We request that the applicant's engineer revise the landscape and lighting plan to include the lighting contours for the proposed building mounted exterior lights and submit it to the Town Engineer and Department of Public Works for review.
14. An additional section of guard rail shall be added to the west section of the proposed guard rail.
15. The applicant shall obtain all required variances from the Zoning Board of Appeals.
16. The applicant shall provide one pedestrian bench along the Chili Avenue sidewalk.
17. This should not be construed as a complete and final review of this application. Planning Board approval is contingent upon Town Engineer and Department of Public Works approval.

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

DECISION ON PRELIMINARY SUBDIVISION: Approved by a vote of 5 yes with 2 abstentions (Dario Marchioni and John Hellaby) with the following conditions:

1. A Stormwater Pollution and Prevention Plan (SWPPP) was submitted with the original design. However, recent design changes resulted in the modification of the proposed storm water management feature. We request that the applicants engineer submit a revised SWPPP so that it can be reviewed by the Town Engineer and Department of Public Works for adequacy and compliance with the new York State Storm Water Design Manual.
2. The Planning Board requests the applicants engineer submit design calculations of the closed drainage system to the Town Engineer and the Department of Public Works for review.
3. The applicant is proposing the installation of a storm water management pond to address the Phase II requirements. Although these will be privately owned and maintained, the Town will require that the property owner enter into a Storm Water Control Facility Maintenance Agreement (SWCFMA) with the Town and that proper access easements are provided around each storm water management feature. The access easement(s) and the SWCFMA will need to be reviewed and approved of by the Department of Public Works and the Planning Board attorney and then filed with the County Clerks office prior to the signing of the mylars.
4. The Planning Board requests that the applicant's engineer submit their design calculations to the Town Engineer and the Department of Public Works for review. We request that the applicant's engineer submit cross sections of the proposed retaining wall that illustrate how the wall can be built without encroaching upon the neighboring property to the Town Engineer and the Department of Public Works for review.
5. A Letter of Credit (LOC) will be required for the Phase II elements of this project. The LOC will need to be reviewed by the Town Engineer and the Department of Public Works and approved of by the Town Board prior to commencement of the project.
6. The Department of Public Works and the Town Engineer should be copied in on any correspondence with any other approving agencies.

7. If prepared, the subsurface/soils report should be submitted to the Town and Town Engineer for review.
8. Samples of all exterior building materials to be utilized within the project (I.E. siding, shingles, paint colors, etc) be submitted for review by the Architectural Advisory Committee. Submitted material should include the actual manufacturer's information for each material and that same information should be added to the Architectural plans that will be submitted for approval.
9. So as to provide for pedestrian safety to the residential subdivision to the south, applicant shall install, at the applicant's expense, a 5 foot wide raised integral concrete curb and sidewalk along the eastern edge of the access drive as per Exhibit A. Said sidewalk and curb shall commence at Chili Avenue and continue south until it reaches the southern edge of the pedestrian crosswalk. From this end point and continuing south along the eastern edge of the access drive, the site plan shall depict the design and location for continuing the sidewalk and curb to the southern boundary of the parcel (the "southern extension"). The applicant shall grant a perpetual sidewalk easement for the benefit of the owners of the lots in the residential subdivision to the south (the "southern lot owners"). Said easement shall permit the southern lot owners to enter upon the easement are at any time to construct the southern extension at their expense.
10. Upon completion of the project, the applicant shall submit a "Landscape Certificate of Compliance" to the Building Department from the Landscape Architect certifying that all approved plantings have been furnished and installed in substantial conformance with the approved landscaping plan.
11. The applicant is proposing the installation of a landscaped buffer along the eastern property line. These plantings and the proposed fence appear to be located within a permanent easement for ingress and egress for Willowbend Drive as well as a utility easement to Rochester Gas and Electric for poles, wires and a gas line that service the properties on this road. There also appears to be a potable water service line for this property. We suggest that the applicant provide written documentation to the Town prior to the signing of the mylars indicating that the easement holders will allow the construction and maintenance of the proposed features.
12. The Fire Marshall for the Town shall review the adequacy of the proposed 10 foot wide access for emergency vehicles to access the properties on Willowbend Drive.
13. The landscape and lighting plan does not include the lighting contours for the proposed building mounted exterior lights. We request that the applicant's engineer revise the landscape and lighting plan to include the lighting contours for the proposed building mounted exterior lights and submit it to the Town Engineer and Department of Public Works for review.
14. An additional section of guard rail shall be added to the west section of the proposed guard rail.
15. The applicant shall obtain all required variances from the Zoning Board of Appeals.
16. The applicant shall provide one pedestrian bench along the Chili Avenue sidewalk.
17. This should not be construed as a complete and final review of this application. Planning Board approval is contingent upon Town Engineer and Department of Public Works approval.

