

CHILI PLANNING BOARD

November 15, 2005

A meeting of the Chili Planning Board was held on November 15, 2005 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson Jim Martin.

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

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

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

OLD BUSINESS:

1. Application of Citicasters Co., owner; 207 Midtown Plaza, Rochester, New York 14604 for preliminary site plan approval to erect a 199' high auxiliary telecommunications tower at property located at 591 Ballantyne Road in A.C. & FPO zone.
2. Application of Citicasters Co., owner; 207 Midtown Plaza, Rochester, New York 14604 for conditional use permit to erect a 2nd telecommunications tower at property located at 591 Ballantyne Road in A.C. & FPO zone.

Frank Hagelberg, Craig Kincaid and Duncan Jackson were present to represent the application.

MR. HAGELBERG: Thank you. Good evening. My name is Frank Hagelberg. I'm counsel at the Boylan, Brown law firm. I appear this evening on behalf of Citicasters Company, which is a wholly-owned subsidiary of Clear Channel Communications and is the licensed operator of radio station WHAM which broadcasts 1180 on the AM dial.

With me tonight is Mr. Craig Kincaid, who is the Chief Engineer for Clear Channel Rochester; and Mr. Duncan Jackson, our engineer with MRB Group. The purpose of these applications is to secure a conditional use permit and site plan approval as noted in the notice for the construction of a 199 foot high auxiliary transmitter tower on property at 591 Ballantyne Road. I will not go through the material that was covered during our public hearing on May 10, except to say that at that time the matter was tabled, and Mr. Martin, by letter dated May 17 you asked us to address seven items of further concern. Those items were addressed in a letter from me dated July 18, and I would like to just briefly run through those requests, and our response at this time.

There was a request for a revised site plan showing the location and size of the auxiliary equipment building, and site plan showing the auxiliary equipment structure was enclosed as was a photograph of a typical equipment cabinet. The cabinet that we're proposing for this location would be 40 inches high, 96 inches wide, and 3 feet deep mounted on 4 3 foot high legs. As I say, there was a photograph of a typical equipment cabinet that was enclosed with my letter.

Second, you noted that the results of the Zoning Board of Appeals hearing on all required variances was requested.

Fred Trott arrived.

MR. HAGELBERG: And the Zoning Board of Appeals granted the applicant's request for variance to erect a second telecommunications tower at a height of 199 and variance to erect 8 foot high fence with barbed wire.

There were two conditions imposed by the Zoning Board. First, that the auxiliary tower is to be used only for the broadcast of WHAM, and two, that those variances were subject to this

Board's issuance of site plan approval and conditional use permit. We have no problem with restricting the use of the tower for the broadcast of WHAM. That is the sole purpose of the facility.

And I enclosed a copy of the letter from the Town's Department of Planning, Zoning and Development attesting to the granting of the variances.

Third, you asked for visual perspectives from several locations surrounding the tower, and we -- we provided before photos, if you will, as well as after -- after photo simulations from three locations.

The first was looking northeast from the corner of Brook Road and Ballantyne Road.

The second was looking northwest from the Fantagrossi property, east of the site.

And the third was looking northwest from Ballantyne hill, on Ballantyne Road south of the site.

Those were the three locations that were requested, and we have given you those before and after photo simulations from which I think we can conclude that there is not going to be a major visual impact given the fairly remote location of the site to begin with, and the fact that the auxiliary tower is less than half the height, much smaller in size, and is not to be lighted in any way.

We previously supplied you with clearance from the FAA indicating that neither lighting or marking was required, marking meaning the red and white paint would not be required either.

You also asked that a drainage district application should be filed with the Town Clerk. That was done and the Town Board approved that drainage district application, I believe, on the 13th of July this year, so that item has been taken care of.

You asked for information assuring the Board that all utilities and structures will be in compliance with the flood plain overlay requirements. The ground elevation at this site is 521 feet. Flood plain elevation is 525.5. The only utility at the site is the auxiliary equipment cabinet that I described earlier which is mounted on 3 foot high legs. It is possible that a portion of that cabinet would be submerged in the event of a 100-year flood, but the cabinet itself is designed for outdoor use and is water tight, so we believe that all of the requirements and precautions built into the flood plain overlay ordinance are met.

You asked for plans for screening the tower base and all fencing to be submitted for approval by the Conservation Board. The Conservation Board considered the matter on June 7 and recommended 3 6 foot high Austrian pines on 15 foot centers, along Brook Road and along the northwesterly portion of the arc along the guyed wire system of the transmitter. The applicant consultant estimated the cost of this landscaping would be approximately \$8300.

We have taken a look at that. We're not sure that doing landscaping on the northwesterly portion of the arc around the ground wire system is going to serve any purpose of screening either tower, and, in fact, we think it will look a little out of place in an area that is otherwise completely devoid of any trees.

As an alternative, we propose to provide 18 6 foot high Austrian Pine arranged in 3 sets of 6 trees along Brook Road. We recognize that the trees along the roadway are not going to screen views of either of the towers, but we do think that we can provide a more effective and aesthetically pleasing border along the roadway rather than trying to screen the views of the towers which, I think, is probably simply impossible, and we have submitted a proposed landscaping plan to that effect.

The final request was that serious consideration be given to moving the tower location to a location further north of Brook Road. A little background here. At the time of our initial application, we asked for permission to install this tower at the corner of Brook and Ballantyne Roads, and we were persuaded by a draft of negative comments from the Planning Board, Conservation Board and citizens of the Town that this probably wasn't the most attractive proposal we could have come up with.

So we then proposed that the auxiliary tower be moved off the corner, and moved 900 feet east of the original location taking it from the southwest corner of the property to the southeast corner of the property and away from that intersection. The question of moving it further north from the -- from that proposed location presents both some technical and practical difficulties we believe.

Technically, if we move it a couple hundred feet to the north, we believe that because of the length of the transmission cables that are going to be required, we may need an additional transmitter to boost the signal, an additional building to house that transmitter, and an additional emergency generator and a diesel fuel storage tank for the emergency generator.

None of those will be required if we can hold the location that we have proposed, off Brook Road, at the southeast corner of the property.

As a practical consideration, Mr. Kincaid and people in the business live in fear of people

who are going to try and cause vandalism or mischief at the tower either by design or just because kids will be kids or whatever. And we believe that a location closer to the roadway is not going to -- is going to discourage that. If we move it way back off the road way, then we think it is more possible that there could be vandalism or mischief at that site.

If it is closer to the roadway, passing motorists, police patrols, radio station personnel can more easily monitor conditions at the site.

So based on both the technical and practical considerations, we believe that the location we have proposed makes sense.

In addition to the seven specific items that were requested, there was conversation at the meeting on the -- on the 10th of May asking whether there were other radio stations in the country with auxiliary towers, and we did a study of other 50 kilowatt unlimited time clear channel stations, and as we discussed at the earlier meeting, there is a hierarchy of stations and sort of the king of the hill, no pun intended, are the stations that can broadcast at 50,000 watts on an unlimited basis on a clear channel, no other stations at that frequency at night. WHAM is one of those, and is one of the oldest radio stations in the country.

And we have submitted an information in my letter of July 18 indicating probably 15 or so stations across the country that are also stations of this type that also utilize auxiliary towers for the back-up and safety reasons that we discussed at the earlier hearing.

Finally, there was a -- there was discussion about the FCC's radio frequency exposure regulations, and we were asked to take that stack of documents, the FCC regs, and basically say, tell us what it really means in terms of how long a worker can be near the principal tower while it is broadcasting.

And in simplified terms, the way those guidelines translate out, is that when the -- when the principle tower is broadcasting at 50,000 watts, those regulations would prohibit anyone from being closer than 13 feet to the tower. Even if the -- even if the power is reduced to one kilowatt from 50,000 -- the 1,000 watts from 50,000 watts, the regulations would prohibit anybody from being closer than 6 feet away from the tower, and not -- not hard to conclude, therefore, that those regulations would prohibit anyone from working on the tower itself unless the power is turned off all together. And that's one of the things that we're trying to address with this application, because of the public safety and licensing issues that we discussed at the earlier meeting.

So we have attempted to address the issues that were of concern to the Board on May 10, and I would be happy to either answer any questions that I can, or more likely defer to Mr. Kincaid or Mr. Jackson for questions that I can't answer.

JAMES MARTIN: Thank you, Mr. Hagelberg.

Before I start with the Board, I want to note for the record, and I will ask Sandra (Hewlett) to include these in the meeting notes tonight. We have received several letters to the Board from various citizens in the Town of Chili, objecting to the application, letter from Mary Lewandowski; letter from Robert and Tracy Bill; letter from Mr. and Mrs. Brian Phillips; letter from Ms. Darlene Decker that were sent to the Board outlining several issues that they were concerned about, some of them were technical which I believe there may be some assumptions that both towers would be broadcasting simultaneously, which is not going to happen.

MR. HAGELBERG: That was correct.

JAMES MARTIN: The others were aesthetic issues from a Conservation Board standpoint. I will ask Sandra (Hewlett) to enter these into the record tonight.

The following referenced letters in their entirety are on file in the Building Department:

Letter dated 11/11/05 from Mary Lewandowski, in opposition.

Letter dated 11/11/05 from Robert and Tracy Bill, 825 Ballantyne Road, in opposition.

Letter dated 11/11/05 from Mr. and Mrs. Brian Phillips, 823 Ballantyne Road, in opposition.

Letter dated 11/14/05 from Darlene E. Decker, 854 Brook Road, in opposition.

JAMES MARTIN: At this point, I will turn to Mr. Hellaby who has some issues, concerns he has researched. I will let him start.

JOHN HELLABY: I'm in the hot seat.

MR. HAGELBERG: You're in the hot seat, or I am?

JOHN HELLABY: Frank -- do you mind if I call you "Frank"?

MR. HAGELBERG: By all means.

JOHN HELLABY: I hate to reiterate some of the points in your original presentation, but I

would like to do so this evening to make some points of clarification to have some parameters to follow.

In your presentation you stated that WHAM is a primary entry point for Western New York under the FCC's Emergency Alert System. And as such, WHAM is responsible for broadcasting emergency alert notifications during weather or natural security events, and we need to be able to do that 24/7/365. And if the main station, if the main transmitter is down for repairs, maintenance or something unexpected, we want to be able to use the auxiliary tower. Is that a correct statement?

MR. HAGELBERG: That was correct.

JOHN HELLABY: With that, I went and asked a past associate and friend of mine who has done some work with this Town in the past with telecommunication towers, a Mr. William Johnson, who is an RF engineer and Professor of Rochester Institute of Technology. He is presently enrolled in the Buffalo University study for his law degree, as well.

MR. HAGELBERG: Ut-oh.

JOHN HELLABY: I won't read the entire e-mail. In his e-mail to me dated July 18th, "FCC rule Section 73.561(d) covers the requirements for stations to remain on the air. WHAM would have a 30-day window where broadcasting could cease without needing any authorization from the FCC should their equipment malfunction. While they are on the air, they are obligated to monitor the EAS, Emergency Alert System, and participate according to their decision to opt into the system. Separate rules govern the monitoring and transmission of the EAS message. The FCC has a website dedicated to the EAS," and he gave me the address.

"While it is certainly an argument as put forth by the applicant that WHAM is providing the community service in the event of a natural or local emergency, there are no such rules that would cause them to lose their license, if they, for reasons of equipment malfunction beyond their reasonable control, failed to be on the air to broadcast the EAS alert.

However, if their EAS alert malfunctions and they're negligently not detecting it -- and by missing EAS test broadcasts there are penalties that can be brought by the FCC, but it is not the issue regarding a new tower. The Board should weigh the benefits of having the redundant transmission equipment, tower, auxiliary transmitter and accessories to allow these elements of the broadcasting system to have a back-up in case of a malfunction. However, those do not appear to be generally required by the FCC.

I guess what I am asking is, there's a specific category by the FCC that mandates that you have this tower?

MR. HAGELBERG: No. I don't believe there is a specific requirement that mandates an auxiliary tower, and I don't believe that I indicated that.

JOHN HELLABY: Right. I'm not saying you did. Just point of clarification.

MR. HAGELBERG: I -- I have a great deal of respect for Professor Johnson. I thought he could perhaps in retrospective made a better choice of second careers, but...

(Laughter.)

JOHN HELLABY: I will let him know.

MR. HAGELBERG: Would you, please? He and I have worked before on various telecommunications issues.

JOHN HELLABY: I would assume you did.

MR. HAGELBERG: Let me address, if I may.

JOHN HELLABY: Go ahead.

MR. HAGELBERG: The -- the basis for this application from day one is not at all inconsistent with what Professor Johnson wrote to you in his e-mail. There were two bases for the application.

One, and I'm sure Professor Johnson would agree we have an obligation under our license to broadcast 24/7. In terms of how long we would be able to not do that before the FCC started revocation proceedings, that is a different issue. But we have two objectives here.

The first objective was the RF exposure issue which requires us to effectively stop broadcasting whenever work is required on the tower, and we would prefer not to do that consistent with what we view as our obligation under our license to broadcast 24/7.

The second basis for our -- for our application is that God forbid in the event of a national emergency, or even in the event of a weather emergency, and if there is a problem with the primary tower, we want to be able to fulfill our EAS function, and we can do that with the auxiliary tower, and I believe we indicated at a previous hearing that while the auxiliary tower would not operate at 50,000 watts, but would operate at 10,000 watts, that is sufficient to cover most of the Greater Rochester area.

We're not going to hit 38 states at night the way we do with a 50,000 watt clear channel, but we'll be able to serve that EAS function in the Greater Rochester area.

So we have those two -- those two bases for the application.

First of all, we need to be able to -- to perform work on the tower without shutting it down. And secondly, we want to be able to have that redundancy, and whether or not it is mandated, I think misses the point. We think it is entirely consistent with our -- with our obligations. And I -- and I guess the real -- the other -- the other overriding reason is something that I suggested to you at an earlier hearing.

Which is, the -- if -- if WHAM could go along merrily without doing this, um, it defies logic to believe that they would spend all this money on engineers -- the lawyers don't work quite as expensive -- but they expend all this money on this process, and the construction of a new tower if there wasn't some strong purpose behind it, and the strong purpose behind it is in recognition of the -- of the -- of the unique role that WHAM serves in this community. There is no other clear channel 50,000 watt station in this community, and we have seen repeatedly that if -- that if there is 6 feet of snow outside, people go to 1180, and that is where they get their information from.

JOHN HELLABY: All right.

Another point. The Conservation Board met on April 25th and recommended that -- recommended against the location and recommended that the tower be moved instead from the southwest corner to the northeast corner of the property. That was also the strong sentiment of this Board, and I'm hearing tonight that the major, and I point out the major concern is a financial burden aspect of it from moving it to that back corner.

MR. HAGELBERG: Well, if that -- if that is what you heard, then I apologize. I'm not going to characterize one set of issues as major and the other set of issues as minor.

Nor would I characterize the technical considerations as being purely financial. The question is, whether there is going to be another building out there. The question is whether there is going to be an emergency generator out there. The question is whether there is going to be an emergency fuel source out there, a diesel fuel tank. There are all of those things that will be out there. Would it be more expensive if we had to move it up? Yes, it would. Is -- is the expense going to be a -- a force a go/no-go decision. I don't think so. But I think in terms of the amount of stuff that we're going to put out there, we would rather do less rather than more, and I think so would the community. And I think the -- the question of location from a -- from the standpoint of keeping this closer to the road in order to discourage mischief or vandalism is also an important one from a public safety perspective. So I think there are two very good reasons for -- with all due respect, choosing the location we have, and it is not simply a question of convenience or dollars.

JOHN HELLABY: All right. Also, in your original meeting, you stated that the site is not located within the airport overlay district. It is far enough removed from the airport so that is not a consideration. Therefore, it is not subject to the County review for purposes of the airport.

However, it is subject to review by the Federal Aviation Administration which submitted a notice of proposed construction that essentially says, "Dear FAA, we want to put up a tower, 199 feet at that location, tell us what you think."

And it came back with what they called determination of no hazard, which says they do not deem this is a hazard for air navigation. And I agree with that.

However, I would also like to point out, and I tend to believe that you might have been the one representing an application in 1978 for a radio tower in that area. If not, somebody has your name.

MR. HAGELBERG: What was that, the WEZO tower north of the airport? Guilty.

JOHN HELLABY: In 1978, the tower at Brook and Humphrey Road that was proposed, a Mr. Langreen (phonetic) from the County Airport stated that he had a concern with not only the tower that was being proposed that night but had a standing concern with the existing WHAM tower in relation to the departure corridor from the airport. That was brought to his attention by the Airlines Pilots Association.

Now, I find it strange that 20, what, 8 or years later -- again, it is a long time ago, and now they have no concern for this tower, when it is on a direct departure course from the airport.

MR. HAGELBERG: Um, I -- you will forgive me. I don't recall an application at Brook and Humphrey.

JOHN HELLABY: It was on Brook Road, not actually at -- well, it was on Humphrey Road. Brook and Humphrey. It was on the Stottle property.

MR. HAGELBERG: I don't recall that. I was involved in the '70s with an application for

what was then the WEZO tower up at Emerson Street in the City of Rochester.

The -- the answer specifically with -- with respect to this tower -- this may not be the world's most satisfying answer, but I can tell you what the answer is with respect to this tower.

The reason that we got a determination of no hazard, is first of all, we're not in an approach or departure pattern from the airport. And -- and what -- this is going to be a joy for you to try and describe. But let's say this is the runway (indicating) and they create what is called a trapezoid. In this area (indicating), you can't have -- you can't have interference. As you move out further away from the -- from the runway, the allowable obstructions can be higher, because the plain is going to be higher coming in, and if you move to either side of the runway, it also doesn't present an obstruction.

The -- the less than satisfying answer is, WHAM tower was erected, I believe, initially I believe in 1947, and that was probably -- it could have been before the this whole no hazard determination situation came about, and I am not expert on the history of the Rochester Monroe County International Airport. I don't know what was there in 1947.

JOHN HELLABY: I'm just stating a point in 1978 the engineer from the Monroe County Airport had a concern with it, and I also point out that that tower was the -- denied.

MR. HAGELBERG: The real answer on this -- on this facility, for the 199 foot auxiliary tower, the reason -- one of the principal reasons why the FAA issued the determination of no hazard is because the existing WHAM tower is already there. And all of the approach and departure patterns have been adjusted in order to avoid the existing 420 foot high WHAM tower. Putting a 199 foot tower next to a 420 foot high tower is a pretty automatic way of getting a no hazard determination, and with all due respect to the Monroe County engineer in 1978, then, as now, he is required to defer to the FAA with respect to hazards to air navigation.

So the reason it got a no hazard now is because it is next to the existing tower.

JOHN HELLABY: All right. Statement was made, we have submitted a long form EAF Environmental Assessment Form with a visual EAF addendum.

Our view, this will not have a significant adverse impact on the environment. I think I pointed out that night, and I will also point out again, this is not signed. There -- it is not signed by the completing party or agency that actually completed this, and therefore, in my eyes holds no validity. That is one thing that will need to be addressed.

MR. HAGELBERG: We can certainly address that.

JOHN HELLABY: All right. The County -- also stated in your original presentation the County DRC notes that the property may be within the 100-year flood plain boundary. However, none of the existing elevations will be disturbed as a result of this project. Not creating any structures below the existing elevation like a basement or anything like that. There are no buildings so we do not think flood plain issues is of concern.

I would point out, however, per our zoning laws, regulations, you are in the FPO District, and per Section 115-10, item E, special provisions, applying to the FPO District any development which becomes subject to the regulations of this district shall meet the following requirements in addition to those otherwise applicable under this chapter. Item Number 1 site plan approval. I won't read down.

Item A. The location of the land or structure involved showing its relationship to the flood plain, flood way and any drainage way, water bodies or channels.

Can you point out on that drawing this evening all of the structures, including the flood plain overlay elevations?

MR. JACKSON: The structures we're talking about are the panel boxes that will be -- accompany each tower. There is a structure out here (indicating) which is no longer -- I'm sorry, it is no longer there. That was an RG&E structure. There is a structure here (indicating). As -- as Frank said earlier, the primary elevation of the site is 521, and flood plain, 100-year flood plain is 525 ½.

So this whole site will be inundated.

JOHN HELLABY: So the whole site is actually 4 foot under the flood plain --

MR. JACKSON: Including this house here (indicating).

JOHN HELLABY: When I look at that drawing, it does not specifically point out flood ways or any drainage ways --

MR. JACKSON: No flood ways on here.

JOHN HELLABY: There are drainage ways.

MR. JACKSON: There are --

JOHN HELLABY: Are there general notes -- are there general notes deferring to the flood plain elevation, and a note that states the entire project is within it?

MR. JACKSON: No.

JOHN HELLABY: Item B, the elevation of the lowest habitable floor including basements and its relationship to the flood plain elevation, and the insurance risk rate established by the Federal Insurance Administration Flood Insurance Study. I will say there are no basements, however, there is a foundation for the structure. All right?

MR. HAGELBERG: I think that section says the elevation of the lowest habitable floor level, and there is no habitable floors.

JOHN HELLABY: All right.

Item F. Drainage plan to reduce exposure of flood hazards. What is being done to reduce the flood hazards?

MR. HAGELBERG: What is being done is the only -- as I indicated, the only change in the site that would -- that could be affected by 100 year flood is the equipment shelter, and that is going to stand on 3 foot high legs, and it is water tight. So since there is -- since there is nothing else to protect, we don't believe that there is any exposure, therefore, no requirement for a drainage plan to reduce any exposure.

JOHN HELLABY: Item 2, all structures or land subdivision shall meet the following flooding requirements. All uses shall include flood proofing measures consistent with the base flood protection elevation and associated flood factors for the particular area in which the construction is to take place.

Those towers, to my knowledge, hold quite a bit of voltage in them when they're operational. I have no way of knowing what the procedure is to take those towers off line, should that area become inundated with water and cause an electrical hazard to somebody.

MR. HAGELBERG: Mr. Kincaid, can you address the issue -- the issues or ordinance that requires flood proofing measures consistent with the base flood protection elevation and associated flood factors for the particular area in which the construction is to take place. In English, if the area would be inundated in the event of -- of a 100-year flood, what is there to protect it from some kind of electrical hazard associated with the flooding?

MR. KINCAID: We would have to shut the site down. That is just pure and simple. We would shut the site down if it was flooded. I would actually shut itself down.

JOHN HELLABY: Those are the procedures that need to be spelled out on that drawing.

KAREN COX: It would shut itself down?

MR. KINCAID: That is correct. It should it -- the transmitters go into automatic fold back. They would overload and shut down.

JOHN HELLABY: Item C, "Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including the basement or cellar, elevated to two feet zero inches above the base flood elevation or be flood proofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy be certified by a registered professional engineer and architect that those standards" of this are satisfied, and again, I don't see any of those on the drawing.

MR. HAGELBERG: I believe that the section you just read, said new construction and substantial improvement of any commercial and non-residential structure shall either have the lowest floor, including basement elevated, or shall be the following. Again, we we're not dealing with a floor.

JOHN HELLABY: At least 2 feet above floor. It is an iteration then.

MR. HAGELBERG: I think a floor refers to a building, and we're not constructing a building.

JOHN HELLABY: Well, I jumped over it, but again, under Section 2, Item B, it says, "Any structure built on pilings," which this is, all right, "shall be constructed with the lowest floor elevation at least 2 feet above the base flood elevation," and again, I know what it says. I think it reverts back to interpretation. I personally believe that the base of that tower needs to be 2 foot above that flood plain.

MR. HAGELBERG: I guess I would submit to you that that floor elevation means a floor, and we don't have a floor because we don't have a building.

And if I may, it is not uncommon for things to be built that are not buildings and that are not habitable and don't have floors.

JOHN HELLABY: Item F, under the same section, "Special procedures applying to the FPO District. The Town, in addition to its normal review procedures, shall do the following:

review proposed developments to ensure that all necessary permits and reviews have been approved or completed as required by law, including but not limited to the New York State Environmental Quality Review Law (SEQR), Section 404 of the Federal Water Pollution Control Act or the New York State Freshwater Wetlands Act,” which is partly our responsibility. All right.

Um, continuing, there was a general discussion as far as how this ordinance that addresses cellular telephone communication sites -- this ordinance is one that does, and it doesn't quite fit a broadcast tower. And I asked if, in fact, relating to the standard for telecommunications towers, you have already said it yourself, that it is a strange situation, and I wholeheartedly believe that this -- and this is my thinking, I wholeheartedly believe this section was set up in the Town Code to cover cellular phone towers and not this particular circumstance, which you agreed with.

And again, I will go back to that stance saying that I do not feel that the Board can feel otherwise that that particular section of our zoning code governs the approval of this tower, because it is not a telecommunications tower. It is a broadcast tower. And with that being said, if I go to 115- 11 RA, Rural Agricultural District, the district that this is in, item B, permitted uses, nowhere does it spell out any type of towers.

Section C, conditional use, “The following uses and their accessory uses are permitted when authorized in accordance with Article 4. Item Number 11. Communication tower. Provided that the same is for personal, not commercial use, and does not exceed the height restrictions set out in this chapter.”

I, therefore, would refer to our legal counsel inasmuch as yes, there is a preexisting, nonconforming situation there. However, you still have to abide by the zoning ordinances as they are stipulated today. And it is not even a conditional use in that district.

KEITH O'TOOLE: Is that a question?

JAMES MARTIN: We didn't hear that.

KEITH O'TOOLE: Is that a question? What are we looking for?

JOHN HELLABY: I guess the question lies, in fact, does this fall under the telecommunications requirement, or should it, in fact, not even be considered for this district.

KEITH O'TOOLE: Actually, I think there are two arguments for this being -- and it is not for me to justify the applicant's proposal one way or the other.

MR. HAGELBERG: Go right ahead.

KEITH O'TOOLE: One would be that it is an accessory use. An accessory use is permitted under the code. It is a grandfather to the preexisting, non-conforming use, but if you read definition of accessory uses as it exists in the code, it refers to a structure our use incidental and subordinate to the main structure or the principal use. The reference to the main structure does not require it be a permitted use. It requires that it exists. So there's a little more leeway with accessory structures.

The other argument is that if you look to Section 115-91 --

JOHN HELLABY: 21?

KEITH O'TOOLE: 115-91. If I can find that. It defines telecommunications tower as a structure on which transmitting and/or receiving antenna are located. That seems to me to be a telecommunications tower. Telecommunications towers are actually permitted uses in every district in Town. It is just that we have a hierarchy that says to the extent feasible, we want you to put them in the industrial zones first and then look towards the residential and agricultural zones. Here, however, my understanding from Mr. Hagelberg is we're stuck with this, the location, because this structure is accessory to the existing tower.

