

CHILI PLANNING BOARD
December 10, 2013

A meeting of the Chili Planning Board was held on December 10, 2013 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Chairperson James Martin.

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

ALSO PRESENT: Michael Hanscom, Town Engineering Representative; Michael Jones, Assistant Counsel for the Town; David Lindsay, Commissioner of Public Works/Superintendent of Highways and Building Department Representative; Bill Steimer, Conservation Board Representative; Brad Grover, Traffic Safety Committee Representative.

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

James Martin indicated due to the inclement weather, the meeting may start five minutes later as he would prefer to have the Assistant Town Counsel present for some of the applications.

JAMES MARTIN: What I'm going to do is we'll start the meeting. We'll adjust the agenda a little bit and handle some of the other items first and then we hopefully -- he (Michael Jones) will be hear for the ones that I really would like to have the Assistant Counsel here for. I have already stated we'll probably make some modifications to the agenda tonight. On the agenda, Public Hearing Number 5 is the application for RG&E.

PUBLIC HEARINGS:

5. Application of RG&E, owner; 89 East Avenue, Rochester, New York 14649 for preliminary site plan approval to erect a 164' by 40' truck storage building and 60' by 65' pipe storage building at property located at 1300 Scottsville Road in GB zone.

JAMES MARTIN: Due to administrative error regarding the public notice proceeding in our code, we are going to table this particular application, so therefore, at the request of the applicant, I make a motion that we table this.

JOHN HELLABY: Second.

JAMES MARTIN: It has been seconded.

DECISION: Unanimously approved by a vote of 7 yes to table for the following reason:

1. Tabled at the applicant's request. The application will now be heard at the January 14, 2014 Planning Board meeting.

JAMES MARTIN: Let's move up to Public Hearing Application 3.

3. Application of Lifetime Assistance, Inc., owners; 425 Paul Road, Rochester, New York 14624 for preliminary site plan approval to allow a 20' by 16' pavilion at property located at 425 Paul Road in LI zone.

Robert Avery and Dennis Brown were present to represent the application.

MR. ROBERT AVERY: Good evening. My name is Robert Avery, land surveyor with Razak Associates. I'm here with the -- a representative from the applicant, which is Lifetime Assistance, Dennis Brown, and as we move forward, he will be glad to answer any questions that I can't.

We're here before you, kind of an oddity, because what we're showing on our site plan has already been constructed. So we're trying to correct a wrong.

This facility is located, of course, on Paul Road, 425, next to the armory. At the corner of Trade Court.

If you have our site plan open, I'm basically just going to be talking about the enlargement down here on this side, because that is why we're here.

Several years ago, Lifetime planted a garden within -- and a wood fence around it, a 4 foot high wood stockade fence on the side of the building, mainly on behalf of the client so the day treatment clients could have some outdoor portion of their -- of their day. So there was gardening taking place there. Several years ago that garden was put in along with the fence and the metal shed to store hoes, rakes, anything having to do with the -- with the garden.

Okay?

A year ago, Lifetime contracted with a general contractor to construct an open pavilion within that fenced-in area, okay, without obtaining a building permit from the Town. So we are here to correct that wrong, and of course, we're well aware that we're also going to have to attend the Zoning Board to request some variances.

The variances that we're looking to obtain or request would not only include the side setback of the -- of the shed, only 42.6 off the right-of-way line of Trade Court, but also the pavilion which is 52.4 feet off the right-of-way.

Um, our setback here is greater than that for the right-of-way line of Trade Court, so we have to get a variance for that. Hopefully we will, from the Zoning Board.

So far as a Planning issue, I really am showing you existing conditions. There was no grading done to this side area when the garden went in or when the pavilion went in. That's all of the original grading that was approved for the facility when it was constructed back in the '70s, approved by this Board. So there wasn't any grading involved with the garden, the fencing or the pavilion for the shed. We don't have any issues being placed within an easement or obstructing any views, um, such as the drive entrance going out to Trade Court. It's clearly far back -- back far enough so the vehicles aren't -- vehicles are easy to get in and out with clear sight distance to the south and to the Court. So I'm not sure what else I can tell you about it planning wise. I'm glad to answer any questions that you might have.

You want me to go through the comments from Lu Engineers first? Or -- or -- I think they're pretty much --

JAMES MARTIN: There aren't too many of them.

MR. ROBERT AVERY: -- self-explanatory.

JAMES MARTIN: Obviously you touched on the Zoning Board variances.

Question for you, David (Lindsay). Has the pavilion been inspected by the Building Department and has it passed inspection?

DAVID LINDSAY: I think they have been out there to look at the site and the pavilion. I think we would ask any approval be contingent upon them getting a building permit, which would run them through that process also.

JAMES MARTIN: Did I -- they have not actually pulled a building permit yet?

DAVID LINDSAY: That's correct.

MR. ROBERT AVERY: No. I double checked that with Kathy (Reed) this afternoon.

Can I give you a little bit of background as to why this whole mistake occurred? Maybe you could fill me in on that, contractually your agreement with this builder you had.

MR. SLACK: Yes. In November of 2012, we sent out to bid a -- this -- this project and our Number 1 requirement on there as stated in front of me is provide building permit.

On the response, and the contract form, they wrote on their number one thing, provide building permit. However, they did not obtain the building permit.

KAREN COX: Hopefully they're now paying the fees.

PAUL WANZENRIED: The fence, how tall is that?

MR. ROBERT AVERY: 4 foot.

PAUL WANZENRIED: I don't have anything else.

KAREN COX: I don't have anything else, except I hope if you have any fees that you're going to have to pay, that your contractor will pay them. That's what I would have them do.

JOHN HELLABY: Just a curiosity question. Is it used for a lunch area, picnicking?

MR. SLACK: It's, um -- it's right in the gardening area and several of our people we provide services to, um, use that for a variety of things. Sometimes they will take a break and get out of the sun. Sometimes they will have lunch there. And -- in the cooler, you know, May and then September, they may go out there and actually have a classroom exercise out there, you know, sit at the table and do whatever is on their agenda.

JOHN HELLABY: Flower type garden or vegetable garden? The fence is kind of opaque there. You can't see.

MR. SLACK: There is raised flower beds out there and there is both vegetables and flowers.

JOHN HELLABY: They're actually talking about doing the same thing at the Convalescent Hospital for the children on Scottsville Road.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: None.

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

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

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

JAMES MARTIN: They did pay fee for final. Consensus on waiving file?

The Board indicated they would waive final approval.

JAMES MARTIN: I picked up two conditions: Approval of the requested or required variances and applicant to obtain building permit and proper inspections from the Building Department.

Anything else?

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

1. Application is subject to all required permits, inspections, and code compliance regulations.
2. Pending approval of the Zoning Board of Appeals of all required variances.

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

4. Application of Hi-Style Development Corp.. c/o Betsy Brugg, attorney. 700 Crossroads Building, 2 State Street, Rochester, New York 14614; property owner: RJ Gullo Properties #3, LLC; for Special Use Permit to erect a two-family dwelling at property located at 165 Burben Way in RA-10 zone.

Betsy Brugg and Mark Cassara were present to represent the application.

MS. BRUGG: Good evening, Mr. Chairman, members of the Planning Board. It's a pleasure to be here. A little wet maybe, but -- but nonetheless.

So we're here on this application requesting a special permit. We are looking at a parcel -- my eyesight is getting bad. I will walk over here to the board -- approximately 2 1/2 acres. It's a very unusual piece of property. It is located in the Town of Chili but barely. It's at the end of Burben Way, which is actually at the -- in the Town of Gates. And access to the site is actually from the Town of Gates.

This area here (indicating) is some airport right-of-way. Little further over here (indicating) I think is an RG&E right-of-way. This little piece of land (indicating) was apparently -- basically what was left after all this right-of-way was consumed.

So it's in a really odd parcel. It's not near any development in the Town of Chili. Um, this is primarily a single-family neighborhood in Gates (indicating). These lots (indicating) are also single-family because they're quite deep. They're almost 500 feet deep. I think there is an aerial over here -- let's see. The aerial doesn't show you the depth of these lots, but this is really an isolated area in respect to, um, the remainder of the Town of Chili and the residential use is consistent with the residential character of the area up here in Gates.

So we're not near any of the homes over here (indicating). We have no neighbor over here (indicating). Um, the property owner has a relationship with the Town of Gates that he -- he is talking to them about. They recently like to do their turnarounds for their plows over here (indicating), so, um, that will probably be worked out with Gates to be allowed to continue.

Um, and basically he is proposing a two-family, which is a special permit use. So the property is zoned RA, Residential Agricultural, but it is very unique in its location, its size and presents a unique kind of -- some unique limitations in terms of its development potential. So the two-family use is a suitable use. It's something that is viable for the property, would not alter the character of the neighborhood in any way, and I feel that we meet all of the requirements and considerations for the special permit in respect to the use.

Apart from that, you know, the Town will get to review the site plan, you know, for the development. I think we gave you some preliminary architecture in the submission if I'm not mistaken. If not, we have some here. Residential in character. We're talking about two, um -- two units, approximately 3,000 square feet each, which is what is contemplated, three-bedrooms. I think they're showing here two bedrooms and a loft. Bathrooms, two-car garage, partial basement. You know, nice units.

I think you can see, the concept here for the -- for the architecture (indicating).

We have gone through some of the special permit criteria in the letter of intent. I was looking at the code and you have quite a list of items and I would be happy to go through them item by item. We do feel we meet each and every one of the criteria. There are no issues in respect to the character of the neighborhood. You know, the proposed residential use is in harmony with the surrounding area.

Um, we'll go to the longer list here.

The nature of the traffic -- well, let me start from the first here -- preserving and protecting existing development. We won't have any impact there.

Drainage and storm water, we don't anticipate any issues in that regard. Again, the Town will see the -- the site plan.

Michael Jones arrived.

MS. BRUGG: Traffic access coming through Burben Way, residential use, two units. It won't generate any traffic impacts. Parking again, this is a residential use, so parking is not an issue. Adequate provisions, as you can see, are made on the plan. We don't anticipate circulation issues. Landscaping -- landscaping and screening.

Again, you will look at the site plan for specifics, but we're in an area that's naturally screened and buffered. There is extensive vegetation in the area. And on the adjacent parcels to the west.

Character and appearance, again, what is being proposed is consistent with development in the area. You know, the residential primarily in Gates, but this is consistent with the residential character of the development in the area.

Lighting. Again, residential lighting, nothing that should be of any kind of impact.

Historic and natural resources is not an issue with the site.

Sewage, treatment and water supply, we have no issues, problems in terms of getting sewer and water access. Water discharge is not an issue.

Emergency services will be provided, I assume, coming through Burben Way because that is the point of access.

We don't have any related higher explosion hazards or nuisances or objectionable conditions.

The size and scale of the development is appropriate for the size and location of the parcel.

Again, it's a very unique parcel and no additional safeguards or conditions would be required for this development.

So I think we have covered, um -- I think we have covered everything that needs to be covered. I think there was some additional criteria that we addressed in writing, but essentially the proposed use -- it's really appropriate and may be the only use for this property.

Do you have any questions?