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

There was a recess in the proceedings at 8:53 p.m. The meeting reconvened at 9:02 p.m.

FOR DISCUSSION:

1. Federal Express - proposed warehouse at 3516 Union Street in G.I. zone.

Flint McNaughton and Glenn Thornton were present to represent the matter for discussion.

MR. McNAUGHTON: For the record, my name is Flint McNaughton. I'm President of SunCap Property Group. We're a national preferred developer for Federal Express and we are here in Chili today to meet with the Board and discuss a new project we had planned at 3516 Union Street in Chili.

This is a facility for Federal Express Freight, a wholly owned subsidiary of Federal Express, and again, we can share these marketing materials if you want. We can pass them around, but they're here for your consumption.

At a high level this facility is 111,000 square feet. It's an industrial cross-dock facility. It will have 122 doors in its initial phase, comprised of about 41 acres. It's expandable into a Phase 2 which will have 160 doors and is comprised of almost 60 acres.

The initial phase of the project will employ 75 people, and in full phase, 120 employees. Targeted completion date is October of next year. And that's it at a high level.

I will be happy to answer questions and comments. We're excited about the project and Federal Express is excited about the project and on us to get this thing moving and make it happen.

JAMES MARTIN: Okay. My understanding, based on the information obviously, the -- the letters and other concerns, this will be a 24/7 operation?

MR. McNAUGHTON: Yes, sir.

JAMES MARTIN: Cross-docking facility.

And based on other correspondence, it appears now that there will be a common road coming back from Union Street to your facility to also serve Mr. Boon's property?

MR. McNAUGHTON: Yes, sir.

JAMES MARTIN: And that eventually that road will be built to Town standards and become a dedicate road; is that my understanding?

MR. McNAUGHTON: That's correct.

JAMES MARTIN: The nature of the trucks that will be going in and out of your facility, what will they be -- will they be tractor-trailer, panel trucks? What is the primary vehicle utilization?

MR. McNAUGHTON: Two primary vehicles.

JAMES MARTIN: What will they be?

MR. McNAUGHTON: Tractor-trailers, and double trailers coming in and out of the site.

JAMES MARTIN: They will be coming off 490 to the site?

MR. McNAUGHTON: That's correct.

JAMES MARTIN: Because I know your plan shows a lot of parking for various vans and other types of vehicles on the site. So there will be other types of vehicles besides the tractor-trailers coming and going; is that correct?

MR. McNAUGHTON: There will be vans and there will be employee parking, as well.

JAMES MARTIN: Okay. Your plan shows a maintenance facility on the site. What type of maintenance is going to be conducted within that facility?

MR. McNAUGHTON: Just Federal Express vehicle maintenance.

JAMES MARTIN: Pardon me?

MR. McNAUGHTON: Federal Express vehicle maintenance.

JAMES MARTIN: What kind of maintenance is it? Oil changes and tire changes, or is it more intense maintenance?

MR. McNAUGHTON: I believe it is just basic maintenance, but we will confirm that for you.

JAMES MARTIN: I will go to the Board.