MR. HAGELBERG: Not only if -- are we stuck with the location, but I think the question was raised at an earlier meeting, and I'm not sure whether it was before the Planning Board or before the Zoning Board which granted a variance for this facility, which may be the answer in and of itself, but we indicated that we believe that putting a second auxiliary facility on a piece of property on which there was already an existing tower was preferable from a community wide perspective than to go to a different location and introduce a tower in an area where there was not already an existing tower.

JOHN HELLABY: Well, that is all I have for right now. Let the other Board members --

MR. HAGELBERG: If I may, Mr. Hellaby, this is sort of supplemental to Mr. Martin's letter of May 17, indicating these are the things that they wanted us to look at, and we would be happy to formally respond to each of the matters that you listed, although I think we have provided a response to them this evening.

KAREN COX: Al (Hellaby), kind of covered a lot of questions I had. I'm not sure I agree if I lived out there, and I don't -- but if I did live out there, I don't know if I would agree that the new tower is not something that should be an aesthetic concern, based on the way these -- the

photo simulations look. Because it does stick out. We did say that this tower -- just to reiterate, this auxiliary tower would only be in use during the time that the main tower was down for maintenance or whatever reason it would have to be taken down.

MR. HAGELBERG: The auxiliary tower will only be used for WHAM. The two towers will never be used simultaneously.

KAREN COX: As Jim (Martin) said, several of the letters we got, the people who sent them were under the impression that the two towers were going to be used simultaneously, and they already experience interference from the main tower. So I just want that on the record.

I -- it was my hope that Citicasters would look seriously at the possibility of moving that tower further back. I understand what you say about the additional equipment. Um, I -- I thought I heard you say that there might be a third tower needed for boosting?

MR. HAGELBERG: No. There could be an additional transmitter, a -- the radio itself that creates the signal, which would be in a separate building, other than the electrical panel that we're talking about.

KAREN COX: I misunderstood.

MR. HAGELBERG: We would need something to amplify that signal, because there is not -- now I'm out of my field, but there is line loss, the longer that the distance is between the existing transmitter and the -- and the auxiliary tower, and when that line gets -- gets much longer, then you need -- you need to put in an additional booster, if you will. He is going to cringe at the notion of booster, but that is what we're talking about. That would involve an additional building and an emergency generator and the back-up fuel source.

KAREN COX: Well, I wish that the Board had had a chance to even look at a -- what that layout would look like. Because I understand your concern as facilities that need to be maintained, it could be vandalized, but we have not gotten a chance to see what that would look like on the site. And so I had to take it -- I have to take it at face value what you're telling me. And I think if I lived out there, I'm not sure I would want to be looking at the tower, the new tower, even if it is half as tall as the old one.

MR. HAGELBERG: I think at one point my recollection is that we did -- we did show the alternative sites and we showed the site that was recommended by the Conservation Board and explained it at that time why we didn't think it was appropriate. In terms of shielding, I -- I fully agree. There is only so much shielding you can do, and -- and particularly when there is already -- a 420 foot tower there, it -- it -- it is what it is today, and -- and the -- if I may, the only -- it is too bad the cub scouts left, but we're talking about a balance here between the community being served by a radio station, and in particular, a radio station that has these emergency functions, and the impact on -- on local residents. I don't mean to minimize it at all in terms of the impact on those local residents, but I think it is fair to say that this is not a heavily populated area of the Town, and that the number of residents both who live there and travel through there is less than it might be in other areas.

Again, that is not meant to minimize the impact on those most closely affected, but the number of people most closely affected will certainly be lower in this location.

JAMES MARTIN: A couple of issues. Have you had any vandalism or anything of that nature occur with your existing facilities at the site?

MR. HAGELBERG: We're pretty -- pretty constantly repainting the equipment building that is there, which some folks believe is a wonderful easel or drawing board. We try to fence both the guy wire anchors, the tower itself, and we try -- and we enclose as much as we can within the fences. There have been attempts and efforts over the years -- it is not something we like to publicize because we don't want to make an attractive nuisance even more attractive than it might be. If your question is, is this a concern, the answer is it is a constant concern for every broadcaster at every facility.

JOHN NOWICKI: I guess I want -- I feel a lot more comfortable -- I have been looking at that tower for a lot of years, and it -- it seems that it has functioned well for how many years, 30 years plus?

JOHN HELLABY: 50.

JOHN NOWICKI: I have heard the arguments put on the table tonight, and I'm not quite convinced in -- and the only way I would be convinced, I think, is if the issue of this tower was predicated on a -- either a Homeland Security issue or a national security issue, and I'm not convinced of that. So at this particular moment in time, I'm not comfortable with the application.

MR. HAGELBERG: And I guess the only response I can give you -- I can't make you comfortable, if you're not disposed that way, but --

There was a pause in the proceedings.

MR. HAGELBERG: Mr. Nowicki, thank you for endorsing this application. I'm sure that is what you said when we were distracted.

(Laughter.)

MR. HAGELBERG: You talked about the Homeland Security and emergency features here. Um -- and again, that is something we discussed in May, and the question was asked, are you the only guys in the world doing this or is there anybody else doing this? We have submitted the location of -- I didn't count them. 15 or so other clear channel stations across the station that have auxiliary towers, and two things have happened. You said the tower has been there for 30 years.

Two things have happened. First, there has been a great deal more sensitivity, as part of OSHA, to exposure to radio frequency signals, and that led to the promulgation of these rules that prevent people from getting near a tower like this when it is powered up. That wasn't -- those regulations are -- I don't know, late '90s, so they're -- they don't go back anywhere near as far as the tower itself. So that is the first new item.

And the second new item is, in fact, the Homeland Security concern. We're in a very different situation than we were four years and a couple months ago, so that emergency notification we feel, WHAM, Clear Channel broadcasting feels is, in fact, quite important. And we want to make sure that the redundancy and the back-up is built in, so that if, God forbid there is a situation that -- that requires that EAS, we don't want to be -- we don't want to look back and say my goodness, what a perfect storm it was. We had a situation that required notification, and didn't the -- didn't the tower and the transmitter that have served us so well for so long, choose that point to get out and to go off and wouldn't it have been nice if we had the auxiliary tower. We prefer not to play the 20/20 hindsight game, and -- and we feel not only because of the exposure regs, but because of the changing world in which we now live, that having that redundancy is quite important.

If we're not convinced of that, you know, reasonable people can certainly differ on that, but that is the basis of our application. We're not doing this for financial gain. For the life of me, and I have asked them, you know, "What are you going to make on this?" And Craig (Kincaid) shutters and says, "Make? This is killing my budget, because we're spending a lot of dough here."

JOHN NOWICKI: Speaking of the world we live in today, is -- is equipment either in place -- you don't have to answer if you don't want to -- in place or is going to be in place to monitor the area for security reasons?

MR. HAGELBERG: Um, there -- there are intrusion alarms in the transmitter building now, and -- and the -- the -- I believe that -- well, the electrical panel will also have an intrusion alarm.

MR. KINCAID: No.

MR. HAGELBERG: But the building now does. And is there a -- aside from a direct alarm, is there a light or something else?

MR. KINCAID: There is no indication at the transmitter site. It is at the remote control point at the studio.

MR. HAGELBERG: So that extent, if there is a break-in in the building, the studio would be notified immediately and we'll call police accordingly. But if you're talking about cameras or stuff like that, we don't have that at this point. And -- because we did not think it would be any more effective than the intrusion alarm itself.

JAMES MARTIN: Going back to one other question. As I scanned the radio dial, there are other stations in the Rochester area that broadcast emergency alert signals from time to time. Besides WHAM. So I mean you don't -- it is not an exclusive situation as far as WHAM goes, and broadcasting, emergency alert information to the public in the area; am I correct in that statement?

MR. KINCAID: That is true, as you scan the radio dial, you hear all of the stations doing required -- what they called required monthly tests or required weekly tests. Required monthly tests originated from WHAM and is propagated throughout the rest of the stations in the Rochester area. So it is the entry point for any emergency. We have direct hook-ups with the Monroe County Emergency on Scottsville Road. We work with Muffy Meisenthal on all of this stuff. So we're the entry point for the EAS for this area. Taking one step --

MR. HAGELBERG: The only entry point.

JAMES MARTIN: You're the only entry point. That is where I was headed.

MR. KINCAID: We are. Several years ago when 911, the center went down, um, they called us and said we have to activate the EAS system because of the 911 center being down. So we activated for that.

We're kind of very prudent when we activate because we don't like to get the general public

all worked up in a lather, but for the most part, yes, we are the entry point for this area.

Taking an even broader step back on that, as Frank (Hagelberg) had said, we're a pep station. A pep station is the primary entry point for a national emergency. We are the only entry point in Upstate New York for that. There are only two other stations in the northeast WBZ in Buffalo (sic). WBAB in New York. The closest one is in Baltimore.

So we're the entry point for a national emergency. We have a direct hook-up with Mount Weather in Washington, D.C. I'm sure you all have heard about that. We have a direct hook-up with Mount Weather. They poll our transmitter site weekly to make sure the communication link stays in place. They can communicate over the phone line. We're getting ready for a satellite system. WHAM will be the only radio station in the primary entry point that will have a satellite to activate a national emergency. It is a matter of national security.

MR. HAGELBERG: WBZ, you meant to say Boston?

MR. KINCAID: I'm sorry. Taking a broader look at this. All of you have a vested interest in WHAM. The government, the federal government pays for the transmitter's emergency power generator. They're paying for the fuel tanks and they pay for the fuel. So all of you are helping to support the radio station in a national emergency or a local emergency.

JAMES MARTIN: Let me just follow along with another question that may be silly. Since you're the primary entry point and only entry point, do you have any leverage? I know the technical capability exists that, you know, given, you know -- we were faced with that situation. Would you have the authority or the ability to usurp one of the other broadcast towers in the area to transmit your signal as opposed to perhaps that station that has license to broadcast at that frequency?

MR. KINCAID: I wish I could say yes we could take over all of them, but, in fact, we can't.

JAMES MARTIN: It is not permitted, or --

MR. KINCAID: Not permitted, and the technology exists, but it is not permitted.

JAMES MARTIN: Okay. I just wanted clarification on that.

MR. KINCAID: The way that works is, it is permitted in that if we do initiate a PEP announcement, a -- from the President of the United States, that goes out from our facility, and everybody, all of the other broadcasters by regulation should rebroadcast that. Um, the only other option is if you're not participating in the program, you must go off the air.

DENNIS SCHULMERICH: Couple questions -- just to be clear, the reason the alarm went off, I have to control Mr. Nowicki. That was really his alarm to stop talking.

Couple questions, regarding the tower and no marking, no illumination, is that generally because of the proximity to the other tower or would that have to be illuminated if it were standing by itself?

MR. HAGELBERG: It is in large part because of the proximity to the other tower. It is shadowed, is the term, by the other tower. The other factor is we didn't pull "199" out of the air. The marking and lighting requirements usually start at 200 foot. You will see a lot of 199 foot towers across the country for that reason.

DENNIS SCHULMERICH: Regarding EMF emissions, this will be immediately adjacent to the Fantagrossi property. Are there any associations with regulations regarding emissions in regard to proximity to the neighbors?

MR. HAGELBERG: There are. Usually what happens is the -- once you deflect from tower center, and if you move away a couple hundred feet and down to ground level, the amount of emissions are negligible. The FCC has no difficulty with a tower of this type there, and neither the auxiliary tower nor the -- nor the existing tower under -- under existing regulations are deemed to pose any hazard to human beings.

DENNIS SCHULMERICH: Thank you.

How many times roughly in a year would you say that the tower goes down for maintenance, today?

MR. KINCAID: It goes down for maintenance. We take it down once a month. It varies, but it is usually very, very early in the morning, like between two and four or something like that. We don't like to take it off for very long, for obvious reasons. What we do during that is we run out to the tuning house and make sure there are not any connections overheating and check for loose bolts and parts and things like that.

DENNIS SCHULMERICH: When you're down at that point this time, you're off the air completely?

MR. KINCAID: Yes.

DENNIS SCHULMERICH: Do you do that during the dark hours?

MR. KINCAID: Yes. It varies. There is no schedule for that.

MR. HAGELBERG: One of the things that, I believe, we noted during the hearing in May

was that we would prefer to -- to -- when we have to send people to the tower, we would prefer to do it in daylight and probably so would they.

DENNIS SCHULMERICH: Yes. Just to -- a comment. You mentioned the perfect storm scenario earlier. You really have left yourself with a perfect storm scenario. That would be with whatever storm was occurring in warm enough weather you did flood the facility and you powered down both antennas. That probably is unlikely to occur, but you would have a lot of probability for that to happen.

Regarding the location of the tower, regarding the relocation of the tower from -- from your client's perspective, is it a deal-breaker to relocate the tower?

MR. HAGELBERG: I don't know the answer to that. And I'm not sure that is within Mr. Kincaid's purview. Let me -- you raised another issue, and maybe I can address Mr. Hellaby as well as the same time.

If the -- if the flood plain issue is deemed to be serious, I'm extremely serious, I'm told by Mr. Kincaid that we may be able to raise the tower base above the 100-year flood plain elevation. Did I say that correctly?

MR. KINCAID: Yes.

MR. HAGELBERG: So if that is something that would make the Board more comfortable with the application, that is something that we could have the engineers address.

DENNIS SCHULMERICH: Would that leave you in a position that if one tower, the main tower, were below flood plain, which I am assuming it could be, the other tower would be above and you would be able to broadcast from the auxiliary?

MR. KINCAID: That is very probable, yes.

Again, I know somebody is probably thinking if you raise the tower, you know, another 4 -- 3 or 4 feet, that will increase the height over 199. What we would do is then subtract out the steel to offset that difference.

MR. HAGELBERG: The equivalent of a broadcast circumcision.

DENNIS SCHULMERICH: I don't even know how to respond.

DARIO MARCHIONI: Frank (Hagelberg) -- may I call you "Frank"?

MR. HAGELBERG: You may.

DARIO MARCHIONI: Pertaining to moving this tower back an additional 200 feet, you mentioned that -- technical considerations, without rehashing what you mentioned.

I was going to just present my point of view. I have a -- I have jotted about six things that I am concerned with. First, my position is you have the land.

MR. HAGELBERG: I'm sorry.

DARIO MARCHIONI: You have the land to move it back.

MR. HAGELBERG: Yes. Although we would enter into an area that is presently wooded, if we do that, so it would involve --

DARIO MARCHIONI: Do you have the land to move it back?

MR. HAGELBERG: It would involve the removal of a significant amount of trees.

DARIO MARCHIONI: It is the wish of the Conservation Board that you would move it back.

Third, you -- you would also, by moving it back, address some of the concerns of the neighbors.

Fourth --

MR. HAGELBERG: Could you just expand on that for a moment?

DARIO MARCHIONI: Right. The -- the concern of the neighbors about the effects of anybody driving by or walking by here, in case this gets further developed, the impact of the -- on the neighbors.

I didn't mention fourth, that I believe it is too close to the road.

Fifth, the additional infrastructure, I don't think it is justified for not moving it back.

And sixth, I would mention that as planners, we would like to see the best plan possible for this tower and its location. And the way I see it, by moving it back 300 more feet, I think it is a better plan than is being presently presented.

MR. HAGELBERG: Um, let me address a couple of those things, if I can.

As far as aesthetics are concerned, that is always in the eye of the beholder. And I guess you would get -- you would probably get an array of opinions as to whether a 199 foot tower moved 300 feet back would be any less visible than 199 foot tower closer to the road.

And in terms of being too close to the road, we have -- while this is a guyed tower and while these towers, as you may be familiar with, are -- are designed because of these guys to collapse, if they collapse on themselves, we have nevertheless have provided what is -- what is

known as a fall zone. We have got an area equal to the height of the tower so that there would be no danger of any part of the tower in the event of a tower collapse falling onto the roadway or any part of it.

And -- and in terms of the best possible plan, and your responsibility, I don't dispute any of that. Again, I think that the additional infrastructure is something that people can differ on. I think the -- I think the removal of additional trees is a problem. I think we indicated at the earlier hearing when we were discussing the alternate location it would require the construction of an additional roadway to get back there. Further disturbing what is there. Um, and -- and I think we have got the -- the mischief and vandalism concern that is not addressed.

As a matter of fact, we believe it is made worse by moving this thing further off the road.

DARIO MARCHIONI: Well, we do have other communication towers within Chili that are set way in from the road. So it is not -- you're not setting a precedence. And I haven't heard of any vandalism on those particular towers. Some of them have been up for three, or four years or so. I really don't -- you know, I still haven't heard any -- unless the Building Department has something on file. So I challenge that particular part about vandalism. And besides that, I think if you have an 8 foot fence with barbed wire on top, that you just got a zoning variance for, I think it is pretty difficult to jump that fence to try to vandalize this, the guy wires.

All in all, I think what is weighing here, I think by moving it back it would be a better plan. And it -- you know, and it -- it would address some of the concerns of the neighbors. That is all I have.

MS. TINDALE: I will go back to this issue of northeast location. I would really rather see it moved right out of Town, but if I have to have it there, even though I'm Conservation Board, and you will take some trees down, I think visually that northeast section would be much better. As for the trees, you mentioned 36 trees. We're down to eight Austrian pines, 6 to 8 foot tall across the front, and maybe approximately five around the west side. Which we still would like, even with the -- even with it back in the --

MR. HAGELBERG: I believe we said 18.

MS. TINDALE: We may have in the beginning, but it is down right now to 8 Austrian pines, 6 to 8 foot tall. It -- you objected to the number in the beginning, so we brought it down.

MR. HAGELBERG: Um, I -- I guess I'm -- we can take another look at that, but my letter of July 18th says a total of 18 6 foot high Austrian pines arranged in 3 sets of 6 trees each along Brook Road.

MS. TINDALE: That is fine, but every time you appear on the Planning Board agenda, our Board looks at that decision and renders another decision. If it looks like something we can work with, we would bring that request down. And I apologize to the Planning Board, because this was omitted on the northeast -- moving the tower back to the northeast corner. It appeared in our original request to you, but it got omitted in the last suggestions to the Planning Board. That is all I have.

MR. HAGELBERG: Mr. Chairman, if I may, I know there were a number of new issues that were raised, or new takes on old issues that were raised this evening, and what I would request is an opportunity to formally respond to those if they could be furnished to me, as was your letter, following the May hearing, and at the same time, we may take this opportunity while we're assembling those answers to examine whether an alternate location is something that -- I think the question was deal breaker, and we can take that back to the powers that be and see if we can come up with a solution that the Board feels more comfortable with.

JAMES MARTIN: I -- I certainly think it is the sentiment of the Board to take a very serious look at relocating the tower to that northeast corner. Certainly, you know, with the technology and all that is not a difficult issue to manage that process, to do that.

So, yes, I certainly can formulate to you the discussion we have had tonight there. There weren't a lot of totally brand new issues, but there were several that we'll bring up. Certainly, you know, raising the base above the flood plain is something that ought to be looked at, those types of things. So do I hear you --

MR. HAGELBERG: You may want to consider tabling this.

JAMES MARTIN: That is what I am headed for. We would consider tabling this until you have had a chance to respond to the issues raised here tonight.

KAREN COX: Will they get a copy of these letters from the residents?

JAMES MARTIN: It will be in the minutes of tonight's proceedings. They will be available in the Freedom of Information if they want them -- I can provide copies.

KAREN COX: As long as I'm asking them to respond to the new issues the Board brought up, I guess I would like to see answers to these letters, especially the one that deals with the EMF

emissions. The health issues. Even though it appears with these letters that people who wrote them thought that -- both towers were going to be operating simultaneously, it would still be nice to have that on the record.

JOHN NOWICKI: Does the applicant have a copy of the letter?

MR. HAGELBERG: Applicant has no copies of any letters.

JAMES MARTIN: We'll provide copies of the letter, along with my letter to you.

JOHN HELLABY: In all honestly, instead of tabling this again, I would like -- again, I would like -- seeing they're going to consider relocating this tower, it would be, in my mind, a new application, inasmuch as location -- yes, the intent is the same. I would honestly like this denied without prejudice and allow the neighbors in that area that do have a concern to address issues at that time. Unfortunately, it is under old business tonight, and I will be 100 percent honest with you. I think back in May, you know, shame on those or whatever, but I don't think a lot of these people that wanted to air or voice their concerns had an opportunity, whether they were out of Town, didn't know any better or whatever, but I would at least like them to have that opportunity. And again, it is my only personal feeling.

MR. HAGELBERG: Mr. Chairman, if I may, we have already moved the location once without the necessity of a new application. I would like to avoid that, if we can, in order to keep this thing on track. We have been going a while on this.

JOHN NOWICKI: Why can't the Chairman make a decision as far as tabling it and allow a discussion at the next hearing for the public?

JOHN HELLABY: Up to the Chair.

JAMES MARTIN: Certainly is within prerogative to do that. Table tonight will -- we will reschedule this as a public hearing when they come back for -- you know, not reapplication, but for the next session on this particular issue. Would you be happy with that?

KAREN COX: If you reschedule it as a public hearing?

JAMES MARTIN: Yes. Rather than deny without prejudice.

KAREN COX: At least the public will have an opportunity to speak. I would be fine with that.

DENNIS SCHULMERICH: They will have another opportunity. It is not as though the public has been eliminated from their opportunity to speak. They were given that opportunity. But let's be clear that the public has been provided the opportunity once, and we're giving them an opportunity again through the graces of the Chairperson.

KAREN COX: Correct.

JOHN NOWICKI: Comfortable?

JAMES MARTIN: All right. I will make a motion that Mr. -- on this particular application, that we are tabling it until a future meeting.

DENNIS SCHULMERICH: One question before we vote. Does the applicant feel that we have the right vehicle in place for them to understand what all of the issues are, based on what we have talked through tonight, or will that be extracted from the meeting notes? How will they know? They came back with answers to seven questions that we posed in May, and I think they did a good job of that. Do they have a clear understanding what the issues are, or how will they get those issues documented?

MR. HAGELBERG: My anticipation is we get another letter outlining the further areas with respect to which the Board is seeking clarification as we did with the May 17 letter, and I would reply to the new letter.

JOHN NOWICKI: And copy of the minutes.

JAMES MARTIN: Well, I read a decision letter whether we table it, approve it --

MR. HAGELBERG: If I have a letter asking for specifics, and if that letter also encloses copies of the letters that the Board has received so I can address those as well, we would be fine.

JOHN HELLABY: Would the Board also entertain the position of getting Mr. Johnson, Professor Johnson as an independent party's position on their submittal?

DENNIS SCHULMERICH: What would you envision he bring to the table? RF issues, or what would be the purpose?

JOHN HELLABY: I think just basically again to clarify -- I think this country is hung up on the Homeland Security and everybody is panic stricken with terror threats. I -- again, there is no definite FCC rule that states they have to have this tower. It is a convenience issue. They're going on the what if, and if comes. You know, and if everybody lived their lives like that -- and again, it gives us a third-party perspective as to okay, do they have a valid request, and, you know, or do they not have a valid request. I guess that is in my eyes -- you know, it could just be as simple as having him review their submission on answering these questions, which he did not do these seven

– yes, I agree with this, I agree with this. This is a little farfetched. That is all I'm asking. Not to go out and give me reasons to shoot him down, but does he have a valid --

DENNIS SCHULMERICH: I wasn't anticipating you were trying to shoot him down. The reason I am asking the question, it would make sense to me if we were going to bring in a content knowledge expert, that what would we would do is have the applicant respond to the letter from the Chairperson, and have this person get a look at that information and us have an opportunity to see his response or her response prior to the next hearing, as opposed to trying to listen to the content knowledge expert, absorb his information at the same time we're hearing it from the other person.

MR. HAGELBERG: Mr. Chairperson, if I might respond briefly, and I listened as you read Professor Johnson's e-mail, and I think his primary point was to say that there was no FCC regulation that mandated that we had to have that an auxiliary tower. I will stipulate to that. There is no FCC regulation that mandates that we have an auxiliary tower. We have tried very hard throughout the course of this application to indicate the reasons why we think this is a good idea for the community. We have never suggested that the auxiliary tower is mandated. I will stipulate to that. So I am also not quite sure what bringing Professor Johnson into the mix accomplishes, because to the extent that that was the crux of his remarks, there are is no argument.

JOHN NOWICKI: So it is out.

JAMES MARTIN: At this point, there is a motion on the table -- on the table to table this particular application until a future meeting of the Planning Board.

MR. BRIXNER: Who moved that, please? Who moved the tabling motion?

JAMES MARTIN: The Chairperson.

JOHN NOWICKI: I'm seconding the motion.

JAMES MARTIN: Seconded by Mr. Nowicki. On the motion to table?

DECISION: Tabled by a vote of 5 yes to 1 no (John Hellaby) for the following reasons:

During the discussion, several factors were brought forth. The primary concern is the location of the proposed tower. Based on input from the Board, the applicant is asked to strongly consider relocating the proposed tower to the northeast corner of the property. There was also discussion of the need to construct the proposed tower. Mr. Hagelberg stipulated that it is not an FCC requirement that this tower be constructed. The Board would like a written justification for construction of the proposed tower prior to the next review.

The Board fully understands WHAM's responsibility to the EBS system, but there is some confusion as to being the primary entry point and the need to be able to broadcast 24/7/365. It was also determined that the proposed tower and related equipment shall be constructed in compliance with Section 115-10(e) of the Town Code.

The Planning Board also requests that the applicant clear up any confusion that exists between themselves and the Conservation Board regarding proposed landscape plans.

JAMES MARTIN: Yes. Tabled.

DARIO MARCHIONI: You will give him a copy of the letters?

JAMES MARTIN: Yes. A copy of the letters.

We have a lengthy agenda tonight. Please try to stay focused on the topic and keep your comments as brief as you can, and hopefully we can move quickly on the public hearings tonight.

PUBLIC HEARINGS:

1. Application of Michael Latone, owner; 75 Ramblewood Drive, North Chili, New York 14514 for conditional use permit to erect an in-law apartment at property located at 75 Ramblewood Drive in R-1-15 zone.

Michael Latone was present to represent the application.

MR. MICHAEL LATONE: I'm Michael Latone. I never referred to this thing as an in-law

apartment. It is s for myself as a consideration for my future. I don't know what -- if I will build it or not build it, but I want to know what my alternatives are.

Do you want the print up on the Board?

JAMES MARTIN: If you have a copy, it would be helpful.

MR. MICHAEL LATONE: I want to apologize for the sign not being up, but the wind blew it down, yesterday afternoon.

JAMES MARTIN: Mr. Latone did post a sign on November 4th. It was up until November 14th.

MR. MICHAEL LATONE: I put it up on the 4th and it blew down yesterday afternoon. I thought we had made it.

JAMES MARTIN: Okay. I will start with you, Dario (Marchioni).

DARIO MARCHIONI: You said -- which part is going to be yours?