JAMES MARTIN: At this point tonight, we are dealing with a Special Use Permit only, not site plan issues per se. I just wanted to make sure that we're not going to dig into that very deeply.

Okay, question is do we feel that according to our code -- it is an allowed Special Use Permit for the -- for the zoning, so the question is, do we feel it's an appropriate use of the property. So at this point, I will go to you, Paul (Wanzenried).

PAUL WANZENRIED: Is that in the Chili Fire District?

MS. BRUGG: Fire District, I do not know.

UNIDENTIFIED SPEAKER: I don't know.

UNIDENTIFIED SPEAKER: It's Gates-Chili.

MS. BRUGG: Is it? Thank you.

KAREN COX: Are these going to be rentals or purchase?

JAMES MARTIN: Your name.

MR. CASSARA: I'm Mark Cassara from Hi-Style Development. I'm the owner of the property. It's going to be -- I would do an owner-occupied, you know. That's the only one that I would want to put up -- by the time you build a house, you never get the money out of it on that street. They're all small homes. I'd put a single up there, but it would cost me more than what is the house is going for. The only realistic thing for something like this in this area is somebody who wants to own their own double, get rent from one side. That's where I see it. That's the best and probably the only place to market it for strictly investment, you know. It would cost you too much.

JOHN HELLABY: Do you have a potential buyer for this? I mean, are you going to build it on speculation that you're going to be able to sell it?

MR. CASSARA: No. No. I will -- there will be a buyer. I would market a buyer. I wouldn't put a spec home up. I don't believe. Not at this time.

JOHN HELLABY: You won't build it.

MR. CASSARA: My goal would be to sell it to the end user as an approved home. But again, nobody -- nobody is going to buy it. You're going to put a double up, 3,000 square feet, even at what \$80, \$75 a foot cost? A quarter of a million dollars on that corner apiece. The average house over there is between 80 and 150 or something like that, and I think that is fair.

Plus the other -- the other part about this is, um, the circle has been -- we have let the -- Gates use that circle. Ceramis (phonetic) had it first. Chris Mart (phonetic). And they -- this goes back a long time with the Town. Gates needed the circle. They closed that side street because there was a lot of accidents and there were traffic problems because people were cutting through -- what is that Chili, to get to -- to --

MS. BRUGG: Through Beahan.

MR. CASSARA: Through Beahan they were cutting through there to get to the airport road.

UNIDENTIFIED SPEAKER: Paul Road businesses.

MR. CASSARA: They actually put up a metal barrier on the road so they stopped traffic from coming through, cutting through because they were having a lot of accidents and kids racing. So Ceramis, before I bought it, put a lease together with the Town of Gates, which I have with them, and the agreement is once this deal goes through, I would dedicate the circle to them. They will put a road on it. I have already had a licensing agreement with them in Gates with the DOT, that they're going to allow them -- it's just a little corner to make the circle the right size for them so they can turn their buses and their snowplows around. They need the circle. They can't get the plows around without it. We have been letting them use it now free for -- between both companies for probably 15 years. Tony never did anything with it, so I just --

JOHN NOWICKI: So they will pave that?

MR. CASSARA: I wouldn't. The Town will. Once I dedicate it to them, they will put the road in.

JOHN NOWICKI: Because I have been there. The question I have, that barrier that is on Ruth Allen Way, that seems to me to be a very, very unsafe condition.

MR. CASSARA: They put that there, the Town.

JOHN NOWICKI: Well, again, I'm bringing that up as a point here so that our -- our people in this Town investigate that from a standpoint of getting fire and rescue equipment through that neighborhood. That doesn't make any sense to me.

MR. CASSARA: Well, if you check the records, and I don't know all of the history on this, but there was -- there was quite a few articles in the newspaper how the Town works with developer to stop accidents or there were a lot of speeding and car accidents and the residents were really injured -- worried about people getting injured with cars racing through there. That is why they stopped it.

JOHN NOWICKI: Not through there. It's a T intersection.

MR. CASSARA: That is what they did. There was articles in the paper.

KAREN COX: Is that really up to the Board here? That is something that should be more of --

MR. CASSARA: Gates issue.

JOHN NOWICKI: The Commissioners of Public Works should -- or Fire Commissioner should take a look at that. If I get an ambulance in here or the Fire Department in through there, what's that doing?

MR. CASSARA: They would come through Burben or off Chili Avenue for the other side.

JOHN NOWICKI: Just doesn't make sense to me.

MR. CASSARA: That's probably been there for ten years. I have nothing to do with that.

KAREN COX: They probably have history on it.

MR. CASSARA: There are newspaper articles. Not history. There was articles in the paper saying how the Town worked with the developer and they solved this problem. We can get you copies of the articles if you want them.

KAREN COX: We don't need it.

JOHN NOWICKI: That is my issue.

DAVID CROSS: I know I'm not supposed to ask about site plan issues, but would you think about preserving the vegetation on the north side of where this house would go, this blue box? There is a 50 foot buffer for side setback. There is a lot of woods in there right now. The north side --

MR. CASSARA: We would probably -- we would probably preserve most of it to keep the building isolated as much as possible.

DAVID CROSS: Is most like 30 feet of it, 40 feet of it?

MR. CASSARA: I'm not probably going to do the building, but we would definitely keep as much as we can. That is the reason I wouldn't put a single back there. My wife wouldn't stay there. You're alone. No house is going to see you or anything. I mean, that is why at least two-family, you have a little safety with somebody next to you hopefully. I just think it's the right use for the property. You know.

JAMES MARTIN: So basically, I think, as I listen to what Mr. Cross said, I probably would include it as a condition that you preserve as much as the current trees and vegetation on property as you can.

MR. CASSARA: I would say yes. On the boundary lines you mean, between the houses.

MS. BRUGG: Again, this is -- the site plan will be reviewed separately.

JAMES MARTIN: No. We understand that.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: I had a couple of questions. Did I understand correctly this is 2.5 acres?

MS. BRUGG: Yes.

JAMES MARTIN: Yes.

MS. BORGUS: Yet you're applying the conditions of an RA-10?

MS. BRUGG: I believe this is --

JAMES MARTIN: You can answer that.

MS. BRUGG: The non -- is a non-conforming lot, but it is in the RA -- I want to make sure I gave you the -- read it correctly. The Rural Agricultural District, yes.

MS. BORGUS: Might I ask how we got to an RA-10 if it was 2 1/2 acres?

JAMES MARTIN: Must have happened a long time ago.

MS. BRUGG: It's a preexisting lot, nonconforming lot. It was the leftover at some right-of-way taking.

JAMES MARTIN: Remember 204 was going to go through there.

JOHN HELLABY: They took a lot of that property.

JAMES MARTIN: The State bought up a lot and this was just a residual piece.

MS. BORGUS: Okay. My next question is, is the applicant RJ -- I believe it is Gullo.

MR. CASSARA: No.

MS. BRUGG: No.

MR. CASSARA: He is an exchange agent. He is a 1031 exchange agent.

MS. BORGUS: Is anybody involved in this application connected with Town -- Greenwood Townhouses, because I see their name is on the plans.

JAMES MARTIN: Oh. I think --

KAREN COX: The architect used probably -- he didn't change the title.

JAMES MARTIN: They didn't change the title. They used an architectural design that was being used at Greenwood Townhomes.

MS. BRUGG: Totally unrelated.

KAREN COX: Probably should have changed the name on the title block.

MS. BRUGG: I did not even notice that.

JAMES MARTIN: To answer your question, Dorothy (Borgus), no.

MS. BORGUS: My next question is going through the paperwork for this application in the Building Department, I noticed that Miss Brugg, and these are her -- this was a quote, that this -- this plan is consistent with the adopted Comprehensive Plan -- it was a question. And she -- consistent with adopted Comprehensive Plan, question mark, and she answered, "Yes."

I would like clarification on how that is consistent with the plan.

JAMES MARTIN: Are you prepared to answer that?

MS. BRUGG: Well, I do not have a copy of the Comprehensive Plan.

MS. BORGUS: I have a copy.

MS. BRUGG: But I will say it is consistent with the zoning. As the Board knows, a special permit use by definition is deemed to be in harmony with the zoning, and all zoning is pursuant to the Comprehensive Plan. So I do not believe we have any conflict with the Comprehensive Plan in that regard, and I think that is a very defensible position without even getting into the specific language of the plan. It happens to be a preexisting, nonconforming lot, which presents its own challenges, but that has nothing to do with the Comprehensive Plan.

JAMES MARTIN: Thank you.

Anything else?

DOROTHY BORGUS: Well, I'm not too happy with that answer because it's kind of a long way around to say, "We just filled it out that way."

That's a statement. You ought to be able to back that up.

MS. BRUGG: Well, the zoning regulations are -- okay.

JAMES MARTIN: It is zoned RA-10, which permits --

MS. BORGUS: Which is pretty strange.

JAMES MARTIN: -- one single or one duplex on the property. So, you know, these are conditions that have existed for a long time from the master planning standpoint. I doubt seriously that 2 1/2 acres was really looked at very vigorously, but to answer your question, I think we're consistent with our current Town zoning.

MS. BORGUS: I think it's muddy water.

JAMES MARTIN: Thank you.

DONNA ECKERT (phonetic), Burben Way

MS. ECKERT: I'm a resident on Burben Way and a bunch of us are here. Donna Eckert. We have a lot of concerns. Drainage is a big thing. We have a lot of sand and water in the area. Our sewers can just about take care of us now, okay?

Um, the street was closed off several years ago because of the amount of traffic that was brought in between Brooks Avenue and Beahan Road. Between 70 to 90 cars in a one-hour time flew through our homes.

We have a lot of families who are concerned about the bus. The Town of Gates chose to close off the street where it did, okay, giving us access to buses and emergency vehicles at the time. Okay? We don't want to lose our buses. A lot of families have just moved in with children, and they're expecting to have a bus. Nobody wants to send their child to the corner of Brooks Avenue to wait for a bus.

As far as rental property, that is a concern for all of us. We have several homes in the areas that already are single-family homes and that are being rented out. That takes the rest of us who own our homes -- it brings our value way down.

Now, if you get okayed for a two-family dwelling now, what happens later on? Is there another two-family going up? Because there is land between -- behind seven of those homes. Okay? And they're going to access Burben Way. All of the time. The -- we just can't -- we just can't do it. Because you have got so many -- I mean, we ourselves on Burben Way have four single-family homes that are being rented out now. Some are issues, some are not.

I have a petition of approximately over 50, um, residents between Ruth Allen and Burben Way who are very concerned about what's going on. Not everybody could be here. The sign was put up. Put up in front of a snow bank. I -- honestly, when I pulled out of my driveway -- I'm about four houses from that corner. Well, four houses from Ruth Allen. Couldn't see the sign. Somebody had to tell me.

Is there a reason why maybe we weren't -- is that the only thing that has to go up is a sign? Do they have -- does anybody have to tell the neighbors what you want to do to our neighborhood?

JAMES MARTIN: That would be a requirement for a letter to people within a certain proximity to the -- you know, to the parcel under discussion tonight.