PAUL WANZANRIED: You said this was Phase 1?

MR. McNAUGHTON: Yes, sir.

PAUL WANZANRIED: And where is Phase 2? How many doors?

MR. McNAUGHTON: We will add approximately 40 doors. 38 doors to be specific, at that --

PAUL WANZANRIED: So this future dock, 40 doors that I'm looking that, that's your expansion?

MR. McNAUGHTON: Yes, sir.

PAUL WANZANRIED: I don't have anything right now.

KAREN COX: What is P-U-P parking? What does that stand for?

MR. THORNTON: That is the tandem trucks. The tandems. That is what they call them, the pups.

KAREN COX: Okay. I was going to say "pup," but I didn't.

MR. THORNTON: It's a shorter trailer, two of them in tandem.

KAREN COX: Can you drive those legally from your facility out onto the road and then on the expressway?

MR. THORNTON: As far as we know, yes, but we'll double check that. That is what they're proposing. This is what they have at the other facility, as well.

MR. McNAUGHTON: That will be a standard course of due diligence FedEx would do upon the initial study of feasibility of the project, to check with DOT to show that that is legal.

KAREN COX: The vans, is that the standard delivery van that we see in our neighborhood? Or --

MR. THORNTON: There will be some of those. As you can see, in some of these -- in some of the renderings like this one, um, you will see the different types of vehicles. Not as many as we might be having, but the normal trailers and some vans at the facility, as well. And -- and this -- what we proposing is significant perimeter parking for -- for units just to -- to lay over.

KAREN COX: But this facility is not going to be a -- just for the record, I -- I -- it's not going to be a replacement for the facility near Elmgrove; is that correct? There is a FedEx facility over there that is the --

MR. McNAUGHTON: I'm not sure exactly what division of Federal Express is there. There's --

MS. COX: That's more of the local delivery type facility. I don't know if people in the audience have this question.

MR. McNAUGHTON: Well, there is -- this happens frequently where there is some confusion as to what division. Because any -- any town in America has a chance, they have a FedEx Ground facility and they have Home Delivery Division, as well as Freight and Express and so on. So -- my understanding is that they are closing a small facility, but I have not seen that facility here in Town.

KAREN COX: Your traffic is not -- because I know at least since I live in the area, there is a huge -- there is a large concern about the intersection of Union Street and Chili Avenue, and from what you have told me, these vehicles that are going to be -- this facility are going to be using the expressways and the Thruway mostly?

MR. McNAUGHTON: That's right.

MR. THORNTON: We'll confirm all of that to make sure we're not throwing any additional traffic up at the -- what we have been led to believe and told is that the traffic will be primarily using 490 in the area.

MS. COX: Okay. Because I know as we get further into this, that is going to be something that the audience brings up a lot. If that isn't confirmed.

MR. McNAUGHTON: Okay.

KAREN COX: This was all I had.

JOHN HELLABY: Can you just give me a little bit of insight just from my own satisfaction, I guess, as far as the incoming freight, where does that come from? It comes from transport from the airport, other distribution centers? And once it is broken down, to what degree does it go out? Does it go locally? Does it go to other distribution centers for further breakdown? I guess I am trying to set that clear in my own mind. Whether you have that information tonight or not, I mean, that is something I would like to know.

MR. McNAUGHTON: Okay. With the submittal package we have a letter from Fisher & Company, who is FedEx's national broker. There's a basic explanation of the use of the facility and how they break down material and move it. I would call it a very traditional cross-dock facility. Where equipment is brought in -- it is basically palletized containers that are taken off one truck and doesn't really hit the ground. They're moved to another truck and off it goes. This is a -- this is -- a significant portion of this facility will support their Canadian inbound importation.

JOHN HELLABY: How does Customs play into this? Is that something that is taken care of at the border?

MR. McNAUGHTON: I think it is taken care of at the border, yes, sir.