MR. MICHAEL LATONE: I outlined the dark part. The lighter part is existing dwelling. What I outlined in the back there is for the addition, should it be granted, and it is for my wife and I, as -- as you can see, I'm getting to the age where I can't maintain it as I used to.

DARIO MARCHIONI: We're all getting older.

MR. MICHAEL LATONE: Health conditions are putting me in a position to make a decision, and this is one of the alternatives that we had been discussing, my wife and I, whether we buy, sell, move, and it will depend on what the Board says as to whether we consider this again.

DARIO MARCHIONI: It is a step in the right direction.

MR. MICHAEL LATONE: You know, it is only an addition that we're speaking of, not an in-law apartment per se.

DARIO MARCHIONI: How many square feet are you -- I don't know what you're proposing.

JOHN NOWICKI: 700.

DARIO MARCHIONI: It just one bedroom and a bathroom.

MR. MICHAEL LATONE: One bathroom addition and some space to walk around in, that's about it. We have a large porch there now that we're going to remove, and that is a very extensive porch that we're taking down to facilitate the addition, which, of course, we'll be taking part of it out.

DARIO MARCHIONI: I just want to say it is commendable for you to approach this in this manner. Good luck to you.

MR. MICHAEL LATONE: I have both hearing aids on, but I am still not hearing you clearly, please forgive me.

JOHN NOWICKI: I have to agree with Mr. Marchioni. Mr. Latone, congratulations. I wish you well. I have had the experience of these in-law apartments and they work wonderful. I wish you well.

MR. MICHAEL LATONE: My mother-in-law lived with us for a great many years and she passed away, so we know what that is all about. This is basically just an addition for my wife and I, and my son has been kind enough to think he would move into the big part. It is a new situation. We just have to consider all of the different aspects of it.

JOHN NOWICKI: There are no variances needed?

JAMES MARTIN: I didn't see any.

JOHN NOWICKI: Any variances needed?

DANIEL KRESS: Not based on the information at this time.

JOHN NOWICKI: Good luck, Mike (Latone).

JAMES MARTIN: I just want to say, I'm glad you're considering to stay citizens of Chili. That is very commendable. I don't have any questions.

DENNIS SCHULMERICH: I have a question of the side table. Just out of interest, what makes this an in-law apartment as opposed to an addition?

DANIEL KRESS: Entirely second dwelling unit being added here.

DARIO MARCHIONI: It is the kitchen.

JOHN NOWICKI: Bathroom, kitchen.

DANIEL KRESS: You have a bedroom and a kitchen and bedroom and living space.

MR. MICHAEL LATONE: I did not put the name on it "in-law apartment." That was done by the Town.

DENNIS SCHULMERICH: He referred to "addition" as opposed to "in-law apartment."

JAMES MARTIN: With facilities in there it is an in-law.

DANIEL KRESS: There is no definition of in-law apartment in our zoning regulation. What there is is a requirement that two-family home receive conditional use permit. Second dwelling

unit is being added. That means we're going from single-family to two.

KAREN COX: It would not be considered another bedroom?

DANIEL KRESS: He is adding more than just another bedroom. He is adding another entire complete dwelling unit.

KAREN COX: I'm not disputing that, but just -- Mr. Latone has said there is no kitchen. I guess I'm confused. Did I --

DARIO MARCHIONI: There is a kitchen.

MR. MICHAEL LATONE: A little kitchen. I will put a microwave in there, and things to facilitate themselves to make life a little more pleasant, but I'm certainly not going to have a kitchen. We're going to bake in the same house. You know, the big kitchen we'll keep using. Unless my son won't let me in the house. (Laughter.)

DARIO MARCHIONI: What designates a family in the State of New York? You can have as many people --

DANIEL KRESS: Family is one or more persons living as a single housekeeping unit.

DARIO MARCHIONI: Got it.

JOHN HELLABY: Did my eyes deceive me or is there a swimming pool in the back?

MR. MICHAEL LATONE: That is a bigger problem than I am. I don't know how to decipher what is the law. We're still the same family.

JOHN HELLABY: Is there a swimming pool, an in-ground swimming pool in that backyard?

MR. MICHAEL LATONE: Yes, I do.

JOHN HELLABY: That is not shown on the map. There is a set distance that pool has to be.

MR. MICHAEL LATONE: I think we're 12 feet away from the pool in all locations.

JOHN HELLABY: Just so you know.

MR. MICHAEL LATONE: Before we get a building permit, I will put it on there.

JOHN HELLABY: There are minimum distances you need to maintain.

JAMES MARTIN: The Building Department will require an as-built of the site.

MR. MICHAEL LATONE: I will make sure they have that information for them.

JOHN HELLABY: They want to know that before figuring for that footer. If it is under 10 foot --

MR. MICHAEL LATONE: I did build the subdivision many years ago.

JOHN HELLABY: They need to know ahead of time how many feet from the face of the pool.

MR. MICHAEL LATONE: I believe the rule is 10 feet. We're more than 10.

JOHN HELLABY: You need to verify it with them.

JAMES MARTIN: Put it on the site plan.

MR. MICHAEL LATONE: Absolutely. I will do that. I didn't know it was required.

KAREN COX: Just a couple of questions. One of them is not to put you on the hot spot. It will be directed towards the lawyer. I, too, commend you for what you're doing. My mother-in-law lives with us for the same reason. It has been a nice thing to have. Um, to me it looks as though there will be a separate entrance to this addition.

MR. MICHAEL LATONE: Yes. An entrance from the rear yard, of course, and there is an entrance to move onto the porch or go into the main dwelling. And there is an exit, of course. I -- he hasn't shown all of that, yet, but it is -- it is on there. You can see the -- where the white out is on the black, those are exits to -- one will be a large window. I don't know what I'm going to do yet. I'm not done designing it yet, totally.

KAREN COX: But the point is, that you could enter your part of this facility without having to tramp through the whole house.

MR. MICHAEL LATONE: God no. It doesn't show the whole thing.

MR. LATONE: The answer is yes. It has a separate entrance.

KAREN COX: Keith (O'Toole), is there -- just -- since we have two of these in front of the Board tonight, and it appears as though maybe this is the type of application we're going to start seeing more and more, the concern I have, and maybe this is far-fetched, with -- with a facility like this, you essentially have created an apartment that once the current owner sells the property might be able to be rented out. And is there -- are there restrictions that can be put down to avoid that, or control it, or --

JOHN NOWICKI: I believe the in-law apartment didn't -- doesn't have to be recorded on the deed?

KAREN COX: In other words --

KEITH O'TOOLE: That serves notification to a potential buyer, but that doesn't really prevent them from renting out the property illegally if that is the question.

JOHN NOWICKI: But correct me if I am wrong, Dan (Kress), in-law apartments are stipulated in our code it is just for in-law.

DANIEL KRESS: No, they're not. There is nothing in the code about in-law apartments. There are only one-family dwellings and two-family dwellings.

JOHN NOWICKI: I thought we had something.

DARIO MARCHIONI: Don't have a letter.

JOHN HELLABY: There are several conditions that are placed. But the problem comes into --

JOHN NOWICKI: I have a file about my in-law apartment. I can show you what I put -- what conditions are on that.

KAREN COX: I don't foresee, the kind of situation that sometimes you get especially in areas that are near large universities, if you will, of dwellings like this or apartments like this being rented out to people that don't live in the area.

In other words, what -- what is the assurance for the people who own the houses around it that -- that the facility is going to have families living in it that are responsible property owners. There may be no answer to that. It is just something that we keep seeing on a more regular basis.

JOHN NOWICKI: The control that I remember, and I will check my miles at home, it is an in-law apartment for family members only. It is not to be rented out as a regular rental property. So it is either for mothers and fathers, aunts and uncles, brothers and sisters or what have you. So if the neighbors know that, and there is activity there, they can verify it and complain about it if it is not happening.

DENNIS SCHULMERICH: We're not hearing from our Director of Planning that that code is actually in place.

JOHN NOWICKI: I have the evidence at home. I will give it to them.

JOHN HELLABY: It is not a code, just a stipulation of six conditions placed on a conditional use permit that you're referring to. I guess the problem stems back to day one. How do you enforce it? The conditions are there. I know what John (Nowicki) is mentioning, but it is the enforcement.

KAREN COX: Well, that -- if there is some way that we can at least indicate that these conditions -- it is not -- no offense to you, Mr. Latone. It is more looking further into the future, 25 years from now, or whatever, when the house may be owned by somebody else.

MR. MICHAEL LATONE: I can't guarantee 30 years, 40 years from now. I won't be around.

KAREN COX: Just so you know --

MR. MICHAEL LATONE: You want to put it in writing, I will put it in writing. I have no objections to that.

JAMES MARTIN: We can list it as a condition. I -- but it sounds like it's unenforceable.

DENNIS SCHULMERICH: We can make ourselves feel good without really doing anything about it.

JAMES MARTIN: One additional question. Number of vehicles that will be parked on the location, is there plenty of room for all them?

MR. MICHAEL LATONE: Oh, God, yes. Plenty of room. The driveway is 24 foot wide.

DENNIS SCHULMERICH: I guess the question I have is, between Keith (O'Toole) and Dan (Kress), do we have anyway to allow something like this to occur without conditionalizing this to a multi-family dwelling? The individual is a family member. You could have as many people living in that house as you choose to, and I am having a hard time distinguishing by -- if I put a 700 square foot addition on my house and I have a wet bar and a bathroom, and I have more living space, I'm not turning it into a multi-family dwelling. I'm having a hard time distinguishing how this is any different.

DARIO MARCHIONI: If you have a kitchen facility, it distinguishes it as a two-family dwelling.

DENNIS SCHULMERICH: You have a sink, countertop, and you put a microwave in there. How is that different from any wet bar?

DARIO MARCHIONI: Food preparation area.

DENNIS SCHULMERICH: I'm asking the side table.

KEITH O'TOOLE: You can draft a code that gets very detailed. Separate utilities, separate entrance, separate mailboxes, the indicators that show that there are two people, or two families living there. Certainly, if the units are attached, where there is only one main

entrance, that would suggest it is a one-family unit. However, there are parts of the state, like on Long Island where they will break up a house to multiple parts because the money is there.

So it brings us back to the enforcement issue. You have got to decide how you want to treat senior housing, essentially. Whether you want to have senior planned communities, or do you want to have something more flexible that allows senior house to go be scattered within the residential neighborhoods.

DENNIS SCHULMERICH: To understanding my question, it is not to prevent the applicant from getting what he wants to get. My question is do we have more of an opportunity to allow this to happen in a way that does not require a conditional use permit, thereby creating a multi-family dwelling. That is my concern. That is the question I am raising. It -- it just doesn't make sense to me.

JOHN NOWICKI: Why are we in such a turmoil of this? We have done these in-law apartments for years. The in-law apartments, you bring up a very good point, Mr. O'Toole, when it comes to the building codes, if it is a two-family unit, you normally have separate utilities. And -- and in the in-law apartment, that is not necessarily true. You can -- you can use the same furnace, the same water systems. Um, except all you're doing is adding some additional square footage to accommodate a senior citizen.

DENNIS SCHULMERICH: I'm not trying to be contentious. That is not a -- I'm not trying to prolong the discussion. I think there are some pertinences to the discussion along the same lines as Karen (Cox) mentioned. You have the -- once the initial people made the application, whether they're no longer there, you have now conditionalized what is a single-family residence to a multi-family residence.

JOHN NOWICKI: No, no, no. It is not multi-family because you don't have the separation of the sanitary system, the water system, the whole thing. Is not separate and distinct. Only one system.

DENNIS SCHULMERICH: If I have heard incorrectly, I should stop my question, but I heard Dan (Kress) say earlier we have two choices, single-family or two-family.

JOHN NOWICKI: I disagree with him. I will pull out my records on my in-law apartment that I went through. I will give it to Mr. Kress, and then he could deal with it.

JAMES MARTIN: I think we need to take the discussion maybe off line. Certainly there are some issues around that, the code of the Town is being addressed, and that is an aspect we need to look at. We get into hazy territory when you think about the future, not knowing where these things will go up.

DENNIS SCHULMERICH: I'm not an advocate of spot zoning residential into commercial. I'm not an advocate for spot zoning what was R-1.

MR. MICHAEL LATONE: If is it a problem, I will throw it out.

DENNIS SCHULMERICH: We're having a higher level discussion. This is not directed at you.

JAMES MARTIN: This is not a personal issue with you.

MR. MICHAEL LATONE: I mean to help you. I will help myself.

DENNIS SCHULMERICH: You're raising a question this Town needs to deal with.

MR. MICHAEL LATONE: It is a bigger problem than me, so you people can discuss that.

JAMES MARTIN: We'll take this off line.

JAMES MARTIN: Move to close.

KAREN COX: Second.

Jim 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.

The Board discussed the proposed conditions.

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

JOHN HELLABY: The only other condition that should go on there, just so it doesn't get overlooked is he needs to supply the Building Department an exact location of the in-ground pool.

JAMES MARTIN: Okay.

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. The conditional use permit is granted for use by in-law only and shall cease to exist when the in-law ceases to use it.
2. The apartment may not be used as a rental unit.
3. A copy of this decision must be filed in the Monroe County Clerk's Office under miscellaneous records and tied to the liber and page of the deed. The cost for filing is to be reimbursed by the applicant.
4. Furnish a copy of deed (both sides) to the Assistant Town Counsel.
5. Pending approval of the Building Inspector.
6. Applicant to supply the Town of Chili Building Department with an updated as built site map.

Note: Applicant should consider wider doors in the in-law apartment to be handicap accessible (including grab bars, wheelchair ramp, etc.)

2. Application of Guy Pietrantonio, owner; c/o DJK Contractors, Inc., 428 Cedarcreek Trail, Rochester, New York 14626 for conditional use permit to erect an in-law apartment at property located at 12 Bucky Drive in R-1-15 zone.

Guy Pietrantonio and Paula Pietrantonio were present to represent the application.

MS. PIETRANTONI: It is not an in-law. It is for my father. He is elderly and can't live by himself, and I don't want him to live by himself any more. I want to take care of him.

KAREN COX: I will keep my mouth shut this time.

Believe me, I applaud this. As I said before, my mother-in-law moved in with us four years ago, and it has been a blessing to us. We enjoy having her around, and she enjoys being with us. So that is all I will say.

JOHN HELLABY: He also shows a pool on his plan. But he shows it.

MS. PIETRANTONI: I don't know if it will survive taking down and putting back up. And I can say I'm bringing my father from Greece to Chili.

JOHN NOWICKI: The entranceway is from the garage and the outside?

MS. PIETRANTONI: Yes, sir.

DENNIS SCHULMERICH: The one comment I will make, the reason I asked so many questions on the last one, it seemed to be a -- an addition to the existing house. This looks like a separate apartment with a completely separate entrance, so the distinction to others may be small, but to me they're significant. I'm very much aligned with Karen (Cox) in terms of the reasons we're asking the questions, but I'm also very much in support of what you're trying to do.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DAVE NATROP, 11 Bucky Drive

MR. NATROP: I'm Dave Natrop, 11 Bucky Drive. I was wondering if we could see the site plans. We have not heard anything about what the square footage will be, what --

JAMES MARTIN: I apologize. Would you put it up on the board? It really should have been up there. I apologize.

MR. NATROP: We have not heard anything about parking, cars, traffic, that type of thing.

MR. PIETRANTONI: One extra car in the driveway.

JAMES MARTIN: Plenty of parking for all?

MS. PIETRANTONI: Yes.

JAMES MARTIN: No roadside parking.

MS. PIETRANTONI: Not unless I have a party.

MR. PIETRANTONI: Existing house here (indicating). This is all the addition (indicating).

JAMES MARTIN: No variances according to the plan that was submitted, Dan (Kress), as

far as you can see?

DANIEL KRESS: Not based on what has been supplied, no.

JOHN NOWICKI: Note for the record that the applicant is clarifying the map for Mr. Natrop.

A question on the apartment itself. Is it a slab on grade or full basement?

MR. PIETRANTONI: Full basement.

JAMES MARTIN: Are you satisfied with your questioning?

MR. NATROP: Yes, I am. Thank you.

JAMES MARTIN: Move to close.

KAREN COX: Second.

Jim 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.

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

The Board discussed the proposed conditions.

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. The conditional use permit is granted for use by in-law only and shall cease to exist when the in-law ceases to use it.
2. The apartment may not be used as a rental unit.
3. A copy of this decision must be filed in the Monroe County Clerk's Office under miscellaneous records and tied to the liber and page of the deed. The cost for filing is to be reimbursed by the applicant.
4. Furnish a copy of deed (both sides) to the Assistant Town Counsel.
5. Pending approval of the Building Inspector.

Note: Applicant should consider wider doors in the in-law apartment to be handicap accessible (including grab bars, wheelchair ramp, etc.)

There was a recess in the proceedings.

3. Application of 1436 Management, Inc., owner; 1436 Scottsville Road, Rochester, New York 14624 for renewal of conditional use permit to allow motor vehicle repairs at property located at 1434 & 1436 Scottsville Road in G.B. zone.

Geoffrey Considine, Patrick Evans and Jean Evans present to represent the application.

MR. CONSIDINE: Good evening, members of the Board. Geoffrey Considine, architectural design, collaborating with Bob Avery. I probably won't see you again, but happy holidays to the Board. Representing the Evans family business here at the 1436 Chili Avenue.

We're in receipt of the letter dated October 11th for the final inspection report. The Buffalo Bills aren't doing well, but we're doing better than them. We're not 100 percent yet, but as you know, there is a -- there is an economic component to any kind of family or business. By the way, no in-law apartments in this particular complex. But the -- they have done substantially what was pretty much approved from last time. There are a couple of glitches here. One of which, of course, I'm sure we'll probably address this evening, the variance.

We're in by the way for next week for a variance for the -- we tried to improve the aesthetic appearances of that building, and Pat (Evans) and the family -- in fact, if you don't mind, I will pass this. This is an old picture and newer picture of the building as it exists. I don't think you

have that in the file. But we are going to go for variance for that window, which is also a functionality component to it. Allows them to view the lot from a safety standpoint. There is a fair amount of traffic in front of that building between the bus traffic, truck traffic and vehicular traffic.

JAMES MARTIN: Have you a site plan or something you will put up?

MR. CONSIDINE: We have already supplied all that. Do you need that, sir? I have that.

JAMES MARTIN: Maybe if you could.

JOHN NOWICKI: For the people in the audience in -- just in case somebody is new here.

MR. CONSIDINE: That is basically it for -- this is basically it. The owners of the parcel are looking to continue to make improvements. They made the improvements delineated by the various letters and conditional uses in the past. They have made an enormous effort to continue to upgrade the property. We would submit we would like to continue the conditional use permit. I believe the last measure was to reexamine this as of October 11th and then with a view to continuing the conditional use permit on a five-year renewable. I know that will be truncated by the fact we'll have to go through this procedure if -- if you look at Number 2 on the inspection report which is the variance and building permit, and we'll work with Mr. Kress on that component of it.

JAMES MARTIN: At the April 12th hearing, I -- I mean we were very specific with the conditions that were imposed on the applicant at that time. We extended the conditional use permit until the 11th of October. On that day, Mr. Kress made an inspection of the property. You have already cited the letter that he sent related to that inspection that he carried out on that particular day. He found eight things that were -- well, seven and one was a Fire Marshal issue that had not been completed as of October 11th. Mr. Kress made a second inspection as of today on the site and found that there were still five of the seven conditions that hadn't been met, plus there were some other issues around the structure that was built on the front of the property around not getting, you know, proper building permits. There may now be some variance issues. There are several things on this particular property that I think continue to be a violation of what the Planning Board has asked for. There is a long history on this particular piece of property, and there has been some small marginal improvement on that property, but I would say it has not come anywhere close to what the Planning Board expected based on their conditions that were imposed at the April meeting. And I guess we're going to have to really consider where we go next as far as the Planning Board is concerned, because certainly, you know, you violated the conditions that were imposed at the April meeting, and they still are not corrected even one month later. So at this point, I --

MR. CONSIDINE: If I could just make a comment on that, Mr. Chairman. With respect -- I wasn't aware of an -- another inspection being done. I was under impression by the owners that these particular elements had been completed. I am not familiar with exactly what -- if you indicated five other conditions are still not completed, I'm not familiar with those. I know that they have done significant work. The paving is done. The landscaping is done. I would tend to say that there has been significant improvement.

Again, within the confines of -- I mean Rome wasn't built in a day either. That building doesn't lend itself to a Taj Mahal.

JAMES MARTIN: We gave them adequate time.

MR. CONSIDINE: I don't disagree with that, sir, at all.

JAMES MARTIN: I mean let's not mince words here. We gave them a generous extension in order to complete the things that we asked to have done. They have not been done. As far as Mr. Kress' inspection today, items one, two, five, six and seven of his additional inspection on October 11th are still not in compliance. You know, that is pure fact at this point in time. I will go to the Board at this point for any additional comments or concerns.

KAREN COX: Well, that was going to be my first question, which of the five conditions were not met. And I guess my next question would be, why? Certainly, the first two, or -- or the first one, as far as the number of vehicles seems like it would be a pretty easy fix. That is not something that takes a lot of time or money. Some of these other ones, removing materials stored, don't seem very complicated. And I'm also rather unhappy that the applicant chose to put the bay window in without getting a building permit. Perhaps that can be attributed to inexperience, but again, we had all these issues the last time they were here, that haven't been addressed, and more have been -- have occurred. So I am not amenable to a five-year extension on conditional use. I think a year is too much. That is all I had.

JOHN HELLABY: No questions other than a general statement per the site inspection of October 11th, we're now almost four years to the date past the original approval, and there are still outstanding issues. Says it all. There are issues, there are no grounds to approve or continue

any further. I guess it becomes a violation issue.

JOHN NOWICKI: I tend to agree. I think the owner is certainly not being a very good neighbor, let's put it that way. And until these conditions are met and cleaned up -- that shouldn't take too long. I agree with Karen (Cox), they're not complicated issues here, and I would rather see -- like a 30-day period given to complete these issues, to the satisfaction of the Building Department, and if they're not done, then we'll take appropriate action against the owner of this property to have them conform to what we have been waiting for for a long, long time. I'm sick and tired of this process here. It has been too long now, and I will not vote for anything on this thing until these things are done.

DENNIS SCHULMERICH: We all recognize there have been ongoing issues. We keep hearing good words, but nothing delivered. Blatant disregard living to the obligations and commitments that the client made to the Town. Last time you were in to -- I believe last time you said, "Trust us. We're in a new era. We'll deliver. We're committed to being part of the Town."

Well, you didn't deliver, and we have no reason to trust that if we're told it is going to happen again, that it will happen. Your plea to get more time is falling on deaf ears as far as I'm concerned and I'm inclined not to review the conditional use. No more time. No more extensions.

DARIO MARCHIONI: I don't know why this applicant is before the Planning Board, especially when he is not complying with the conditions. I mean that is kind of -- I just question that.

MR. CONSIDINE: Well, if I can address that, just briefly, too. If you look at those five points, which now I have just become aware of. Two we understand we're going for the variance. And that was part of the aesthetics aspect of it. We showed a rendering when we first came in last April. Number one, apparently I just understood today when I spoke with Bob Avery that the mylar had not been submitted. So that was news to me as well today.

The mylar is going to be a function number one, as well. Now, the number of vehicles stipulated were not a condition of the Board necessarily. That was what was taken off the original site plan, Mr. Kress, correct me if I am wrong. There are three of those elements there. Number 6, I wasn't aware that we didn't have the sign permit. I don't know if that is in progress or not. So that is a relatively easy item. So those are four of the five conditions, and as far as materials are -- Number 5, there is equipment in the back. I don't understand what materials. I asked my clients today. There are no materials stored out there. There is equipment stored in the back which is allowed.

DENNIS SCHULMERICH: Were you aware of the seven issues?

MR. CONSIDINE: No. I was going by this.

DENNIS SCHULMERICH: Is your client communicating with you at any point in time?

MR. CONSIDINE: Yes.

DENNIS SCHULMERICH: Why is letter dated October 11th from Town of Chili identifying the seven issues you're not aware of that? I don't understand that.

JAMES MARTIN: I don't understand that.

DENNIS SCHULMERICH: Telling us you don't know about it and give you more time is not going to work.

MR. CONSIDINE: We're 90 percent there the way I look at it.

DENNIS SCHULMERICH: How does missing 5 out of 7 give you 90 percent, sir. Redo your math. You're an engineer.

MR. CONSIDINE: All of the conditions that were previously imposed.

DARIO MARCHIONI: What can I say? Anything we say, it is not going to happen anyway.

JAMES MARTIN: I'm not in favor of a 30-day extension either.

KAREN COX: One question. The applicant just made a comment that the number of vehicles was not a condition. I thought it was.

JAMES MARTIN: It was.

KAREN COX: Okay. I distinctly remember that being in the letter. So I just want to put that on the record.

DENNIS SCHULMERICH: They have had plenty of time to demonstrate willingness to live to the commitments. They're simply not going to do it, demonstrated by their behavior.

DARIO MARCHIONI: One thing. We have many, many applicants come before us. I have been on the Planning Board for 7 -- 15 years now, almost. This is the only application that is really a pain in the neck, okay? And it continues. It continues. It continues. It never stops. I mean, when are we going to just sit down and iron this out and finally come to a conclusion?

DENNIS SCHULMERICH: We can finish it tonight.

DARIO MARCHIONI: It started with Mr. Spector. It started way back. I mean, it is

just --

MR. CONSIDINE: I think it is significantly improved since Mr. Spector was there. I will say that.

JOHN NOWICKI: These are not complicated issues.

JAMES MARTIN: We're out of excuses.

JOHN NOWICKI: Just get them done.

DANIEL KRESS: Nothing to add.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I have sat in this room times without count. I don't know how many times and have heard the Planning Board wrestle with this site. And Mr. Marchioni asked why these people are back. I can tell you why they're back. Because each time the Board has not been ready to take the decision they should take tonight, you have given these people extension after extension.

You have believed their good faith promises. You have given them the rules to follow. You have been specific. And each time they're back, saying, "We'll it is better than it was." If everybody in this Town applied that same criteria, this Town would be a mess. If every time they came back they said it is a little better than when we were here before, that is not a good answer, and this Town deserves more.

It is a cluttered site down there. And from what I gather now, they have made changes to the building without a variance and without a building permit; is that true?

MR. CONSIDINE: Sure.

MS. BORGUS: These people think they're above the law. They think the rules of this Town and the determinations of this Board don't apply to them. Well, it is time tonight for you to end it. And you know what you have to do. Thank you.