MS. ECKERT: Because not one resident until I sent the flyer out -- I made a copy of the sign and sent the flyer out and walked from house to house getting -- just explaining to them what -- what happens or what is happening down there.

We all are very concerned. Drainage, buses, rental. We don't need rental. No neighborhood wants rental. You have got rental on the corner, okay? People are already allowed to own a home, okay, and move to another state and rent it out to whoever and nobody is

paying attention to them. And we know as a neighborhood how hard that is, okay, to get anything done in any Town. I have neighbors next to me who are renting out rooms. That is hard to prove. I have already been gone through that and was told that before. You don't have a four-family -- a four-bedroom home and have five people living there. They're renting out. Can't do it.

He wants to own it, okay? It may be owner-occupied. How long is that owner going to own it before now you have two owners or two rentals in there because he moved to another state. I guess we're just concerned that somebody is going to profit off of us as a neighborhood and we're going to go farther down. That's our main concern.

But again, drainage, we all got water sitting everywhere and I -- I don't understand when you're going to build down in the cul-de-sac, okay, how you're going to build and where you're going to drain to. You're going to drain to our drainage? Because we can't handle it now.

And then we got to put up with the construction. Okay. That's our summer. Okay? And if -- you know, and there might not be any plans to build in 2015, but what happens in '15, '16, '17? I have owned my home for 26 years. I take care of my home and the neighbors, too. Yes, you get homeowners who may not take care of their homes. Yes, it's an issue. But everybody knows that when you get rental property in, the value of our homes are going down. And we don't need that.

I take pride in my home and I take pride in my neighborhood and we are against it. And again, we have -- we have over 50 people who are against it. Not everybody could be here, but I told them I would voice my opinion for them all.

JAMES MARTIN: Thank you for your comments.

I will just comment on one thing. We're not here to discuss site plan issues. Drainage and all those things will be handled at a different meeting if this goes forward. At which time, you know, those types of issues would be addressed, all right, by this Board.

MS. BRUGG: Mr. Chairman, would you like me to respond, or are there other --

JAMES MARTIN: Those are just comments. I mean, a lot of those refer to the Town of Gates, okay, as far as what is going on in the Town of Gates. I don't really care to get into what is going on in the Town of Gates. We're here to deal with an application pending for the Town of Chili.

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

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

JAMES MARTIN: Discussion at this point on the application? Basically, it is permitted under our current zoning code.

KAREN COX: There isn't any way -- and this more of a legal question, I guess.

There wouldn't be any way to put a condition on this type of thing that the house would always have to be owner-occupied, correct? That wouldn't be legal?

MICHAEL JONES: No. We can't do that.

KAREN COX: Okay. That's what I figured. Just thought I'd ask.

JAMES MARTIN: The only thing I picked up is David (Lindsay)'s comment about, you know, preservation of natural resources on the property. Other than that --

JOHN NOWICKI: Well, again, my -- my concern is -- is the safety issue. Again, getting to that property.

JAMES MARTIN: I am not disagreeing with what your concern is.

PAUL WANZENRIED: That's the Town of Gates.

JAMES MARTIN: The safety issue is in the Town of Gates.

PAUL WANZENRIED: We're in a bit of a pickle in that the lot is just in Chili. Everything else is in -- a Gates issue.

JOHN NOWICKI: I know. I'm really very uncomfortable.

JOHN HELLABY: Again, I'm sure the neighborhood residents didn't just go out there and put a metal guardrail up. I'm sure the Town was involved and I'm sure they got feedback from the Gates-Chili Fire Department on what their thoughts were on this and everything. So I -- I wouldn't get that concerned. It has been there for as long as I can ever remember, to be honest with you.

KAREN COX: Well, and they're putting in a -- they will put in a cul-de-sac so that -- for the very reason so that fire trucks can turn around, buses can turn around, plows can turn around. And John (Hellaby) is right. Municipalities don't just come out and slam in a piece of guide rail and close a road. There has to actually be -- you know, at least in this day and age, you have to have Public Hearings and get buy-in, and I don't know if that was the case back when that was done. But certainly the Town wouldn't have thrown up a guide rail -- a piece of guide rail without getting some kind of buy-in from the neighbors and the schools and the Fire District. I can't imagine they could do that.

DAVID LINDSAY: Mr. Chairman, the Fire Marshal reviewed the plan and he has no comments or concerns regarding the emergency access, so.

JAMES MARTIN: If I understand it correctly, he did review this with the -- with the Fire District that would be appropriate for this location.

DAVID LINDSAY: I believe he did, yes.

KAREN COX: It's just a weird situation in that you have to access the property on Town

of Gates roads.

JOHN HELLABY: You know, I'm actually more concerned about the notification, because I distinctly remember this happening once before on the Town line, and I got to believe it's probably because they don't have the address in the tax rolls over here.

DAVID LINDSAY: We did provide notification to the Town of Gates.

JOHN HELLABY: To the Town, not to the residents, correct?

MICHAEL JONES: Well, the law requires that we notify the neighboring municipalities. I don't know if they notified their residents or not, but we notified the Town Clerk of the Town of Gates so they can do what they will.

JOHN HELLABY: Right, but if something was to happen in the Town of Chili -- again, I'm not making a big deal out of it, but if something was to happen in the heart of Chili, if I recall rightly, the neighbors within 200 foot get an actual mailing.

DAVID LINDSAY: It is a certain distance, yes, within the Town of Chili that we would notify the neighbors. I can't recall off the top of my head if it is 150 feet or 200 feet or something, but yes, they would get a notice.

In this particular case, it's the Town of Gates and we notify the Town of Gates and what they do with notice at that point is up to them.

KAREN COX: So that 200 foot thing is a Town of Chili --

MICHAEL JONES: So there are two things. The Town of Chili has a distance that we notify our residents for any land use within a certain number of feet. Under State Law, we are required to notify a municipality within 500 feet and we have done that because of this.

Again, as Mr. Lindsay said, whatever they do with the notice we provide, they do. We can't tell them what to do. I don't know if Chili even has the same Local Law -- I'm sorry, Gates, but I don't know what their Local Law is.

JAMES MARTIN: Not that I'm going to open it up, but we don't know what the Town of Gates did. We fulfilled our statutory obligation to notify your Town that this was happening tonight. We were hearing this application. So if they did something to notify you, that is within their purview, all right? So anyways.

So, okay.

James Martin made a motion to declare the Board lead agency as far as SEQR, and based on evidence and information presented at this meeting, determined the application to be an unlisted action with no significant environmental impact, and the vote on the motion was 6 yes to 1 no (John Nowicki).

JAMES MARTIN: The only thing I picked up was the comment about if this project ever gets built, that the applicant would preserve as much of the current trees and vegetation on the property as possible, and that also will be -- if this goes forward, and we have a formal site plan, certainly that is going to be discussed at length by the Conservation Board. So.

MS. BRUGG: No problem.

DECISION: Approved by a vote of 6 yes to 1 no (John Nowicki) with the following condition:

1. The applicant at time of construction shall minimize removal of existing trees and other vegetation of the property.
1. Application of Archer Road Vista LLC, c/o Gary Pooler, 783 Wangum Road, Fishers, New York 14453 for resubdivision approval of 33 lots into 28 lots in the Vista Villas Section 1 Subdivision at properties located at 2, 3, 4, 5, 6, 10, 12, 13, 15, 23, 25, 27, 29, 31, 33, 35, 37 Prestwick Lane and 4, 6, 8, 10, 12, 14, 16, 17, 18, 19, 20 and 100, 101, 103, 104 Clubhouse Drive and 234 Archer Road in PRD zone.

Walt Baker, Bernard Iacovangelo and Gary Pooler were present to represent the application.

MR. BAKER: Good evening. I'm Walt Baker with DSB Engineers and Architects. As Chairman stated, I'm here on behalf of Archer Road Vistas, LLC.

Mr. Gary Pooler is in the audience. Also with me tonight is Bernie Iacovangelo of Faber Homes who actually owns one of the properties, several of the properties, but one of the properties that is affected by our proposed resubdivision.

As Chairman stated, there are a number of lots -- the two maps I posted on the board, the one closer to the board itself, to my left, is a blowup, a 50 scale of Section 1, and you can see on the -- we did show some lighter lines, which is actually the existing lot. The Board may -- well, I will just start from the beginning.

The Board recalls this was originally approved back in 2004, for the benefit of the audience, and it was filed subsequent to that, and then there was a minor resubdivision for other areas that were just combined back into our Archer Road Vista's land.

But these lots, there are actually 45 lots that were approved and filed at Monroe County back in late 2000, and subsequent to that, there was also a Homeowners' Association and the golf course that was proposed for the project.

We came to the Board last summer in July to review the overall plan, which is the plan to the right and also to discuss about dissolving the Homeowners' Association for the project, seeing that the golf course community really didn't work out, and we proposed to resubdivide the

land, which includes the Section 1, and take the Homeowners' Association and have it dissolved.

That was a State action, New York State action. We pursued that and got the approval from New York State to dissolve that, so that has been taken care of.

So that leaves us with the land that was formally for -- formally designed for the golf course to be dealt with.

In dealing with that, we propose to give the land that is adjacent to the existing properties that were filed at the County, some which have been sold off to individuals already, and the remaining lands as owned by Archer Road Vistas, LLC to be sold off because they all have separate tax account numbers.

So like I said, there were 45 lots that were filed, and with the proposing to take the land that was formerly the Homeowners' Association land and give it to the adjacent property owners. There were affidavits we have submitted. We also do have a couple affidavits that weren't included in the submittal packet that we have tonight that shows the residents that do own the property that are affected, that are in agreement to take that land.

So the map that we propose, that resubdivision map is for that area. A number of the lots, like I stated, are still under the control of Archer Road Vista, LLC, and they will be sold off -- once it's refiled at the County -- because it's approved by the Planning Board, if it is approved by the Planning Board, we take it to Monroe County and create what they call a resubdivision map and file it with Monroe County Clerk's Office and then that land becomes the filed document for that property.

The lighter map or the lighter lines that I was stating that are shown on the plan are actually the existing property lines and the existing tax account numbers, so we do -- what we do when we file maps at the County, they want to see that the former tax account number and the former lot line, area shown on the map, but it's subdivided and then the new lines are darker.

So that is why you see -- they may be harder to read than the bolder lines you typically see, but we have to show both of them for the County filing purposes.

Again, that's the intent of the resubdivision of the map. It is all contingent on the Homeowners' Association being dissolved, which we have completed that process, and so it is kind of twofold tonight. The resubdivision approval for Section 1 and also to review the overall plan which we also discussed last summer with the Planning Board.

Again, based on the fact that the golf course is no longer going to be built and the Homeowners' Association being dissolved, we redesigned the site and we actually proposed at that time, last summer, we had approximately 235 lots shown to be utilized on the property. And based on comments that we received from the Planning Board, um, from your comment letter, stated that the majority of the concern was needed for traffic calming on the long street that runs along the southerly edge of the development. If the Board remembers, we did have -- we had the road that came around and circled around. So what we did is we changed it and created a T intersection, so we tried to take the calming effect that the Board was looking for by creating a T intersection. Every time you have a T intersection, it helps slow down the traffic.