JOHN HELLABY: Construction. As far as materials, is this a prefab building, tilt up panel? Do you know?

MR. McNAUGHTON: It's both.

MR. THORNTON: Right. I think the office building will have some tilt-up on it, and -- the -- the dock area will be, you know, a pre-engineered metal building, but the -- but the office, um, would be the tilt-up panels on that. Same -- the maintenance shop also would be a pre-engineered steel building, as well.

JOHN HELLABY: All right. Which is expandable. I mean as far as the truck dock portion, you just extend the end of that if you wanted to add more.

MR. THORNTON: Correct. Correct.

JOHN HELLABY: I guess to expand on, you know, Karen (Cox)'s aspect, as far as the neighborhoods, I would pay extreme caution to lighting, as far as, you know, 24/7 type operation. I'm sure they're not going to want wash from your property up into their property. There are quite a bit of neighbors up on the higher road to the south of you.

And noise, I'm sure will be another major concern with the neighbors.

That is all I have got.

JOHN NOWICKI: Just add that to the lighting, too, the lighting factor. So you know, night sky lighting --

DAVID CROSS: Dark-sky lighting standards.

JOHN NOWICKI: Most of the questions have been asked. You have got that letter here, indicating the shipments are coming in and out. Mostly the Canadian shipments.

Have you been in contact with our Building Department and talked to Dave Lindsay over here in regards to things that we'll need if you come back before this Board for preliminary, final, all of the conditions that will have to be met?

MR. McNAUGHTON: Yes, we have.

JOHN NOWICKI: Okay. That's all I have.

DAVID CROSS: I will comment on dark-sky lighting standards. That's really going to be

important. Transportation, traffic issues certainly are important as we go forward.

And consult the Town's Comprehensive Plan, current Comprehensive Plan. I believe there's information in there about a future connection from Union Street that would pretty much follow the alignment of your new road here, follow it -- and continue east until your back property line and then parallel to Paul -- Paul Road. They're connected to Paul Road. So at least look at that. I think it is going to be part of the Comprehensive Plan, the new Comprehensive Plan that is going to be coming out here in the next year or so.

MR. THORNTON: Any suggestions on that? I knew that was a part of the plan. Is that -- it's in the plan. This is -- this will be -- this is privately owned property.

Do you think the Town in the future would move forward with that?

DAVID CROSS: I can't comment on that, but, you know, I think you could reasonably accommodate that future connection by shifting everything you have shown here by 20 or 30 feet more. It is something that you could reserve space for in the future.

KAREN COX: Isn't that a County -- is that a County plan? I mean the -- it has been talked about, it would be a County highway, if it came to pass.

DAVID LINDSAY: I can -- I can help out this a little bit. Several years back there was some funding that may have been able to create a Town road extending from Union Street, up to the old Paul Road. At the time, if that road was ever constructed, the County would transfer ownership of Paul Road to the Town. That would become a Town road all of the way through. The availability of that funding has long since gone away, and I think the intent or -- or -- I don't believe there is an intent to, um, proceed with that project.

JAMES MARTIN: Just a comment, I think in some early-on discussions we had about this particular project, we felt that it would not be advisable, all right, to have a connection that would allow any traffic from this facility to go up to that Paul Road extension. Okay? Just because that is a residential street, we didn't want truck traffic possibly going up there. So I just don't see that as a viable situation.

MR. THORNTON: Okay.

DARIO MARCHIONI: This road will still stay private, right? This whole road will service -- this new project?

JOHN HELLABY: Dedicated.

JOHN NOWICKI: It will be dedicated.

MR. THORNTON: It will be a Town street.

DARIO MARCHIONI: Totally built to Town specifications?

MR. THORNTON: Yes.

DARIO MARCHIONI: Okay. That is what I was trying to interpret. So it will be an improvement also on the entrance on -- on Union Street, right?

MR. THORNTON: Correct. Correct.

And --

JAMES MARTIN: You're proposing kind of like a slow-down lane on the east side of Union Street; is that my understanding, based on the plan?