MIKE EVANS, 1436 Scottsville Road

MR. MIKE EVANS: I would like to address a couple of things here. First of all, I work with the company. Number one, the 29 vehicles supposed to be shown on the drawing. I'm not sure how many vehicles you counted. It should have been 29 or less. The first time he came there for the inspection there were a couple more than that. Since that we have taken the vehicles out of there. There should not be more than 29 vehicles there. And I think you can probably tell me how many are there.

MS. TINDALE: I have not counted them.

MR. MIKE EVANS: Very nervous, excuse me. The final site plan we were supposed to -- was Number 2 satisfied?

JAMES MARTIN: No.

MR. MIKE EVANS: Okay. Well, I haven't dealt with those. I'm not sure. Maybe you can tell me.

MR. CONSIDINE: The variance is in progress.

MR. MIKE EVANS: The variance is in progress. We're supposed to be present. The main post on front property line is taken care. \$15,000 worth of paving has been taken care of to make this place look better. It used to be stone concrete with a big dip in the middle that looked like absolute -- very bad. We did lots of money worth of paving. We put grass in front of it. As you can see from the pictures, before there was a 50 foot fence and old Ken's Neat Moving trucks out there which I'm sure nobody there liked to see. Before this there was a garbage disposal place. We have cleaned the place up and made it look as nice as we possibly can. I don't know what more you guys could actually want from us.

Mylars. Mylars. Yes, they have not gotten there yet, but they will. And for the application for the sign, that will be done as soon as possible. I don't know what else we can tell you. This place looks 100 times better than it probably ever has. Take a look at the pictures we have. I would love it if you pass it around to everybody else here, including the young lady that just spoke. You would see a big difference. Thank you.

MRS. EVANS: It is unfortunate that our neighbors don't -- Jean Evans, 1436 Scottsville Road. It is unfortunate our neighbors in the Scottsville Road area don't come to these meetings because they're very supportive and very happy with the way the place looks and have no complaints from them at all.

So next time we come to a meeting, we'll absolutely bring some of them with us so they can voice their opinions instead of the negativity.

JERRY BRIXNER - 14 Hartom Road

MR. BRIXNER: I would like to know what property are -- what is the address and what is the business currently there? I don't have a meeting agenda.

JAMES MARTIN: Basically, the address of the property is 1436 -- I'm sorry, 1434 and 1436 Scottsville Road, and the application is to permit motor vehicle repairs for the property.

MR. BRIXNER: Give me an idea where that is -- where that is located.

JOHN NOWICKI: Spector's waste paper --

MR. BRIXNER: Thank you, John (Nowicki). One more comment. At one point I felt that that building should be destroyed. It is being used now, and it is being used fully. I would hope that there can be a unity between the applicants and the Planning Board to keep that operation going because in my opinion, it serves a good community venture. Thank you.

MR. EVANS: 1436 Scottsville Road. I -- I can't believe my ears here tonight. I really can't. We came in there tonight with a letter in our hand, stood out there and waited for a while. We were totally satisfied the Board would be completely happy with us. As far as we're concerned, everything on that letter has been taken care of and we found out when we got here the mylars had not been delivered by the person that we paid a substantial amount of money to do them. We have kind of depended on him to do those things and it didn't happen. I didn't see all of the details you're talking about. My son brought up the sign. The sign is there, was a sign there when Mr. Kress came up and told us the sign shouldn't be there. We put this notice of the meeting on that sign, and put it back out there because it was a way of putting the notice for the meeting sign out. It is not out there as a sign. We have not applied for a sign permit. We don't have a sign. There is no sign there except for the sign that says there is going to be a meeting here tonight. It is on the old sign we had out there. It was a sandwich type sign we had for repairs trying to solicit business, trying to help us to get income to pay for this stuff.

We have numerous customers coming in there. Out of the customers we have coming in there every week, probably half have been to that place before and they can't say enough good about it. They are telling me, "It is unbelievable what you have done with this place."

The only opposition we have gotten to this place is in this room here. We have never had anybody give us any negative comments before about what we have done here except for when we come here. I don't understand what you want. If -- if we have not done what you want, maybe the best thing we can do is try to get Sydney to give us a little money for what we spent and give it back to him and let him start his garbage place again. He is starting. Maybe he would like to have that back. I don't know. Either that or turn it over to the adult book stores people. I don't know what we should do. We have a viable business. Attractive place.

We showed you a picture the last time we would put a window in it. Nobody said you have to have a variance for that. I said we would put window in. Looks great. We put the window in. We found out we're in violation. What do we do the next day, go down and apply for the variance. As soon as we get the variance, we have to apply for a building permit. If you don't give us the variance or the building permit, we'll level it off and put concrete blocks up and again.

Tell us what you want us to do. We're trying. We have spent all of the money we had and then some. We even got an extra mortgage on our house to make that driveway there. I don't know what you people want us to do. I really don't. If you're not happy now, you will never be happy. That is all I got.

MR. MIKE EVANS: When we moved in there, you say it was about four years ago. There was a restaurant next door. That place since closed down. It closed up. Boarded up the windows. And it was vacant for a while. A new guy moved in there and bought the place. I never seen a sign out for any type of meeting there. We have spent numerous money on the grass in the front of the place. Putting topsoil. Had to dig out asphalt, put topsoil in there, seed it. We spent money on trees. We put five trees in front of the place. This guy still has the asphalt with a flag that looks like it has been out there for about 20 years, all ripped into pieces and probably 15 of them across his property. We spent all this money. This guy spent none. What is going on here? You know. We're -- why do we have to spend all kinds of money and this guy has what he started with? Thank you.

MR. PATRICK EVANS: One other thing regarding the landscaping. We were asked to put in two trees and plant grass in front of the building. Not only did we dig out the asphalt and plant grass in front of the building with topsoil, we put in three trees in front of that building. We went down to the next building that nobody said anything about, and we dug out the asphalt and put in topsoil, grass and two trees. There we're going beyond the bounds what we were asked to do.

I don't have an idea of the inspection. He found stuff supposedly we don't -- we did it all. I

would defy anybody to go over there and show me that we didn't.

KAREN COX: I guess my question is, it appears as though there is some kind of confusion or the Building Department thinks one thing, the property owner thinks another.

DANIEL KRESS: I don't think there is any communication problem at all. I gave a copy of the inspection report to the applicant the day after October 11th, after verbally communicating to the applicant these are the things that are not done and have to be done immediately and they're not done. I can't communicate any better than that. Let's not lay this at the feet of the Building Department.

KAREN COX: I guess my question is, why would the applicant say there -- you know, going back to the 29 vehicles, how can they say there is 29 and the inspection doesn't -- I mean that is a rhetorical question.

JAMES MARTIN: What was found on October 11th, which was the deadline.

MR. MIKE EVANS: How many vehicles were on the property today if there was inspection today?

MS. EVANS: We weren't notified at all.

JAMES MARTIN: If you have a comment, please address it through the Chairperson.

MR. PATRICK EVANS: You know who I am. We took vehicles off there. Should be less than 29 vehicles on there. If there was an inspection today, I would like to know how many vehicles were on the property. And which part of the property.

JAMES MARTIN: You know, I have to go by what our Code Enforcement Officer --

DENNIS SCHULMERICH: I don't think we should -- first condition, April 12th, called for 29 vehicles. There is now 29 on the property if, in fact, there are. Who knows.

MR. MIKE EVANS: There has to be something written there, some proof of that. If I say there were 29 vehicles before, and he told us to take some out. We took some out. There are 29 vehicles or less there, and he says it isn't.

JOHN NOWICKI: There are other issues here. There are other issues.

MR. PATRICK EVANS: This is a major one.

JOHN NOWICKI: You have a copy.

MR. PATRICK EVANS: Yeah.

JOHN NOWICKI: Do what is in the letter and get it done. Then we'll go from there.

MR. PATRICK EVANS: Excuse me one more time. I would like to know where this 29 vehicles came from. I don't believe that is in our letter, any of our letters sent to us. I believe the number of vehicles was to be determined by us when we put it on the site plan, and I never saw that number.

JAMES MARTIN: I totally disagree with that.

MR. PATRICK EVANS: There may be a place, but I have not seen it.

JAMES MARTIN: The condition that was set at the April 12th Planning Board meeting, number of vehicles on site shall not exceed the number of spaces shown on the site plan, and that was determined to be 29 at that time.

MR. PATRICK EVANS: There was no site plan at that time that had vehicles on it.

JAMES MARTIN: Yes, there was.

MR. PATRICK EVANS: Not at that time.

JAMES MARTIN: Yes, there was.

MS. EVANS: It says 44 on our site plan.

DENNIS SCHULMERICH: This is not a debate.

MS. EVANS: There was 44.

MR. PATRICK EVANS: Site plan says 44 vehicles.

JAMES MARTIN: Other comments?

MS. EVANS: How do we correct this? I mean, we need to know how we can correct it. We have 44 vehicles and they say there are 29. How do we do this?

JAMES MARTIN: Move to close the public hearing at this time.

JOHN NOWICKI: So moved.

Jim 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: Do I need to do SEQR on this at this time?

KEITH O'TOOLE: No.

JOHN HELLABY: I just like to make a statement. The Evanses, as you all know, I have been one of the greatest supporters of this family moving into Chili, and I have to admit, the place looks outstanding compared to the way they took it over. However, the problem in lies that unfortunately the Planning Board set down a set of conditions that you have to adhere to 100 percent, and if you're not sure how the process works, you need to get with the Building Department and understand how it works.

There are letters of condition that went along with all of these previous conditions, approvals. Not spelled out on a drawing that is – your drawing has 44 spaces, but it was stated in the letter of approval that only 29 vehicles were allowed and that is what you need to abide by.

Unfortunately, the only thing we have to go on this evening is that you're not in compliance. And until it is brought into compliance, I have to vote no.

JOHN NOWICKI: I have the same comments that Al (Hellaby) has. I have to vote no because it is not in compliance. Simple as that.

DENNIS SCHULMERICH: No.

DARIO MARCHIONI: The same thing. Until this property is brought into compliance, I have no choice but to vote no.

JAMES MARTIN: I vote no also.

Application is denied.

MR. BRIXNER: What was the vote?

JAMES MARTIN: The vote was six to zero, Jerry (Brixner), for denial.

MR. BRIXNER: Thank you.

DECISION: Unanimously denied by a vote of 6 no for the following reason:

1. The applicant failed to comply with the conditions imposed by the Planning Board at their April 12, 2005 Planning Board meeting.
4. Application of Terry Tree Service, 225 Ballantyne Road, Rochester, New York 14624, property owner: Thomas Terry; for renewal of conditional use permit to allow a wood processing facility at property located at 225 Ballantyne Road in A.C. & FPO zone.

Timothy Pope was present to represent the application.

MR. POPE: Good evening, Mr. Chairman, Board members. My name is Timothy Pope, P-o-p-e, Vice President, Terry Tree Service. I would like to have our application renewed, permit presented tonight. No conditions on that permit we're looking to change; just renew it as is.

A couple things I would like to mention to the Board. Lewis Tree Service, Incorporated has left the property. They have moved to Henrietta, so it is just Terry Tree Service at that property now. We're the only tenant there renting.

We have done a few things to the building, just in the past few weeks. We painted the front and changed all of the windows. Just -- we're going to be renting the whole entire building up front, if you will, if you're familiar with the property. So we're doing some upgrades and moving in there next week. Those are really the only changes on the property. They're leaving and we're taking over the front building. Everything on the permit staying the same. We're not looking to change anything.

JAMES MARTIN: Quickly to review, the last renewal was in 2002. In order -- in other words, there were very specific hours of operation. You're still operating according to what was asked for at that time?

MR. POPE: Yes, sir.

KAREN COX: There was an auxiliary building out in the back, I think it was. Is that going to be removed?

MR. POPE: Yes. That building is -- we're vacating that this week. Actually, on Friday. The phone lines, the computer system that is there is going to be moved to the front building on Friday. We'll be fully operational in the front building on Monday morning, and then that building is going to be put up for sale, to be removed from the property.

KAREN COX: You will just sell the building?

MR. POPE: Yes. It was strictly temporary. Lewis Tree, over the last few years, has always had the intent to be moving out. So we were waiting for that process to take place before we could actually acquire the whole building.

JOHN HELLABY: Did Lewis take all their equipment with them, or are they still utilizing storage?

MR. POPE: Most of the equipment is gone. They still have a few vehicles, storage there, if you will, yes.

JOHN HELLABY: Do they plan on maintaining some small semblance of storage at that facility? If I remember rightly, their Henrietta shop has no storage.

MR. POPE: Strictly an office space they have on East Henrietta Road.

JOHN HELLABY: Where did all of the equipment end up?

MR. POPE: Most. Equipment -- that is a Rochester division. They're going to leave some of their vehicles there with us, but it is just storage.

JOHN HELLABY: As far as wood processing. As far as, I know there have been concerns in the past with the hours of operation and the neighbors were concerned about the grinding, but one of the other big problems was the height of the piles. They seem to creep ever higher all of the time. Have you been maintaining -- I don't recall if it actually spells out the allowable height.

MR. POPE: It is -- 12 feet is the height regulation in there.

JOHN HELLABY: Are you maintaining that?

MR. POPE: Yes. Actually, now if you go out and look, over this past year we have done extensive work out in the wood yard, and the wood processing site up on the top there is -- there is hardly anything there. It is almost empty.

JOHN HELLABY: The only other question I have is for Dan (Kress). Do you have any recorded complaints -- or complaints or violations on their operation over the last several years?

DANIEL KRESS: We do occasionally get complaints regarding an odor from the wood chip pile, depending on the size and extent of the pile, at any given time. As that increases the likelihood of those complaints, it gets greater. As it decreases, it tends to go away.

JAMES MARTIN: I do understand it is a composting type operation. Is there any -- can you tell me how you treat that? I know you grind that, and then there is a treatment that you have to do to actually sell it as mulch.

MR. POPE: It is not compost. We're not composting at the facility. It is just recycling. And we do not do any treating whatsoever. Just all natural process. And we grind it from the raw stage. We remove a tree, bring it in the trucks, process. It is just size reduction is all we're doing. It is put in a pile and just natural process of the bacteria breaking it down, you know, creates the dark color in the mulch, and then it is just sits there basically through this time frame, in the winter months, until it is ready for a sale where basically -- we're based on the seasons. Landscaping, buy it in the spring and every year it is just a turnover.

JOHN HELLABY: The turnaround time on what you have stored there is just basically through the winter months, and then in the spring you're ready to go again.

MR. POPE: That was correct.

JOHN HELLABY: And the pile, I guess, depends on how much actual -- you don't actually go out and buy material to grind. I know the towns and have had gripes with you, but I mean it all depends on what the year is like; is that correct?

MR. POPE: That was correct. In the past when there are storms in the area, I think the volume gets real heavy when we have the Ice Storm. We have had that in the past. That is not common. You know, every, I think, 10-year cycle we're on here for ice storms in Rochester, but it does increase at that point. But -- like right now if you go out and look, we're extremely low and with concerns for next year we won't be able to supply our customers with enough material.

JOHN HELLABY: You have been there for close to 35 or 40 years. I guess I don't have any other questions.

JOHN NOWICKI: You asked all of the questions I would ask.

DENNIS SCHULMERICH: For education purposes, are there any guidelines or restrictions on the height of the pile, how high?

MR. POPE: Our permit is for 12 feet.

DANIEL KRESS: The Board needs to establish a specific deadline for removal of that modular office building in the rear.

JOHN NOWICKI: How much time do you need?

JOHN HELLABY: Depends how quick they could unload it.

MR. POPE: I was thinking about putting it on ebay, but I don't know. I want to sell it just as quick as possible because I need the money. Six months, or -- I don't know. Basically, I guess whether depending oh.

JOHN HELLABY: You don't even know it is back there.

MR. POPE: As much time as possible. We truly want to sell it and get it off there. It is in

the way there. We don't want it on the property, but I would like to get as much money as I can and have the opportunity to try to sell it and make what we can off it.

DENNIS SCHULMERICH: June of next year, would that be reasonable?

MR. POPE: That's fine.

DENNIS SCHULMERICH: As a proposal.

MR. POPE: That's fine. That would be very good.

JAMES MARTIN: First or last of June? June 30th.

MS. TINDALE: Have you ever considered landscaping out there between the road and parking area?

MR. POPE: We have put in application for the Building Department for a new sign to be put out front by the road and we would like to landscaping all around that, and the front of the property, along the asphalt, we're probably going to remove that fencing. I don't think it looks very good on the property. It is old style, and barbed wire is not very pleasing to the eye. So we would like to take landscape rocks and whatnot and put it out in that front area to block it off from the traffic coming in a different manner, and yes, we would like to landscape. We're in the tree business, and landscaping business, and we definitely like to proceed with making the property look as best we can.

MS. TINDALE: It would really spruce it up. Thank you.

JAMES MARTIN: We'll let that comment go. I agree with you.

MR. POPE: We intend to do quite a bit of work out there. We intend to do it, but basically we're waiting to the spring and we'll start tackling those projects.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Did they have a plan? Was there a plan, a drawing?

JAMES MARTIN: Is not a site plan. Just conditional.

MS. BORGUS: Okay. With regard to this auxiliary building, was the plan just to leave it where it is until it was sold?

JAMES MARTIN: Is that your plan?

MR. POPE: Yes, it is.

MS. BORGUS: Not out front with a "for sale" sign on it?

MR. POPE: No, no, no.

JOHN HELLABY: Good point.

MS. BORGUS: Never, never think it can't be done.

Now I'm a little confused about Lewis Tree. You say he is gone, but they're staying.

MR. POPE: Their main office -- they have roughly -- don't quote me on it, but I believe there were 50 plus employees in that building. They have all vacated and left. I made an agreement with them due to the fact they don't have a shop facility at their new location, that they could keep some stuff there for a short period of time. It does not impact us. That building is so much more than what we need, that this does not impact us. Their equipment is the exact as ours, so I have made arrangements for them to just stay there and just to help them out because we have been together for so long.

MS. BORGUS: A tree removal company moved into an office.

MR. POPE: That was correct.

MS. BORGUS: And the rest stays? I think the Board should be clear on that.

KAREN COX: The tree trucks, you mean, when you say "the rest"?

MS. BORGUS: And the wood and the equipment and -- you know, it sounds to me like nothing moved but the computer, filing cabinets and 50 of the employees' cars. The rest is just like it was. If that is not a problem with the Board, that is fine, but just don't be miss -- misunderstood this to think that you have one business when in actuality you have two.

JAMES MARTIN: You're leasing some space for some short period of time. Or you had an arrangement -- is that six months, two years, or -- do they intend to remove their equipment at some point?

MR. POPE: Yes, they will. It will be less from a year from what my discussions with them have been. Lewis Tree Service, a better description to get for you is, that is their corporate office. They're not a tree service as you will, as Terry Tree Service. We go out and do residential work and land clearing work around New York State. They have 1200 plus employees that are in the utility line clearance business and their trucks and equipment are all across the country. It is not the same. It is not apples to apples. Most of that stuff you see there, all of the wood processing

facility is Terry Tree Service. The majority of the property is what we have been utilizing. They just utilized that office space.

JOHN NOWICKI: Do you have an option to buy?

MR. POPE: We are talking to the owner about buying the property, yes.

JAMES MARTIN: Move to close the public hearing.

DENNIS SCHULMERICH: Second.

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

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

The Board discussed the proposed conditions.

DANIEL KRESS: They were asked to come in on account of change of occupancy when Lewis left.

JAMES MARTIN: Thank you for that clarification.

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

DECISION: Unanimously approved by a vote of 6 yes with the following conditions:

1. Modular building shall be removed from property by June 30, 2006.
2. Conditional Use Permit is renewed for a period of five years.
3. All previous conditions imposed by this Board remain in effect.
5. Application of Grove Place Cemetery, P.O. Box 24381, Rochester, New York 14624, property owner: Town of Chili; for recommendation to rezone 26.7 acres from PRD (Planned Residential Development) to RA-10 (Rural Agricultural) at property located at 60 Stryker Road.

MR. PELKEY: Good evening. My name is Brian Pelkey here on behalf of the Grove Place Cemetery. I'm sure most of you are aware of Grove Place Cemetery as we have been in business since 1856, and we operate the cemetery located at the corner of Marshall Road and Chili Avenue.

Since that time, our cemetery has been slowly filling up and for the past number of years we have been looking for a proper site to start up a new cemetery. As you can imagine, it is very difficult to find an appropriate site for a cemetery. For some reason, people don't always welcome us. But I think once when there, people are glad to have us there. I think we make a very fine neighbor.

We looked at various sites throughout the Town, and one of the overwhelming criteria we were using in a selection process was to try to find a site that would not unduly upset the neighborhood. We think we found just a site when we located the property at Stryker Road.

At that time we have entered into a contract with the Town of Chili to purchase this property from the Town, and we're now proceeding down the path of getting the proper approvals to zone the property for cemetery purposes.

I think it is rather telling when we started this process, one of the first things we did is speak with Mr. O'Toole, and he directed us to the master plan for the Town. In reviewing the document, what we saw that the Town had made wonderful plans to adequately plan for the growth of the Town. However, nowhere in the plan does it provide for the cemetery. Kind of interesting to think that the Town can grow, without a proportionate increase in the number of deaths.

Accordingly, we are now under contract to buy this 26 acre site, and so we're coming now before you to have it rezoned with an eye toward a variance ultimately to allow for a cemetery. The cemetery is currently in the PRD, Planned Residential District, and immediately to the east is a Residential Agricultural RA-10 zone. I feel by granting our application the Town could not be accused of spot zoning. We have remedied that issue. Now it is whether or not it meets with the master plan. As I -- from my review, there is nothing in the master plan that deals with cemeteries.

I think the overwhelming component behind our operations is we're a civic-minded, non-for-profit operation. We're not coming in to make money. We're coming in to provide a public service for the Town. And at this time, we're asking for your support.

JAMES MARTIN: With your application, you know, you submitted several concept plans.

MR. PELKEY: That was correct.

JAMES MARTIN: Showing roadways, and you know that type of thing. These are very theorial at this time.

MR. PELKEY: Theorial is the operative word.

JAMES MARTIN: When do you think you would begin any construction activity on the site?

MR. PELKEY: The first step would -- number one, you have to understand all of the approvals we have to go through.

JAMES MARTIN: Assuming approvals.

MR. PELKEY: But we have to have approval from the State, the Town Board, we have to get a court order, and so once all of the approvals are in place, our hope is to bring in some planners and then to come up with an adequate plan to fully utilize the site. Realistically, I think we're good -- a good year away.

JAMES MARTIN: From all your approvals and --

MR. PELKEY: At least.

JAMES MARTIN: I'm trying to think of how to word this correctly. Assuming, again, all your approvals are in place, a year from now, and you begin some construction process, when do you think there will be demand for burial sites on the property?

MR. PELKEY: I think once we're open, people will be dying to get in.

(Laughter.)

MR. PELKEY: Sorry. You asked.

JAMES MARTIN: I think one of the things I read in some of the previous documentation, you're physically running out of space in your cemetery.

MR. PELKEY: That was correct.

JAMES MARTIN: By physically running out of space, do you have two years' worth of burial plots there, or one year? I'm just trying --

MR. PELKEY: It is a very difficult estimate to render. I think that realistically, within five years we will be out of space.

JAMES MARTIN: All right. Just trying to get a rough feel for what you're looking at.

DARIO MARCHIONI: Just to answer your question, why in our master plan we don't -- we probably did not deal with cemeteries, because none of us really expects to die. We did not think about it. We think about living. Every day.

Is this going to be basically just flat, with head stone type cemetery, or can you -- or the mausoleums here? I mean give us some feeling -- because I -- in fact, I just -- me and my wife just bought a plot, a mausoleum basically. Since I was in the service, I'm a veteran, they said I could have a plaque on the ground. So I said forget that. I want a mausoleum.

KAREN COX: He wants to go in style.

MR. PELKEY: It is actually a very interesting concept. We have been -- the Board, actually I should say had been studying the concept of mausoleum. We're finding cremains are also of increasing import. So this is why frankly we're going to look to specialists who work in the field of cemetery design to help us flush out the best utilization of the property. And so it is difficult at this point in time. I would have to say realistically I think a mausoleum is a certain possibility. Flat stones, also conventional stones.

I think the key quite frankly is providing our citizens with as many options as we can realistically and economically provide them.

JOHN NOWICKI: Will you have a crematorium?

MR. PELKEY: No, not a crematorium.

JOHN NOWICKI: Where do they exist in this county?

JAMES MARTIN: There is one on Lake Avenue.

MR. PELKEY: Lake Avenue.

JOHN NOWICKI: Is Mt. Hope still active?

MR. PELKEY: White Haven.

JOHN NOWICKI: I think it is a very needed project, I'm sure.

KAREN COX: Not something you want to think about.

JOHN HELLABY: I think it's, you know, a worthwhile endeavor.

I guess only a couple of questions come to mind, is that I know over the years, there was an

awful lot of asphalt, and I don't mean milled asphalt, I mean chunks of asphalt dumped on that property.

MR. PELKEY: Well, to be honest with you, we had a Phase 1 conducted, because of that concern, and --

JOHN HELLABY: They didn't encounter it.

MR. PELKEY: No.

JOHN HELLABY: It is out there somewhere, because I watched them truck it in there. The Town.

JOHN HELLABY: I'm just curious to know how that would impact if you encountered something like that. Is that something that has to be removed and displaced with something else? Can you work with it?

MR. PELKEY: My understanding, the asphalt and concrete perhaps was put where the roadway is. My understanding is, that at one time the Town was thinking of building a highway garage on the parcel. So some of the remains were put where they anticipated the road bed to be. And that there is a different section of the location where I know a lot of the remains from the Ice Storm were deposited. And so we are aware of that.

JOHN HELLABY: The only other curiosity question, which I'm sure you might not even know, pricing structure. Is it the same as what you're working with on Chili Avenue or whole different scenario?

MR. PELKEY: No. Once again, our whole purpose is to provide a proper and decent resting place for people on the western side of the county, primarily Chili. To keep that mission, we'll probably keep it in mind with what we're charging at Grove Place.

JOHN HELLABY: How does perpetual maintenance on a situation like this -- I know trust funds or things to that effect are set up, but when you get into a situation where you have like a Mt. Hope that just falls by the wayside because the money is not available, how are you sure that that is taken care of?

MR. PELKEY: We are ruled by the Division of Cemeteries, by the State, and with every grave that is purchased, we are required to deposit 10 percent of the proceeds into a permanent maintenance fund. We're audited each and every year by the State, and they come in and make sure that we are adhering to all of their guidelines. Mt. Hope Cemetery is run and operated by the City of Rochester. They are exempt from State of New York governance, and you didn't hear it from me, but my understanding is whenever they had a financial shortfall...

DARIO MARCHIONI: I have one more question. What is the average price, you know, of a plot?

MR. PELKEY: I think it is around 600. Plus. With the 10 percent, it works out to 660.