In doing that, we also had to add areas in the design for storm water detention, retention that is required and also that had to stay out of the 100-year flood plain that is along the southern portion of the property. So in doing that, we're down to actually 221 lots from what we proposed last summer. So minor change and it happens when you do that with the redesigns.

So we're comfortable with that. We -- we did have a second comment that was noted in the -- in the comments from the Planning Board due to the fact that the proposed incentive zoning proposal has not been reviewed by the Town Board, further comment on this matter will occur during site plan review.

After that comment and discussion we had with the Planning Board last summer, we pursued going to the Town Board, and the Town Board, when we spoke with the Town staff, and they spoke with the Town Attorney and the Town Planning Board -- or I'm sorry, the Town Board, that the jurisdiction fell within the Planning Board's decision and the Town Board -- as far as the revision or modification to the Planned Residential Development did not need to go to the Town Board.

So we looked at that. The Town -- we also mentioned to the Town about dedication of open space, because again, we have areas outside the project that would be outside where the new developed lots would be, and the remaining lands that are on the site, and last summer we discussed possibly that the Town may be interested in that property. And with those discussions we had with the Town, they are not interested in -- in taking dedication of the open space lands, so Archer Road Vista will retain that in their ownership at this time, and have a separate tax account number for the remaining lands.

We do want to talk about the roof conductors. As everyone knows, with the new regulations from New York State and the SWPPP reports, they are trying to decrease the runoff, leaving properties, individual properties, as well as subdivisions, and what we would propose is to have roof conductors. The house roof conductors and the gutter discharge to the splash block versus putting it into a storm system and sending it to a storm water detention pond which sends it downstream faster, and the intent of the new regulations is to actually slow down the runoff leaving all sites.

And so what -- in this proposal we prefer not to have storm conductors for each lot, have it discharge to splash blocks, which would be twofold and would help us comply with the new State regulations. I think we discussed last summer about part of the -- this revision that we propose for the PRD, that -- that the developer would offer \$500 per lot to be paid at the time of C of O for each lot that we're proposing to develop in consideration for the change in the design

and the removal of the Homeowners Association and the golf course. So that is what we would like to propose for that.

And the lot size, if you recall, with the PRD when it was approved back in 2004, there was a -- based on the Town zoning, it was a condition about lots from 10,000 to 20,000 square feet, and what we propose was to have lots in -- which we do, we have lots in the development now that are 60 foot in width, because this is a mix of single-family patio lots, if you will, and also a two-unit townhouse design.

We do have one two-unit townhouse design in Section 1 that is built and with the redesign, we're going to go with all single-family homes from here on including some of the lots that were left over in Section 1 to have basically single-family homes on all of the project.

So -- and we would have lots ranging from 85,000 square feet -- or I'm sorry, 8,500 square feet up to 32, 33,000 square feet.

So that's our proposal. If the Board has any questions.

JAMES MARTIN: I have one for MICHAEL JONES. Previously -- and I don't understand exactly what Mr. Baker said, but an incentive zoning approval, to me, is a legislative action and not an administrative action and I'm not sure whether this Board has the authority to approve a package of incentive zoning issues. I -- this was the first I heard that there has been any discussion with the Town Board about the incentive zoning package. I know nothing about it, okay? And --

MR. BERGER: I think he mislabeled it.

JAMES MARTIN: No one told me as Chairman of the Planning Board that it was going to be put back to us as an approving agency. So I'm puzzled as to what was going on.

MICHAEL JONES: I think it was misdescribed.

MR. BERNARD IACOVANGELO: Misdescribed. Under PRD, Section 500 in your zoning code, um, what it calls for is it allows the developer, Mr. Pooler, or Archer Road LLC, um, the -- you know, and the Planning Board flexibility of design. And, you know, so that you can work within certain guidelines in order to develop a site.

This site was already approved under PRD and basically what -- you know, we're asking the Planning Board to do is to consider the zoning flexibility you have under PRD or planning flexibility that you have under PRD and rather than look at obtaining open space, that you look at -- as compensation for that. And it's permitted under the law that you can have other mechanisms to provide open space or benefit to the community in -- in total. And under that -- those case -- those cases and Town Law provisions, under State Law, um --

MICHAEL JONES: What Mr. Iacovangelo is referring to is not a Local Law with incentive zoning at all. The \$500 thing is under the State -- the State, not Town Law, that allows to -- money instead of open space.

MR. IACOVANGELO: Correct.

MICHAEL JONES: That has nothing to do with incentive. When we were talking about this in staff meetings, it was under PRD because I had not heard the term "incentive zoning" prior to that. I don't think this is an incentive zoning situation. That has not been used in any of the discussions I had prior to today.

MR. BERNARD IACOVANGELO: Not at all. No incentive zoning. It is all PRD.

JAMES MARTIN: Under PRD we have flexibility of adjusting setbacks.

MR. IACOVANGELO: Correct.

JAMES MARTIN: We have that authority, all right. But I didn't know we had authority to approve \$500.

MR. BERNARD IACOVANGELO: You do. Because -- because under the Town law, you know, they -- and cases underneath that Town Law, you have that kind of flexibility. As long as there is a benefit to the community as a whole.

MICHAEL JONES: The Board would just have to make a specific finding that there is no other way to provide the appropriate adequate or useful open space, and so in the alternative for doing that, as part of this subdivision, they would provide the dollar amount. That is an easy finding to just recite in your resolution. Again, that is a State Law, not a Town situation.

JAMES MARTIN: Understood. But what is before us tonight is the resubdivision essentially?

MR. BERNARD IACOVANGELO: Correct.

JAMES MARTIN: The approval of the incentive zoning package is not part of this, is it? I -- I'm -- not tonight. Is it? I mean --

MR. IACOVANGELO: We're not even talking incentive zoning.

JAMES MARTIN: You brought it up.

MR. BERNARD IACOVANGELO: No, no, no. There is no incentive zoning. What we're asking you for is an approval of the rezoning along with -- along with these other items that he is proposing, okay? Elimination of gutter downspouts, \$500 fee to the Town for additional park, you know, uses, okay? Recreation uses, in addition to the already -- Town required rec fee.

JAMES MARTIN: I guess I wish I had known about that in advance, so that we could have had some dialogue on this particular issue. But --

MICHAEL JONES: Mr. Chairman, since -- I also have the question to the applicant whether or not they intend to come back for a revised site plan. It looks like we're only on for resubdivision of the lot lines, but there has been some issues brought up that would relate to the site plan. We talked about the drainage and the downspouts and so forth.

So I'm just confused if you intend to come back or not?

MR. BAKER: Yes. We -- we came in last summer about the overall revision, and as far as

dissolving the Homeowners Association and the redesign of the site, and at that time we had the overall site with the 235 lots, and received the comments about the road alignment and also about going back to the Town Board about -- about the approval process, who -- who is actually allowed or -- or in charge of the PRD approval. And it falls under the Planning Board's jurisdiction.

MICHAEL JONES: That's true.

JAMES MARTIN: All right. I understand that part. That -- that meeting we had before was a discussion.

MR. BAKER: Right.

JAMES MARTIN: You came in and we discussed your overall revised plan and made those comments. At that time, yes, you were going to go to the Town Board to review the incentive zoning package.

MR. BAKER: Correct.

JAMES MARTIN: That is where it was left with me.

MR. BAKER: Correct.

JAMES MARTIN: I never heard another word about it, so this is a surprise to me that suddenly it's back to us. I understand adjusting lot lines and things of that nature, which we have that flexibility under PRD. You're saying you have the authority to look at that, but I -- I would feel much more comfortable doing it during our site plan review as opposed to doing a resubdivision.

MICHAEL JONES: That's the question I had, is some of the stuff I think I agree with you, that we would want to do that and I'm just not clear if the applicant intended to do that for this section or if they feel like they don't and I would defer to Mr. Lindsay.

DAVID LINDSAY: I think we just want clarification we're talking about kind of two different things. We have the -- I guess we could call it, the next phase they show, as concept up there and then there is this existing phase.

Does the applicant intend to come back for revised site plan on this existing phase?

MR. BAKER: The existing phase is basically a resubdivision and nothing has changed. The road alignments is already built.

DAVID LINDSAY: I guess I would dispute that because you're talking about disconnecting downspouts, and I would want to take a look at the grading between the lots, the soils types and those types of things. I think we would want to at least take a look at that.

MR. BAKER: Did you want to change the downspouts in Section 1 or not? Or future lots?

MR. BERNARD IACOVANGELO: Yes.

MR. BAKER: I think the consensus is they would like to review the situation without removing the downspouts from the existing section, as well.

DAVID LINDSAY: I didn't hear that, I'm sorry.

MR. BAKER: They would like to remove the -- or remove the downspouts from the existing section, as well.

DAVID LINDSAY: Right. I understand that is what they would like to do. My point is, you know, the grading and the drainage was designed assuming that those downspouts would be connected. I would like to look at the grading between the lots, lot line grade, overall lot -- project grading now that we're going to be discharging the splash blocks, and the drainage has to go someplace, so how is that being addressed in relation to what the previous drainage was.

There will have to be some changes, I would guess, to address that.

MR. BAKER: Not necessarily. The field inlets were already designed for the site or the backyard areas that need to have drain inlets, and as far as the discharge from the splash blocks, they would be -- as everyone knows, they're discharged near the corner of the house and they would drain across the grass out to the front yard, which is fairly common. I mean you see it everywhere.

Additional inlets are not necessarily what the -- what the State wants. I mean that's the intent of having the splash blocks, is it -- it has a chance to dissipate over the lawn areas before it reaches the pavement.

DAVID LINDSAY: I don't dispute that, but you also understand that certain soil types will facilitate that better than others. Certain types of grading will facilitate that a little bit better than others. I think the Town would be interested in just seeing how those grades might need to be changed. I don't know what the pads were there. I don't know what they looked like. I don't know how high they were in relation to each other. I think we would like to see what the side lot swales look like between the houses if you're discharging those downspouts to those areas.

MR. BAKER: Well, if you would prefer, I guess we'll have to take a look at it.

JAMES MARTIN: You heard the Commissioner of Public Works.

MR. BAKER: I did.

JAMES MARTIN: He wants a revised site plan.

MR. BAKER: Well, again, the Section 1 plan that was originally designed was the one that was approved and we didn't redesign anything on the site as yet. I mean again, we can take a look at it and do a revised grading plan because the one that was approved by the Planning Board is the one that is in Section 1.

DAVID CROSS: Maybe I'm naive, but couldn't that just be a condition of approval that the grading plan is revised and --

MICHAEL JONES: We are just commenting back and forth about that just now.

DAVID CROSS: Okay.

DAVID LINDSAY: I don't think it has to hold up the subdivision. I think it is just something we want to look at.

JAMES MARTIN: We're voting on resubdivision. You have already made it clear that you want a revised site plan, and I -- so that is -- you know, that is not a condition of this approval.

JOHN NOWICKI: We're voting on the resub.

JAMES MARTIN: Okay. Now I understand where we're at.

DAVID LINDSAY: Mr. Chairman, one second, please.

There was a pause in the proceeding.