MR. THORNTON: Yes. This is a pretty small scale, but we're looking at a deceleration lane in the northbound direction, entering the new dedicated street, which basically would pretty much be on Mr. Boon's driveway, aligned at the Union Street intersection. That 60 foot wide would probably grab a little bit from the FedEx parcel, but what you can see on this drawing now in the orange, we have had the wetland delineation complete. The delineation has been surveyed. The report has been submitted to the Corps. of Engineers, and we hope to have a jurisdictional determination made within a month, month and a half on this. But you can see with the roadway, we -- we really need to be on that same alignment as Mr. Boon's driveway to avoid wetland impacts in this area.

We have to cross the wetland in this area (indicating), though, to get on to the FedEx parcel. We have also -- we have a couple other wetlands to -- to work around up in these areas (indicating), as well.

What we have tried to do with the development is we have tried to keep it away from that southern property line, too, to give us more separation. Same on the north.

But the width, the width of the development, it's fairly extensive. There is a lot of pavement, a lot of buildings. We are using up the full width of the parcel in here, which -- which will be somewhat of a challenge with the grades out there. It is gently sloping from the east to the west, but you're talking about a facility this large and the need to create a lot of common elevations throughout the developed area of the pavement. We have got some other work to do, some cut on this side and some fills over here (indicating). So with the wetland over here, this will be somewhat of a challenge.

So that is why on this plan you do see in blue the three potential storm water management areas to -- Number 1, to avoid disturbance to this area (indicating). Also to maintain drainage patterns into each of the wetlands. We think we'll have to create separate storm water management areas just to drain different portions of the pavement back.

Also at this time we are also pursuing a Phase 1B cultural resource investigations. The 1A has been completed. We hope the 1B is completed within the next week or so, and get that submitted to State Historic Preservation Office to get them to sign off. I'm not aware of any -- any findings at this time, but that's in motion at least.

JAMES MARTIN: Okay. All right. As far as vehicular traffic, what is the anticipated number of trucks going in and out of the facility on a daily basis?

MR. McNAUGHTON: 150 trips a day. So a trip is -- is one way. So you would have 75

incoming trucks and 75 exiting trucks.

JAMES MARTIN: Okay. Knowing the traffic pattern on Union Street at rush hour, in the morning, going southbound and northbound in the evening, I think we're -- you know, we're going to need to have that looked at, I think, by the County -- or is that State?

KAREN COX: State. But they're going to have to have a traffic report.

JAMES MARTIN: They will have to do a traffic report. Because your drivers might have a very difficult time making a left turn out of that facility to get back to 490 at certain times of the day. There is no question in my mind about that.

MR. THORNTON: Yes. We have Steve Ferante on the team, and he's prepared to look at all of these issues.

JAMES MARTIN: All right.

MR. McNAUGHTON: Most of -- most of the trips are spread throughout the day, and um, nighttime hours, as well, so it shouldn't impact rush-hour traffic that much.

JAMES MARTIN: I can't believe you aren't going to have somebody trying to turn left out of there at 7:30 in the morning. I mean, I know it is going to happen.

MS. COX: They will have to get a State highway permit, and part of that is the State is going to say, let's see the traffic report. And they will -- he will go through it with a fine-toothed comb, I'm sure.

JOHN NOWICKI: Most of this traffic, is that -- does it come in and go off on the expressway, 490?

MR. THORNTON: The truck traffic, yes. The FedEx trucks employees will come from either direction. At the present time, I think we're looking at -- is it 60?

MR. McNAUGHTON: 60 employees to begin with.

MR. THORNTON: 60 employees.

MR. McNAUGHTON: 60 to 75.

MR. THORNTON: 70 employees, and maybe 120 in the future. So.

JAMES MARTIN: Yeah. I'm assuming 24/7 you will have Shifts A, B, C, whatever it is, so there will only be some percentage coming and going for each those shifts.