DARIO MARCHIONI: Mausoleum was 5,000 bucks.

DENNIS SCHULMERICH: Trying too figure out if he got a deal.
(Laughter.)

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: A question. Why is this change in zoning necessary, in as few words as possible?

JAMES MARTIN: I think to allow a permitted use or conditional use; is that correct, Dan (Kress)?

DANIEL KRESS: Comprehensive plan recognizes that the predominant character of the southern part of the Town is agricultural and ought to remain that way and discourages intensive development, so if you look at the zoning map, what you're primarily going to see are the AC and RA zones. In the AC and RA zones, cemeteries are a conditionally permitted use in both. So clearly the operation of a cemetery is not considered incompatible with agriculture and what the master plan envisions.

JOHN NOWICKI: Would you consider it cluster zoning?

DANIEL KRESS: No. (Laughter.)

MS. BORGUS: So he hasn't looked at a zoning map of late for that area, but in other words, this is just one Planned Residential Development area that is kind of in the middle of all this residential? And agricultural zoning?

DANIEL KRESS: There is a very large parcel zoned PRD south of the creek that extends down to the vicinity of Stryker Road. This is not an isolated little parcel. There is a whole lot of PRD surrounding this.

MS. BORGUS: Is then the statement that you just made that -- that Mr. Kress just made, I'm trying to tie the two together. If it is predominantly Rural Agricultural, then how can we have so

much PRD we're trying to eliminate? It has to be one way or the other.

JOHN HELLABY: The problem is -- if I understand it correctly, the PRD zoning regs don't kick into effect because there are no services there to support them, meaning sewers, et cetera.

MS. BORGUS: I see. So if this were not changed, it still could be a cemetery?

JAMES MARTIN: Mr. Kress, comment on that.

DANIEL KRESS: Not without a use variance.

KEITH O'TOOLE: That is the point of the rezoning.

MS. BORGUS: The short version is it has to be rezoned or it can't be a cemetery?

JAMES MARTIN: Without a use variance.

MS. BORGUS: Thank you.

JAMES MARTIN: Maybe the simpler way is just to rezone it and allow the cemetery.

Move to close.

JOHN NOWICKI: Second.

Jim 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: The Town Board, I have a letter from the Town Board that has declared they're taking the role as lead agency as to SEQR on this particular activity, so therefore, we do not need to do SEQR.

DECISION: Based on the results of the public hearing on this application, the Planning Board, by a unanimous vote of 6 yes recommends that this property be rezoned as requested. The Town Board has assumed the role of lead agency for SEQR purposes.

The Town Board will be notified of the Planning Board's decision by copy of the decision letter. Applicant to be advised that it must now petition the Town Board, through the Town Clerk's Office to set a public hearing before the Town Board on this rezoning application.

There was a recess in the proceedings.

6. Application of The Father's House, owner; 692 Paul Road, Rochester, New York 14624 for resubdivision approval of Lot 1 of The Father's House Subdivision into 2 lots at property located at 715 Paul Road in R-1-15 zone.
7. Application of The Father's House, owner; 692 Paul Road, Rochester, New York 14624 for conditional use permit to erect a 116,000 sq. ft. church at property located at 715 Paul Road in R-1-15 zone.
8. Application of The Father's House, owner; 692 Paul Road, Rochester, New York 14624 preliminary site plan approval to erect a 116,000 sq. ft. church at property located at 715 Paul Road in R-1-15 zone.

John Caruso, Chris Kaurelis (phonetic), Gordon Winghart, Stan Matus (phonetic) and Pastor Pierre Duplessis were present to represent the application.

JAMES MARTIN: Thank you very much. Before I begin, I would like to introduce Pastor Pierre Duplessis and Gordon Winghart of The Fathers House. I will ask Pierre (Duplessis) to step up in a minute and talk about why we're here, what is driving our project.

Not yet. Just one more minute.

He is good wherever he goes.

Just for the sake of our presentation, and for the audience, our application is to construct a 116,000 square foot sanctuary, ultimately -- you know, they were present for preliminary, so we're showing you the overall use of the land, and that includes the 116,000 square feet, a 2500- seat sanctuary. That is shown here (indicating).

I will ask you to pay attention to your plan, plus you will see a yellow perimeter in the

outline, which shows the overall limits of the preliminary site plan approval. That is all of the way around the outside, and that consists of two buildings, and that is -- there would be one building here (indicating). There is an outline of a building in there, and what we're going to talk about which is Phase 1 ultimately that you will see there. We know the overall preliminary plan is what you're looking at tonight. This project would be developed in two phases.

Phase 1 would be a 56,000 square foot sanctuary, and that is really what you're seeing here in this plan (indicating). That is a 1200-seat sanctuary.

JOHN NOWICKI: This is marked -- okay. Two story, 1200 seats.

MR. CARUSO: That was correct. You see the yellow outline shows the perimeter of the overall.

JOHN NOWICKI: Future sanctuary? Including another 2500 seats?

MR. CARUSO: No, that's total.

JOHN NOWICKI: 1200 and 1300.

MR. CARUSO: Just like -- we're asking for overall approval, for 2500, but Phase 1 would be 1200 seats in a smaller building.

JOHN NOWICKI: Then the outline of the parking lots in yellow, that is the future?

MR. CARUSO: That is correct. Does everybody see that in the graphic?

Okay. So our approval process is to have you vote on SEQR, subdivision, conditional use permit and then preliminary site plan. We're not looking for final here tonight. We'll come back for final and talk more about Phase 1, and I want to get into how the site development features were created. We do have some renderings in front of the Board from our architect, but with any good project, why are we here? What is driving this?

Now I want Pierre (Duplessis) to talk a minute about what our needs assessment is. How did we come to where we are. And talk to a little bit about the operation of the facility because people ask what time you're open and so on and so forth. Then I will let Pierre (Duplessis) sit down, and I will take you through some of the features you look at in a site plan review. It will take us about 15 minutes. Then we'll open it up for questions and comments.

PASTOR DUPLESSIS: Ladies and gentlemen, we just want to thank you very much for hearing us out, especially some of the faces of the people that were at our neighborhood meeting. A lot of wonderful parishioners here tonight that have been sitting down, just hearing us out.

I'm very excited. As you saw, I ran up immediately because I'm really excited to be present. Because I think it is such a wonderful thing if a church has growth problems because we really believe in what we're doing. We really believe in the community binding, and that what we're doing right now really matters.

Six years ago we had one service on a Sunday that lasted about an hour and about 234 people in attendance. This past Sunday we had over 2000 people in our Sunday weekend attendance. We have been running three services on a Sunday. We have a Wednesday night service with all of the residual things that happen in a church. We thought it wise to add a Saturday night service, because as you know from our parking difficulty and people difficulty crossing the street -- I'm sure you know we're very concerned about the safety of people. We added a Saturday night service thinking that we could kind of balance the weight out of people over the weekend. To our surprise, God has been very kind to us.

Since we have done it, the 1st of October, we have had on average 527 more people per weekend coming to services, which creates a wonderful challenge for us. But it is a great challenge to have, because ultimately, there are only two things that happen with churches. Either they move forward or backwards. There is very little standing still. So tonight as we're wanting to move forward, I want to present to you some of the things that I think as some of the concerns I have, certainly as a pastor.

I don't know how many more services we can add to what we do currently. Our Wednesday night service is running full, and we're looking at doing a Thursday night duplicate service just to accommodate what we're doing at the moment. We have a lot of volunteers that help us in our services, and I don't know how many more they can do on a weekend.

But thank God that the possibility is there for us to move forward to this property, and as you know, we as a church have been praying and really trying to obtain this property and somehow, this became available to us, and that is why we are present tonight. What we plan to do with this is to possibly go back to two Saturday nights and two Sunday services.

I do want to just bring to your attention, and I concurred with Gordon (Winghart), right now the first plan phase of this is a 1200-seater, but additional to that, it is a full 2500-seater auditorium that will be used for -- as you can see already, we'll have multiple services in the 1200-seater.

But more than church, we're a church that really reaches out to do more than just Sunday service or Wednesday services. And I'm sure John (Caruso) will have the joy of presenting to you all of the things that we are going to do, but definitely we want to just do this right and kind of just handle the traffic wise, people, both bodies and vehicles a lot wiser. But as coming from the neighborhood meetings -- and I'm absolutely done. John (Caruso) said can I do three minutes. I can.

We would like to be very mindful of the neighbors surrounding us. As part of who we are, we would like to reflect the character of Christ in all we do. I have been praying all along that Mrs. Borgus will be part of our winning team here tonight. So I will be seeing if God is answering my prayers as John (Caruso) presents.

MR. CARUSO: We're not supposed to be having fun at this.

Okay. So we talked a little bit about our needs assessment. And the operation of the church.

I think that the phasing of this process is really going to be part of our success. We're not trying to bite off too much. We're not proposing to create a school. What we have is some night services. We have an abundance of members of the church, and we're trying to find the right capacity and the right building. We're trying to bring you a building that would be what you asked for us from our work together earlier in the year.

We also promise that we would be doing some improvements in the corner to try to create this gateway, this welcoming affect to the Archer/Paul Road intersection, and that is what this plan is here. This is our improvement to the corner. It shows how we're integrating some brick piles with cement caps and integrated wrought iron type fencing in between it associated with our sign and some ground landscaping. And this would be extended down towards, in and around this area (indicating).

So as I move in to talk about some of the site development features, and the overall project now, I will just do overall, okay?

MR. CARUSO: I want you to know that some of the ideas that came to us came out of a neighborhood meeting that we had, I believe, last Tuesday. We had some very good input.

MR. WINGHART: I think it was two weeks ago.

MR. CARUSO: We had good input from neighbors that we invited. They talked about their concern for traffic, and some berming, some potential berming. They talked about lighting, and we showed them how we would improve drainage. In the overall, here are the aspects that went into design criteria. We have two means of access to the site. We have lined our driveway up here (indicating). This driveway was located here (indicating) with the intention of servicing not only this parcel, but this parcel (indicating). We would not try to just service ourselves. We put it here (indicating) so it could service Lot 1 and 2, and we knew we would have some favor with the D.O.T. authorities on that.

We also planned to center our site in the middle of the property, but then we wanted to left justify it a little bit. The reason we did that, it opens this whole area up here (indicating) for a larger distance to the residential homes across the street. We're going to be subdividing the parcel, and the significance of subdividing the parcel is, when we first brought this project forward in concept approval, there was some concern we were taking 60 acres of high-end development off the tax rolls, and now, we're going to be putting 20 acres back on the tax rolls by the subdivision of this parcel. That subdivision will help promote financially this development, and I will talk about that in a minute.

The lighting that we propose, we don't have this area, and these parking lots illuminated like would you see a K Mart. Very bright. Like we wish we would see over at the other plaza. I won't mention that.

But if you look at our design plans, if you look at our design plans, look where we have the lights. Really on the core area, around the road. I'm not putting 50 foot poles up in the air. We just want the roadway illuminated and just around the building, and this side of the parking lot, this side of the parking lot (indicating). We're putting up some poles here and there (indicating). We're not trying to cover it like a commercial parking lot. Our intent is to keep the light down and manage that. So we're doing that by low poles, reasonable fixtures in terms of power and wattage and the separation to our neighbors.

We talked about our ornate project signage.

Chris Kaurelis (phonetic) from our office is accompanying me tonight. He is a Project Manager working with me on this project.

We have dumpster enclosures, things like that that we know we need. Full access is proposed around the back of the building. That is shown on your plan. We have recreation areas which are a significant distance from here (indicating) to the Archer Meadows Subdivision. We

did that on purpose. Actually, we made a revision to the plan and readjusted the location of the ball diamond so there were no baseballs that could ever be hit out into Archer Road when we put the soccer fields over there to the southeast and south of the property line, in this area here (indicating).

I discussed from our neighborhood meeting, people had asked us if we would consider constructing a berm along this road (indicating), or this area here (indicating), on the west side of Archer Road. Well, I know that Mr. Carr likes to put a snow fence up there. Well, he won't have to do that if we take some of our topsoil and waste it in that area. We can create a berm and that will also act as a wind break for the snow.

JOHN NOWICKI: I assume that you will be thinking of landscaping that, too.

MR. CARUSO: Yes.

The walking trails, there is a walking trail that has always been shown in the integration of the Villas and The Fathers House and Archer Meadows. We continue to have that trail, and that trail will go around the perimeter of our parcel.

And then the Phase 1 building would convert, after its use, into a recreational building. We'll have a gymnasium in there. The design and intent of it is to be a dual purpose use during Phase 1. So that is the overall criteria that we established and used in this.

Now, in Phase 1 -- and just real quick, I will show you the difference between the overall development in Phase 1 -- we'll build a 56,000 square foot 1200-seat facility, still limited parking. We cut the parking back. We'll construct the detention pond back in this corner (indicating) and this area (indicating).

Two storm water managements. Limited lighting. The trail in the recreation areas would be constructed. Two means of access would still go in Phase 1. We'll not just wait until the end. We'll put two means of access in now. That helps us balance the traffic.

The berms would go in, because we still need a place to waste our topsoil. We would remove the houses up here on Chili Avenue that are vacant -- I'm sorry, Paul Road. Excuse me.

The corner landscaping would be installed. And we would probably construct a small storage building down here (indicating), a place for us to put a lawn mower. It will be a riding lawn mower, our tractor, or the soccer nets or things that we don't want to leave out, that can be stowed inside instead of stuffing them behind the building. This is a little of the difference between the Phase 1 and the overall.

Financing, I wouldn't come before you tonight without being prepared to talk about financing. I know that was the next question that Dennis (Schulmerich) is going to ask. And the answer is, the -- the news is good. We have a couple different institutions that are interested in lending to these folks, and the reason is that with the number of parishioners, if you will, or members of their church, they do have a potential to generate a significant amount of income from a -- from a fund-raising campaign, if you will, if they need to. They also can support a very high mortgage. They're very highly credit rated, and their assets are incredible.

They own the land. They have income coming from the sale of this land (indicating), and they have this (indicating) whole real estate across the street. All of that is in their favor, to build a building, which is going to consist -- Phase 1 is going to be 5 to \$6 million. This is no small project. They have the wherewithal to do that and we're ready to show you that, with some letters of intent from these banks in the final design phase.

JOHN NOWICKI: I have to ask you a question. In regards to this financing, is this particular church associated with a national international organization in any way?

MR. CARUSO: Like Calvary or Jehovah Witness?

PASTOR DUPLESSIS: Right now the church is interdenominational. We're affiliated to accountable bodies, but it is not like the Baptist Union where they become your financial creditors. So as a church we stand on our own legs with our own assets and our own people.

JOHN NOWICKI: But there is a bigger body?

PASTOR DUPLESSIS: Of accountability, yes.

JOHN NOWICKI: But not financial?

PASTOR DUPLESSIS: Not financially, sir.

MR. CARUSO: Land use. I know the Town is in the middle of a master plan of which several of you are members. I have talked with several members and the consultant on the master plan. I guess what I wanted to talk to specifically this parcel is whether this parcel was zoned single-family residential, which it is, R-1-15 or something else, I think what we talked about when with did the Archer Block presentation earlier this year, there were a couple parcels in the mix that we did not see them changing their use. We don't propose to go commercial with this piece of land. We intend to keep it R-1-15 and ask for the conditional use permit to have the church occupy

it.

So with respect to what might come out of a master plan, I doubt that this parcel will come out of a master plan it is going into commercial or some other type use, other than R-1-15 or residential, or uses that are associated with residential, because of the adjacent uses are all single-family residential.

I would also want to point out if this was developed as a residential project, being 40 -- or 60 acres of land, 60 acres of land at three units per acre, at 15,000 square feet per acre would yield about 180 lots. Now take 20 percent off for right-of-way and things of that nature, but this would be a 150-lot subdivision, and I can tell you prior to them owning it, I did a layout for Perna in which with we would consider transition zoning next to the Villas with apartments and condos and single-family homes and we were running the numbers up around 180.

So I think with respect to my point here on land use, the use of this parcel is a very least intensive use in every way, and it is -- its use, as proposed, is off peak to the adjacent neighbors in many ways.

So that one of the benefits why this will work in this area, is that we're an off-peak and low-intense user.

And finally, Chris (Kaurelis), can you stick up that plan?

Just another three minutes, and I will turn it back over to you.

In our request for the preliminary approvals and the SEQR determination, we told the Board when we met with you earlier in the year, we were dealing with some traffic and safety improvements that we wanted to implement right away. We would like to ask the Board to consider tonight our first, if you will, Phase 1-A improvement, and that is to extend the parking lot that is located on the site, right here (indicating). The existing parking lot is here (indicating). And what we would like to do is extend this parking lot (indicating). Here is the current parking lot (indicating). This is The Father's House church (indicating) across the road. This is the corner of Archer and Paul (indicating). Their current lot is here (indicating). We would like to build a portion of the proposed lot that is shown here (indicating), and here it is at a bigger scale (indicating) and construct this road out and line it up.

We would like to construct these ponds, and we believe that there are some significant benefits to this. One is that -- the safety improvements to help eliminate some of the street side parking that is occurring right now on Archer Road, to the north of Paul Road.

It -- it allows us to take a lot of the overflow parking in this area and direct the pedestrians to cross at a guarded location. If you have noticed, we have the street parking on the road for ped crossing and we have an auxiliary policeman there to take these people across. It relieves some of the congestion that happens for the people around the church. It improves the sight distance by getting the cars off the road, and with this sort of Phase 1-A design, we start to balance the traffic. Instead of all of the traffic coming in right here (indicating), cars can go through the intersection and come into the parking area here (indicating). All of the peds would cross over Paul Road with the ancillary -- auxiliary police there. That is the guarded crossing.

So this would be just an interim improvement we would promise we would bring back as one of the safety improvements to this area.

DENNIS SCHULMERICH: You will still have entrance to that parking from the Paul Road side as well --

MR. CARUSO: Temporary. Phase 1 of the project, we would eliminate that and move the entrance over to the other one. But what I am trying to do is get these people off that corner, and give them an area. It is a good time to do it. It shows how it fits into our plan. You know, for us, this improvement is not duplicative work. This parking lot is located over the top of where our proposed parking area will be so we're not wasting the stone or the grading. We'll be implementing the drainage improvements to service this area, if you will.

JOHN NOWICKI: Could you talk a little bit about the phasing and how many phases are you looking at to accomplish this and over how many years?

MR. CARUSO: Excellent question. Phase 1, we would like to get started right away. We're going through the approval process now, because we're ready. We held off all summer long from bringing this application before you because we just weren't ready. They are putting things into motion now where they're seeking their financing. The architect has completed schematic design. Is he ready to start design development and construction documents? We think that will take about four to six months, and we would like to look to start construction in the spring. That gives us the time to procure our financing, and any other additional revenue. Maybe the sale of this parcel over here (indicating).

So Phase 1, John (Nowicki), to answer your question, we would like to start that as soon

as possible, so for the record, let's say spring '06.

JOHN NOWICKI: What is Phase 1? Can you show on the drawing what you think is Phase 1, Phase 2, Phase 3? What does that look like?

MR. CARUSO: Okay. Phase 1 is all that you see here in dark (indicating). Phase 1 would be the two access roads, these limited parking areas (indicating).

JOHN NOWICKI: All Phase 1?

MR. CARUSO: 1200 square foot sanctuary. Ball fields. Possibly a storage building. The landscaping. The trails.

JOHN NOWICKI: What about the parking lot?

MR. CARUSO: Yes, paving the parking lot. Elimination of the current parking lot.

So Phase 2 really is to put the bigger sanctuary in the middle and expand the parking to service that. That's what you see in yellow. So we're really not shorting too much out of Phase 1.

JOHN NOWICKI: Phase 2 is down the road.

MR. CARUSO: Phase 2, to answer your question, we see a five to ten-year period down the road.

JOHN NOWICKI: That is --

MR. CARUSO: The larger sanctuary and the conversion of the old sanctuary into a gymnasium.

JOHN HELLABY: How long does Phase 1 anticipate to take from start to finish? You wanted to get started right away.

MR. CARUSO: Six to eight months to build that building. It is going to be a steel frame structure. It is not wood. It is 56,000 square feet.

DENNIS SCHULMERICH: When you say Phase 1, it is not Phase 1 A, B, C. You have the funding to go in and --

MR. CARUSO: I'm sorry if I confused you. "Phase 1-A," we say with a snicker. We want to expand the parking for the safety improvements we promised. We want to move forward with that. With our opportunity tonight we want to ask you to approve that. But Phase 1 is what we're coming back for with final approval. Right now overall preliminary approval, we're asking for the 2500 seats. We're coming in Phase 1, 1200 seats.

JOHN NOWICKI: Can I just bring up a point of interest that you might want to consider on this thing? I am sure you have probably taken this into consideration. In the construction business, and you're involved in that as well as I am, this is a very big project with a lot of very important materials here. And the -- come the 1st of the year, there is going to be some -- hate to say it -- severe price increases.

MR. WINGHART: We have talked about that.

JOHN NOWICKI: I hope you're dealing with that. It is not going to be easy.

MR. WINGHART: A lot you can't anticipate how much it will be.

MR. CARUSO: We have talked about that a lot -- even tomorrow, the architect is coming in from Ohio and we're meeting with him about doing some interim cost estimating on the project, not waiting to the end to bid it and get shocked.

JOHN NOWICKI: As you saw, the Gates-Chili School District -- look what they ran into over there. This is the first time in 30 years I have seen in our business that we're not going to be able to hold a price at all.

MR. CARUSO: John (Nowicki), in response to that, I want to say for the record that we are -- we understand that, and that our approach to handling the -- that moving target on cost, is to hire a consultant to work with our architect during the development of the plans to constantly check the cost on it through its design development and construction document phase.

JOHN NOWICKI: Okay. Just as long as you're aware of --

MR. WINGHART: Appreciate you bringing it up. Yes, thank you.

JOHN NOWICKI: You're welcome.

JAMES MARTIN: Couple questions. Have you gotten a copy of Larry Nissen's letter?

MR. CARUSO: Yes, I have.

JAMES MARTIN: You care to respond to the issues he raises?

MR. CARUSO: Larry (Nissen) brought up some good comments. He has some recommendations for us to improve the size of the ponds and the holding capacities. Those are relatively simple fixes. We also have County DRC comments which are relatively standard comments. There is one comment from New York State D.O.T. that asks us to relocate our driveway a little bit to the east, and we're willing to do that to satisfy their concern. I'm just wondering if, you know, for us using it for both parcels if it won't wind up getting moved back in the future, but that is not a problem for us.

JAMES MARTIN: One comment he made about maintenance of the ponds.

MR. CARUSO: Grant an easement to the Town over them, that is not a problem.

JAMES MARTIN: Couple of comments that -- in Mr. Kress' review of the application.

A nitpicky one, but the parking space, the size you're proposing, 9 by 20, but the code called for 9 ½ by 19. Just nitpicking.

Question I have about, you know, the resubdivision. You're splitting off 16.4 acres --

MR. WINGHART: Yes.

JAMES MARTIN: -- from the existing parcel. Any comment or will -- would you care to comment on what might be the potential utilization of that 16.4 acres that is being split off from this parcel? I know you mentioned something before about putting that property back on the tax rolls. Just do you have any information as to where that might be headed?

MR. CARUSO: Jim (Martin), I don't. I don't have any information on the contract vendee for that piece. I wish I did. You guys may have seen something or maybe someone else in the Town might have seen any site plan. I have not seen a thing. All I have been able to try to do in our design is accommodate whatever might come, through engineering, good engineering practices, and Chris (Kaurelis) has helped me with that, such as allowing any drainage that might develop from that property to go into our ponds because we promoted regional ponds. Having a common access way that wasn't 20 feet but 30 feet, and things of that nature.

JOHN NOWICKI: Let me ask you a question. That entranceway off of Paul Road, it is across from --

MR. CARUSO: Westway.

JOHN NOWICKI: Is that because in Lot 1, thinking what could happen there, is that going to be wide enough, for example, if you wanted to have a divided entrance way with signs in there, or landscaped entranceway?

MR. CARUSO: It could be whatever it needs to be.

JOHN NOWICKI: How much room do we need?

MR. CARUSO: There is plenty of room. Westway is -- if you ever look at the pavement on Westway, it is probably 40 feet.

JOHN NOWICKI: As long as there is enough room.

MR. CARUSO: Plenty of room to move it around, widen it. Right now we show its width for our use, but it could be turned into two lanes in each direction with a mall, you know, an island in the middle, landscaped, like Wegmans has done down the street.

JAMES MARTIN: As far as the resubdivision goes, again, I'm looking at this. I'm not quite sure I can tell. Is that entrance way going to continue to be on Lot 2, or will you need an easement across Lot 1 --

MR. CARUSO: We have reserved an easement for The Fathers House, for their driveway to occupy Lot 1. So that it is a common access easement for them.

JAMES MARTIN: But from a deed stand point, it will be part of Lot 1, you will have an easement.

MR. CARUSO: Yes, for example. It is basically a common access easement for them to get in.

JAMES MARTIN: You mentioned that State D.O.T. had asked to have the entrance moved slightly farther east. That is not reflected on this.

MR. CARUSO: No. That comment came in as a result of the review of the plan.

JAMES MARTIN: All right.

So it would not be exactly across from Westway.

MR. CARUSO: Right. I would be -- actually it would line up with our property line -- our property line is just about 100 feet, just for your thumbnail look at. It would move it here (indicating). What they're saying here, is if you offset that -- either you line them up or you offset them. And we wanted them lined up because that is what we promoted all along. What they wanted to do is have them offset.

KAREN COX: Why?

JAMES MARTIN: Why?

MR. CARUSO: I think they want them offset because when the auxiliary police goes there and handles it, you know, 400 cars coming out of church, he could stop cars and let it rip for 30 seconds as opposed to the conflicting turning movements.

JOHN NOWICKI: Doesn't make any sense.

MR. CARUSO: I know.

JOHN NOWICKI: You have to line it up. That will be a controlled intersection somewhere down the road.

MR. CARUSO: John (Nowicki), I -- I don't know if what they're saying is going to be the final version, because I don't know what winds up happening on that property yet because I haven't seen the site plans. If I knew what was going on over there, I could say to you -- let's say someone wanted to build a K Mart over there, okay? If someone wanted to build a K Mart, they would come in and that design would dictate over ours. They would probably move the driveway where it needed to be, and then when I took that back to D.O.T., they would say, "You're right, John, move -- that 100 foot we told you to move it, move it back."

I think it will wind up dictating it. I'm not worried about where it will fall. We can put it in either place.

JAMES MARTIN: A speculative question, maybe there is interest in the existing structure across Paul Road. It would be nice to have that back on the tax rolls also.

MR. CARUSO: The intent is once we're in that facility, to put it up for sale.

JAMES MARTIN: Up for sale.