DAVID LINDSAY: If you would like to avoid the revised site plan process, we could make it strictly that the approval is conditioned upon them submitting a revised grading plan that the Town reviews and approved.

JAMES MARTIN: As a condition of this?

MICHAEL JONES: Yes.

JAMES MARTIN: That is chained to --

MR. BAKER: We can work out a revised grading plan with the Commissioner prior to obtaining any signatures for the resubdivision. Again, the overall map that I posted on the Board was based on the comments we had last summer that you wanted to see. We do want to move forward with future sections because we're going to try to complete the project.

JAMES MARTIN: Understood.

PAUL WANZENRIED: Have you seen an overall site plan?

JAMES MARTIN: Not a complete overall site plan. All we have is Phase 1.

PAUL WANZENRIED: All we're doing is Phase 1 here.

MR. BAKER: I submitted the two plans that you see on the board.

DAVID CROSS: We have the -- it's the second page.

JAMES MARTIN: You have a subdivision.

PAUL WANZENRIED: That's --

JAMES MARTIN: We have not approved a site plan for anything other than Phase 1.

MR. BAKER: Correct.

JAMES MARTIN: Yes.

MR. BAKER: But we discussed last summer that you wanted to see some changes. I didn't want to go ahead and make a full set of plans without the feedback from the Board. So what we intended to do with this is a new concept. We wanted to get --

JAMES MARTIN: Well, you have revised the concept plan?

MR. BAKER: Correct.

JAMES MARTIN: We have approved Phase 1.

MR. BAKER: Correct.

JAMES MARTIN: Phase 2, Phase 3, whatever, we have not approved the site plans.

MR. BAKER: We didn't ask for that.

JAMES MARTIN: Okay. Are we clear on that?

PAUL WANZENRIED: That's what I wanted clarification.

MR. BAKER: No, no. The approval, again, in my cover letter was just for the resubdivision.

PAUL WANZENRIED: Phase 1.

MR. BAKER: Correct. I know it. I --

PAUL WANZENRIED: Boy.

MR. BAKER: The file is about this thick (indicating). It has been filed and refiled a couple of times.

MR. IACOVANGELO: We have to apologize to the Board. Mr. Baker is getting ready to go to Florida for a couple of weeks, and his mind hasn't been on the subject matter.

MR. BAKER: Not tonight.

PAUL WANZENRIED: No, not really. Is it -- the three lots between R-81 and R-88, is that where that duplex is?

MR. BAKER: Yes.

PAUL WANZENRIED: Are the -- you have in light lettering "Drainage easement to the Town of Chili." Is that still enforced and that is R-8 -- looks like it is in R-8.

MR. BAKER: Correct.

JAMES MARTIN: That is still enforced.

MR. BAKER: I believe we'll get filed copies to the Commissioner of Public Works for that. If he so wishes -- I don't see a need that we would have to change. Because originally the easement was granted from Archer Road Vistas or the Homeowners' Association to the Town, so it would -- it would run with the land, whether the -- the property owner, subsequent to that purchases it, it runs with the land previously. So that can't be changed.

PAUL WANZENRIED: There is a long strip, a 60 foot wide strip that runs along the tracks and goes back. What is that? It's on the -- it's on the north side of your subdivision there.

MR. BAKER: That would just be access to the rear lands, the remaining 200 acres. So it doesn't --

PAUL WANZENRIED: From what you're going to develop or to the green -- okay, I see you're saying beyond.

MR. BAKER: It goes beyond.

PAUL WANZENRIED: Okay.

MR. BAKER: Basically of the 260 acres of the total project, this residential subdivision aspect of it will use up about 60, and then there is 200 acres left, so in order to get to that 200, you will have to have a strip of land so it is not landlocked.

PAUL WANZENREID: But you would be getting to it down further south, right?

MR. BAKER: There would be two means to get to it. One at the north and one at the south.

PAUL WANZENRIED: Okay. No further questions.

JOHN HELLABY: I don't have anything other than engineer's comments. I know David (Lindsay) asked about these turnarounds. I didn't hear any real mention about that tonight.

MR. BAKER: I did speak with the Commissioner earlier, and he would -- as he stated in the comment letter, they would like to have circular turnaround easements versus the T turnaround easements due to the fact of buses -- school buses do not back up. There is children living there. They need to have a -- to have a turnaround of adequate size for the school buses.

JOHN HELLABY: Do they actually pull in there? Because I seen them stop when the parents bring them down to Archer Road. Are they -- they're not pulling in there, though, are they?

MR. BAKER: I'm not sure.

MR. POOLER: They pull in there. In the beginning, the parents brought them down, but the school buses go in there now.

MR. BAKER: May be contingent upon the age of the children. The younger they are, they have the tendency to pick them up early, right at the door.

PAUL WANZENRIED: They have to.

JAMES MARTIN: As I reviewed the Town Engineer's comments, a lot of these are site plan.

MR. BAKER: Yes. Yes, they are.

JAMES MARTIN: But there are -- you know, there was some suggestions about some of the lot lines and recommendations about, you know, maybe changing some of them slightly. I don't know if those have been looked at and agreed to or whether you're just staying with the current plan.

MR. BAKER: He is referring to that Lot 82. Actually, in the -- when we first looked at it between last summer and now, we approached both adjacent property owners and asked them if they wanted to split the Open Space that was HOA land in half, and the one gentleman didn't want any part of that area, so that's why R-7 ended up with the full area.

JOHN NOWICKI: And we're moving slowly ahead which is good.

MR. BAKER: Well, we're trying -- trying to get it moving.

DAVID CROSS: Nothing on the resubdivision.

RICHARD BRONGO: I'm just concerned about -- not the resubdivision, because I have no problem with that. But the criteria that went along with supposedly the resubdivision, the -- the no longer connecting to the sewers and the "incentive," quote, that was supposed to be paid, do we have to put that in to our decision tonight? Or do we just say that, you know, we're voting strictly on resubdivision along with the drainage map that David (Lindsay) is looking for?

JAMES MARTIN: As I understand it, we're going to vote on the resubdivision, that the incentive zoning packet will be addressed at the time -- well, if we're not going to have a site plan review, per the site plan review, then we are at a position where we're either going to have to do it tonight or -- Mr. Jones.

MICHAEL JONES: Yes, Mr. Chairman. The vote on the resubdivision would include approval of the application as presented, which includes the -- the donation in lieu of parkland provisions that have been presented by the applicant. Now, the -- I don't understand beyond that, um -- that's really all that is in front of the Board. There is no incentive package that we're offering the -- the Town is offering or vice versa. PRD has already been approved by the Town sometime ago so this is just the flexibility this Board has in making adjustments within the existing PRD zone. So there is no -- nothing beyond the normal subdivision we're doing. It's not usual that we get the donations in lieu of parkland, but that is what is being suggested in the application. So by approving it, you would be accepting that.

Is that fair enough?

JAMES MARTIN: That's fair enough. So I guess the answer is yes, we're going to vote on a resubdivision and accepting the rezoning package as proposed.

MICHAEL JONES: I think again a little misdescribed to use the word "incentive." That probably caused some confusion. But yes, in -- just in terms of ordinary vernacular, yes, we're getting that money.

JAMES MARTIN: I guess what I would like you to do, Mr. Baker, is just to re -- to restate the components of the incentive zoning package so we're all clear as to what --

MR. BAKER: Well, it's -- it's not incentive zoning. It's a modification.

JAMES MARTIN: Modification -- okay. Based on PRD zoning, what are you proposing to do?

MR. BAKER: Correct. What we're proposing for the modification to the existing approved PRD for the project would be to eliminate the roof conductors connecting to the storm sewer system. Proposing \$500 per lot to be paid at time of the building permit is issued for -- for the lots when we go for building permit. And the revision to the lot size, like I mentioned, we would -- we would not have a lot narrower than 60 feet in width and less than 8500 square feet and have the flexibility to go between -- above the 20,000 square foot requirement.

PAUL WANZENRIED: Mr. Baker, you said -- you might want -- maybe Sandra (Hewlett) can read that back. Did you say when the building permit is applied or at the C of O?

MR. BAKER: When the building permit is issued.

PAUL WANZENRIED: Issued. Okay. I thought you said C of O earlier.

MR. BAKER: I was trying to be cautious about that because I wrote it down. Building permit. It is the same -- you end up with that same thing, building permit, C of O versus PRD versus incentive zoning. You know, it is a modification. All of a sudden everybody thinks it's incentive zoning, but it's not really incentive zoning. It's Planned Residential Development.

MICHAEL JONES: Mr. Chairman, with respect to the money, the application further as I understand it, the Board by approving it would make a finding there is no adequate land that would be acceptable for public or park use, and so in lieu of doing an open space or parkland, the applicant is offering I think it was \$500 per lot to go into the Town's Park Trust Fund for use elsewhere in the Town for park purposes.

JAMES MARTIN: I will probably confer with you tomorrow on that --

MICHAEL JONES: And that's under the State Town law.

JAMES MARTIN: -- to finalize this decision letter, but basically the \$500 per lot is in lieu of the fact there is no suitable parkland open space being provided.

MICHAEL JONES: Within the subdivision. Exactly.

MR. BAKER: The \$500 can be utilized by the Town where they see fit. It doesn't have to be on this site.

MICHAEL JONES: Correct. Only for park purposes or open space purposes.

MR. BAKER: Any condition of the resubdivision approval as stated by the Commissioner, we would prepare a -- a site specific Section 1 grading plan and meet with the Commissioner and get his approval for the removal of the roof conductors to be conducted to the storm sewer system prior to Planning Board Chairman's signature.

PAUL WANZENRIED: Does this money go through all phases? Or is that just in Phase 1?

MICHAEL JONES: That's just what is in front of us right now. I suspect as we come to the other ones, it may be the same thing, because keep in mind, there was a golf course, so we didn't have to worry about park space, because the original application had plenty of open space with a golf course. They're removing that, so I think -- but not to speak for the applicant, but I think what the concept is, we're taking that open recreational space away from the Town, so in lieu, we're offering \$500.

As far as -- I suspect as they come forward with other spaces, they would be doing the same thing?

MR. BERNARD IACOVANGELO: That's correct.

MR. BAKER: The attorney is correct. Again, this proposal for this modification for the reapproval for Section 1 would hold true for the remaining sections of the project.

Right now we're -- we have got a design for approximately 40 lot sections, so we're looking at Section 2 through 5 in the future.

MICHAEL JONES: Keep in mind, Mr. Chairman, even if they came forward with the other phases and this they didn't offer, this Board has the power to require it, because -- because of the removal of the golf course under State Town Law.

JAMES MARTIN: Okay. Thank you.

Anything else from the Board?

BILL STEIMER: I'm -- as far as the Conservation Board is concerned, we saw nothing over the application for resubdivision here. Then we did receive later on this letter from Mr. Baker saying that we are looking forward to discussing the revisions and other details such as the house roof conductors. So we thought this is not going to be the time. That's -- it's clearly saying this is in the future.