MR. THORNTON: Right. We do have an hourly breakdown of inbound and outbound traffic for both trucks and employees, I believe.

JAMES MARTIN: Yes. I -- it's a concern, because Union Street is -- you know, based on another potential application that we have had reviewed at kind of a public information -- I couldn't believe the numbers. They said it is like 15,000 trips a day up on down Union Street on this particular section.

MR. THORNTON: That number was kicked around. I think we checked and it is correct.

JAMES MARTIN: It kind of boggles my mind. I couldn't believe 15,000 trips up and down through there, but obviously it is a very heavily used road. So that is going to be something that really needs to be looked at.

MR. THORNTON: And with the permit process with the DOT, all of that would be addressed.

JOHN HELLABY: I have a couple of other things, Jim (Martin). There's a fueling facility there?

MR. THORNTON: 20,000 gallon UST.

JOHN HELLABY: Which will require permits from the Fire Marshal and whatnot on it. Does everything on the site sheet drain to the inlets that go to the detention --

MR. THORNTON: That's the plan. The perimeter is -- is planned to be curbed, and everything will drain internally to inlets. We'll pick up the roof drains.

JOHN HELLABY: Are you building some sort of grease separator into these inlets individually? Will you have one grease separator? That is something you will need to look at, because if you have fuel and all those trucks in there --

MR. THORNTON: The fueling island will probably be graded, sloped a little bit differently to collect it, but we hadn't planned anything unusual, though, for the other inlets, even though there will be -- I mean there is going to be truck movement, parking at the loading dock and trailers parked around the perimeter sometimes.

KAREN COX: About the --

JOHN HELLABY: But by my memory, didn't we have Boons put in a grease separator over there on their property, in the manhole? I am sure we did. I know we did.

JAMES MARTIN: Mr. Boon is here.

MR. DANIEL BOON: Different reasons, though. Different reasons.

JOHN HELLABY: Well, yes and no. Yes and no.

MR. DANIEL BOON: Different reasons, though. Come on.

JOHN HELLABY: I think that's something you need to take a good look at.

JAMES MARTIN: I'm assuming EPA will review these plans, DEC, and --

MR. THORNTON: Correct.

KAREN COX: That is the idea, now. The new -- the newer design of storm water management ponds is that they manage quantity and quality, so that -- you know, DEC will be looking at the design of those.

MR. THORNTON: And typically DEC wouldn't require, you know, interceptors in -- in every inlet like that, where you have the storm water being directed -- directed to a storm water management area. They may want to see drip pans around the facility in case there is anything dripping from a vehicle. They may want to see other -- you know, other for fuel spilling, or a spill prevention plan, but typically they wouldn't require any -- anything like an oil interceptor, a

separator or something you would have internally in say the maintenance shop, something like that.

JAMES MARTIN: Again, just my practical experience driving up and down the Thruway, you have that oil which I know is drippage from the trucks that are going up and down that road. I know there will be drippage on the parking areas.

MR. THORNTON: As Karen (Cox) was saying with the DEC requirement, the water quality, it is really the first flush you're treating, the first wash of all of the oils from the pavement that you're retaining and treating, either filtering or --

JAMES MARTIN: Obviously DEC will review your plans and come back to us with any recommendation that they might have.

PAUL WANZANRIED: Is that a guard house -- is that manned 24 hours?

MR. McNAUGHTON: I believe so.

MR. THORNTON: I believe so, too.

PAUL WANZANRIED: That's the whole property or your whole building enclave here is surrounded by 6 foot high fence with barbed wire?

MR. THORNTON: I think some of the parking areas have a 6 foot high chain link. The security fencing, though, is 6 foot high with an additional foot, three strands of barbed wire for security purposes.

DAVID CROSS: One more question if you don't mind. Are the dock areas heated? There is a lot of square footage there.

MR. THORNTON: I don't think they're heated at all. I don't believe they're --

MR. ORLANDO: They're bars for the workers inside.