DARIO MARCHIONI: That is Residential, R-1-15 across the road, so basically it would turn into what, apartment project?

MR. CARUSO: No. I think they would look to turn it into an office. It -- it isn't without, you know, some work to be done.

JOHN NOWICKI: Does the house then stay, with the existing church? Or does the house get split off, the rectory?

MR. CARUSO: They would probably split it off and sell it.

MR. WINGHART: We would sell that along with the other parcel. Separate. Depending. Maybe somebody would want both.

KAREN COX: I may have asked this when you came in for the conceptual, so if I did, forgive me. The soccer fields that -- basically the recreational facilities, is the intent to use those for just church use, or do you foresee that being used by other organizations?

PASTOR DUPLESSIS: No.

KAREN COX: You don't intend on lighting them?

PASTOR DUPLESSIS: No, ma'am. What we want to do is as with the church, we made it multipurpose inside. There is a half basketball with retractable seating. There is a play area like at McDonalds for 100 people to climb. We would like to draw people to the church for more than just church. But we'll not use it for clubs to come in. If it is anything, it is just our church people, just kids hanging out, kicking ball, playing soccer. We're not having any pavilions or any future league playing going on there.

KAREN COX: If restrooms were needed, they would just be walking to the church.

PASTOR DUPLESSIS: To the church, yes.

KAREN COX: Looks like a nice plan. There has been a lot of thought put into it.

MR. CARUSO: We have had time. We were here in January last year, and we worked with the architect who has done -- has helped us a lot with the land planning.

JOHN HELLABY: I guess before I start, I guess I got an area of concern. Again, I don't know the background because I did not research it, but I know you presently own this corner. In the last several weeks, mysteriously a new driveway cut has shown up on Paul Road to alleviate apparently somebody exiting traffic out of that gravel lot. It has not been approved by this Board. Not an approved road cut. It created a real situation there. There is no guard there. People are trying to get out of that road and make a left-hand turn and go back up to Paul Road and some are getting bottlenecked in that traffic, causing a conflict with people coming south. I personally experienced it. I travel that route. I strongly suggest you close that, because you have no approval for that road cut. All right?

I have also heard concerns, and again, I think personally you do a great job safety wise, but I have heard concerns from other residents that your traffic control guy needs to take a better look at how he is controlling things. The traffic on Paul Road takes precedent over the people leaving the parking lot and when he has 20 cars backed up on Paul Road, he should have enough sense to let these people go.

MR. CARUSO: It is a good point. You know, what you saw is -- I think what they have done just out of need, they have.

JOHN HELLABY: Cross lot.

MR. CARUSO: It is right about here (indicating). They have copied off -- I saw them do it myself. I think what we're trying to propose with that Phase 1-A plan we're asking to you approve is that we can add more parking, which would be this parking lot here (indicating), exiting off the existing one and we would build this driveway (indicating) out.

JOHN HELLABY: Which is great. Do it.

Make it this way (indicating), but close off that other thing before somebody gets hurt.

MR. CARUSO: Okay. Clear enough. Yes.

JOHN HELLABY: I started to ask the question, as far as the timing on Phase 1, I know you said you wanted to start right away. You mentioned five months to put the building up.

My concern is from the day you break ground, how long do you anticipate this thing being 100 percent. A year, two years, I have not heard that.

MR. CARUSO: I would say a year. You know six to eight -- you know six months, let's say to build the building, six to eight months.

JOHN HELLABY: Building, parking lots, athletic -- all of the things in Phase 1.

MR. CARUSO: Building 6 to 8 months. I would say round numbers, you know, a year to do the grading and the construction of the ball field. I mean for the sake of what we're talking about here.

JOHN HELLABY: As far as all of the drainage issues, lighting, utilities and things like that, that could be taken up on final which is no big deal.

The other big concern I have, in looking at your renderings, can you give me some idea what you anticipate size wise this thing on the corner will be, because looking at this rendering with these people standing out there, this thing looks overwhelming.

MR. CARUSO: It's beautiful.

JOHN HELLABY: It's overwhelming.

MR. CARUSO: What is built is built on a berm. You're looking at peers that are about 6 feet tall, so what we wanted to have is something about this tall (indicating). You know, the peers, with the sign in front of it.

JOHN HELLABY: So the center sign itself from ground elevation to the top of it could be as much as 10 foot, plus or minus.

MR. CARUSO: What we'll do is get some dimension to scale, and we'll submit that when we come in next.

JOHN HELLABY: Again, I don't have a problem with the overall plan, but my concern is there is nothing like this in the Town of Chili. And if it is not done properly, and a lot of consideration -- well, I know, it is nice to have something that is great big grandeur, but it might be extremely out of place, getting carried away.

MR. CARUSO: We're trying not to do that. What we have there now is overgrown grass at that corner. We want to landscape it nice.

JOHN HELLABY: I think they will do an outstanding job. That is all I have right now.

JOHN NOWICKI: The parking lots, is the intent to put in granite curbing or precast or --

MR. CARUSO: Precast. Or cast-in-place, I should say.

JOHN NOWICKI: This first phase, what you're looking at here, coming out onto Archer Road, is that something you want done in the next couple three months?

MR. WINGHART: 1-A, yes.

MR. CARUSO: Yes. We want to stone that and get that going before the snow flies so that we have that safety improvement in place for the rest of the winter.

KAREN COX: When will it get paved?

JOHN NOWICKI: Won't get paved until next year.

MR. CARUSO: No, but current parking lot is stone now.

JOHN NOWICKI: I realize that.

JOHN HELLABY: How do you address the situation that is at the road cut like that, though? I mean they can't just put that stone there all of the way into the edge of the pavement.

JOHN NOWICKI: Cold patch in there for the winter.

KAREN COX: The County will probably -- is that County or Town?

MR. CARUSO: Town.

KAREN COX: They may require something up to the right-of-way line.

MR. WINGHART: Right.

JOHN NOWICKI: I think I would like to just explore a little bit, if I can, is -- is this particular church a corporation? Who -- how is this operating? Is this a corporation formed with a CEO and Board of Directors or what is this?

MR. MATUSE: Not-for-profit corporation with a Board of Trustees, Board of Elders. Several of us happen to be present. There are six of us. It is an eldership that -- that constitutes the Board, and we have articles of incorporation that are filed with the State, and that is how we're administered and governed.

JOHN NOWICKI: You're handling the financing under that corporation?

MR. MATUSE: Yes.

JOHN NOWICKI: Architecturally I assume we'll get into that, but it is basically a metal building.

MR. CARUSO: Masonry and metal components to it, and it also has an EFIS or Dryvit material.

JOHN NOWICKI: Slab on grade?

MR. CARUSO: Yes. We're not building a basement here.

JOHN NOWICKI: Outside activities just include what we see here, the soccer fields, baseball?

MR. CARUSO: Yes. Did you notice that there is not an amphitheater?

MR. WINGHART: We took that off.

MR. CARUSO: It was on 16 acres when I cut it. It got erased.

JAMES MARTIN: That will make certain people happy.

DENNIS SCHULMERICH: What is the current capacity of our Fathers House today in the existing building?

PASTOR DUPLESSIS: Main sanctuary is 400 and we have overflow room with TV monitors in every conceivable space we can.

DENNIS SCHULMERICH: Overflow, what is total capacity?

PASTOR DUPLESSIS: We can push to 500 adult and then we have youth areas.

DENNIS SCHULMERICH: Two and half to three times the expansion here.

I would be interested in your perspective on the next question. It is around do you see any incongruity in terms of proceeding with a plan like this in conjunction with the work that is going on with the master plan update, all of the energy around that corridor, all of the concern that residents and the Planning Board have had around how fast that is developing. In your conversations with the Update Committee members, I know you can't speak for them, but is this plan, as it is designed today, is it aligned with where the Update Committee thinks they're going, or do they need to elevate their concerns?

MR. CARUSO: Can't speak for them. I have talked with them about one specific issue. Do you think what would come out of your final master plan review is a change of use? Would you think this would go commercial, and the answer has been no. And I never really thought that there would be, and I thought we addressed this when we reviewed the Archer Block, this piece is really sort of a neutral ground. We would never want to do anything here other than a community type use, whether it is single-family homes. Certainly not apartments. Townhomes was a stretch, but the only place we're getting townhomes or anything multi-res here was on the PNOD Fallone project. That is as far east as it was going to get. So I guess my answer to your question is, I can't speak for them because I did not approach them.

DENNIS SCHULMERICH: I'm not asking you.

MR. CARUSO: I know you're not. I won't want to. But John (Nowicki) is on the committee. I have spoken with my other engineering friend, Jeff Perkins about it, and I have also spoke with Larry (Nissen)'s cohort, Jim Mueller who is the consultant, and I have shared with him my Archer Block work, with respect to all of the utility and that. Right down to the traffic studies, we have given to Jim (Martin).

JOHN NOWICKI: He made copies for everybody on the committee.

MR. CARUSO: I talked with Jim (Martin) about what we found so he understood. I just wanted to get your consultant -- instead of spending three hours, down to 20 minutes. That is all it took me to show you. It is a safe neutral piece. Our approach has been well thought through in we want to eat this one elephant at a time. I would love to see the 2500 seat sanctuary there in ten years, but if we didn't, we have a beautiful piece of land developed the way you want it. Incremental, thought through, with a lot of fixes. Traffic, safety, drainage and the embellishment with respect to the neighbors.

DENNIS SCHULMERICH: The reason I ask the question is, in conversation with another individual earlier tonight, I think what we would want to do is not disempower the Update Committee. We recently approved Archer Meadows. We're talking about an another large parcel of land here. As long as we believe we're in concert with the work of the Update Committee and not creating a sense of disempowering them that all of the decisions around that corridor have been made before they have the chance to do the work. We have been advocates of wanting that work done, and we're also the group that is taking a look at what we approve in that corridor, as well. So if -- if we feel we have the balance between what the Update Committee is doing, the timing of that work in conjunction with the fact it is or is not aligned with where it will come out, not predetermining their work -- I'm okay with that, but we need to be sensitive to that, and I have been advised to be sensitive to that, as well.

MR. CARUSO: I do agree.

DENNIS SCHULMERICH: Let's see. We don't know what is going to go on with Lot 1. So now we have got the issue of drainage of -- potential drainage issues there, over development. How do we factor in the SEQR aspects of Lot 1 in conjunction with Lot 2? Do we wait to see what happens with Lot 1? Is there a way to factor in Lot 1 and 2 together? How do you look at that?

MR. CARUSO: Well, I guess I don't have all of the answers to you on that. What I do know is before we separated and drew the line, the overall concept that we brought to you was on the full 60-acre piece. And, you know, we just sort of had it over-centered more, and our detention and storm water management, the things we would look for being addressed in SEQR, and traffic, really were just on a project that was from here to here (indicating), as opposed from a project that went from here to here (indicating). And with the potential -- so -- so if -- and we had our pond in this corner (indicating), if you might recall, traffic entrance was still the same. A lot of the issues that you would address for SEQR, you know, are -- are here as an element, no matter what goes there.

Now, if -- if and when this does come back and it -- it would have to have a change of zoning, by the way, right, for something commercial.

DENNIS SCHULMERICH: Right.

MR. CARUSO: There is a SEQR process on evaluating that. I think there is -- you know, the zoning change would be one SEQR process. The other one would be on the site plan review. And, whereas, the landscaping for the front of that, or how is drainage held, what are the traffic impacts and where does this roadway go? All of things could be addressed on that use.

DENNIS SCHULMERICH: As a separate SEQR.

MR. CARUSO: Yes.

DENNIS SCHULMERICH: We all know where our minds are running on this. For myself if I were to assume that 16.4 acres of land now becomes 14 some acres of asphalt and 2 point some acres of flat building on top, you can create a lot of groundwater and rain, so -- and you think this through well. Have you demonstrated that on prior projects, but I'm already thinking let's assume everything that happens on Lot 1 has to -- to be dealt with on Lot 2. Is that in your thinking the --

MR. CARUSO: The good news, this being Lot 1 (indicating), this (indicating) is lower than this (indicating), so we wouldn't have any of the drainage impact.

MR. WINGHART: Goes down.

MR. CARUSO: All of the grade goes this way (indicating). So with respect to drainage and sewer and all of those things.

DENNIS SCHULMERICH: Heads to the PNOD.

MR. CARUSO: Benefit in two ways. We can retain themselves sufficiently. We don't have a problem with easements over the ponds. Those are good reasons. We'll never object to that. Having common access easements, great idea. But it doesn't mean that they couldn't put their own storm water management in to deal with that there.

I also thought of, and I showed you guys, there are other areas downstream where regional stuff could happen. There is possibility for all of that land to get into some regional storm water management. I shared that with Jim (Martin).

So there might be a benefit that they -- that is what I was trying to say to you guys before. They may not have to deal with it on their piece and use up two acres of their expensive land. Maybe they could spend their money off site and combine with another person and do a storm water regional thing that is a benefit to them, too.

DENNIS SCHULMERICH: Would you see the work of the Master Plan Update Committee helping to clarify that, because if you start doing planning and SEQR, on a plot-by-plot or plan-by-plan basis, that never really allows you to deal with the regional concept. How could you envision those pieces coming together? I know it is not specific for this proposal, but is it part of that corridor?

MR. CARUSO: The pieces of what?

DENNIS SCHULMERICH: It is possible on Lot 1 you could end up with a regional approach how you deal with drainage off site and not have them use their valuable land. Where do you see that regional approach coming together?

MR. CARUSO: I see it coming together at conceptual and preliminary design approval at the Planning Board. I don't know how you integrate that into the master plan other than where you talk about drainage, you can show the opportunities for those to exist, like I did in our presentation. You remember Larry Glazer got mad. It showed up on his project. It wasn't that I was proposing

one. It is just I said there could be one there for you to use, too, Larry (Glazer).

DENNIS SCHULMERICH: Another answer to that question might be you could be here tonight saying rather than me putting one of the ponds on this particular Lot 2, I'm suggesting that we move to a regional approach and we'll deal with that with Archer Meadows, for instance and deal with that.

MR. CARUSO: Well, I said it publicly, and Sandy (Hewlett) can pull it back on the record, but you know, the Archer Meadows project, if you will recall, had a retention pond here (indicating). And I still think that that pond may never get built, and only because hopefully, I can talk the Perl Development group into putting their money into getting into that pond, and maybe this owner here (indicating), he gets into that pond, and then maybe Wegmans will work with us, and next thing we know, we have a pond. But that is going to come out in the preliminary design approval when the applicant comes forward.

It won't come out in the master plan, but it is not uncommon for it to be shown.

JOHN NOWICKI: May come out as a recommendation.

MR. CARUSO: Potential development areas to try to do things likes that.

DENNIS SCHULMERICH: Two more questions.

MR. CARUSO: Go ahead.

DENNIS SCHULMERICH: From the perspective of moving to Phase 2, which would then allow you to use the Phase 1 sanctuary for another use, gymnasium was mentioned. Is there any discussion or thoughts around that becoming a school at any point in time?

MR. CARUSO: I mentioned earlier in our presentation it would not be a school. Not planning to be a school.

DENNIS SCHULMERICH: Short-term or long-term?

MR. CARUSO: If we did change our mind -- I don't want to shut that down, but if we did, we would ask for a change to our CUP.

DENNIS SCHULMERICH: Is there any envisionment of turning lanes into the property on either the Archer Road or the Paul Road side?

MR. CARUSO: Um, no, there isn't. We checked that. Because we're such an off-peak user. Sunday there are no volumes on the road that warrants it. Most of the ancillary turn lanes like that are as a result of conflicting with other traffic on the road, not the traffic. And we didn't see that. We did see one with the Fallone development, further along Paul Road and turning in, but if that project doesn't go, it -- but the traffic study that we did along the whole corridor, the only turn lanes we saw develop were on the exit and entrance for the Fallone -- the Villas.

DENNIS SCHULMERICH: Could I assume then what you're committing to, or your client is committing to is a long-term commitment to traffic guards, or would you envision once this is done this -- the traffic support that they provide to the driveways would not be necessary?

MR. CARUSO: Did not think they will be necessary any more. People will come out of the park the lots, getting on the sidewalks and walking into this building.

DENNIS SCHULMERICH: When services are over, multiple hundreds of cars leaving, would be able to direct themselves?

MR. CARUSO: The traffic study shows that the transportation system can handle it. I know. I was a parishioner at St. Helens. They still have the auxiliary police there. It may not be a bad idea for 15 minutes to let the people out. And I don't think they're opposed to continuing that, if we decide we need that at Phase 2.

But we'll have an opportunity now to balance that traffic. They have two places to go out. They can also go south. They can go north. They can go east, and they can go west. So the movement through this intersection gets cut in half. Right now, every car going out of here, except for the cars, I think we have to go here (indicating), here or here (indicating).

DENNIS SCHULMERICH: Thank you very much. Good presentation.

MR. CARUSO: Thank you.

DARIO MARCHIONI: John (Caruso), let's assume for a moment that this is a business venture. As you know, within a mile, or every less than a mile, I count five churches. In fact, we have one that is already approved and it is in construction on the corner of Beaver and Chili Ave.

MR. CARUSO: Yes.

DARIO MARCHIONI: What impact does this one here have on the other denomination, or where is it going to draw its business, looking at it as a business venture? I don't know if I should.

MR. CARUSO: I understand. That is a good question.

DARIO MARCHIONI: Basically, I see the square footage. This is massive. And I just am curious. If you can answer.

PASTOR DUPLESSIS: I can answer that. I -- one of the things that we hold a very high

regard is a commitment to other churches. I meet with the other ministers in the area because we have a mutual commitment. We don't steal sheep in that sense. We have an enough people right now to fill the auxiliary building, so we're not a church right now that needs to create business. Somehow God is graciously breathing on us people from every wind direction.

I would say this of the church. It has a very defined identity. A lot of people come in and enjoy it. Other people come in and don't enjoy it; they like more traditional type churches. It is very, very harmonious with the other churches as we come together once a month to have fellowship and meet and support each other without having to feel we're going to draw to each other or make each other go bankrupt. There is an old saying. It is about the kingdom of God, not castles in the kingdom. As we gather together, we'll have all the same things in mind, to see the families restored and function in the community. I think I can stand in regard to that.

DARIO MARCHIONI: So it should not fear you.

PASTOR DUPLESSIS: We don't fear them.

MR. WINGHART: Good question.

DARIO MARCHIONI: I think it is a fantastic project. You have addressed many of the issues very eloquently and professionally.

MR. CARUSO: Thank you.

DARIO MARCHIONI: I'm looking forward to continuing on with this project. As you say now, we're just in the concept for -- the concept stage. I think it is an asset to our community also in Chili. And also, you know, it tells us that God is going to be around. So that is all I have.

MR. CARUSO: Thanks, Dario (Marchioni).

JOHN NOWICKI: Just to expand that question a little bit. Where do most of your people come from? Are they mostly Chili, Gates? Where do you draw your people from?

PASTOR DUPLESSIS: Everywhere, as probably is the best answer. We have people driving from Webster. People driving from Hamlin. Brockport. Quite a wide area span.

MR. CARUSO: Didn't you try to put your finger on that one time?

MR. WINGHART: I have been trying. It is not working. It is all over really. Very diverse.

DENNIS SCHULMERICH: I'm wondering when we're going to see the power point recitation.

MR. WINGHART: We were going to, but John (Caruso) said we better wait.
(Laughter.)

MR. CARUSO: You will be on the Town Board before I give another one of those.

KEITH O'TOOLE: As a condition of releasing the mylar, your client's attorney has to submit the easements for my approval.

MR. CARUSO: Sure.

KEITH O'TOOLE: Thank you.

DANIEL KRESS: One of the applications for conditional use permit which is required for a church to operate in an R-1-15 district, and if you look under the site data the 13th note talks about a conditional use permit being required for a church and its recreational uses.

Then I look up a few more inches and see multipurpose worship and we have heard talk of a gymnasium and talk of not a school, but then you drop down an inch and see future youth/classrooms which sounds like a school to me. So what I would like to suggest is the Board might want to request a fairly specific enumeration of what recreational and other accessory uses we're talking about here, just so you understand, not to mention the applicant understands, exactly what you are or are not approving.

MR. CARUSO: That is fine. We'll have the architect -- because there is a building footprint. It is all spelled out on the footprint what the uses are. The classrooms is for the bible study.

DANIEL KRESS: I'm thinking outside as well as inside.

MR. CARUSO: We'll write down what we propose for recreation and that. I think our presentation tonight, we tried to explain as best we could. We're not intending to have a school there.

LARRY NISSEN: Other than the issues I put forth in my letter, I don't have any other comments at this time. Generally the plan was quite well done and quite compliant for this stage.

JAMES MARTIN: Still subject to Town Engineer approval?

LARRY NISSEN: At final, yes.

FRED TROTT: I -- we just have one question. I don't know if there is anything you can do about it. But any thought to people using the driveway on Archer as a cut-through to Paul? I just kind of see that, and seeing how already we have traffic congestion.

MR. CARUSO: It is not an easy movement.

FRED TROTT: No, it is not.

MR. CARUSO: We did that on purpose. We did that on purpose. Plus, Gordon lays tacks down in a certain spot and we move them every week (Laughter.)

FRED TROTT: That and the parking. The parking spots that you have, is that -- have you 1,000, or do you have 500?

MR. CARUSO: Phase 1 is 500.

FRED TROTT: Phase 2 would be 1,000.

MR. CARUSO: We don't -- asphalt is expensive. We don't want to build more than we need.

MS. TINDALE: I'm assuming we'll be getting licensed architect prints. There are changes in some of the plant material.

MR. CARUSO: The plant materials will be better designed in the final design plans. Because this meeting was pushed off a week because of the election date, and the cut-off was at the end of last week, we made application to get on the December agenda for final, but we still have to produce those documents. We couldn't do that until they came out of this meeting tonight waiting to hear what comments you had. We'll address those up quickly and send those in.

DENNIS SCHULMERICH: Do we need to take action discussing the parking space size?

MR. CARUSO: We'll comply with that. That is not an issue. As many times you can do a variance-free plan, is good.

JAMES MARTIN: Just change them.

MR. CARUSO: Yes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

ROCKWELL YARID, 24 Cross Bow Drive

MR. YARID: I planned some remarks, but seeing it is 11:15, and probably past my bedtime, I will --

DENNIS SCHULMERICH: Early night for us.

MR. YARID: Really, I have an early morning. I will amend my remarks and try to get to the point and such it may Not flow very well, but I will try.

JAMES MARTIN: Start with name and address.

MR. YARID: Rockwell Yarid, Y-a-r-i-d, and I live on 24 Cross Bow Drive. I would like to give the Board a set of pictures.

These support my general concerns. I am not opposed to the expansion of the church. I -- what I am concerned about is what comes with it. We have -- you have basically talked about it, the traffic, and all those issues. You mentioned something in a remark you made regarding maybe this is overwhelming for this neighborhood. What I took from that was maybe the traffic, the concerns here with the traffic may be way more than this neighborhood could currently handle at this point. Let me quickly get to the point. On June 16th, 2004, I was traveling, I turned onto Archer Road on Paul Road, and I -- it was a Wednesday afternoon, about 4 o'clock. When I turned off onto Archer Road, I immediately had to take evasive actions to avoid a collision right next to the church. The oncoming traffic swerved into my lane, I swerved into the side of the road, and the reason for that was somebody was exiting the church's parking lot and there were cars along the side of the road and the person couldn't see and so forth and so on. That is what number one two and three are. Number 1 and Number 2 basically shows the conditions that existed.

I thought well it may be just a slightly, you know, one off -- my neighbors park on the road at times. You say you will not get upset about that. It will not happen again. But as time went on, I could see that it got worse.

Image Number 3. It even got to the point where they were parking on the side of the road, both sides of the road, Number 3, and Number 4, at night. And I kind of watched it for a while.

You can see Number 5, again, the same thing in the winter, they're parking. You can see.

Number 6, for instance, where they're actually parking in the street. Okay? I wrote a letter to the church, e-mailed a letter to the church, explaining the unsafe condition. It is illegal to park there. Everybody knows that. You know, I explained to the church, and I did get a prompt and courteous reply from the church. But the reply basically was, "Give us a call and let us show you what we're doing."

That kind of threw me because when you have an unsafe situation, you don't put that second to the convenience of others. You put that first. Got a problem, you know, we almost had an accident, let's fix it right now. No questions asked. But that did not happen, and I watched -- and the person said in there, well, you know, we hear your concern. We're going to react it to it. I

thought, oh good, they will say something to the parishioners. People will take action and move the cars. As it went on, a year later, 6/05, the condition was no better. In fact, it got worse. Now we have the parking, the guard now directing traffic. We have traffic, 100 feet from the light we have the traffic backing up. We have people parking on the road, et cetera, et cetera. The point behind bringing this up to you, granted, you know, this new parking lot would solve that problem. But the point I'm trying to make sure is that I am not sure that I have the confidence in this organization to put the community first. If they were concerned about the safety and the general welfare of the people that use the road in the community, they would have taken immediate action to solve this problem. And as it is today, last Sunday, we had this problem. So there is a -- this whole point is about confidence and about trust, and about people doing the right thing.

I don't consider the organization -- I'm sure there probably very good people, you know, I don't doubt that. But where is -- where is the, you know, importance around this whole thing. It seems secondary to me that the safety and general well being of the community should be second. That is the point I'm trying to make.

So as we go forward, my point, to the Board is, we need protection. This community should be protected and you're the line of protection we have. When we put up these beautiful plans, these all success plans, I hope and it sounds like you are really looking at this. You should be looking at this and say what is really behind, you know, this thing. It is beautiful, but could be smoke and mirrors, okay?

Now, let me get to the real -- what is it that you should protect us against is what I am driving at. Traffic, of course, is the general topic. As I look at the plans, and hear what is spoken, I'm seeing numbers like 3,000 people, 3,500 people, 4,000 maybe. If you look in the newspaper article, you know, that was published, with numbers, I'm seeing 480 parking spaces. I'm seeing 3,000 plus people. Well, I got thinking about that a little bit. Okay. 3,000 people, what does that really mean. If you take a look at the U.S. census, the U.S. census says the average family size is 3.2 people. If you take 3,000 people, which we're close to that divided by 3.2, you get 931 families going to church. Far -- far distance from the 400 and numbers that I'm hearing.

How are 400 parking spaces going to serve 900 families? I see some issues there. How -- how are we going to handle the traffic of 900 cars exiting and entering this place?