So, um, as far as Phase 1 and -- and I guess, you know, to be -- to keep things rolling, what the Town Engineer has stated, we -- we actually look at the grade related to the homes in Section 1 as -- as to how that works out for proper drainage, I think that determination will -- will ultimately tell us whether we need to have conductors or not. Because looking at the whole project, granted we will -- we certainly want to follow the State guidance on slowing runoff, but if you look at the, um, the size of the lots and the square footage of the home on the lots, there is very little space for water to go. And certainly not every lot is going -- the slope will face the street.

You know, maybe -- maybe a third of them. But we're going to have to look at every lot in order to -- to make a determination whether we can -- we can drop that water to the -- to the next person's cellar, so to speak.

JAMES MARTIN: I think that is why Mr. Lindsay has requested the revised grading plan, just to be sure that we're not going to be flooding other people's basements and it is going to drain properly. So I think that is going to be addressed.

BILL STEIMER: Okay. That's all I have.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: What are the dates on the maps that are up on the board? And are those approved maps? It seems to me that the last time, maybe the second last time -- this project is in so much it's hard to remember which was the last time and the time before.

But at one point, Mr. Martin, as Chairman, you said that -- that the Board was very concerned about all of the patch-ups that had been constantly taking place with this project. You know, different owners, different plans, different ideas, different, different, different. And you said it was time to come up with a plan that was an overall plan so this Board knew where we were going to go.

Did that happen?

JAMES MARTIN: I think what I'm seeing, to my right, is a modified concept plan that they came up with after we had a discussion -- I forget what month it was.

MR. BAKER: Last July.

JAMES MARTIN: Last July. Where we commented on what the overall design was going to look like when it was completely built out. So at this point in time, just, you know, I will answer your question. I believe that what we are looking at is as close to what the final build-out appearance of the project would be.

MS. BORGUS: But it hasn't been approved.

JAMES MARTIN: No, no. We haven't --

MS. BORGUS: It may change again.

JAMES MARTIN: The only thing that has been approved, Dorothy (Borgus), is the dark area. That Phase 1 is the only thing that has been approved. And we have agreed that the concept plan, now that it has been modified -- we're not addressing that tonight. We're addressing the resubdivision of Phase 1.

As things progress, we'll address the other issues, Phase 2, 3, 4 and 5 and whatever they are.

MS. BORGUS: I'm just afraid this house will be like the house that Topsy built. It will be added on and patched up and when we're all through, you're going to end up with regrets. You -- every time these people are in, they want another change and another change. I don't know how you people even keep track of what they're doing. It doesn't sound to me like maybe they know what they're doing sometimes. This has been a mess from the beginning and I think it's time this Board got a handle on it or they stop giving approvals. Let's get some maps approved. I would like to see a date and an approval on some of this stuff before we just keeping going ahead with the next change. You're going to have a mess. I think have you a mess now, but you're going to have a bigger one.

And I have to agree with the side table that when you have a -- evidently a 60 foot lot, I don't know where -- where you drain roof water on -- on it, and just hope it's going to go away. 60 foot lot. That's ridiculous. These lots are tiny. You better be careful what you're doing and let's get something down that is final for a change and stop letting these people come in and wishy-wash you around every time they're in here.

They don't -- there is nothing for sure. It's a moving target. This is too big to be a moving target. Get it nailed down.

JOE NACCA

MR. NACCA: Yes. My name is Joe Nacca. I'm with the law firm of Bond, Schoeneck & King. We represent William Howard. He is the other member of Archer Road Vista, LLC. There are two members, Mr. Pooler and Mr. Howard.

Mr. Howard has two concerns -- well, several concerns, but the ones I want to raise with the Board this evening, um, one specific and one a little more general. Um, on the specific side of things, the application as it's submitted and in writing and in -- inclusive of the most recent communication, um, from Mr. Baker, um, deals with and addresses a transfer of land or a donation of land to the Town as part of this application. And for reasons that the Board may not need to delve into, there is a dispute among the members, Mr. Pooler and Mr. Howard, with respect to the land that was the subject of that proposed donation or proposed transfer.

And Mr. Howard is particularly concerned with any encumbrance on that particular property. It's not the property that is the specific subject of the subdivision that's being the subject of the application, but it is something that has come up in the course of the application and in the submissions before the Board.

There is actually -- in connection with that land, there is actually ongoing litigation and that land is subject to a notice of pendency, and so Mr. Howard wants to be very clear his position that any donation or transfer of the land or any encumbrance for any purpose, whether or not for an easement or otherwise, he will strongly object to with respect to his rights with respect to that property.

The more general concern that we have is that Mr. Howard, as a member of the applicant entity, never has -- he has never received a copy of -- of the application. He only learned that this hearing tonight was occurring through his own investigation last Wednesday. Given his interest in the applicant entity, and, um, you know, his lack of knowledge that this was going to be happening tonight until only recently, and the unavailability to him of the information that he really needs in order to analyze this plan and make comments, whether it be comments to Mr. Pooler, or whether it be the -- the necessity of taking any sort of other action, legal or otherwise, um, he would ask that this application -- or consideration of the application at a minimum be tabled for some brief period of time in order for him to have the opportunity to -- to review the application in full and take whatever steps he may need to take.

JAMES MARTIN: Thank you. Mr. Jones, you're on.

MICHAEL JONES: First of all, this sounds like an internal dispute between the members of the corporation. It has nothing to do with the Town. This was brought to my attention last

summer. I did review corporate documents so the Town could be satisfied that Mr. Pooler is the majority member and has full complete authority to make the application that is before the Board. So there is nothing about minority members' objections that prevents this Board from reviewing, hearing and deciding on the application before it.

I -- I just want to clarify, though, the applications as I understand it does not include any donations to the Town, so I don't believe there is any issue there. Even if there were, again this is an internal dispute within the members, so it is not for this Board to be concerned with. So I don't think it is of any consequence to this Board.

MR. NACCA: May I just address that? If -- and again, yes, to some extent there is an internal dispute. However, to the extent that there is any donation of land or transfer of land subject to a notice of pendency, that certainly becomes an issue for the Town in the event that the Town wants to -- does want to actually get that land and it is subject to a notice of pendency in litigation Mr. Howard prevails, the Town is not going to get that.

Certainly, we would like to at least have noted for the minutes if there is not going to be any donation or transfer of land or any other encumbrance on any land as a condition of this subdivision, I think we would like to hear the applicant entity make that statement for the record.

Um, and with respect to, you know, the Board's consideration of the application without -- without Mr. Howard having had a real chance to look at it, Mr. Jones is -- is in that respect correct. You know, what we would hope and -- and would frankly expect would be that the Board would at least allow -- at least allow the other member, Mr. Howard, to have a chance to review what is before the Board as one of the two members of the applicant entity. And to the extent that could be tabled, consideration would be tabled for a -- two weeks, some minimal period, um, that would be something that Mr. Howard would very much appreciate and we would hope the Board could accommodate that.

Again, simply he could review what is happening. He has a lot vested in this entity, and he -- he would like that opportunity.

Thank you.

MICHAEL JONES: I guess I would ask the applicant to clarify regarding the donations.

MR. BAKER: Perhaps Mr. Howard's attorney wasn't here when I stated -- when we met last summer, we discussed the donation and that. And we talked about how we had to go back to the Town Board based on the letter we received from the Planning Board, stating go get clarification on the PRD.

We got clarification, and with that, we so stated tonight that we weren't proposing to donate or dedicate any land to the Town, that we were going to propose \$500 per lot in lieu of any open space land. So we weren't putting any conditions on the remaining lands of the project. So perhaps he didn't hear that earlier or he wasn't here, I don't know. But that was so stated a couple times, I believe.

MR. NACCA: Well --

JAMES MARTIN: I don't want to get into a dispute here. It was stated very clearly that at this point in time there is no -- there is no donation pending of any --

MR. BAKER: No donation of any land.

JAMES MARTIN: Of any land.

MR. BAKER: Tonight's approval is for Section 1's revision --

JAMES MARTIN: As far as the other issue of Mr. Howard not having an opportunity to review the revised resubdivision, I don't know if this Board has any purview over that. I don't know what happened.

MR. POOLER: James (Martin), just to address that, I'm Gary Pooler. I'm the Managing Partner for Archer Road, LLC. I have full control. I want to be clear, we have been working with this Board since last July to come up with this concept. I listened to Dorothy (Borgus) earlier. I half agree with her.

We're here trying to clear this up. We come in with 260 lots. We have been in with 230 lots. Now we're going with 221 lots. I was trying to work through this Board with a concept of what we would come up to so I could go to Mr. Howard, my partner, and have a conversation, and I have had verbal conversations with him about this and being at the Board. So I don't know what he missed, but he knows we're here and he knows we are putting this application in. Does he know all of the details, he doesn't need to know.

Thank you very much.

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

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

JAMES MARTIN: Well, this application took a lot of twists and turns that I didn't expect.

KAREN COX: My head is spinning.

JAMES MARTIN: Any ways, essentially we're here to, I think, accomplish two things. To vote on approving the resubdivision as asked for by the applicant; and Number 2 is we're being asked to approve a package of -- a modified zoning package under PRD, the specifics of which Mr. Baker has reviewed with the Board, the downspouts, the 500 foot -- \$500 donation in lieu of the fact that there is no parkland or open space being provided, and also that there are lot size verifications that are being asked for, all right, as opposed to what is in the current zoning.

Did I miss any?

MR. BAKER: No, sir.

JAMES MARTIN: We did SEQR a long time ago on this. A resubdivision, we don't need to do SEQR per se.

MICHAEL JONES, should we do this as two separate votes, or should we look at this as a -- as a simple vote?

MICHAEL JONES: I -- I see this as a single vote. How -- yes, a single vote. The resubdivision. I think what you're referring to is the zoning package, as -- that is actually part of the resubdivision for the conditions thereof. So I would recommend a single vote, specify the conditions with the downspouts and the plan that Mr. Lindsay wants to see and the findings that there is no open space suitable for parkland and in lieu we'll accept the money.

JAMES MARTIN: Okay. As far as conditions, the applicant is to submit a revised grading plan to the Town for approval by the Town Engineer and Commissioner of Public Works for Phase 1.

PAUL WANZENRIED: So the Conservation Board won't see that?

JAMES MARTIN: They don't need to see it.

PAUL WANZENRIED: Okay.

JAMES MARTIN: Then as part of this vote, we are also looking at approving the -- the modified zoning package in a PRD.

Everybody clear what we're asking for right now as far as the vote? All right. So. Given that, on the application, including the modified PRD zoning package.

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

1. The applicant shall submit to the Commissioner of Public Works and the Town Engineer a revised grading plan for Phase 1 based on the approved resubdivision for review and approval.
2. Approval is subject to final approval by the Town Engineer and Commissioner of Public Works.
3. The Town Engineer and Commissioner of Public Works shall be given copies of any correspondence with other approving agencies.
4. All previous conditions imposed by this Board that are still pertinent to the application remain in effect.
5. Application is subject to all required permits, inspections, and code compliance regulations.