KAREN COX: Oh, the bar heaters.

JAMES MARTIN: I'm sorry, name for the record?

MR. ORLANDO: I'm Jim Orlando from DooleyMack. I'm a contractor.

DAVID CROSS: Does FedEx have any sort of policy to building green building, a LEED certified building? Is that something --

MR. McNAUGHTON: It is something we have looked at. I wouldn't say it is part of their -- certainly not an initiative for this particular facility.

MR. ORLANDO: Interesting to see if you could get enough points. I do a lot of LEED projects and this one would be tough.

JOHN HELLABY: I do not see a dumpster facility on this drawing.

MR. THORNTON: I think you're right. I don't think -- this -- the plan that we have presented here is -- is -- is the basic site layout provided by FedEx, and they're quite particular that the layout doesn't get modified too much because this is what works for them. I noticed the same thing. We didn't have a dumpster out there, an enclosure. And that possibly, everything might be kept inside, in the dock.

JOHN HELLABY: Something else we'll need to know.

JOHN NOWICKI: You have a neighbor right next door to you. (Laughter.)

MR. BOON: I didn't want to say anything.

MR. THORNTON: I think standard is 35 foot high poles with metal halide. Is that okay in the Town?

JAMES MARTIN: Well, we have a lighting standard.

MR. THORNTON: I will check that out.

JAMES MARTIN: Just meet it.

KEITH O'TOOLE: Couple points. As with Mr. Boon's property, the code requires a 100 foot landscape buffer along the adjacency with residential property, which would include the Conrail right-of-way.

With regard to the proposed publicly dedicated street, um, we may be getting ahead of things here, that -- but I note that the property isn't owned by the applicant. It is owned by multiple parties, I believe, including Mr. Boon. There also appears to be a tangle of easements.

One of the conditions I'm going to request that you impose is that they evidence ownership of the right-of-way before we sign off on the mylar and that they provide the Town a title insurance policy at that point, rather than at some future point when the deed is actually offered for dedication.

Nothing further.

DAVID LINDSAY: In regards to the Town road, you know, just come see me early on in your design process and we can talk about the section that we're going to be looking for there.

The proposed improvements you show out at the intersection, are they based on any concerns with the DOT at this point or --

MR. THORNTON: Just telephone conversations. Informal discussion only.

DAVID LINDSAY: And then with the -- with any other project in the Town, we're going to requiring storm water management maintenance agreement with the ponds. I see you have security fencing around the property and the ponds, so we'll have to work out an arrangement where we can have access to those ponds wherever we need to, so...

PAT TINDALE: Landscaping is not showing, but that was one question we had, because the land to the east is now agricultural at the moment. If -- that farmer could conceivably sell, so we were thinking some landscaping should be considered along the east side of the property.

The only -- only thing was -- has been discussed here quite a bit, the drainage, because of all of the impervious surface that will be going in, and the area is currently wet. That's about it.

MR. THORNTON: The landscaping on the east side -- it could be a challenge, just because --

PAT TINDALE: I know.

MR. THORNTON: Because of the excavation and the -- and --

PAT TINDALE: Drops down.

MR. THORNTON: Yeah.

JAMES MARTIN: I guess we would like you to take a look at that.

MR. THORNTON: Sure. You could -- you could perhaps propose one on the eastern border. I agree with his comment that it is prime land. East of that could be sold for some purpose.

Then the south side, along the railroad, that's the primary consideration, though, because of the residential property further to the south then?

JAMES MARTIN: Right.

Certainly going to hold you to that requirement as we did Mr. Boon, for his facility.

BRAD GROVER: I just have a couple of questions here. I see you have parking for the pup trailers. Will you be running 48s or 53s in here?

MR. THORNTON: I don't know. I -- I -- I have seen pictures -- I'm not sure if they run 53s in here.

BRAD GROVER: I don't see any parking spots for those.