We talked about off -- we talked about off-peak and low-intense times, or low-user times. I won't coin that as being -- you can keep that by the way. I wouldn't coin that as being low, off-peak hours. I would coin it as being more a mid peek hours. 4 o'clock on a Wednesday afternoon is not off-peak hours. This church has a lot of activities that goes on, Wednesday, Monday, Tuesday, Saturday, Sunday. It's even more so in the warmer weather. So it is not just Sunday. It is a lot of activity during the week. I'm only afraid that those roads are not adequate enough to handle a lot of traffic. In fact, if I had to swerve off the road at -- down at Paul Road, if I had to make a swerve as I did on Archer Road, I would be upside-down in the gutter, because it just doesn't have adequate shoulders, adequate space. There is no island in the middle so people can swerve to the left or the right and avoid collisions if that comes to be.

So we're talking about probably 900 people at a 3,000, you know -- 3,000 attendance. That -- that is what it says to me.

So I am hoping that you gentlemen will protect us. I am not opposed to the plans. It is wonderful, great, but I have my doubts whether or not those streets are adequate to handle the traffic. There are no limits on what the church attendance could be. I saw a number in the paper from this gentleman here that said 4,000. Wow. I bought a house on Cross Bow Road a couple years ago, a house, an older house that needs a lot of work, unfortunately, and my intention is to invest in that home. I have invested a fair amount of money already. I have that much more to go. I'm going to be watching the situation quite a bit, because if this turns out to be the -- a debacle or nightmare that I think it could turn out to be -- and I'm hoping not -- I may have to cut my losses and stop investing in the house. I hope not. I really like the neighborhood.

I came here not by chance, but came here because I really did like the place. I'm hoping to stay and I hope this does not turn into a debacle. I hope it is a success as shown here, but, boy, please pay attention and please keep an eye on things for us. Appreciate it.

JAMES MARTIN: Thank you. Just a quick comment. I think what Mr. Caruso and I talked about is Phase 1-A will get some of the off-street parking off the streets off Archer and over into, you know, the parking area, and they want to move ahead on that very quickly. So I would say that -- you know, the response to the church, was responsible from that standpoint. Infrastructure issues are not isolated to Paul Road. We have infrastructure issues throughout the whole Town. There is enormous pressure. The Town is growing. And we all are, you know, in -- in a situation where, you know, the powers that be that control the road building and all that don't act as quickly as we

would like to see them act. Certainly there are many, many areas in this Town that need significant improvement.

That is just one of the areas. I think the Master Plan Update Committee that has been talked about tonight is going to take a look at those issues to see where we as a Town need to apply pressure to make some of these improvements happen. I thank you for your comment.

MR. YARID: One small comment is this business of a turning lane to me just seems like a necessity in this -- in this situation. You know, maybe -- I don't know how it is done but boy, just two lanes this way, I just don't see how it is going to work very well.

DENNIS SCHULMERICH: Could I ask a question? John (Caruso), how many parking spaces are allocated for Phase 1?

MR. CARUSO: 500.

DENNIS SCHULMERICH: If we assume the census data is correct, and three people in a car, you're equipped to deal with 1500 people. The first phase is for 1200. So you get to the 3 or 4,000 number through multiple services, not just one service; is that a fair assumption?

MR. CARUSO: That's correct. The quote in the paper about 4,000 people was incorrect, just for the record.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I think the prior speaker made some excellent points. Traffic and drainage I think are going to be the really big issues with the Master Plan Update Committee. This will be a beautiful project. There is no question about it. And if there is a need for this kind of a congregation in Chili, that is all the more wonderful.

However, having said that, I think we have the cart before the horse when it comes to this Master Plan Update Committee. Because those of us who are familiar with SEQR know it is within the purview of this Board to look at SEQR as a regional issue and not in discreet pieces put forth by every developer that comes forward.

So I think that we really should not approve things like this, at the moment. I'm not saying that they won't be good down the line, but let's see what this Master Plan Committee comes up with.

I mean, I have heard all of the reasons why that won't be a problem, but I just can't see it. If that were the reason that we can just approve these development piecemeal, then we wouldn't be having a Master Plan Update Committee. This whole area needed to be looked at, and unfortunately this Town was remiss in that they didn't move on this issue much, much faster than they did. However, that leaves the Planning Board in the position of now being asked to approve projects that should be approved after the Master Plan Update Committee does their work.

I am also wondering, did the church do a long form Environmental Assessment Form?

JAMES MARTIN: They did Part I of a full EAF.

MS. BORGUS: Why would they not be required to do the whole form?

KEITH O'TOOLE: That is what the law requires. The applicant does Part I. We do Parts II and III, if necessary.

MS. BORGUS: Of the long form?

KEITH O'TOOLE: Yes.

MS. BORGUS: I don't like the idea that the Planning Board is being asked to approve a project on what has been called a neutral corner. True, with a church, I guess that neutral is a good word.

It is not a massive residential development. It is not apartments. I hear that. However, when you factor in the Lot 1 issue, I'm not so sure it is going to be a neutral corner. Not at all sure. All of the more reason for the Planning Board to hold off on approving these projects one at a time.

We approved Archer Meadows. Now the Board approved that. Pretty soon it won't matter what the master plan update comes up with, because it will be a moot point.

I think Mr. Schulmerich's word, "disincentive" is a very apt description of how I would feel if I sat on that Board, when the Planning Board meets and goes ahead and does whatever they want, whatever they feel is appropriate without waiting to know what I am going to find out as a member of that committee. This is -- this is definitely a matter of the cart before the horse here.

I heard Mr. Caruso talk a lot about regional storm water management, but when you get down to the details what each of the parcels will do with the storm water, it seems regional storm water management is nothing but hot air because he then talks about every development dealing with their own water and their own problems. How is that regional storm water management?

He seemed very relieved if Lot 1 is developed, with probably 80, 75 -- 80 percent of it blacktopped and probably a flat top building, it will run the other way anyway, so it won't

matter.

I think it does matter. You're right back to regional development and the Master Plan Update Committee. That is what they're in place to deal with. Let's not take their job away before they do it. They might just as well not come to the next meeting and turn in all their paperwork and resign tomorrow if you people will upstage them on all these things.

I would like to know more about the auxiliary police issue. Does the Church hire this person?

PASTOR DUPLESSIS: No. This is one of the members of the church that has a security business. Out of the kindness of his heart he just serves as a volunteer, but he has been very diligent and faithful. I believe he is sitting back there (indicating). So my heart kind of was stinging when there was negative comments thrown at him. We're doing the best we can.

One of the people in the area said they would like to meet us as an ex-firefighter, and we're very ready to hear how we can do all we can. I think nobody has ever dealt with 2,000 people coming to services. You can't throw them away and say go home because that is what we're doing.

I understand the comments of the side cut, but when you're there on a Sunday and it is cars coming in, and cars coming out and little children that have to cross the street, I think we have almost done the best we can to safeguard as much as we can, and that is why I think John (Caruso) and we are so eager to spend the money to just do the safest thing. Because only God knows what impact it will have if somebody is run over. Every Sunday pray God just have mercy.

And again, I understand this gentleman's problem. I wish we could respond to it real quick. We have no control over the amount of people that come. It is not like a club that you turn in a card and we know 50 people are coming this week. We can have anything from X amount to 500 more just show up out of know where. That is why we so -- I understand Mrs. Borgus' comment on that. I -- I think my question would be just what do we do while the Planning Board goes on, and I respect whatever the Board thinks about that.

MS. BORGUS: I don't think that the Master Plan Update Committee plans on beating forever on this. I'm sure that they have some kind of a deadline. They're meeting on a regular basis, and I don't believe it will be a prolonged time until they come up with a solution and answer and suggestion as to the way this area should be developed.

It really, really makes me nervous about this Lot 1 because you people don't have a clue. You have given -- you have not been given an inkling as to what is going in there, and when you think about the apartments that Dr. Fallone is proposing, you think about Archer Meadows, and if you think about -- I am assuming something commercial on Lot 1, they're talking about a variance, or a -- I'm sorry, a zoning change, it looks commercial to me. We're looking at a lot of traffic here. They can't control it. And I think it is up to you.

Another thing, too, I know that this church, and it is a wonderful endeavor, but they are very, very interested in social programs for the young people, and that is an admirable goal, but as this gentleman that spoke before me said, these programs are daily. You're not just looking at Sunday services. You're not just looking at Saturday night and Sunday service. You're looking at something going on continually at that church. This traffic is a week long, seven-day-a-week problem that the Planning Board has to wrestle with.

If I were you, I would be waiting for the Master Plan Update Committee, and then I would be making my discussion because then I would make an informed decision that would be the best for the Town, the best for the neighbors and certainly in the long run, the best for the church.

Thank you.

JERRY BRIXNER - 14 Hartom Road

MR. BRIXNER: I have attended the two meetings that the Master Plan Committee has held within the past month -- late night, the most recent. And there were ten members of the Master Plan Committee there last night, including John, John Nowicki.

As I looked over the caliber -- not the caliber, but the stature, or the people who were on the Master Plan Committee that I saw last night, of the ten individuals, John (Nowicki), and Bill Steimer were the two most knowledgeable members of the Master Plan Committee.

The Rochester Democrat & Chronicle had an editorial, very recently, maybe about three weeks ago or four weeks ago, I hope to resurrect it, and they were very critical of the Master Plan Committee set-up.

And they had some comments to make. I -- I seem to feel very strongly what the editorial in the Democrat & Chronicle said. I think from what I saw last night, it will take the eight members, other than and -- in my opinion, John (Nowicki) and Bill (Steimer), a period of time to just catch

up with what their endeavor is, should be.

They were getting questionnaire -- they wanted to get questionnaires from last time, the last Master Plan Committee last night, and review them. In other words, Dorothy (Borgus), and members of the Chili Planning Board, I think it would be a while before the master plan members can be updated with the procedures and some of the needs, some of the general requirements of the Master Plan Committee.

And contrast to that, what is needed here is an immediate attention. I don't believe a Master Plan Committee can react that quickly to what the father -- or Pastor has and his need for the congregation. I think that is a need -- from 400 to whatever the amount will be, I think that is a necessary situation, and I think it has to be taken immediately. I don't think the Planning Board should wait. Thank you.

JILL COREY, 19 Westway Court

MS. COREY: Kind of -- it looks like a great project. I commend you for it.

Westway Court runs right off of Westway. I am very concerned about the traffic. I am very concerned about the drainage. I was not aware of Archer Meadows and maybe the Fallone project that is going to be coming to bear there. And the traffic is going to be worse, much worse.

I think you got to look at turning lanes. I know a church that has 250 to 300 people on a Sunday. We have a policeman to get our cars out. You got to do something. Because as this gentleman has said, and Dorothy (Borgus) has said, the traffic is really bad. And if you -- if your church is going to grow, I assume your weekly programs will grow, as well.

So traffic light -- guess my other concern is where the pond is, is that going to be bermed, as well, between the property and Paul Road?

MR. CARUSO: I don't believe so.

KAREN COX: There is landscaping in front of it.

MS. COREY: Has Lot 1 been sold?

MR. WINGHART: No.

MS. COREY: Not been sold.

DENNIS SCHULMERICH: It is not a lot yet. We're dealing with that tonight, Jill (Corey).

MR. WINGHART: We're deciding on that tonight.

MS. COREY: That's -- I, as a resident, as a very, very close resident -- I can see you through my backyard -- please look at the traffic issues and the safety issues, and the drainage. Because we have drainage problems already.

Thank you.

CRAIG RICHARD, 166 Archer Road

MR. RICHARD: The plan looks good the way it is. I did have concern -- I'm south of the green area there (indicating). My concern is the soccer fields that you folks are proposing there. I believe that back in January the same group came to the Board and said that they were going to -- when they bought 60 acres, they would put a church on 60 acres. Now, they're talking about putting a church on 42 acres, and subdividing the property off and selling that property to whomever. What is stopping the Church a year from now coming back to the Board and saying that they want to subdivide those soccer fields off to some other organization?

So my thought to the Board would be that if you have got to make a decision as to the Lot 2 and Lot 1 would be to approve the Lot 2 program, but with the stipulation that Lot 1 remain residential, and not to be turned to a commercial project that close to a residential area. We have already got our shopping district that is set into Wegmans and the other 36 acres that are a lot of wetland there. So that would be my thought. If you were to approve the program as it is, but with the stipulation Lot 1 can't change to commercial zoning.

JAMES MARTIN: I don't think it is within our power to impose deed restrictions. We don't have the authority to do that.

MR. RICHARD: You don't have the authority to do that?

JAMES MARTIN: No.

DARIO MARCHIONI: We can make a recommendation.

MR. RICHARD: However, if there is a master plan set, and it was spelled out that that property was going to remain that --

JAMES MARTIN: If it was zoned in the master plan for residential use, then, you know, then somebody would have to come in and request it be zoned for something other than residential.

MR. RICHARD: You can't have selective enforcement.

JAMES MARTIN: We do not have the authority to do that. That is a fact. We cannot

impose deed restrictions on property. You know, if the master plan says that that 16 acres should be zoned Residential, then that is, you know, where the authority would lie at that particular time, being zoned for that particular use. We cannot imply deed restrictions.

DENNIS SCHULMERICH: The question is backwards. The property is currently zoned residential, correct?

MR. CARUSO: Yes.

MR. RICHARD: The whole 60 acres.

JAMES MARTIN: The whole property is zoned Residential.

DENNIS SCHULMERICH: If someone were to buy Lot 1, they would need to come into the Town Board to request it to be rezoned to something other than residential. It is currently residential. Any changes to that would have to be done by Town Board action.

MR. RICHARD: Good presentation and you have been super blessed by having that many people.

MR. YARID: My opinion right now is that if it were totally in my power, I would not approve at this point that -- approve whatever they're seeking approval here. I think we need to understand better what the traffic situation is going to be. The numbers I have heard is 400. I think it is going to be more up in the 900 area. So based on that, I think it behooves us to understand what that 900 number means to this neighborhood and us.

However, if you were to -- as far as the extension of the parking lot -- which I think is a great idea, I would ask the Board, whomever has the power to do that, if the Board approve the extension of the parking lot immediately, it would be under the conditions that they no longer park on the street. I would really appreciate that. It is illegal by the way, but that is besides the point. I give them the parking lot; no more parking on the street. Every time I drive around the corner, I drive through there, I'm not -- I'm not an old guy that is really nervous. I get on the expressway and really truck, but whenever I drive through there, I sort of take a deep breath and sort of drive on down there nice and easy, because I'm really concerned about surprises. I would really appreciate it if you would do that, tie that condition to that, to that approval.

JAMES MARTIN: You have already conducted traffic studies; is that right, John (Caruso)?

MR. CARUSO: Yes.

JAMES MARTIN: We don't have a copy of it.

MR. CARUSO: Yes, you do.

KAREN COX: There are some people in the audience who may not have been aware that there has already been a traffic study. So I just wanted to --

MR. WINGHART: About 3 inches thick.

JAMES MARTIN: Point made.

You have done the traffic study.

MR. CARUSO: Yes.

MS. BORGUS: Just one other question. The traffic study that has been done, what does that take into account? Does that take into account the fact that Lot 1 may be commercial? This is a big difference. I mean, if we're going to look at a traffic study, let's put it all in the mix. I don't know what their traffic study has looked at. Has the traffic study taken into account the building that is probably going on on Fallon's property, Archer Meadows, this and maybe a commercial site?

MR. CARUSO: It is pretty comprehensive, and it -- in answering the question, Mr. Chairman, it is a pretty comprehensive study that also accounts for the Fallon piece and the full use of this piece. I would like to add that just as The Fathers House parcel came before the Planning Board as a 100-acre piece of land and was subdivided into two pieces, 40 for the Archer Meadows and 60 for The Fathers House, where there was no development, and that was done by Bob Avery who came in for a two-lot subdivision, we could have proceeded to come in with no drawings for a two-lot subdivision, split it in half and gone through SEQR and created 1 and 2, and later on came back and just did Lot 2. We didn't chose to go that route.

We asked for the subdivision in conjunction with the site plan preliminary overall. We're not asking for final approval tonight. We're not trying to move too fast on this. And for those reasons, I just ask you to continue.

DENNIS SCHULMERICH: Who on the Board has received one of these? It is a traffic impact analysis for the Archer Road corridor. Dario (Marchioni) got one in the mailbox. I didn't see it.

MR. CARUSO: That might be the file copy that was submitted for the file.

DENNIS SCHULMERICH: That is what it says. File copy.

MR. CARUSO: Asked us for the --- the Archer Meadows approval.

DENNIS SCHULMERICH: Only one?

MR. CARUSO: We just sent one to the Town.

DENNIS SCHULMERICH: Dario (Marchioni) is it --

KAREN COX: He has to read us and tell us everything.

MS. BORGUS: If I still have the floor, for just a minute -- that is all of the more reason that you people shouldn't act tonight if you have not seen this. And another point I would like to bring out for the people who are in this audience tonight, who don't know this, this is your last shot. When these people come back for final, you know, if you haven't been here before, you think, well, you can get a chance to say something next time. They aren't going to get a chance to say something next time because on final the public is silenced. So this is it. This is it. Thank you.

MS. COREY: Is it Archer Road or Archer Paul that you did the study on?

MR. CARUSO: We did the study for the entire corridor, Beaver Road, Archer, Archer/Paul, Paul/Chili and all of the streets in between.

MS. COREY: Thank you.

BARB DENEGRIS, 254 Archer Road

MS. DENEGRIS: Does this study entail what is going to happen in the future with the 89 houses at Archer Meadows? It will take into effect whatever Chili -- or whatever Links that is that is up behind us that is a mess. The fact that the railroad track is used frequently and will become used even more frequently?

I tried to get out of my driveway just yesterday about 4 o'clock which is not heavy traffic. It has not hit that heavy at that point. I had to wait for 20 cars to come from Beaver Road, down Beaver Extension, come up Archer, and go who knows where. I don't know where the cars are coming from. I don't know whether it is something at the old Case Hoyt that gets out at 4 o'clock. The traffic is horrendous there. Archer Road is not a safe road right now with that shoulder the way it is.

People, when people are backed up down to the light at times, when that railroad track is being used with the long freight, it is not a safe place right now. And I don't know if this is possible -- it is possible to have an unbiased traffic study, not done by a developer, or an architect, but by the State or someone who can look at it objectively and look at all of the things that are happening, all at once, in that area. All at once. That was a question.

JAMES MARTIN: Well, you know, John (Caruso) you don't need to elaborate how traffic studies are done. There is a method, a process. You know, you count cars. You look at peak times, off times. I mean there is a lot of information that goes in a traffic study. I don't think there is anyway, you know, you could manipulate the data to say something that is favorable as opposed to what you actually found in the way of fact.

MS. DENEGRIS: What I'm saying is that that it is not safe right now. It is going to be increasingly unsafe. I don't know what to do about the fact there is a church there at the corner with a lot of people. It is a good situation. It could be ten times worse. It is a good situation. And they're trying to do good things. I think we all agree with that.

But it is still scares us down the road apiece. Those of us who live down on Beaver Extension, who live on Archer Road, it is terrible now, and we're just kind of scared to know what it is going to turn into.

As the point has been made several times. This is not just a Sunday noon kind of thing when the traffic is slow. It will end up being a week long thing with many, many people coming and going.

MR. CARUSO: Which is why, Barb (Denegris), I tried to make the point if this was a 150 lot subdivision, you would really see traffic in there, which is really what it could go to if we didn't take the approach that we were.

Everything about this project has the propensity to be off-peak as opposed to on peak.

JOHN NOWICKI: Can I say something? Just -- you have to think about this for a while. This traffic situation, everybody knows about it. Whoever is involved in this Town, whether it is Planning, Town Board, or Master Plan Committee, developers that come before us, we all know that the traffic is not going to get any better. It is going to progress because of the development that is going to occur. Now, what normally happens is you look at other towns, whether it's Greece, Webster, any place, and the development occurs and then the roads get fixed.

For example, I will give you --- from Union Street, Chili Avenue, Ballantyne, Beaver Road. It has taken a couple of phone inquiries through the Supervisor's Office a few years ago to our State people to get that Ballantyne Corridor Study done. And it finally came out. But in order to get that fixed and repaired the way they're showing it, if you came here the other night to look at it,

it will take five to eight more years. You see what I am saying? We all know what the traffic problems are going to be at present. We have the studies that are going on. The Ballantyne Study is done. We're looking at the Chili corridor.

We have already done studies on the Archer, Paul Road. Paul Road, I know for a fact that road has to have some serious considerations to it, because this gentleman mentioned there are safety problems with the road. Especially where they sell the Christmas trees, there is a big ditch there. My wife totaled our car there. I'm well aware of that.

I think we're doing this, whether it is Dorothy (Borgus), this gentleman, or Bob, or whoever – we're all working to solve this problem. We'll have to just be patient with it. It will not happen overnight. We're all aware of it.

GEORGE PETERSON, Beaver Road Extension

MR. PETERSON: I live on Beaver Road Extension. With everything else everybody says, I have concerns. But my backyard faces towards Paul Road. I just want to make sure, though, I do put it on record.

Right now the -- the church is grossly lit up. Terribly lit up. You have a parking lot, when nobody is using it, you leave the bright light on. Hopefully -- and I worry about the church coming up closer to my house and being overly lit, especially when it is not in use. It sounded like John (Caruso) was talking about low cast lighting or limited lighting which I hope you go for. I have lived out here all my life, so I am sorry I am kind of use to the darkness.

The other thing, too, I can appreciate security concerns and stuff like that, and maybe you can incorporate your plans that you have when there is no activity, limited lighting versus when you do have a lot of people there.

Now the church down the street, the Jehovah's on Beaver Road, I kind of like what they do. They have their entrance way lit by A brick entranceway. When they have church activities going on, they have the parking lot light on and building lights. When they're all done, it is shutoff.

When they first started, it was seven days a week and it was terrible and annoying. But now they control the lighting, and now -- I just like you to consider your form of light pollution.

MR. CARUSO: We don't want the lights on. You can spend 1,000 bucks a month lighting your parking lot .

JOHN NOWICKI: Dark sky lighting. It is a very low-profiled dimmer light. A lot of towns have gone to it. It is in our code. We're looking for more and more of that.

MR. PETERSON: Until the existing church is sold, I won't mind them doing it to the existing church now.

MR. WINGHART: We'll take a collection at this meeting, okay?
(Laughter.)

CARLA ROSATI, 30 Archer Road

MS. ROSATI: This is my first Planning Board meeting. I just became interested obviously for living on Archer Road and having some of the same concerns most of these people do. I guess I assumed in years that have come and gone that you folks do your job and you have all of the information, but to know none of you have read this traffic study makes me very concerned we're going to approve something tonight like Ms. Borgus said. We may never have had a chance to speak on it, so I would hope you give serious consideration, especially the folks on Westway, their road, if it lines up with the entranceway will be a major cut-through. Archer Road is 30 miles an hour. I have yet to see a car travel 30 miles an hour. It is a speed strip.

I can imagine you will feel the same. You have a nice neighborhood street with a major traffic thoroughfare. I love they want to develop the Town and it is a nice problem project, but I am feeling, and I don't know if you folks feel the same, but it seems like it is too big, enormous for the neighborhood and the current situation. I just hope that we're really careful with this one.

DON MAYEU, 154 Archer Road

MR. MAYEU: I want to make it short because I want to go to bed tonight. I have not heard today at all anybody is against the church. I think they want the church compared to houses or other development there.

So I am saying I think it is a plus for the church. But I think I heard, too, that there sigh lot of concerns about traffic. I think you're doing an injustice if the Board approves it right now. Do more before -- do a little bit more homework before they get the blessing to go with this church, with this plan.

Number one, they talked about the property across the street. There is no reason why when

they get to the point that they're ready to move out of that, that another church doesn't buy that property. It is -- the church now. It would be very easy for somebody to do that. But just think the traffic is bad. You have to consider that. I think you're going to do an injustice if you actually approve it tonight.

RICHARD MEINTEL, 5 Wheat Hill

MR. MEINTEL: Across from the other intersection. These other places like Wegmans or any building that has a bad traffic they put in turning lanes and they put them in themselves. Why don't you make them put them in to make the traffic flow better?

JAMES MARTIN: That is certainly something that needs some consideration. We'll take that into consideration.

JOHN WATER, 85 Hickory Street

MR. WATER: He was going to remain quiet, but since we may be silenced at the next meeting, it seems that traffic is a major issue this evening.

I'm actually a new member of the church. I used to go to another church and was on security there and have personally witnessed a pedestrian trying to cross East Avenue that was hit by a motor vehicle because of the traffic. The church is now being sued, the City of Rochester is now being sued.

I hear the gentleman here saying that we need to get these cars off of Archer Road. Yet he is asking you guys not to do anything about it tonight. If you're not going to approve it, how are we going to get these cars off Archer Road? In fact, if you don't do anything tonight, you will be basically taking a step back because now we have been directed by a member of the Board to close the pathway to Archer Road we have created to help alleviate some of the traffic on Paul Road. So I would kindly ask that you please approve this and let the church go on. Thank you.

DIANE MAYEU, 154 Archer Road

MS. MAYEU: Is it my understanding that for the first phase of this church, the only entrance into the parking lot is going to be off of Archer Road, therefore the traffic is only north and south?

JAMES MARTIN: No. That is Phase 1-A, the entrance off Archer Road. Phase 1 would include both entrances.

DENNIS SCHULMERICH: Phase 1-A also has an entrance off Paul Road today, so what you would have is an entrance from Paul and --

MRS. MAYEU: During construction you will have the entrance off Paul Road, as well?

DENNIS SCHULMERICH: That is what I understand.

MR. YARID: There are construction trucks. Will they be going in and out of --

JAMES MARTIN: Are you far enough along?

MR. CARUSO: I would like to answer that at final to give us thought. We only have two ways to get in. It will be one or two.

JAMES MARTIN: That will be answered at final.

MR. RICHARD: Go back to the truck stuff. I mean, Archer Road is a residential street at 30 miles an hour, and Paul Road is a State road at 55 miles an hour.

KAREN COX: No.

MR. RICHARD: Or 45 miles an hour.

No one goes 40 there anyways. But the point is if you have got construction trucks, we have construction trucks now. I mean it is supposed to be limited to 4,000 pounds down Archer Road. We have construction trucks out of the -- we have got construction trucks coming from the golf course stuff. We have construction trucks now coming out of the Archer Meadows stuff and construction trucks there. I mean it is going to be a complete zoo. I mean, you have to really think about where these construction trucks are going, and -- it is just...

MR. YARID: Not to be argumentative. I'm all in favor of expanding the current parking lot, but not approving the plan as it stands right now.

MS. ROSATI: That is my point. To alleviate their immediate problem, they have 60 acres they could utilize to get the cars off Archer Road. We don't have to rush into anything. I would like to take our time on this.

MR. BRIXNER: Just a question. Is it true that the next hearing on this issue will not be a hearing but a closed session?

JAMES MARTIN: It won't be a closed session. I mean it will be probably heard as old business, and so it will be for final.

MR. BRIXNER: So no public participation?

JAMES MARTIN: That is the way we handle things now, yes. It would not be a public hearing.