Included with this package are:

1. A \$500.00 donation per lot in lieu of the applicant providing appropriate open space and/or parkland as part of the development. This \$500.00 donation shall apply to all lots as proposed in the full subdivision.
 2. Roof drain downspouts will be allowed to discharge onto splash blocks parallel to the lot lines. This provision is subject to the approval of the Commissioner of Public Works and town Engineer after they have reviewed the revised grading plan and found that the grading design is acceptable for this practice.
 3. Lot size dimensions will be modified per the approved resubdivision plan.
2. Application of David Voke and Doris Sowle, owners; 10 Brower Road, Spencerport, New York 14559 for recommendation to rezone approximately 16 acres from RB (Restricted Business) to GB (General Business) at property located at 19 Chili Scottsville Road.

David Voke was present to represent the application.

MR. VOKE: Mr. Chairman, Board, my name is David Voke. I live at 10 Brower Road, Spencerport, New York.

The application, Public Hearing tonight is requesting a zoning change on a 16 acre piece of property shown on the map. Property borders Chili Scottsville Road, just to the west of this facility. It's a triangular piece of property that also borders Beaver Road, and on the western border, it borders Calvary Church and also Unity Health. Um, over approximately the last 20 years, the property has been zoned as Restricted Business, and over that time, there have been many changes in the Town, and it -- and also many changes in that specific greater triangle of the property of which this is approximately half of that.

Not only has the Town grown, the needs in the Town for convenience, expanded services obviously continue to come into the Chili Center area, but also inside that triangle there have been major changes over the past 20 years. At the time Restricted zoning was put in place, there

were three occupied properties within the triangle.

Over time, one of those properties was demolished to make space for the Calvary Assembly of God church.

The second property that was occupied is now gone and that was at the site of the new Unity Health Care Center on Chili Avenue.

The only remaining property on the -- within the triangle currently resided at is 3373 Chili, and I'm sure the Board is aware that property is currently -- is currently listed with a commercial realtor and on the market, and I think it is fair to say that if the 16 acres that I'm asking you to deal with today were moved to a commercial for restricted standpoint, it would be a positive to that property going forward also.

Running through the 16 acres is a significant section of federally mapped wetland. We're aware of that, and that is well documented.

But it -- but at this point, um, not only do we have the opportunity to open up to more potential candidates of interest to the property, but I also truly believe that it would be in the best interest of the Town also to have some level of development in there. It would make a major improvement to Town tax rolls and to Town citizens if additional development took place on that property and added to the -- to the tax incentives within the Town.

So with that statement, I would like to open it up to any questions from Mr. Martin or from the Board.

JAMES MARTIN: Um, I think, you know, there are a couple of things. You carved out that residential piece from the -- from the rest of this property. Are there -- the owners the same of both parcels of the property?

MR. VOKE: No. The -- the house is separately owned at the north end on the Chili Avenue area, but it is listed with a commercial realtor right now. It is not part of the 16 acres --

JAMES MARTIN: I know. I understand that.

As far as specific questions go, I -- I have more concerns than I do have questions, I think. You know, I -- I went back and I reread the section on the Sub Area 3 that was identified in the 2030 Master Plan, and this particular parcel lies within Sub Area 3, all right, which is basically the Chili Center part of Town.

And although there was nothing very specific, there certainly was a lot of discussion about what needed to be done in order to fully implement what I consider to be a -- a more detailed plan for this particular part of Town. In other words, a separate Master Plan concerning just the Chili Center area, which encompasses this piece of property and goes all of the way down to Paul Road and along Beaver Road, along Chili Avenue, that particular area.

Um, and when I -- when I look at what was stated in the Master Plan, and then I look at what is in the area surrounding this particular piece of property, what I find is that we have got the Town Hall, which is basically institutional, we have got the Medical Center next door, and then we have got the church further on down, and then I read the -- the zoning code, and I look at the -- the tremendous step up that you get when you go from Restricted Business to General Business, I mean, in what is allowed in a General Business site.

And, um, when I -- when I read that, and when I look at what is in the surrounding area, um, it raises a lot of questions in my mind as to whether General Business would be the right zoning for this particular piece of property given the fact that you have department stores and restaurants, theaters, I mean things that are major generators of traffic.

We already know that we have a significant issue with Beaver Road and Chili Avenue as far as a safety issue. We know we have issues with Chili Scottsville Road and Chili Avenue as far as safety issues goes. There is a lot of -- of things that I feel haven't really -- not been totally scoped out from the standpoint of where we would really like to see this particular area of the Town go to from -- from a Master Plan standpoint. And, um, you know, you're asking for a very substantial change in zoning going from Restricted Business to General Business. This is a very, very substantial change.

And given the fact that, um, we -- we don't really have this -- you know, this future land use Master Plan for the center of Town, which I have been an advocate for for a long period of time that we really should have something that identifies what is going to happen -- as I said here, we have had a hodgepodge of things happen, all right? Basically due to the fact that this plan didn't exist, people come before this Board with a proposal and if it meets the requirements, it's difficult for this Board to say no. Given the fact that it meets zoning requirements and meets all site plan requirements and those things, it is very difficult for this Board to say no, based on the fact they don't have some quote/unquote Master Plan which we can draw from to say no, this does not fit where we want this Town to go.

So I'm -- I'm expressing a lot of concern from my own personal perspective that, you know, opening this up to General Business in this particular location could create some substantial headaches, potential headaches down the road for the Town in that something gets put in there that we're kicking ourselves in the fanny for later on down the road and this should never have happened this way.

Other things have happened that way in this Town. You go back and you look at the history and say why did that happen? Well, I don't have all those answers.

Let me just -- let me finish. I have a great deal of concern about, you know, just this upgrade. You know, we have a fairly quiet activity next door in the Medical Center. I don't think that has created any substantial problems. Certainly the church activity is limited to usually weekends. The Town Hall has its busy flow of traffic in and out. There is no question about that.

Um, but, you know, I just -- I'm looking at where this location is, and I'm looking at the traffic issues. I'm looking at all of the road cut issues. I'm looking at lots of things, and I guess I just have some concerns about this major step up from RB to GB.

MR. VOKE: Yes. One of the things that is important to understand is we're talking about 16 acres, but the reality is that nine acres of this has been mapped as federally mapped wetlands as unusable.

We're talking about four plus acres across from the Town Hall entrance (indicating). We're talking about two acres on the corner.

The rest of this is undevelopable. Undevelopable and won't be dealt with.

Because of the restricted zoning, there has been very little interest in the property. What few people have expressed some limited interest over the number of years, and in a couple of cases, it has been religious institutions, tax deferred kind of scenarios, which would not have helped the Town, and as -- has really not added to the kind of services, et cetera, that could potentially come on these two smaller pads.

But I don't want the Board to think that we're looking at 16 acres or a massive proposal that could bring in a big box store or a Lowe's or a Target or something of that nature. That's not the nature of this property, and I understand it.

As far as -- as a restaurant, something of that nature, um, these are services that the Town at different times has been looking for and could something like that come into this piece of property, I believe it could. But I think the Restricted zoning is a problem, and a move to General Business would be a significant asset not only for myself in trying to find interest in the property, but I think it would be a positive for the Town also.

So I want to make that clear to the Board. 16 acres is a very misleading number when you're looking at how this could be developed.

JAMES MARTIN: Well, you know, certainly, you know, there are federally delineated wetlands on the property. I know full well if a developer came in there that had enough money, they could go buy remedial rights. They would fill that in and build a wetland somewhere else. That can be done.

According to what I always understood, is that right, Mr. Lindsay, that you can -- you can fill wetland if you go build one somewhere else, essentially? It may be two to one or three to one.

DAVID LINDSAY: Yeah, it's complicated and expensive, but it can be done.

JAMES MARTIN: It can be done.

So I have to look at this as not just a small area that you have said is buildable at this point in time. The whole piece could be buildable, really, realistically, if somebody wanted to spend the money to do it. So I have that concern also.

So at this point, I have voiced my concerns. I'm going to go to the Board and listen to whatever everybody else has to say.

PAUL WANZENRIED: I would have the same concerns. I concur.

KAREN COX: Yeah, I do have the same concerns. I mean, you know, the idea of the -- when you look at the zoning map, coming from Chili Center out to the west, you're -- your zoning change from, you know -- from intense General Business use to the residential use. And the Restricted Business, it's kind of a buffer between those two intense uses.

JOHN NOWICKI: Yep.

JOHN HELLABY: No, I agree with that. I mean, it's stated very clearly in the Master Plan what the intent was. Again, I support the view that we need to move forward on wrapping up this Chili Center issue, but I -- but in my mind, to say -- to make it, you know, General Business, I think you're -- you're spot zoning it more or less. That is my two cents.

JOHN NOWICKI: I concur with all of you Planning Board members and also with the number of years I have spent with the Master Plan Committees, the people in that neighborhood, because of all of the residential area through there were very happy to get Restricted Business. They do not want GB in there because they felt the GB would go to Chili Center. The people have been very satisfied with the church and with the dialysis. So I go along with the Board members.

DAVID CROSS: You didn't leave me anything. I mean --

RICHARD BRONGO: How do I feel waiting at the end?

DAVID CROSS: I agree. The Restricted Business is a way to transition from General Business to residential. And -- a less intensive business or Neighborhood Business for that matter. There is a lot of residential to the south.

There is residential to the north and more Restricted Business to the -- to the west.

And plus it's not consistent with the Town's Comprehensive Plan, so I -- so I'm not in favor of it.

RICHARD BRONGO: I concur with what everybody has said. I have no additional comments.

MICHAEL JONES: I have no comments on the substance. I would suggest to the Board, though, that in your resolution, regardless what your recommendation is, that it include a copy of the transcript to be forwarded to the Town Board members for their review to read it for themselves.

JAMES MARTIN: We understand that. I mean, we don't have the final say in this. The Town Board is the one --

MR. VOKE: I understand. And -- and obviously, even with Restricted Business, if there are gray areas that come in, you, as a Board, get to look at that. There may be assumptions

where something would fit in that -- that may not be strictly under a Restricted Business scenario. It's more gray area that would fit on these two sites to continue development in Chili. And hopefully it would be realistic about that, as potential things come in.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

PATRICIA WOLESGLAGLE PICKERING

MS. PICKERING: My name is Patricia Woleslagle Pickering. I am at 3378 Chili Avenue. I'm right across the street from Unity. We're kind of all in that -- that same general area.

And traffic is one of my biggest concerns. When I sit at the end of my driveway with the church and Unity, and even the Town Hall and Chili Animal Care, the last thing we need is any more business in that area. Um, it is so congested sometimes, just getting out of -- out of here. I'm over at the library all of the time. Just to get onto Chili Avenue out here, um, is -- is really bad.

And down the road, if we look at the house that is on the corner, if, in fact, that piece of property sells, and now all of a sudden we aren't looking at 16 acres, we're now looking at maybe 18 acres, and I don't know how that particular property is zoned, but -- but if we make that change, that would make that corner up here probably very pleasing to someone. They could put in a relatively small retail outlet that would be disastrous for our neighborhood. It really would. For all of the houses from the -- from the station, right down to the -- to across from Unity. So I'm definitely against anything in that particular section of property.

JAMES MARTIN: Thank you.