MR. THORNTON: No. No. No. We have got to get clarification on the -- on the vehicles utilizing the site. I -- I will be honest, I'm a little unclear right now. We're just kind of jumping into this. We'll get clarification on all of the -- all of the vehicles entering and leaving the site.

BRAD GROVER: And the age of the tractors and the power equipment there, they're the modern emission ones with the computer controlled engines where they don't idle for more than five minutes? You can program them -- because the vehicle -- now the tractors when they pull in and get to the dock, they won't sit there and idle while they get unloaded and loaded, are they?

MR. THORNTON: I'm not sure. They may unhitch the tractors at the dock and --

BRAD GROVER: Then park the tractor.

MR. THORNTON: I'm not sure how long the trailers are at a dock bay getting unloaded, if it is over a one-day period or -- or longer. I know it is FedEx. So you would think they would be moving in and out pretty quick.

BRAD GROVER: By the sounds of the way they operate, the trailer could come in and offload some product over to another trailer and go right out. He is sitting there waiting for the product, ready to go.

JAMES MARTIN: I think it would help the Board when you come back for a more formal review to have a clear understanding this is -- this is -- as Brad (Grover) said, are you going to disconnect the tractor from the trailer? Certainly we're not going to want 50 trucks sitting around idling. Okay? That's not good for the environment or anything else.

I mean, clarification of the operation would be very helpful.

JOHN NOWICKI: We're looking at all FedEx equipment, right?

MR. THORNTON: I believe.

JOHN NOWICKI: Not any independent?

MR. THORNTON: I believe it is all FedEx.

MR. McNAUGHTON: All FedEx.

JOHN NOWICKI: They must have standards for engine brakes and mufflers and things like that.

MR. McNAUGHTON: Yes. Fortune 50 company and --

JOHN NOWICKI: I have seen other facilities. They do a nice job.

JAMES MARTIN: Mr. Boon, you had your hand up. Since you're involved in this project, I will let you speak.

MR. DANIEL BOON: I just want to comment what Mr. O'Toole said. Keith (O'Toole), I own that road. I don't know what you meant by that. I'm the only owner.

KEITH O'TOOLE: Okay.

MR. BOON: I just wanted to clarify. I don't know what you're talking about. I'm the only owner of the road.

KEITH O'TOOLE: If that is the case, then that is great, should be a simple matter.

I could note that the map shows a number of easements, including an access easement, and typically, before the Town accepts dedication of a road, we don't want to inherit anyone's legal --

MR. BOON: Well, that access easement is for them, if they buy the property.

KEITH O'TOOLE: Actually with the dedication of the road, the easements should go away, because we don't --

MR. DANIEL BOON: That's correct. I agree. We'll be -- you know, it will be --

KEITH O'TOOLE: It is not rocket science. Something your attorneys can handle.

MR. DANIEL BOON: Your other easements are a utility easement.

KEITH O'TOOLE: We certainly don't want those running down the middle of our road either.

MR. DANIEL BOON: Correct.

JOHN NOWICKI: Just a question. Going forward, what would you say your schedule might be to be coming back here?

MR. ORLANDO: Can we come tomorrow? (Laughter.)

MR. McNAUGHTON: It is probably up to you all, but obviously we're working through due diligence and our submittal processes here. I think our ideal plan would be to start construction no later than March 1.

JAMES MARTIN: So you have a fairly tight timeframe?

MR. McNAUGHTON: Yes, we do.

JAMES MARTIN: I guess, as I indicated to you previously, if there is a need to have a special meeting or something because of the time constraint, don't hesitate to ask. It's on your ticket, but we would be happy to accommodate it.

MR. McNAUGHTON: We appreciate that. Thank you. Thank you very much.

JAMES MARTIN: There is no Public Hearing. Thank you very much for your discussion with us.

The 6/29/10 Planning Board meeting minutes were approved. Note: There were no meetings in July and August of 2010.

The meeting ended at 9:35 p.m.