MR. BRIXNER: Do you have any option of making that a public hearing?

JAMES MARTIN: I think the option exists, but I don't know what else we're going to hear except more traffic issues at this point in time, to be honest with you. That seems to be the pressing issue for the whole project, what to do with the cars. I don't have an answer to that. I don't think anybody has an answer to that. I mean that is not -- the whole Town of Chili has problems with cars. So whether or not we listen to public comment at final, Mr. Brixner, um, I -- unless there was a very significant change in plans or the project itself or there was some mitigating circumstance that crept into our deliberations, I don't think we probably would handle it as a public hearing because all we will hear is more traffic stories.

PASTOR DUPLESSIS: I would just like to let the people of the Town know we certainly feel your heart. As you can see, the people from our church have been very silent. At all our weekend services we asked them not to come tonight, because we knew there was going to be a stampede.

I think my biggest ask for the Planning Board is, either we put a church there or we put houses there. Inevitably, this project will take time. Especially we, as a church, would be very thankful if we could alleviate the traffic, the danger of people parking on the side streets.

My wife had a traffic violation and the next Sunday she parked on the street again. So I -- she says I don't understand because I'm in church all of the time. When you arrive and there is just no place to go, where do you go. So I would greatly ask the Planning Board again, I understand and respect the neighbors living in the area, if they could go ahead and help us at least to get the safety of this, and as I understand from John (Caruso), there is quite a way to go still with all of the approvals and stuff, but ultimately, we're going down this line. 2000 people are not going to go away. We cannot up root, lift them up and carry them away.

I'm actually excited to be in Chili. I am. I am excited to be part of this community and see what is going on. So I'm quite committed to this project right now.

JAMES MARTIN: Move to close the public hearing.

DENNIS SCHULMERICH: Second.

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

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

JAMES MARTIN: I have a question. What is your time line for moving to final on this?

MR. CARUSO: Well, we have an application in for final approval. I guess if --

JAMES MARTIN: For the December meeting?

MR. CARUSO: Yes. We do. I guess what we could ask is -- we could ask the Board to make the motions for preliminary and establish the subdivision and the site plan, and we'll hold off final until January, but will the Master Plan Committee be done by then?

JOHN NOWICKI: No.

JAMES MARTIN: No. You see the problem I have is that I don't disagree. The Master Plan Update Committee has to do their work. They have to do it diligently, and with responsibility to the Town.

But, you know, we're into a chicken and egg situation, and that is -- that is the problem, and in all sympathy with the comments that Ms. Borgus made, you know, we're -- we're faced with a dilemma as a Planning Board, okay? You know, it is -- it is a project that has probably got a huge amount of value, all right, both to the Town and to the parishioners and yet, you know, we're sitting here again in a vacuum, because we don't have the information. You have done a lot of due diligence on that particular area, okay, that basically formulated an overall plan, all right, for all of the parcels that have been under consideration by this Board. So it is not to say that there hasn't been some thought process developed as to potential uses for that property and how it could be managed from a drainage perspective. You don't have a control over the State, County, D.O.T., federal money that builds roads. I mean, that is got to be something our politicians have to take a crack at to see if we can't get some, I don't know what, expediency in some of that stuff.

MR. CARUSO: You're right. We spent a lot of time in our presentation and preparing these documents so you could make a decision and not be in a vacuum and not disrespect the efforts of that committee.

JOHN NOWICKI: Mr. Chairman, I would like to try to put something on the table for the Board to consider, and also for the side table. The first two applications, for example, is the subdivision of the property. The second one is for conditional use permit. I -- my personal feeling is we can move on those two issues, but it is the last one, the preliminary site plan approval, maybe a tabling on that, and find a mechanism to get the 1-A project off the ground and running to get the parking lot and the cars off the road. That moves this thing along a little bit, hopefully encourages everybody to start working on this thing and get this problem solved.

JAMES MARTIN: That is not a bad suggestion. Mr. Kress, you know, what could be done to get that -- you know, get the parking, Phase 1-A up and running? Do they need the permits to --

DANIEL KRESS: First of all, someone has to have a discussion with Joe Carr before we create a new highway access onto Archer. We're putting the cart way before the horse here when people start putting access out there before they have had that discussion.

MR. CARUSO: Why do you say that? This is before DRC, and this has been presented to Joe (Carr).

DANIEL KRESS: That work has been done without anybody's review and permission.

MR. CARUSO: Are you talking about the -- they're just driving across the grass. There is no curb cut there.

DANIEL KRESS: A lot more than driving across the grass.

JOHN NOWICKI: We have to find a compromise here to work together to get this resolved.

JAMES MARTIN: What would it take to get Phase 1-A up and running to get cars off Archer Road?

DANIEL KRESS: If the Board is in agreement with the general configuration of it, then you need to basically approve that much with the proviso that Mr. Carr has to sign off on the access to Archer.

JOHN NOWICKI: Fine. Let's get that moving.

KAREN COX: The permanent access to Archer you're talking about?

DANIEL KRESS: I'm talking about any access to Archer.

JAMES MARTIN: The applicant is willing to accept the risk that you go ahead with Phase 1-A, and you know, something messes up the rest, okay, if we don't do the site plan.

JOHN NOWICKI: Well, he has -- you have to get a hold of your contractors and get people in there right away because your foul weather is going to hit pretty quick. You have to get the parking lot in there if you want to satisfy these people as far as getting the cars off the road. You have to move quick, like tomorrow morning.

MR. CARUSO: Yes, we do want to.

JOHN NOWICKI: We need Joe Carr --

MR. CARUSO: If the Board approves that as a site plan approval, on 1-A, then our next -- it is part of our approval process, in my opinion -- would be Larry Nissen from Joe Lu's office and Joe Carr.

JOHN NOWICKI: Get going.

MR. CARUSO: Yes. But he also -- is the Board also going to act on SEQR, subdivision and special permit?

JOHN NOWICKI: That is my suggestion. Let's do the subdivision.

MR. CARUSO: When would we come back for preliminary site plan?

JOHN NOWICKI: Put it on hold.

MR. CARUSO: Until when?

JOHN NOWICKI: Final. Or we could actually --

MR. CARUSO: Why don't we do preliminary and hold off on final?

JOHN NOWICKI: Or just hold until you get it all done. You have to get that 1-A in there.

MR. CARUSO: You could approve 1-A with preliminary.

JOHN NOWICKI: I think you have to do that, move the 1-A and get these people's safety situation solved here.

DENNIS SCHULMERICH: I think we're trying to deal with too many issues in one conversation. If we could talk about --

We could talk about from a subdivision perspective, I think I'm sensing we're okay with that. Item 7, the conditional use, I think we're okay with that.

I'm personally concerned with approving preliminary for several reasons. The first is the obvious one, the traffic. And the fact that I have not had a chance to see this bothers me. It bothers me I haven't seen it. It bothers me I don't feel I can vote without understanding the traffic study. Without having read it, my opinion is that the church is a large part of the traffic

issue on that corner, and irrespective of what may or may not happen with Lot 1, it will only get worse there. I know we have traffic problems all over Town, but like it or not, the church is a large part why we have the large traffic volume we do there.

Without having read the traffic study, I very much believe we need turning lanes on Archer and Paul Roads, turning lane north off Archer and west off Paul. By my definition, the Church owns that responsibility. Irrespective of wherever else traffic is coming from.

And if we have a preliminary plan in front of us tonight that said we understand that flow, we understand the volume of it and we're willing to take ownership for that, I would feel more comfortable with a preliminary plan approval. Since I don't know the traffic flow, except to know it is heavy, I'm not comfortable with moving ahead with preliminary.

JOHN NOWICKI: But if you tabled Number 8, we could find some mechanical means over here at the side table to get the Building Department and Joe Carr to work with the applicant, and get that parking lot in there quickly.

DARIO MARCHIONI: Let's deal with 1-A.

MR. CARUSO: Dennis (Schulmerich), respectfully, I would like to -- I would love to play back what you just said, because what you just said is the traffic is so heavy in there that the Church has a responsibility to put left-turn lanes in when the traffic study actually says the opposite of that.

DENNIS SCHULMERICH: How do I know that when I have not seen that?

MR. CARUSO: Dennis (Schulmerich), that report has been available to this Town since it was done. Okay? March 2, '05. March 2, '05. I know you haven't -- whether you looked at it or not, but you made a statement that you had not read the report yet, but you felt that there were turn lanes that this Church should be responsible for when, in fact, if you read the report, the level of service on this roadway is A and Bs. It works so well, compared to how we analyze traffic.

And, with all due respect, Dennis (Schulmerich), I am a traffic engineer. I am a professional engineer and I don't know if you reading it should be making the right decisions. I think Larry (Nissen) should be reading it and advising you guys whether what I said in it is true.

DENNIS SCHULMERICH: Maybe we shouldn't be approving preliminary until the Town Engineer has a chance to read it and give you --

LARRY NISSEN: I had read it.

MR. CARUSO: He did review it.

LARRY NISSEN: I suggest to you folks -- these folks make the presentation to you first, describing the traffic issues. The study has been done and you may wish to read it for yourself or you may choose to ask the applicant's engineer to present their case. I suggest you do one of the two. And then if you have any questions, I would be glad to give you my opinion.

MR. CARUSO: The reason I didn't go through the traffic study point by point to prove all that to you is because Larry (Nissen) had made public notice before in this room that he has read the study on your behalf. I'm sorry that you don't recall that, but I didn't want to put that out the way it came out. Okay?

DENNIS SCHULMERICH: Apparently I'm the only one confused and everybody is -- so I apologize.

JAMES MARTIN: I knew the study had been done. I knew there was at least a review, but I have not read it or seen any results.

MR. CARUSO: So because everybody perceives there to be this big traffic problem, because everybody -- we have a train in this area, and it does impact the traffic. However, when we analyze traffic to the way we're supposed to analyze it for reasons of capacity, actually the intersections are operating well out there. These roadways are able to take 1500 cars an hour and they're seeing 400. Not 1500. And so on and so forth.

DENNIS SCHULMERICH: It may well be. Number one I'm not questioning the credibility of the work you have done because I have not seen it. I am not a traffic engineer and do not pretend to be. I'm also not a lawyer, not a lot of things. But I will suggest one of the confusing aspects we're dealing with is having to try to drive down that area on any number of occasions running into the moray of cars on both sides of the road, Paul and Archer Road, which may well be mitigated through the parking lot. The fact of the matter is you have a situation down there and you can't separate those.

MR. CARUSO: But our application and our presentation was they were present for preliminary and not final and as part of preliminary approval, we wanted to implement this Phase 1-A. And I -- so I came here with the intent not going too far but to try to get this one safety fix done that we said we would, and that -- I asked for no more than that. So just to give us that and not secure preliminary where we can go to the people we're selling the land from and say we

chipped off the first step for the subdivision --

JOHN NOWICKI: I won't have a problem with voting on preliminary, subject to the fact the 1-A goes in there as soon as possible, but also keeping in mind, in the minutes that we have got of this public hearing tonight, that his comments -- and I feel strongly with him, that the turning lanes on both those roads become part of the final.

MR. CARUSO: Turning lanes?

JOHN NOWICKI: In and of Paul Road and Archer Road into this project. Turning lanes.

DENNIS SCHULMERICH: John (Caruso) is saying both you and our Town Engineer are well apprised of the content of this and they're both suggesting -- if I am speaking for you, they're not needed.

LARRY NISSEN: I can tell you, I can reiterate what the report says. Firstly on Paul Road, it is a State highway, and the State D.O.T. has -- the only comment they have put forth is alignment, realignment of the access road to this -- across from Westway. That is their only comment.

Now, John (Caruso), was a copy of this report, the traffic study sent to D.O.T. for their review?

MR. CARUSO: Yes. It doesn't warrant a turning lane.

LARRY NISSEN: The Town can plead their case to New York State D.O.T. regarding Paul Road, but it is their decision what happens there.

JOHN NOWICKI: What about Archer Road?

LARRY NISSEN: Archer Road, based on the report, my review of the report, um, there is not much impact on Archer Road. But everything on Archer Road, with regard to the church is pretty much predicated on -- it is not -- it is for Wednesdays and Sundays. It is for their peak times. The peak usage, traffic usage at the church does not coincide with peak traffic on Archer Road, a.m. and p.m. Generally, Archer Road will see its peak traffic at a.m. and p.m. This is what I wanted to avoid getting into.

Archer Road a.m. and p.m. peak traffic is during the week, Monday through Friday, 7 to 8 a.m. and 5 to 6 p.m. Most of the church activity takes place on Wednesday or Sunday mornings. I guess one question I would have is, do any of these major church activities coincide with peak traffic hours on Archer Road or Paul?

MR. CARUSO: Usually --

LARRY NISSEN: Or are they planned to.

MR. CARUSO: Usually they're after work when people get out of work. People go home, get their family and come here.

Let me say this with respect to that turning lane. I will meet with Joe (Carr) about Archer Road and that -- the curb cut that we are proposing to line up with Clay Hill. It is not Clay Hill, is it? Wheat Hill.

And I can talk with him. There is another way to do turn lanes. You can pave the shoulder, and pave it wide and it accomplishes the same thing. We're not looking to avoid those things. I just tell you we have looked at them and they're not warranted. It doesn't mean when Joe (Carr) said why don't you give me 8 foot shoulder for 100 feet -- and I would say yes. So I'm not avoiding doing that.

DENNIS SCHULMERICH: I'm not trying to be a traffic engineer. But in response to personal experience, based on what sits over there, and the pretty significant number of people that have similar observations, they're all counter to what your traffic study suggests. Somewhere we have a disconnect.

LARRY NISSEN: May I? There will be more traffic out there as a result of the development. There is the -- the intersections are basically -- the -- the increased traffic is -- it is quantified by levels of service, and levels of service are like grades in school, A, B, C, D and F. There are a number of instances where the level of service at some of these intersections is going to decline. They're going to decline. There is going to be more traffic, no doubt. It is all a matter of do they decline to a degree where there needs to be remedial action taken.

In my opinion that is not the case at Archer Road or the proposed new entrance here.

JOHN NOWICKI: Who moves it ahead to get the County or the State to do the study as soon as possible to get something on the drawing boards?

LARRY NISSEN: Think when this gets built, they will be out here taking traffic counts and there will be more studies done by the State, who has the jurisdiction on Paul Road.

JOHN NOWICKI: That will -- that is what I was saying before.

LARRY NISSEN: 10 or 15 years down the road Paul Road will probably be a four-lane road.

KAREN COX: There is not much you can do to push that along. The Board can't push

something like that along.

JOHN NOWICKI: It falls to your Senators and Assembly people.

KAREN COX: It is a community issue that needs to be put on the TIP.

LARRY NISSEN: Town has jurisdiction of Archer Road. It doesn't have jurisdiction of the Archer Road/Paul Road intersection, but it has jurisdiction of the entrance to the church. And to Wheat Hill. And I concur with John's (Caruso's) -- and the study's analysis that left turn -- a left-turn lane is not warranted at this time, at the new entrance to the church on Archer Road.

If I could, levels of service --

MR. CARUSO: We would like to ask you to approve the preliminary and with the preliminary approval, approve the 1-A. Then I would go through the proper channels of getting 1-A signed off, and that would be with Joe Carr and Larry (Nissen).

JOHN NOWICKI: No problem. If it doesn't go well on the rest of the drawings, I won't vote on final.

MR. CARUSO: We don't anticipate any problem with that.

DARIO MARCHIONI: Can everybody have one of these (indicating)? Because it overlaps a few subdivisions.

MR. CARUSO: Sure.

DENNIS SCHULMERICH: I'm only a chemist, but I will try to understand that.

KAREN COX: I can read it and actually understand it.

JAMES MARTIN: As far as moving ahead at this point, I think one of the things that concerns me, you know, if we do go ahead and do preliminary site plan approval tonight, we're pretty much locked in to some degree. So I still have that concern.

DENNIS SCHULMERICH: This is a real dilemma. I want the project successful. The Church has done a phenomenal job of trying to keep church and government separate. This is very badly needed. Every comment we have heard tonight is about traffic. I personally do not feel comfortable enough I understand the situation well enough to move forward. And that to me is a travesty.

And I hear from our own side table that we have had the information. They have assessed it. They understand it. Everything is fine.

JOHN NOWICKI: What is the problem with preliminary? You're not giving them the okay to do anything. You're moving on prelim to get that Archer Road fixed up.

DENNIS SCHULMERICH: No, you're not -- you're not moving on prelim to get the Archer Road thing fixed up. You're moving on prelim to approve the entire plan.

JOHN NOWICKI: I don't have a problem with the entire plan.

DENNIS SCHULMERICH: But I don't know what would transpire between prelim and final that would change anything on Archer and Paul Road in terms of what would be required, in the event there is something we're not requiring.

JOHN NOWICKI: Town Engineer has read the report and he has convinced me at this point in time, the one you would want to see is the Paul Road study. I would like to see that study from Paul Road all of the way down to the airport. That is the one I'm interested in.

JAMES MARTIN: The Ballantyne corridor study, I questioned the Erdman Anthony people that did the study. I said, "We have some information. You did the traffic study, Archer Road/Paul Road study. Can it be integrated?"

"No, not really." They spent all of their money and they don't have any way of integrating.

That is silly, the information exists. You know, John (Nowicki) to get a grant to do that study, who knows when that is going to happen.

JOHN NOWICKI: This Town has to push to get that study moving.

DENNIS SCHULMERICH: To your credit, I am glad to have it.

MR. CARUSO: I pushed and got three guys together and they each put up 5,000 bucks apiece and got that drawn. The only link we're missing is really between Marshall Road and Archer Road, because didn't the gentlemen who had the commerce park at the corner do up to Marshall Road?

JOHN NOWICKI: The study of the road -- Roger Brandt?

MR. CARUSO: No, the other guy. The commerce.

JOHN NOWICKI: Larry Glazer.

DENNIS SCHULMERICH: The building --

MR. CARUSO: Doug Charles. Didn't Doug (Charles) study that whole corridor up to Marshall Road?

JOHN NOWICKI: The intermodal transportation project, which is (indicating). There are sections of that. You put it together, you have a lot of studies in the area. Now the question is to

get the dollars to find out where the money is going to come from to do the improvements.

I'll be honest. You can talk about what Henrietta did with South Towne Plaza. They created a transportation district. We could have a transportation district for the Chili Center corridor.

KAREN COX: Was it South Towne Plaza or the regional market where they created this?

JOHN NOWICKI: This will not happen overnight. We need to get things fixed. I don't have a problem voting for it. Just let's wait until we get it right.

KAREN COX: When they come in for final, if we're not comfortable with -- what is forcing us to vote on it? I mean, I'm not sure I totally agree with the statement if we go from preliminary tonight, we're locked into approving final. If I read the traffic report.

JAMES MARTIN: We're not.

KAREN COX: If I read the traffic report and I'm not sure I agree with it, um, that means that

--

JOHN NOWICKI: We were not given that information for the prelim, so we don't have to move on that for final until we get that information to study.

KEITH O'TOOLE: I should point out that preliminary approval is in essence locking you in.

JOHN NOWICKI: How?

KEITH O'TOOLE: Preliminary approval is saying the Board approves the project subject to certain details being completed.

JOHN NOWICKI: So we make it a stipulation.

KEITH O'TOOLE: Then you have to be very clear as to what those conditions are.

JOHN NOWICKI: Yes.

KEITH O'TOOLE: And if you find upon reading the traffic study that you're not comfortable with the conclusions therein, it may well be difficult to change things to your satisfaction. That is always the danger.

JOHN NOWICKI: How do we get 1-A of this project done without voting on prelim?

KEITH O'TOOLE: I don't think you do.

MR. CARUSO: If you're looking for do you need turn lanes, I can get the answers to you before I come back for final, a condition, determine the need for a turn lane, and I would go to Joe Carr and Larry (Nissen) and do something to prove we do need it or not, and if we don't, would we do shoulder improvements.

Those are the things you're looking for. The purpose of the studies is to find out what improvements are needed, if any. I would look to come back to you at final with some recommendation from both those gentlemen stating that they're okay with us with our entrances.

DARIO MARCHIONI: We could deal with the construction of the building itself.

MR. CARUSO: A letter of recommendation. Larry (Nissen) can say here himself, if those are your issues, I would, you know -- like Keith (O'Toole) said, I will seek to go specifically address those issues. We have never looked to avoid them in any of our work.

MR. WINGHART: We have demonstrated otherwise.

JAMES MARTIN: Keith (O'Toole) is right, if we approve preliminary, subject to what?

JOHN NOWICKI: Subject to conditions.

JAMES MARTIN: You have to list every specific --

KEITH O'TOOLE: That is correct.

JAMES MARTIN: -- every specific thing that you want for final.

JOHN NOWICKI: We're just talking traffic here.

JAMES MARTIN: I know, but...

JOHN NOWICKI: What else do you want to talk about?

DARIO MARCHIONI: Why can't we 1-A approve it as a separate -- is -- it is right here. He is coming before us in December, he said?

KAREN COX: He said December.

DARIO MARCHIONI: Why can't we deal with 1-A and some other issues until then to give us a chance to work at those?

JAMES MARTIN: Keith (O'Toole) has said you can't separate the two.

JOHN NOWICKI: I don't have a problem voting on it with the conditions that John discussed.

JAMES MARTIN: That the applicant will work with the Town Engineer and Highway Superintendent to improve parking situations ASAP.

JOHN NOWICKI: John (Caruso), how about a statement in regard to -- on the drainage side of the coin, as far as the Master Plan Committee is concerned, I know you have your reports into them, and as a condition of this preliminary approval, that we look at the regional concepts as far as drainage goes, anything that can be done by committee. We're trying to leave the door open

here. We don't want to get locked in. We want this moving, but we don't want to lock in too tight.

MR. CARUSO: When is the committee going to make a recommendation?

JOHN NOWICKI: Not for a while.

MR. CARUSO: I can tell you this. If the committee makes recommendations for regional storm water management improvements and we can be part and party of it, and even if we have our plans finalized and approved, it doesn't mean we couldn't make a design change and not build the pond and take the money we'll build the pond with and donate -- I mean that is done all of the time. So I don't even know if we need to do that on condition, John (Nowicki). We might agree to that already.

JAMES MARTIN: Real simple. I read the one proposed condition. That was about three years ago.

The Board discussed the proposed conditions.

DENNIS SCHULMERICH: Was there any reference to condition around reconciling the traffic study and the need for either shoulder treatment or turn lane?

MR. CARUSO: That is where we're right now. To reconcile with the Commissioner of Public Works and the Town Engineer on the need for turning lanes at the project entrance.

JAMES MARTIN: Applicant's engineer will work with Commissioner of Public Works and Town Engineer.

MR. CARUSO: Yes.

To determine the need for turning lanes for project entrances. Or other improvements.

JAMES MARTIN: You can write the decision letter.

(Laughter.)

MR. CARUSO: I know what Dennis (Schulmerich) wanted, and I want it right for him. He might not be around here much longer.

The Board further discussed the proposed conditions.

DARIO MARCHIONI: I'm interested in the architecture and color scheme of the building, and are we going to get exactly what is shown on the elevations or something -- the final product will be different as presented to us for these elevations. But I'm very concerned about that.

MR. CARUSO: Good point. I think the colors and all -- we'll write down what the colors are for you and present that to you at final, materials and colors.

DARIO MARCHIONI: Also if you have -- you have three elevations here. Is there a back elevation also?

MR. CARUSO: Yes, there is.

JOHN NOWICKI: Dark sky lighting.

MR. CARUSO: Dark sky compliant. I have that, too.

Building materials and colors and all four elevations.

DARIO MARCHIONI: Right. That will be -- as it is going to be built, not something -- that we'll see something and find out it is something else. Not a reflection of you.

MR. CARUSO: I know what you're saying.

I think you will find this building is finished on all four sides.

DENNIS SCHULMERICH: Finishing all four sides? That is different.

The Board further discussed the proposed conditions.

MR. BRIXNER: Could you read them quickly?

JAMES MARTIN: Yes, Mr. Brixner.

James Martin read the list of proposed conditions (see below).

DECISION ON APPLICATION #6: Unanimously approved by a vote of 6 yes with the following conditions:

1. Adjust parking space dimensions on site plan to comply with Town Code.
2. All easements for Lots 1 and 2 must be approved by the Assistant Town Counsel.

3. A list of all recreational uses for the proposed facility shall be supplied to the Conservation Board.
4. Applicant will submit a landscape plan signed by a licensed architect to the Conservation Board.
5. Applicant will work with the Town Engineer and Highway Superintendent to begin construction of improved parking facilities as proposed in Phase 1A as soon as possible.
6. Details of dimensions and landscaping of the “gateway” construction shall be supplied for review by the Building Department and Planning Board.
7. Applicant’s engineer will work with Commissioner of Public Works and Town Engineer to determine the need for turning lanes for both project entrances of other improvements.

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

DECISION ON APPLICATION #7: Unanimously approved by a vote of 6 yes with the following conditions:

1. Adjust parking space dimensions on site plan to comply with Town Code.
2. All easements for Lots 1 and 2 must be approved by the Assistant Town Counsel.
3. A list of all recreational uses for the proposed facility shall be supplied to the Conservation Board.
4. Applicant will submit a landscape plan signed by a licensed architect to the Conservation Board.
5. Applicant will work with the Town Engineer and Highway Superintendent to begin construction of improved parking facilities as proposed in Phase 1A as soon as possible.
6. Details of dimensions and landscaping of the “gateway” construction shall be supplied for review by the Building Department and Planning Board.
7. Applicant’s engineer will work with Commissioner of Public Works and Town Engineer to determine the need for turning lanes for both project entrances of other improvements.
8. This conditional use permit is approved for a period of one year.

DARIO MARCHIONI: One more thing. Did we talk about that cross easement on that Lot Number 1 as a condition?

MR. CARUSO: It is offered. It is on the plan.

JAMES MARTIN: It is on the plan. It is an easement that has to be approved before we sign the mylars.

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

DECISION ON APPLICATION #8: Unanimously approved by a vote of 6 yes with the following conditions:

1. Adjust parking space dimensions on site plan to comply with Town Code.
2. All easements for Lots 1 and 2 must be approved by the Assistant Town Counsel.
3. A list of all recreational uses for the proposed facility shall be supplied to the Conservation Board.
4. Applicant will submit a landscape plan signed by a licensed architect to the Conservation Board.
5. Applicant will work with the Town Engineer and Highway Superintendent to begin construction of improved parking facilities as proposed in Phase 1A as soon as possible.
6. Details of dimensions and landscaping of the “gateway” construction shall be supplied for review by the Building Department and Planning Board.
7. Applicant’s engineer will work with Commissioner of Public Works and Town Engineer to determine the need for turning lanes for both project entrances of other improvements.

The meeting ended at 12:50 p.m.