DAVID SCHWAB, 3374 Chili Avenue

MR. SCHWAB: David Schwab, 3374 Chili Avenue, right across the street from this house. And like she says, sometimes we can't get out of our driveway for five, ten minutes sometimes. There is just so much traffic. If there is not a train coming, we're just -- we can't get out. There -- you know, luckily we have the turnarounds. There would be no way we could back out. But I mean, it's -- I just -- I don't see a need for a business over here. There is enough business in Chili Center. There is empty buildings in Chili Center. There is empty buildings all around Chili. There is new plazas that are empty in Chili. And I don't -- I don't see why we would need to bring that further this way.

KAREN COX: I guess we got -- we got to clarify that right now under the -- under the Restricted Business zoning, you could put doctors office, medical facilities.

PAUL WANZENRIED: You could put another pizza place in there.

MR. SCHWAB: There could be traffic non-stop. And a restaurant, a fast food place, anything like that.

KAREN COX: Something could get built in there. A business of some sort could get built in there under the current zoning. It would just not be as an intensive a business as say -- I will be facetious and say Target, but it could be a business.

MR. SCHWAB: If anything went in there, we would have to have a light there. There would be no way around it. And then --

KAREN COX: Well, we can't -- we can't tell the owner you can't build anything in there. What we can do and what is -- say -- no, we don't recommend that the zoning be changed to a more intense use. But if the owner -- if he found an application that would fit that zoning, we could not tell him, "You can't build it."

MR. SCHWAB: The zoning is in place now. And that's all we're here for is to keep that from changing zone. I understand --

KAREN COX: I'm hearing, "We don't want anything in there."

Well, the Town can't tell the land owner, "You can't put anything in there."

MR. SCHWAB: I understand they can put in something. We have the Unity Health. They're -- their headlights pull out to the road, shine right in my bedroom every night. But it's better than a retail place.

KAREN COX: Sure.

JAMES MARTIN: Just for clarification, I mean, in the current zoning, anything that is allowed in the Neighborhood Business could be built in there. All right? And that would allow small grocery stores; barber shops; beauty shops; clothes cleaning pickup agencies; schools for karate, dance, music; dog grooming establishments; bakeries; butcher shops; pizzerias; delicatessens; gift shops; coffee shops; ice cream parlors; neighborhood pharmacies. Those are the things that could go in there under the current zoning.

JOHN NOWICKI: What are you looking at?

JAMES MARTIN: Neighborhood Business.

JOHN NOWICKI: That's Restricted Business.

JAMES MARTIN: Hang on a minute. If you look at Restricted Business, it allows everything under Neighborhood Business in addition to, all right, things that are allowed in Restricted Business. Which are generally attorneys, physicians, architects, okay?

So you have to understand -- please, you have to understand that right now, the current zoning for that piece of property would allow some of those things that I just read to you.

JOHN NOWICKI: Hold on a second. The purpose of the Restricted Business, have you read that?

JAMES MARTIN: Yes. I have also read --

JOHN NOWICKI: It says this district is intended to act as a buffer between residential

areas and the more intensely used districts, including General Business and Neighborhood Business districts.

JAMES MARTIN: Right.

JOHN NOWICKI: So I don't believe that that is going to --

JAMES MARTIN: You may be right. I read Neighborhood Business.

JOHN NOWICKI: You get the neighbors over in that neighborhood upset, they're going to come marching over. (Laughter.)

JAMES MARTIN: Okay. I will take that back.

KAREN COX: GB.

JAMES MARTIN: Under -- under Restricted Business, I -- I apologize for confusing the audience. It was a section in here, but it does not allow Neighborhood Business activities. It does allow attorneys, physicians, architects, accountants, specialized business or commercial schools, employment agencies, credit bureaus, data processing, management consultants, manufacturing agents and commercial artists.

Under special use permits it would allow hospital equipment and supplies and medical and dental laboratories.

So I'm sorry, I misspoke on the first one, that that is what would be allowed to be in there under the RB.

MR. VOKE: It's a Planned Neighborhood Overlay District with Restricted Business. It's -- it's a PNOD.

JAMES MARTIN: I don't think there is a PNOD on that parcel.

DAVID LINDSAY: I don't think there is a PNOD on that.

JAMES MARTIN: There's not. So I apologize for the confusion.

KAREN COX: I just -- I mean ultimately the reason I brought it up was that was what I was hearing, was, "We don't want anything there."

It's just we can't keep a land owner from building something that is allowed under the current zoning. So that's all.

MS. PICKERING: Even with the allowable business that may go in there, do you have any control over or what do you do relative to traffic patterns when a new business goes in? You already mentioned the idea of traffic issues and all three of those. 30 miles an hour doesn't happen until my front yard. People are doing 45 and 50 as soon as they go over the railroad tracks, which makes it even worse. Just coming up out here is a traffic issue.

This four-way stop, I mean you just got to really be careful. They don't stop. You know, rolling stops. What -- what action is taken to speed limits and traffic patterns? If someone were to come in with a legitimate business under the current zoning, is something done prior to that being approved?

JAMES MARTIN: I'll defer to the Commissioner of Public Works.

DAVID LINDSAY: We would, you know -- as part the Town Engineer's review, we would review traffic, but in this particular property here, I believe, um, Chili Avenue is a State Road and I believe the intersecting road -- is that County now or is that State?

KAREN COX: Which road?

DAVID LINDSAY: Beaver Road.

KAREN COX: That's State.

DAVID LINDSAY: That's State. So they're both State roads. We would refer to their review and they would really weigh in on the traffic issues.

KAREN COX: We can't do anything about -- I mean, our review -- or their review would not take in account speed limit except to note what the current speed limit is. That is really more an enforcement issue, and that is an issue all over the place. And I know, you know, I have seen it happen, too. But they -- but the State might require an applicant, depending on the type of business, they might require them to do a traffic study that would take into account the travel patterns that you would expect and intersection capacity, and they would decide from that whether some kind of signal was warranted or not. And there are specific -- you know, written warrants for signals, volume, how -- you know -- volume, during the day. Is it a steady volume, is it a volume only in rush hour?

Same thing with stop signs. Certain warrants have to be met, and they have to do with volume and traffic patterns.

JOHN NOWICKI: So how do you take that, what you just said and what Mr. Lindsay and the people in that neighborhood that live -- that are impacted by Chili, Beaver Road, Chili Scottsville Road. A few years back there was a Chili Avenue Corridor Study done. Nothing has ever happened.

KAREN COX: Money.

JOHN NOWICKI: There has been no improvements from Union Street down to Beaver Road down to Chili Scottsville Road, nothing. How do we go about getting the State and the County, if the County is involved, to start to pay attention to this Town? What do we do?

KAREN COX: That is more on a Town level with the politicians.

DAVID LINDSAY: It is more a Town political -- higher level than my pay grade. We don't have the authority -- honestly, I don't have the authority to do that. I wouldn't really start that conversation. That would be a conversation maybe with the Town Supervisor talking to the legislators and that type of thing.

JOHN NOWICKI: It's getting out of hand. These people are right. You can't get out of your driveway.

KAREN COX: You know, the State, just as they pulled back a lot of the improvements up

at Chili and Union, it all has to do with the pot of money that improvements like that come out of, and priorities around the State. I mean once -- or a road becomes a State Road, then you're competing with all of the projects around the State. So, you know, it becomes a funding issue. And who screams the loudest.

JOHN NOWICKI: That's exactly it, who screams the loudest, because you can see it going on all around the County.

KAREN COX: Working for a municipality, I can tell you that right now.

DOROTHY BORGUS, 31 Stuart Road

MS. BORGUS: Dorothy Borgus, 31 Stuart Road.

I heartily agree with everything that has been said here tonight, except for Mr. Voke.

KAREN COX: Except for what?

DOROTHY BORGUS: Mr. Voke.

Something occurred to me and I would imagine there is probably only two people on this Board that would remember, and probably one is John Nowicki and the other is Mr. Hellaby.

Do you remember in the late 1980s, the Eastons were going to develop their land on --

JOHN NOWICKI: Who?

MS. BORGUS: The Eastons. They were going to develop their property that is -- they owned where the church is and where the Unity --

JOHN NOWICKI: Right.

MS. BORGUS: -- Health is now. And they had traveled extensively to, um, New England and they came back with the idea that that -- perfect thing for that piece of property was going to be the development of a New England type village. They spent considerable amount of money for engineering, planning. They went all out. They came before this Board and they were denied for the same reasons we're hearing tonight.

And I see Mr. Hellaby shaking, nodding his head. The people -- the other people on the Board probably haven't been around that long to remember, but what was true then is true now.

That land, and having sat on the Comprehensive Plan Committee, um, along with a couple of people that are already on the Planning Board, we went around and around about what -- the decisions we made. The decision we made was to keep it that way, the way it was and that was the right thing to do. I still believe it.

JOHN NOWICKI: Still works.

MS. BORGUS: It still works. As this gentleman over here brought up, there is no need for more stores in this Town. There are vacancies all over. And the stores that are proposed by Wegmans haven't even been -- been -- been built.

JOHN NOWICKI: Nothing. No applications.

MS. BORGUS: There is no application, no need. Chili is not growing very much. Very, very slowly. We have no need for more than what we have. And people don't live in or come back to Chili just for the sake of a place to move. They come for a reason, for the sense of openness that has long defined what we believe to be the way we want Chili to look. And I truly believe that a change in zoning on this piece of property would be an error, and it would be to recommend spot zoning if you did.

I don't believe this Board should undertake a thought about changing the zoning law just because somebody can't sell their property. You would -- you would go crazy with this. It's not a good reason. Every piece of property is not as good as every other piece. Location wise, anyway you look at it. They all have different values, and this piece of property should stay the way it is.

JAMES MARTIN: Other comments?

JOHN HELLABY: Dorothy (Borgus), I would just like to point out, though, I'm not quite as old as John Nowicki.

DOROTHY BORGUS: But you still remember.

JOHN HELLABY: You know I have been around 26 or 27 years now.

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

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

JAMES MARTIN: Based on what I heard and the discussion from this Board, I believe that my recommendation to the Town Board would be a clear understanding that the Planning Board does not support rezoning this property from RB to GB.

JOHN HELLABY: That is a correct statement.

JAMES MARTIN: That would be my statement on -- on voting on that statement to the Town Board from the Planning Board. Do you affirm that we would make that recommendation to the Town Board?

PAUL WANZENRIED: Yes.

KAREN COX: Yes.

JOHN HELLABY: Yes.

JOHN NOWICKI: Yes.

DAVID CROSS: Yes.

RICHARD BRONGO: Yes.

JAMES MARTIN: I vote yes also.

So essentially, at this point in time, that is what is going to happen. As I say, you still have the right to appeal to the Town Board. They do the rezoning process. We're just a recommending body.

DECISION: The Chili Planning Board conducted a public hearing regarding the above described application on December 10, 2013. Based on a review of current zoning regulations and the Town of Chili 2030 Master Plan, the Board determined that the rezoning request would not be appropriate for the land parcel. By a unanimous vote of 7 yes, the Board recommends that this rezoning not be approved.

The Town Board will be notified of the Planning Board's decision by copy of this letter.

The meeting ended at 9:10 a.m.